



Jersey Financial
Services Commission

Civil financial penalties webinar: 19 May

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Agenda

- Background to civil financial penalties
- How they are structured
- When they will be applied
- Civil financial penalties issued
- Questions



Background



2015 Introduction of enabling legislation - Article 21A Financial Services Commission (Jersey) Law 1998

Rationale for introduction and uses include:

- To match the powers of other similar regulators and meet expectations of international standard setters
- An additional enforcement tool (allows for a range of proportionate outcomes)
- To mitigate compliant businesses paying for non-compliant businesses
- As a deterrent to Industry



Background

'Registered persons'

For civil financial penalty purposes being:

- A registered person under the Financial Services (Jersey) Law 1998 (except GIMB classes R & S)
- A registered person under the Banking Business (Jersey) Law 1991
- Category B permit holders under the Insurance Business (Jersey) Law 1996
- AIF service providers per Regulation 2 of the AIF (Jersey) Regulations 2012
- Note: Funds and Schedule 2 businesses are not currently in scope

'Principal persons' of the above

Depends on each of the above laws/regulations, but generally captures directors/managers (branch)/controllers/shareholder controllers



When they will be applied



Where “**significant and material**” contraventions of the relevant Codes of Practice (including AML/CFT Codes of Practice)



When they will be applied

Registered persons

- Can't impose a penalty if contravention occurred before 20 March 2015, unless contravention was continuing over that date
- “negligent” contraventions were introduced at a later date, in these cases cannot impose a penalty if contravention occurred before 2 August 2018, unless contravention was continuing over that date



When they will be applied



Principal persons

- Can't impose a penalty if contravention occurred before 26 October 2018, unless contravention was continuing over that date
- The significant and material contravention(s) of the Code(s) of Practice by the registered person must be either committed with consent, connivance or neglect of the principal person **or** aided, abetted, counselled or procured by the principal person



How they are structured

Band 1	Band 2	Band 2A	Band 3
Failure to notify on more than one occasion in two years (incl late notification)	Failure to remediate within timeframe determined by the JFSC (not Band 2A or 3)	Negligent contraventions	Intentional or reckless contraventions
RPs: Max of 4% of relevant income	RPs: Max of 6% of relevant income	RPs: Max of 7% of relevant income	RPs: Max of 8% of relevant income
Capped at £10,000	Capped at £4,000,000	Capped at £4,000,000	Cap of £4,000,000
PPs: up to £10,000	PPs: Up to £200,000	PPs: Up to £300,000	PPs: Up to £400,000



Band 1 warnings

“A failure on more than one occasion in any period of two years, to notify the JFSC of any matter required by a Code of Practice (whether or not the subject matter is the same on each occasion), such failures comprising either or both of the following: (a) a notification not being made at all; (b) a notification not being made within the timeframe required by the Code....”



Band 2 warnings



“A contravention not falling into Band 2A or Band 3 and not rectified to the satisfaction of the JFSC within the timeframe determined by the JFSC after discussion with the registered person concerned, which timeframe must be reasonable.”



Civil penalty warnings

Letters issued (Band 1 unless otherwise stated)

Year	FSB	TCB	Bank	GIMB	Other RPs	Total
2017	3	1	-	1	-	5
2018	2	2	-	-	-	4
2019	-	3 (1 x Band 2)	1 (Band 2)	-	-	4
2020	1	-	-	-	-	1
2021 to date	-	6	1	-	-	6



Penalties issued to date

- 2019 Band 2: Failure to remediate = £381k
- 2020 Band 2A: Negligent contraventions of TCB CoP = £115k
- 2021 Band 2A: Negligent contraventions of the CoP = Bank (£510,599.67); TCB (£155,476.54); Corporate Services (£53,375.00)



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Questions?





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