



## CONSUMER AFFAIRS BULLETIN – 2017-008

### Cost of Credit Disclosure and Payday Loans Act - Reporting a “change in circumstances”

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#### Introduction

Rule PDL-001 under the *Cost of Credit Disclosure and Payday Loans Act* (“the Rule”) requires every payday lender to notify the FCNB Director of Consumer Affairs (“the Director”) of a change in circumstances (“CIC”). The various types of CIC are set out in section 22 of the Rule.

This document provides guidance on the types of CIC which must be reported to the Director under the Rule.

#### How to report a CIC

A CIC report may be completed online for all changes, other than a change in name, by accessing FCNB’s portal at <https://portal.fcnb.ca>.

A CIC reporting guide and FAQ are available online at <http://www.fcnb.ca/payday-lenders-portal-faq.html>

#### Reporting a change in name

Licences are not transferable. In most circumstances a payday lender change in name requires a new licence application. Please contact FCNB staff to determine if a new licence is required. Should a new licence be required, you will need to complete a new application online and advise FCNB staff by email ([PDL-PSS@fcnb.ca](mailto:PDL-PSS@fcnb.ca)) that your name has changed so that the licence under the prior name can be terminated upon a licence being granted for the new entity.

#### The types of CIC which must be reported

CIC obligations arise as soon as an application is submitted and continue once a payday lender is licensed. The CIC obligations for different scenarios are set out below. Please consult the table of CIC types in Appendix A for an explanation of what each type means as well as the time period within which the CIC report must be made.

#### Payday Lender Licence Applicant

- CIC-4: Information in licence application has changed

### **Licensed Payday Lender**

- CIC-1: Change(s) to the payday loan agreement
- CIC-2: Change(s) in licence status in another jurisdiction
- CIC-3: Imposition or variation of licence conditions in another jurisdiction
- CIC-5: Change in bank account
- CIC-6: Change in information previously provided to the Director
- CIC-7: Change in compliance contact
- CIC-8: Change in ownership or termination of business
- CIC-9: Criminal conviction
- CIC-10: Judgment
- CIC-11: Bankruptcy proceeding
- CIC-12: Change in operation
- CIC-13: Civil action or administrative proceeding

### **Licensed Payday Lender who operates a payday lending website**

- All obligations of a licensed payday lender
- CIC-14: Change in online payday lender's address

## Appendix A – CIC details and timeline

Rule PDL-001 = *Rule 1*

<b>Type:</b> CIC-1	<b>Short description:</b> Change(s) to the payday loan agreement
<b>Statutory provision(s):</b> Rule 1, subsection 22(1)	
<b>Must be completed if:</b> The payday lender intends to change its payday loan agreement or any of the collateral documents, including the loan cancellation form, the loan cancellation receipt, and the cash payment receipt. A complete sample of the revised payday loan agreement must be submitted with the CIC report.	
<b>When to report:</b> At least 21 days before the revised payday loan agreement is used.	

<b>Type:</b> CIC-2	<b>Short description:</b> Change(s) in licence status in another jurisdiction
<b>Statutory provision(s):</b> Rule 1, paragraph 22(2)(a)	
<b>Must be completed if:</b> The payday lender is subject to the surrender, amendment, suspension or cancellation of the payday lender's licence, or other form of approval, to operate as a payday lender in any other jurisdiction.	
<b>When to report:</b> Immediately upon the change taking effect.	

<b>Type:</b> CIC-3	<b>Short description:</b> Imposition or variation of licence conditions in another jurisdiction
<b>Statutory provision(s):</b> Rule 1, paragraph 22(2)(b)	
<b>Must be completed if:</b> The payday lender is the subject of the imposition or variation of any terms, conditions or restrictions on the payday lender's licence, or other form of approval, to operate as a payday lender in any other jurisdiction.	
<b>When to report:</b> Immediately upon the change taking effect.	

<b>Type:</b> CIC-4	<b>Short description:</b> Information in licence application has changed
<b>Statutory provision(s):</b> Rule 1, paragraph 22(2)(c)	
<b>Must be completed if:</b> A licence applicant becomes aware of a change in any of the information provided in a payday lender licence application, before the issuance of a licence. This includes a change in any documents uploaded as part of the application process.	
<b>When to report:</b> Immediately upon the change taking effect.	

<b>Type:</b> CIC-5	<b>Short description:</b> Change in bank account
<b>Statutory provision(s):</b> Rule 1, subsection 22(3)	
<b>Must be completed if:</b> The payday lender makes, or becomes aware of, any change in respect of the account with a financial institution, including a change in the name of the financial institution, its address, the branch number, the account number, or the names of persons with signing authority. The licensee must also report if the use of the account prescribed by subsections 6(5) and 6(6) of the Rule has changed, or if (an) additional account(s) is/are opened for these purposes.	
<b>When to report:</b> Within five business days of the date the change took effect.	

<b>Type:</b> CIC-6	<b>Short description:</b> Change in information previously provided to the Director
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(a)	
<b>Must be completed if:</b> The payday lender makes, or becomes aware of, any change in any of the information previously provided to the Director in an application for a licence, a renewal of a licence or the reinstatement of a licence, including: (i) an address, including an address for service, or a telephone number; (ii) the fiscal year; (iii) if the applicant is a corporation, an officer or director of the corporation; (iv) if the applicant is a partnership, a partner of the partnership; (v) the location at which the applicant retains or will retain records required to be kept by the Act; and (vi) <u>any other material change</u> . A change in any documents provided to the Director as part of an application or filing also triggers this reporting obligation.	
<b>When to report:</b> Within 14 days of the date the change took effect.	

<b>Type:</b> CIC-7	<b>Short description:</b> Change in compliance contact
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(b)	
<b>Must be completed if:</b> The payday lender changes the officer or employee of the payday lender who resides in New Brunswick and who is authorized to provide information requested by the Director and to receive and disseminate information given by the Director;	
<b>When to report:</b> Within 14 days of the date the change took effect.	

<b>Type:</b> CIC-8	<b>Short description:</b> Change in ownership or termination of business
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(c)	
<b>Must be completed if:</b> Ownership of the payday lender has changed, or the payday lender has terminated its activities.	
<b>When to report:</b> Within 14 days of the date the change took effect.	

<b>Type:</b> CIC-9	<b>Short description:</b> Criminal conviction
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(d)	
<b>Must be completed if:</b> The payday lender or any of its directors, officers or partners are convicted of an offence under the <i>Criminal Code of Canada</i> ;	
<b>When to report:</b> Within 14 days of the date of conviction.	

<b>Type:</b> CIC-10	<b>Short description:</b> Judgment
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(e)	
<b>Must be completed if:</b> Any judgment, including a default judgment, in respect of a claim arising out of the business of payday lending, is issued against the payday lender or one of its directors, officers or partners.	
<b>When to report:</b> Within 14 days of the date of the judgment.	

<b>Type:</b> CIC-11	<b>Short description:</b> Bankruptcy or Insolvency proceeding
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(f)	
<b>Must be completed if:</b> Any proceedings in bankruptcy or insolvency are commenced involving the payday lender or one of its directors, officers or partners.	
<b>When to report:</b> Within 7 days of the date of the proceeding.	

<b>Type:</b> CIC-12	<b>Short description:</b> Change in operation
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(g)	
<b>Must be completed if:</b> Any change occurs to the operation of the payday lender's business that affects or is likely to affect the offering, arrangement or provision of payday loans.	
<b>When to report:</b> Within 14 days of the date the change took effect.	

<b>Type:</b> CIC-13	<b>Short description:</b> Civil action or administrative proceeding
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(h)	
<b>Must be completed if:</b> A civil action or administrative proceeding is commenced against the payday lender alleging fraud, breach of trust, deceit or misrepresentation by the payday lender.	
<b>When to report:</b> Within 14 days of the date of the proceeding.	

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<b>Type:</b> CIC-14	<b>Short description:</b> Change in online payday lender's address
<b>Statutory provision(s):</b> Rule 1, paragraph 22(4)(i)	
<b>Must be completed if:</b> The payday lender providing Internet payday loans and who does not have a business office in New Brunswick, changes the payday lender's address.	
<b>When to report:</b> Within 14 days of the date the change took effect.	