

Senior management functions: are you now within scope of the civil financial penalties regime?

Insights - 11/04/2023

The **Notice issued by the Jersey Financial Services Commission [JFSC]** on senior management functions came into effect on 13 March 2023, and while best practice for registered persons was highlighted on the JFSC's website, it is important for individuals now falling within the scope of the civil financial penalty regime to consider the following.

First of all, **a good understanding of the regulatory framework is key**, and whilst you can't eat an elephant in one sitting, simply reading the legislation and regulation relevant to your business will definitely help. Block some time out on a weekly basis to read the applicable laws, orders and codes of practice. You can probably count this as CPD.

Understanding your responsibilities is also really important, knowing which of the four categories outlined in the Notice your role falls into is essential for both you and the organisation you work for. Be clear on your obligations.

Know your business and its risks. You should be clear on the challenges your firm faces in regard to managing ML/TF/PF risk. It is vital to be aware of how the risks the business is exposed to are mitigated.

Through public statements and feedback papers issued, the JFSC consistently highlights that Board minutes do not effectively document how material matters are considered, challenged and actioned. So **be the influence in making sure that what's discussed is properly recorded**. If it isn't written down, you can't evidence it happened.

Champion investment in the right areas of your organisation (and if your fellow senior managers or Board disagree, make sure your point is minuted), an under-resourced second line of defence function is no defence in terms of the civil financial penalty regime. Prevention is much cheaper than cure, so invest time and resources into your risk management – and that

includes external support and expertise where required.

Encourage a healthy relationship with the regulator. An upcoming post from my colleague Sarah Valerkou will provide some helpful tips on how to go about this.

Last but not least, **remember the purpose of the regulatory framework in place is to combat financial crime.** It absolutely is to protect the reputation of Jersey as a well-regulated international finance centre, however at its core it is to prevent financial crime from happening. Whether that be money laundering, cyber crime, terrorist financing, tax evasion, bribery or financial market manipulation – we often forget about the victims, the people who suffer as a result of these activities. We should always remember the why.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



[Amanda Reilly](#)

Director

[Jersey](#)

E: amanda.reilly@ogier.com

T: [+44 1534 514142](tel:+441534514142)

Related Services

Consulting

Ogier Regulatory Consulting