



## Jersey Financial Services Commission

# GUIDANCE NOTE ON MAKING A REFERRAL TO THE POLICE AND/OR THE ATTORNEY GENERAL

This Guidance Note deals with the referral by the Jersey Financial Services Commission (the “**Commission**”) of criminal offences that may come to the attention of the Commission in the conduct of its statutory functions, to either the Police and/or the Attorney General. Such referrals are made where there are grounds to believe that a criminal offence(s) may have been committed and the matter should be reported for consideration of a criminal investigation.

The Commission has a statutory obligation under Article 23(1) Money Laundering (Jersey) Order 2008 (“**Money Laundering Order**”) to report any suspicion of money laundering to the Joint Financial Crimes Unit.

The policy of the Commission is that criminal offences will be referred to the Police and/or the Attorney General if the matter is considered to be sufficiently serious. It should be stressed, however, that a decision on whether to prosecute will be a matter solely for the Attorney General.

The Commission will generally regard a criminal offence as sufficiently serious to the extent that it poses a threat to clients or potential clients or to the reputation of the Island and/or where it casts doubt on the integrity, competence or financial standing of the person concerned. It will also be relevant if the criminal conduct was deliberate or premeditated rather than accidental, or if the person (individual or body corporate) has knowingly or recklessly provided the Commission with false or misleading information

Failure, or refusal to cooperate with the Commission in the exercise of its statutory duty or a history of past breaches/poor regulatory compliance (which may give grounds to believe that the breach is likely to be repeated and/or is part of a systemic failure), will also be taken into account in determining if a referral to the Police and/or the Attorney General is warranted.

In deciding whether to make a referral to the Police and/or the Attorney General, the Commission may also give consideration as to whether the matter can be adequately addressed by the use of any of the regulatory powers or sanctions available to the Commission.

The above list of relevant factors is not intended to be exhaustive. But it should be enough to indicate that referrals to the Police and/or the Attorney General by the Commission will be judged on their merits, on a case-by-case basis, and will not be made on every occasion a criminal offence is identified. For example, in instances where a minor breach of the Money Laundering Order is identified, it may be more appropriate to oversee the implementation of an effective remediation program by the Registered Person without referring the matter to the Police and/or the Attorney General. However, failure to rectify that minor breach (or breaches) of the Money Laundering Order, may result in a referral to the Police and/or the Attorney General.

Regulated entities and all their staff should, however, be in no doubt that they put themselves at potential risk if they do not take adequate steps to ensure that they are compliant with any regulatory laws that affect them and any subordinate legislation and Codes of Practice thereunder, the Money Laundering Order, and the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism.