



Jersey

**FINANCIAL SERVICES COMMISSION
(FINANCIAL PENALTIES) (JERSEY)
ORDER 2015**

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 29 April 2022 to Current



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FINANCIAL SERVICES COMMISSION (FINANCIAL PENALTIES) (JERSEY) ORDER 2015

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Jersey

FINANCIAL SERVICES COMMISSION (FINANCIAL PENALTIES) (JERSEY) ORDER 2015

THE CHIEF MINISTER, in pursuance of Articles 21B and 22 of the [Financial Services Commission \(Jersey\) Law 1998](#) and after having consulted the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Order –

“affiliation”, in respect of trust company business, means a group of persons carrying on or intending to carry on that business who have agreed that one member of the group will be the affiliation leader;

“average annual turnover”, in respect of a registered person, means the average of the annual turnover derived from all the business activities of the registered person carried on, in or from within, Jersey for the 5 financial years, or for the period during which it has carried on business activities as a registered person, whichever is shorter, prior to the issuance of a final notice by the Commission under Article 21C of the Law;

“contravention” means a contravention of a Code of Practice or an enactment to which Article 21A of the [Financial Services Commission \(Jersey\) Law 1998](#) applies;

“turnover”, in the case of trust company business in respect of which there is an affiliation, includes the turnover from all members of the affiliation.¹

(2) Unless the context otherwise requires, words and phrases used in this Order that are not defined in or for the purposes of this Order have the same meaning as in the [Financial Services \(Jersey\) Law 1998](#).

2 ²

3 Level of penalties³

The Commission may impose penalties –

(a) on registered persons only up to the maximum level set out in the third column in the table in the Schedule;

- (b) on principal persons, key persons or persons who perform or performed a senior management function only up to the maximum level set out in the fourth column in the table in the Schedule,
- for the appropriate band of penalty, determined according to the nature of the contravention.

4 Citation

This Order may be cited as the Financial Services Commission (Financial Penalties) (Jersey) Order 2015.

SCHEDULE⁴

(Article 3)

MAXIMUM LEVEL OF PENALTIES

Band	Nature of contravention	Maximum level of penalty that may be imposed on a registered person	Maximum level of penalty that may be imposed on a principal person, key person or person who performs or performed a senior management function
1	<p>A failure, on more than one occasion in any period of 2 years, to notify the Commission 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 –</p> <p>(a) a notification not being made at all;</p> <p>(b) a notification not being made within the timeframe required by the Code,</p> <p>provided that –</p> <p>(1) the Commission has notified the registered person in writing after the first contravention that the registered person has failed to make the required notification or has not made the notification within the required timeframe; and</p> <p>(2) the contravention does not fall into either band 2, band 2A or band 3 below.</p>	4% of the average annual turnover.	£10,000.
2	A contravention not falling into either band 2A or band 3 below and not rectified to the satisfaction	6% of the average annual turnover.	£200,000.

Band	Nature of contravention	Maximum level of penalty that may be imposed on a registered person	Maximum level of penalty that may be imposed on a principal person, key person or person who performs or performed a senior management function
	of the Commission within the timeframe determined by the Commission after discussion with the registered person concerned, which timeframe must be reasonable.		
2A	<p>A contravention committed negligently that satisfied one or more of the following, namely that it –</p> <ul style="list-style-type: none"> (a) caused or risked causing financial loss to the public; (b) damaged or risked damaging the reputation and integrity of Jersey in commercial and financial matters; (c) damaged or risked damaging the economic interests of Jersey; (d) jeopardized or risked jeopardizing the need to counter financial crime both in Jersey and elsewhere; (e) took place for commercial reasons. 	7% of the average annual turnover.	£300,000.
3	<p>A contravention committed either intentionally or recklessly that satisfied one or more of the following, namely that it –</p> <ul style="list-style-type: none"> (a) caused or risked causing financial loss to the public; (b) damaged or risked damaging the reputation and integrity of Jersey in commercial and financial 	8% of the average annual turnover.	£400,000.

Band	Nature of contravention	Maximum level of penalty that may be imposed on a registered person	Maximum level of penalty that may be imposed on a principal person, key person or person who performs or performed a senior management function
	<p>matters;</p> <p>(c) damaged or risked damaging the economic interests of Jersey;</p> <p>(d) jeopardized or risked jeopardizing the need to counter financial crime both in Jersey and elsewhere;</p> <p>(e) took place for commercial reasons.</p>		

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Financial Services Commission (Financial Penalties) (Jersey) Order 2015	R&O.71/2015	23 June 2015
Financial Services Commission (Financial Penalties) (Amendment) (Jersey) Order 2018	R&O.84/2018	2 August 2018
Financial Services Commission (Amendment No. 7) (Jersey) Law 2018	L.28/2018	26 October 2018
Financial Services Commission (Financial Penalties) (Amendment No. 2) (Jersey) Order 2022*	R&O.48/2022	29 April 2022

* Regulation 6 makes the following savings and transitional provision:

“Where, before the coming into force of this Order, a notice of intent was issued and served under Article 21C of the [Financial Services Commission \(Jersey\) Law 1998](#), any amount of the penalty required to be paid in a final notice issued under that Article is calculated on the basis of that Law and the Financial Services Commission (Financial Penalties) (Jersey) Order 2015 as they were in force at the time of the issuance of the notice of intent.”

Table of Renumbered Provisions

Original	Current
4(1)	4
4(2)	spent, omitted

Table of Endnote References

¹ Article 1(1)	amended by R&O.48/2022
² Article 2	deleted by R&O.48/2022
³ Article 3	substituted by L.28/2018, amended by R&O.48/2022
⁴ Schedule	amended by R&O.84/2018, L.28/2018, R&O.48/2022