



FINANCIAL SERVICES COMMISSION

REGULATORY GUIDELINES: FSC/2/EG/008

GUIDELINES TO DETERMINE THE ELIGIBILITY OF A BELIZE INTERNATIONAL BUSINESS COMPANY (IBC) TO CONTINUE HOLDING, OWNING OR DEALING WITH IP ASSETS UP TO 30TH JUNE 2021 (THE 'GRANDFATHERED PERIOD')

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1. INTRODUCTION

- 1.1.** Pursuant to Section 5(4) of the International Business Companies Act, Chapter 270 of the Substantive Laws of Belize, Revised Edition 2011 (as amended by Act No. 17 of 2019), Belize International Business Companies (IBCs) shall not acquire, hold, own, or deal in any intellectual property assets ("IP assets"). This new regime came into force on 1st January 2019, but a transition period was afforded to IBCs that were incorporated on or before 30th June 2018 (in respect of IP assets acquired up to 16th October 2017) to continue holding, owning or dealing with IP assets up to 30th June 2021 ("the grandfathered period").
- 1.2.** Intellectual property asset includes any intellectual property right in intangible assets, including but not limited to copyright, patents, trademarks, brand, and technical know-how, from which identifiable income accrues to the business (such income being separately identifiable from any income generated from any tangible asset in which the right subsists).
- 1.3.** The Financial Services Commission ("the Commission") has been charged with approving and monitoring the Belize IBCs that may qualify to hold, own, and deal with IP assets during the grandfathered period.

2. PURPOSE

- 2.1.** These Guidelines outline the approach that the Commission will apply to determine the eligibility of an IBC that may qualify and would benefit to continue holding, owning or dealing with the IP asset(s) up to the expiration of the grandfathered period.

3. APPLICABILITY

- 3.1.** These Guidelines apply to all IBCs and the registered agent of the IBCs are expected to facilitate compliance.



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4. APPROACH TO APPLYING FOR THE COMMISSION'S APPROVAL TO BENEFIT FROM THE GRANDFATHERED PERIOD

- 4.1. The Commission will be forwarding by email, the Intellectual Property (IP) Assets Grandfathering Certification Programme Form (the 'IPAG Form') to the registered agents for IBCs to complete and return *via* the registered agents to the Director General of the Commission.
- 4.2. The IPAG Form must be returned electronically by the IBC's registered agent to the email address applications@belizefsc.org.bz, within sixty (60) days of the date of receipt of the Commission's order to supply the IPAG Form. This date corresponds to on or before the 31st of January 2020.
- 4.3. The sum of US\$50.00 will be charged as an administrative fee per IP asset.
- 4.4. The Commission will consider the following criteria when determining the eligibility of the IBC to qualify for benefits under the grandfathered period:
 - 4.4.1. The Date of Incorporation.
 - 4.4.2. With regards to the IP asset:
 - (a) The Type/Category; and
 - (b) Date of Registration of the IP Asset or Filing Date of the IP Asset (where no approval has yet been given by the Competent Authority).

5. DETERMINATION OF THE ELIGIBILITY OF THE IBC

- 5.1. After due consideration, the Commission shall determine whether the IBC qualifies for the grandfathered period.
 - 5.1.1. Where the Commission determines that the IBC is ineligible for the grandfathered period, the IBC must:
 - (a) Dispose of the IP asset(s); or
 - (b) Re-domicile; or



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- (c) Continue as another legal entity (in Belize), which is not prohibited from holding, owning or dealing with IP assets.

5.1.2. Within three (3) months from the date of receipt of the ineligibility notice from the Commission, the IBC's registered agent must supply the Commission with any of the following substantial evidence to the email address applications@belizefsc.org.bz:

- (a) Proof of disposal of the IP asset(s); or
- (b) Proof that the IBC has re-domiciled; or
- (c) Proof that the IBC has continued as another legal entity (in Belize) that is not prohibited from holding, owning, or dealing in IP assets.

5.1.3. Where the Commission determines that the IBC qualifies for the grandfathered period, the Commission shall furnish an eligibility notice to the IBC registered agent. The eligibility notice shall require that the IBC supply the 'Compliance Declaration', which shall be signed by the Director of the IBC. The Compliance Declaration must be given under Oath and notarized and it must be supplied to the Commission at email address complianceandinspections@belizefsc.org.bz by the IBC's registered agent, within a period not exceeding ten (10) working days from the date of receipt of the eligibility notice from the Commission.

6. EXPIRATION OF GRANDFATHERED PERIOD

6.1. All IBCs that would have qualified for the benefits under the old regime via the grandfathering must do the following at the latest 30th June 2021:

- (a) Dispose of IP asset; or
- (b) Re-domicile; or



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- (c) Continue as another legal entity (in Belize) that is not prohibited from holding, owning, or dealing in IP assets.

7. COMPLIANCE REQUIREMENT

7.1. An IBC that does not comply with paragraphs 5.1.1 and 6.1, may be subject to any of the following penalties:

- (a) a fine of US\$25,000.00.
- (b) a fine of \$100,000 in the case of a second or subsequent offense.
- (c) in addition, may be subject to strike off in accordance with section 7 of the Act.

**Financial Services Commission
3rd December 2019**