

## Does your firm have an effective relationship with the JFSC?

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As part of the JFSC's risk-based approach following its restructure of Supervision, registered firms are experiencing an increased number of visits from the regulator and greater focus on issues central to the JFSC's regulatory objectives. It is therefore crucial that firms and their senior management understand how the regulator expects them to engage with it.

Fundamentally, each registered firm has an obligation under its Code of Practice to deal with the JFSC in an open and cooperative manner. As the JFSC's supervisory model relies heavily on the information firms provide it (both by self-reporting and in response to information requests), the regulator may view any failure by a firm to provide accurate information in a timely manner as a significant concern.

Firms must also recognise that, as members of the regulated community, they are expected to work with the JFSC to further its regulatory objectives. When the JFSC raises a concern, firms should consider the risks they pose to those objectives. In its 2019 Business Plan, the JFSC reiterates its "first guiding principle" is to protect the consumer.

The JFSC has made clear that the duty to be open and cooperative is important: its guidance on its enforcement powers and its civil penalties methodologies emphasise that whether a firm has been open and cooperative may inform the JFSC's decision on whether to take enforcement action, or on the amount of any financial penalty, and its 2018 guidance note on 'Integrity and Competence' makes clear that not being open and cooperative may evidence a lack of integrity or competence. This could potentially lead to formal action such as conditions being imposed on the firm's registration or, in the worst case, the firm's registration being withdrawn; it may also inform the JFSC's view on notifications by proposed principal and key persons.

The JFSC's public statement on Sanne Fiduciary Services Ltd in 2019 evidences that it values cooperation. In contrast, the UK FCA has shown the cost of poor engagement: its £3.25m fine of Sonali Bank (UK) Ltd in 2016 was premised partly on a 7 week delay in notifying the FCA of a

"*potentially significant*" fraud and its £6m fine of Threadneedle Asset Management Ltd in 2015 was influenced by the firm overstating the steps it had taken in response to concerns the regulator had raised.

So what practical points should firms and senior management bear in mind when dealing with the JFSC?

1. You must proactively inform the JFSC of any matters of which it may reasonably expect notice, doing so promptly upon identifying circumstances of actual or potential concern.
2. You must react promptly and professionally to JFSC information requests.
3. You must ensure the information you give to the JFSC is accurate and complete. Any caveats must be made clear.
4. When the JFSC raises concerns, you must focus not on commercial drivers but on the risk the issue poses to the JFSC's regulatory objectives. You must make clear to the JFSC that you understand why it is raising the concern and that you take the matter seriously.

Both the board of a firm and its Compliance Officer have central roles to play. The Compliance Officer should be the principal point of contact with the regulator: the board must ensure this is the case, and that the Compliance Officer is suitably involved in all interactions with the JFSC. Further, the firm should maintain a Regulatory Correspondence Register, and ensure the board has sufficient visibility of it and the progress of resulting actions.

Put simply, registered firms should adopt a candid approach with the JFSC: it is the right thing to do, and the costs of not doing so can be high.

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