



Notice designating “senior management functions”

This notice is issued by the Jersey Financial Services Commission (“**the JFSC**”) pursuant to Article 1(1) of the Financial Services Commission (Jersey) Law 1998 (“**the Commission Law**”).

Introduction

Article 21A of the Commission Law provides that where the JFSC is satisfied that a registered person (as defined in the Commission Law) has, to a significant and material extent, contravened the Money Laundering (Jersey) Order 2008 or a JFSC Code of Practice the JFSC may impose a civil financial penalty on that registered person.

Article 21A of the Commission Law also provides that if the JFSC is satisfied that the contravention by the registered person was -

- (a) committed with the consent or connivance of, or was attributable to neglect on the part of any person who performs (or performed) a *senior management function*, or
- (b) aided, abetted, counselled or procured by any person who performs (or performed) a *senior management function*,

the JFSC may impose a civil financial penalty on that person.

“senior management function”

Article 1(1) of the Commission Law defines “senior management function” as a function designated as such by the JFSC by notice published on its website where –

- (a) the function requires the individual performing it to be responsible for managing one or more aspects of the registered person’s affairs; and
- (b) those aspects involve, or might involve, a risk of serious consequences –
 - i. for the registered person, or
 - ii. for business or other interests in Jersey,

and in paragraph (a), managing one or more aspects of the registered person’s affairs includes a reference to taking decisions, or participating in the taking of decisions, about how one or more aspects of those affairs should be carried on.

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Designation of senior management functions

Each of the following functions is designated as a senior management function:

Category number	Function
1	The function of managing any aspect of a registered person’s local AML/CFT/CPF compliance/risk function where that function is carried out by a person who in the organisational hierarchy of the registered person sits below a board level role but above the level of a key person role.

Notes (form part of the statutory Notice)	<ol style="list-style-type: none">1. “AML/CFT/CPF” means anti-money laundering / countering the financing of terrorism / countering proliferation financing.2. “key person” means a compliance officer, money laundering compliance officer or money laundering reporting officer.3. In a trust company business with participating members the reference to “organisational hierarchy” should be taken to be that of the affiliation leader.4. Where the registered person is not a company, references to “the board” should be read as references to the registered person’s governing body, by whatever named called.5. Where the registered person is the Jersey branch of an overseas incorporated bank the reference to “board” should be read as a reference to the appointed “senior officer” required by Article 11(2)(a) of the Banking Business (General Provisions) (Jersey) Order 2002.6. Category 1 includes the function of line managing a key person.7. A person with management responsibilities for any aspect of a registered person’s local AML/CFT/CPF compliance/risk function but who simultaneously holds a key person role will fall into Category 1.
Guidance (non-statutory)	<ol style="list-style-type: none">(a) A person who is resident outside Jersey can fall into Category 1. It is the person’s function, rather than their location, which is the determining factor.(b) To fall into Category 1 a person does not necessarily have to be employed directly by the registered person: their employment contract could be with another group company.

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Category number	Function
2	<p>The function of managing any aspect of a registered person’s affairs carried out by a person who:</p> <ul style="list-style-type: none"> • in the organisational hierarchy of the registered person sits below a board level role; and • reports directly to the board or directly to a principal person of the registered person; <p>and</p> <ul style="list-style-type: none"> • has responsibility for the application, by the aspect of the registered person’s affairs that they manage, of one or more of the registered person’s arrangements for meeting its statutory and regulatory obligations to counter money laundering, terrorist financing, and proliferation financing; <p>and</p> <ul style="list-style-type: none"> • is able to exercise significant influence.

Notes (form part of the statutory Notice)	<ol style="list-style-type: none"> 1. “... managing any aspect of a registered person’s affairs ...” excludes management activities covered by Category 1. 2. In a trust company business with participating members the reference to “organisational hierarchy” should be taken to be that of the affiliation leader. 3. Where the registered person is not a company, references to “the board” should be read as references to the registered person’s governing body, by whatever named called. 4. Where the registered person is the Jersey branch of an overseas incorporated bank the reference to “board” should be read as a reference to the appointed “senior officer” required by Article 11(2)(a) of the Banking Business (General Provisions) (Jersey) Order 2002. 5. “principal person” has the meaning given in Article 1 of the Commission Law.
Guidance (non-statutory)	<p>(a) Whether a person “is able to exercise significant influence” will be a question of fact in each case.</p> <p>However, the JFSC considers that an, but not necessarily the only, indication of having such influence is that the person is of sufficient seniority to take decisions that materially affect the registered person’s exposure to the risk of money laundering, terrorist financing or proliferation financing.</p>

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	<ul style="list-style-type: none">(b) “significant influence” would not include providing non-binding advice or non-binding recommendations.(c) A person who is resident outside Jersey can fall into Category 2. It is the person’s function, rather than their location, which is the determining factor.(d) To fall into Category 2 a person does not necessarily have to be employed directly by the registered person: their employment contract could be with another group company.
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3	The function of carrying out a duty or responsibility (alone or jointly with others) that the Money Laundering (Jersey) Order 2008 or an AML/CFT/CPF Code of Practice issued by the JFSC requires to be performed by senior management.

Notes (form part of the statutory Notice)	<ol style="list-style-type: none"> 1. An “AML/CFT/CPF Code of Practice” means a Code of Practice issued by the JFSC pursuant to Article 22 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.
Guidance (non-statutory)	<ol style="list-style-type: none"> (a) A person who is resident outside Jersey can fall into Category 3. It is the person’s function, rather than their location, which is the determining factor. (b) Where authority has been given to a committee to carry out such a duty or responsibility each member of the committee should be considered to fall into Category 3. (c) To fall into Category 3 a person does not necessarily have to be employed directly by the registered person: their employment contract could be with another group company.

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Category number	Function
4	The function of performing the duties of a senior officer as referred to in Article 11(2)(a) of the Banking Business (General Provisions) (Jersey) Order 2002.

Notes (form part of the statutory Notice)	[None.]
Guidance (non-statutory)	(a) Article 11(2)(a) of the Banking Business (General Provisions) (Jersey) Order 2002 requires the appointment of a senior officer, approved by the JFSC, outside Jersey to fulfil the obligations imposed by the Banking Business (Jersey) Law 1991 on the registered person.

This notice is dated 12 January 2023 and comes into effect on 13 March 2023.