

**CONSULTATION PAPER ON  
ADMINISTRATIVE PENALTIES<sup>1</sup>**

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**10 May 2019**

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<sup>1</sup> *The views expressed and proposals contained in this document are not final and subject to changes following feedback received from the industry, stakeholders and the public.*

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CONSULTATION

## Glossary

AP	Administrative Penalty
AMF	L'Autorité Des Marchés Financiers
AML/CFT	Anti Money Laundering / Combating the Financing of Terrorism
CIMA	Cayman Islands Monetary Authority
Commission	Financial Services Commission, Mauritius
DFSA	Dubai Financial Services Authority
DIFC	Dubai International Financial Centre
DNFBPs	Designated Non-Financial Businesses or Professions
FATF	Financial Action Task Force
FCA	Financial Conduct Authority, United Kingdom
FI	Financial Institution
FSA	Financial Services Act
FSMA	Financial Services Market Act
FSCO	Financial Services Commission of Ontario
GFSC	Guernsey Financial Services Commission
IAIS	International Association of Insurance Supervisors
IOPS	International Organisation of Pension Supervisors
IOSCO	International Organisation of Securities Commission
JFSC	Jersey Financial Services Commission
MAS	Monetary Authority of Singapore

## Interpretation

- “*Authorised Company*” means a company issued with an authorisation under section 71A of FSA;
- “*Controller*” is as defined in section 2 of the FSA
- “*Financial services*” –
  - (a) means any financial services or financial business activities governed by the relevant Acts<sup>2</sup>; and
  - (b) includes the financial business activities specified in the Appendix I.
- “*General Fund*” means the fund established under section 82 of the FSA,
  - (a) into which all money received by the Commission shall be paid; and
  - (b) out of which all payments required to be made by the Commission and all charges on the Commission shall be effected.
- “*Global business*” means the business to which Part X of the FSA applies;
- “*Global Business Licence*” –
  - (a) means a licence issued under section 72 (6) of FSA; and
  - (b) includes a licence issued to an external insurer;
- “*Global Business Corporation*” means a corporation holding a Global Business Licence issued under section 71 of FSA;
- “*Licence*” –
  - (a) means any licence issued under any relevant Act; and
  - (b) except where otherwise specified, includes –
    - (i) a Global Business Licence; or

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<sup>2</sup> As defined under section 2 of the FSA

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(iii) a management licence;

- “*Licensee*” –
  - (a) means the holder of a licence; and
  - (b) includes –
    - (i) any person authorised, registered or approved under the relevant Acts; and
    - (ii) any institution established to provide any service under the relevant Acts;
- “*Management company*” means a company holding a management licence;
- “*Management licence*” means a licence referred to in section 77 of FSA;
- “*Officer*” means a member of the board of directors, a chief executive, a managing director, a chief financial officer or chief financial controller, a manager, a company secretary, a partner, a trustee or a person holding any similar function with a licensee.
- “*Relevant Acts*” –
  - (a) means the FSA and the Acts specified in the First Schedule of FSA; and
  - (b) includes any regulations and FSC Rules made under those Acts;

## **1. Purpose of this Consultation Paper**

- 1.1. Section 7 (1) (c) (v)<sup>3</sup> of the FSA relates to the power of the Commission to impose administrative penalties (“APs”) on licensees as an administrative sanction. To ensure appropriate use of this power, the Commission intends to establish a framework based on which it will impose APs for breaches of legislation as well as Rules, Regulations and Guidelines made thereunder including Licensing Conditions. APs will thus complement the existing panoply of administrative sanctions available to the Commission..
- 1.2. This Consultation Paper (“CP”) sets out the proposed approach to be taken by the Commission in relation to APs.
- 1.3. The Commission invites views and comments from the industry, relevant professionals and the public on this proposed approach.
- 1.4. Based on the approach proposed in this CP and the feedback received during the consultation period, the Commission will devise the regulatory framework for the imposition of APs as an administrative sanction.
- 1.5. This CP is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal.

## **2. Entities who will be impacted by the proposed changes**

- 2.1. The proposals in this CP will be of particular interest to the licensees of the Commission, their officers and controllers, amongst others.

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<sup>3</sup> This subsection empowers the Commission to impose administrative penalties on defaulting licensees.

### **3. Consultation Period**

- 3.1. The consultative period will run from 10 May 2019 to 30 May 2019. Your comments, feedback and suggestions must be directed to the Director of Enforcement at the following email address: [apconsultation@fscmauriti.us.org](mailto:apconsultation@fscmauriti.us.org)

### **4. Background and Context**

- 4.1. The Commission, as the integrated regulator for non-banking financial services and global business sectors, is responsible for licensing, regulating, monitoring and supervising the conduct of business activities under the relevant Acts.
- 4.2. The Commission has a wide range of disciplinary powers under FSA and other relevant Acts to impose administrative sanctions on its licensees which have contravened requirements. .
- 4.3. APs are sanctions used by regulators to promptly ensure compliance by licensees, their officers and controllers with the legislations under their purview without protracted legal proceedings or having recourse to the judicial system by:
- 4.3.1. penalising contraveners for infringing the regulatory framework or for unsound business conduct; and
  - 4.3.2. deterring repetitive misconduct and act as a warning to others in the industry.
- 4.4. To ensure fairness, proportionality and impartiality, decisions to impose APs and the quantum thereof, are usually taken by senior officials of regulatory or supervisory authorities.
- 4.5. APs allow a more flexible regulatory approach which enables viable businesses to continue to operate whilst being subject to appropriate sanctions for any misconduct they have engaged in.

## **5. The Commission's Approach**

- 5.1. The Commission is dedicated to the proactive supervision and monitoring of its licensed community.
- 5.2. It is also cognisant of the evolution of the financial markets, the increasingly innovative suite of financial products that are being introduced, the diversified nature of industry participants and the need for regulation and governance, whilst providing a regulatory and enforcement landscape which will not impede business development or the growth of the financial services sector.
- 5.3. As the integrated supervisor for the non-banking financial services and global business sectors, the Commission sets regulatory requirements for its licensees, supervises compliance with those requirements and initiates enforcement actions when the requirements are not adhered to.
- 5.4. Each instance of non-compliance with regulatory requirements by a licensee is considered by the Commission on its own merits while taking into account the individual circumstances of the matter. In this regard, while ensuring consistency with precedents, the Commission decides on administrative sanctions to be imposed on a licensee on a case-by-case basis. However, with lessons learnt and as the body of precedents increase, this approach may be revisited.
- 5.5. From the Commission's perspective, APs are intended to endorse and encourage compliance instead of merely being a sentence for regulatory breaches and unsound business conduct.
- 5.6. In this respect, rather than adopting a prescribed fixed-penalty approach such as prescribed under the [Financial Services \(Administrative Penalties\) Rules 2013](#), the Commission is proposing to devise a detailed regulatory framework for APs

to sanction non-compliance by licensees. In contrast to a fixed penalty approach, a detailed regulatory framework will provide more flexibility to the Commission to give full consideration to the facts and circumstances of each case.

5.7. It is envisaged that where the decision to impose an AP is taken by the Commission through the Enforcement Committee (as opposed to APs imposed through settlement<sup>4</sup>), the decision may be subject to an appeal to the Financial Services Review Panel (the “Review Panel”)<sup>5</sup>. This independent appeal process is an important safeguard for those who are subject to an administrative sanction in this way, by the Commission.

## 6. International Standards

6.1. The Commission is fully committed to adopting international regulatory best practices and meeting the standards set out by various international organisations such as the International Organisation of Securities Commissions (IOSCO) for securities; the International Association of Insurance Supervisors (IAIS) for insurance; and the International Organisation of Pension Supervisors (IOPS) for pension, as well as the Financial Action Task Force (FATF) for Anti Money Laundering / Combating the financing of terrorism (AML/CFT) purposes. As such, over the years, a number of statutory changes have been brought to the laws being administered by the Commission to, *inter alia*, consolidate its regulatory ambit in line with international standards.

6.2. It is to be noted that APs are not only recognised by the abovementioned international organisations as an effective enforcement tool to address regulatory misconduct but they also advocate the importance of frameworks to adequately

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<sup>4</sup> The Commission is devising settlement protocols which will be detailed under separate cover.

<sup>5</sup> Section 53(4) of the FSA

empower regulators to detect, investigate and sanction misconduct as well as provide appropriate avenues, such as APs, for the remediation of detected misconduct.

- 6.3. The Commission is also cognisant of the June 2018 report of the Eastern and Southern Africa Anti-Money Laundering Group. In noting the absence of monetary penalties, this report emphasises the need to ensure that sanctions are effective, proportionate and dissuasive as well as commensurate with the severity of infringements.
- 6.4. From an international stand-point, APs, while supplementing existing sanctions, provide an effective mechanism which can be applied in accordance with the severity of the regulatory breaches detected. In this regard, they are less likely to affect customers adversely and thereby cause less reputational damage to the financial sector.

## **PART I**

### **7. Administrative Sanction**

7.1. Administrative sanctions are broadly understood as being those imposed by the regulator, without intervention by a court or tribunal. Administrative sanctions are imposed by way of financial penalties or non-financial penalties.

7.2. Below are examples of administrative sanctions:

- (i) private warnings;
- (ii) administrative penalty
- (iii) public censure
- (iv) disqualification
- (v) revocation of licences

### **8. What is an AP?**

8.1. An AP is a fine imposed by a regulator for a contravention of an Act, Rules, Regulations, Guidelines, Licensing Conditions or Limitations. It is issued following the discovery of an unlawful event, and is due and payable subject only to any rights, including the right of review, that may be available under the implementing scheme or applicable legislation. It is regulatory in nature and is intended to facilitate compliance with a regulatory scheme. It can be imposed in conjunction with the use of certain other administrative sanctions where appropriate such as the suspension of licences.

8.2. APs are based on the dis-incentivising effect of pecuniary fines for safeguarding the financial market, in addition to the reputational cost incurred by the offending institution or person. APs can be imposed on individuals or corporation(s), their goal being to deter particular conduct and/or punish offending behaviour.

- 8.3. APs are imposed primarily to encourage high standards of regulatory conduct by deterring FIs from committing violations and encouraging those who have violated laws to take appropriate corrective measures. This tool empowers the Commission to accomplish prompt, efficient, proportionate and impartial determination of a specific contravention and enables FIs to learn lessons.
- 8.4. The main aim of APs is to deter future breaches or to take swifter and more effective action against previous/current non-compliance. We have therefore considered two main theories in relation to sanctions, which focus on constraining future misconduct, namely (i) Deterrence Theory; and (ii) Just Deserts Theory.

#### *8.4.1. Deterrence Theory*

The aim of this theory is to impose numerous penalties in order to deter them from wrongful acts and to deter others from engaging in unlawful activities. It is expected that the regulated community will be deterred when the cost of a contravention outweighs the benefits. The emphasis in the deterrence theory is on pricing the illegal behaviour by imposing a penalty which is substantial enough to deter a well-resourced individual or corporate offender.

#### *8.4.2. Just Deserts Theory*

The Just Deserts Theory is traditionally associated with criminal penalties. However, it can also be used to determine the quantum of civil penalties in that sanctions should be commensurate with the nature and extent of the wrongfulness. The fundamental principle of Just Deserts Theory is that the punishment should be proportionate to the damage.

Whilst the primary purpose of regulatory penalties is to deter, the imposition of individual penalties can and should be guided by a wider range of purposes and most importantly, the deterrence factor must be balanced against fairness, the degree of culpability evidenced and proportionality.

## 9. Types of APs

### Fixed Financial Penalties

- 9.1. Fixed financial penalties are typically monetary fines up to a maximum sum, prescribed by law. In numerous jurisdictions they are automatically applied where a licensee/officer has breached post licensing/supervisory requirements, such as the timeframe within which regulatory fees are required to be paid or within which regulatory returns are required to be submitted.
- 9.2. Normally where fixed financial penalties are provided under the law, the regulator does not have a discretion to modify and/or waive administrative penalties. However, in some jurisdictions the concerned parties may present their case, including any relevant circumstance, to the regulator in order to seek relief from the fixed financial penalties.
- 9.3. Rules relating to the fixed financial penalties issued by the Commission, is provided at the following link: [Financial Services \(Administrative Penalties\) Rules 2013](#)<sup>6</sup>

### Variable Financial Penalties

- 9.4. On the other hand, where the APs are not quantified under the law, the regulator may impose financial penalties on a more flexible or “variable” basis where there are reasonable and appropriate grounds to do so. This gives discretion to the decision-maker to impose an amount of financial penalty on the basis of the facts and circumstances of each case. Importantly, it enables the authorities, in determining the appropriate level of an AP, to take into account the extent to

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<sup>6</sup> Please refer to Appendix II in relation to the amount of administrative penalties for each business day of non-compliance

which the penalty is aimed at discouraging future re-occurrence and restoring and encouraging compliance.

- 9.5. The essence of this type of regime is to enable penalties to be imposed as a disciplinary measure in appropriate circumstances, and which may also serve as a general deterrent within the wider financial services sector.
- 9.6. The flexibility of this structure means that financial penalties can, where appropriate, also be subject to adjustment by agreement of both parties through a process of dialogue and settlement.

## PART II

### 10. Relevant Legislative Provisions

#### 10.1. Objects of the Commission

The objectives of the Commission as set out under section 5 of the FSA, include inter alia:

“ ...

*(c) to elaborate policies which are directed to ensuring the fairness, efficiency and transparency of financial and capital markets in Mauritius;*

*(d) to study new avenues for development in the financial services sector, to respond to new challenges and to take full advantage of new opportunities for achieving economic sustainability and job creation;*

...

*(f) to work out objectives, policies and priorities for the development of the financial services sector and global business and to make recommendations to the Minister.”*

#### 10.2. Functions of the Commission

Under section 6 of the FSA, Commission shall have such functions as are necessary to further most effectively its objects, and shall, *inter alia*:

“ ...

*(c) set rules and guidance governing the conduct of business in the financial services sector and of global business;*

*(d) identify and take measures to prevent and eliminate investment business abuse...”*

10.3. Powers of the Commission

10.3.1. The FSA provides the Commission with a comprehensive range of powers to take appropriate measures to suppress illegal, dishonorable and improper practices, market abuse and financial fraud in relation to any activity in the financial services sectors.

10.3.2. Pursuant to section 7(1) (c) (v) of the FSA, the Commission shall have such powers as are necessary to enable it to effectively discharge its functions and may:

*“(c) with respect to a present or past licensee or any person who is a present or past officer, partner, shareholder, or controller of a licensee*

–

*(...)*

*(v) impose an administrative penalty;”*

10.4. Section 53(9) of the FSA stipulates that any administrative penalty imposed under section 7(1) (c) (v) is a debt due to the Commission and may be recovered by the Commission as a civil debt in a court of competent jurisdiction.

10.5. The proposed framework is aimed at facilitating the Commission in meeting its objectives and functions as a regulator in an effective manner.

10.6. General Fund

10.6.1. Currently, APs paid to the Commission or recovered in accordance with the provisions of section 53(9) of the FSA are credited to the General Fund as provided under section 82 of the FSA. In this regard, section 82(1) (b) states that *“all payments required to be made by the Commission and all charges on the Commission shall be effected”*.

10.6.2. The uses to which the fund can be put are set out in the Act and a change to this arrangement is not proposed at this time.

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## PART III

### 11. The Proposed Framework

11.1. The world's leading<sup>7</sup> regulatory authorities publish their clearly defined enforcement policies, which include sections on the assessment and implementation of sanctions and, in particular, APs. The FCA's financial penalty scheme<sup>8</sup> is one of several sources of reference for the purposes of devising a robust framework for the Commission. The Commission's proposed AP framework will encompass a defined, fair, transparent and consistent approach but will be flexible in its application.

#### 11.2. Components of the AP framework

11.2.1. Effective Deterrence - The link between the quantum of a penalty and deterrence has been a major focus of the Commission's research. It is proposed that any penalty imposed should deter the entity/individual who committed the breach, and should serve to deter other licensees, from committing further or similar breaches.

11.2.2. Proportionality – The framework will place proportionality at the core of considerations. Proportionality requires a balance of all the factors in order to determine a level of financial penalty that is not more severe than the contravention requires.

11.2.3. Consistency - Licensees who have committed contraventions of a similar nature and characteristics should be fined consistently. The framework will require reasons for a financial penalty, including the factors

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<sup>7</sup> FCA, AMF and DFSA etc.

<sup>8</sup> *The Decision Procedure and Penalties Manual Financial Conduct Authority, U.K.*

considered and the weight given to those factors in reaching the amount of a financial penalty, to be clearly documented. It should however be noted that the purpose of this is to bring about consistency in determining appropriate penalties, and not necessarily to achieve penalties of the same size.

11.2.4. Parity - Under the parity consideration, where other things are equal, licensees concerned in the same breach should be subject to the same sanction; and where other things are not equal due, consideration should be given to the differing factors. Parity is an aspect of consistency and, it applies in cases of co-offenders whose circumstances are comparable.

11.2.5. Disgorgement - Disgorgement is referred to as the repayment of the funds that were obtained through offending business transactions. The objective of applying a disgorgement element within an AP is that no firm or individual should benefit from the conduct that gives rise to the breach.

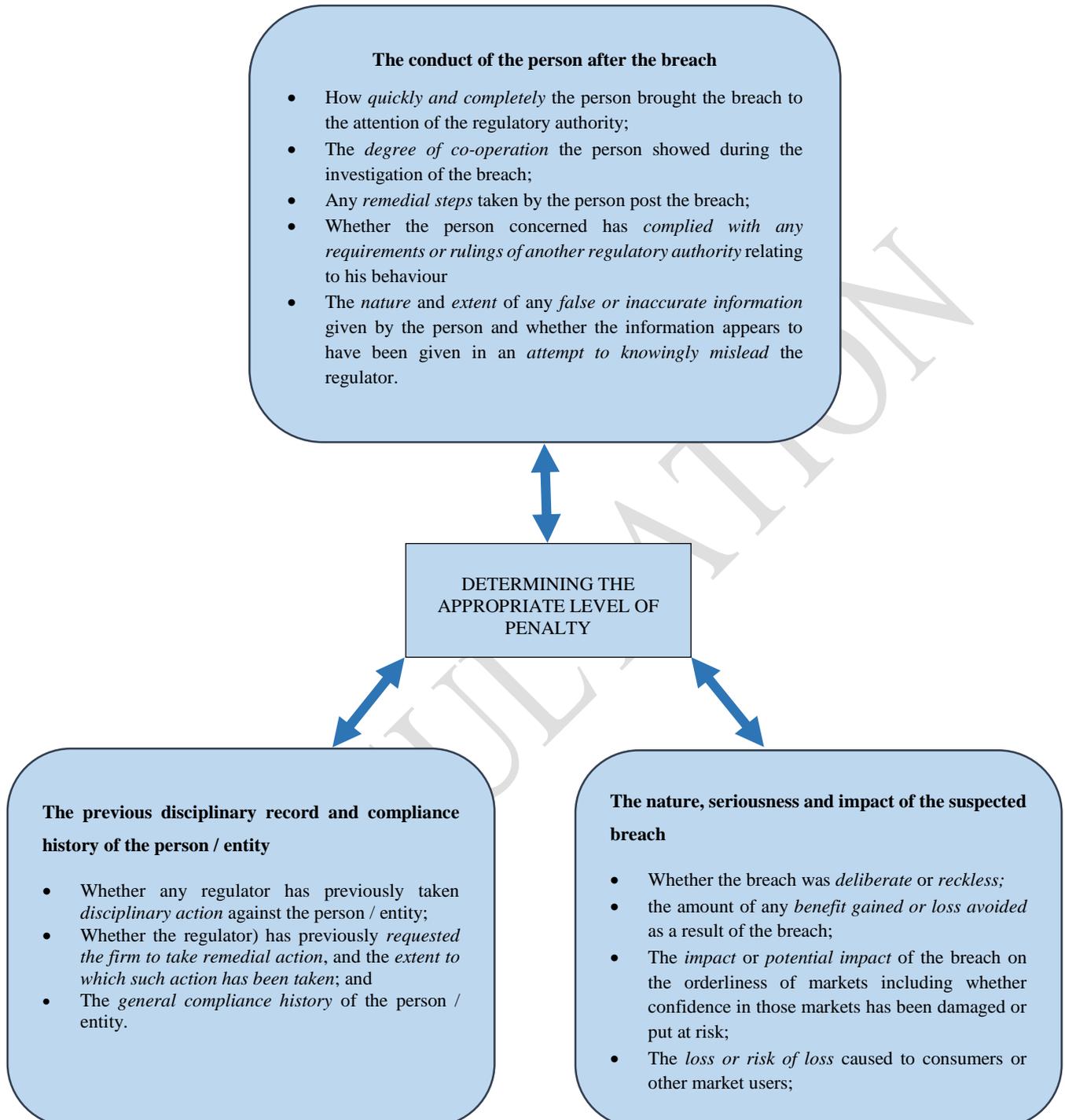
11.2.6. Seriousness – The framework will set out the key considerations in determining the gravity element, such as the extent of the contravention or misconduct, duration of the activity in question, size of the business, the licensees' full compliance history, good faith efforts to comply, and the economic impact of the financial penalty on consumers and the financial system.

11.2.7. Serious Financial Hardship – The framework will require that due consideration is given where significant financial hardship may be caused to the entity and/or individual concerned. Where an AP is contemplated, the onus will be on the firm and/or individual to satisfy the decision maker, on the basis of cogent and verifiable evidence, that the penalty imposed may trigger serious financial hardship.

11.3. Assessment of the quantum of a financial penalty

All relevant facts and circumstances will be duly considered by the Commission when determining the amount of an AP. In this respect, the factors to be taken into account, include but are not limited to, those set out below:

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## **12. Key advantages of APs**

- 12.1. The Commission is committed to prioritising those avenues that deliver the most efficient and effective sanctions and remedies and which enable it to fulfill its functions and achieve its objectives.
- 12.2. Sanctions such as APs are useful in reflecting the seriousness of misconduct and assist in enhancing deterrence. The proportionate and effective use of AP's will play an important role in securing public confidence in the regulatory regime and the regulated industry. APs are also an effective means of tackling offending behaviour at an early stage, and often before such behaviour becomes so egregious that only the most serious sanctions of revocation and disqualification are appropriate.
- 12.3. APs may serve numerous purposes: retribution, condemnation, explicit or general constraint, compensation and fortification. The key objective of APs is to deter future breaches as well as punish previous/current ones.
- 12.4. An effective AP scheme will be responsive, proportionate, fair and equitable. It will also provide an outward facing and visible means of reassuring the public and industry that those who engage in misconduct will suffer tangible consequences. Using APs in appropriate circumstances, often for less serious contraventions, helps to achieve higher levels of compliance.

## **13. Publication**

- 13.1. The FSC will consider the circumstances of each case, and will ordinarily publicise enforcement action. The publication of enforcement actions plays a

significant role in achieving the Commission's regulatory objectives and in the delivery of its enforcement directorate strategies.

13.2. The rationale for publication includes amongst other things:

- (i) enhancing credible deterrence – both to the subject and to the financial services industry;
- (ii) promoting awareness of regulatory criterion and encourage good behaviours;
- (iii) cautioning consumers and other players of financial services sector;
- (iv) inducing public assurance in the industry and the Commission; and
- (v) allowing for transparency and accountability in the Commission's regulatory decisions.

13.3. Limitations on publications, may include amongst other things where:

- (i) there is a risk of prejudice to legal proceedings or criminal or regulatory investigations;
- (ii) publication involves the disclosure of confidential information or material that is subject to legal professional or litigation privilege;
- (iii) publication may be unlawful; and
- (iv) the publication is likely to be unduly detrimental to the stability of the Mauritian financial services system or otherwise to the public interest or in any other circumstances as may be deemed necessary by the Commission.

#### **14. Conclusion**

In conclusion, this CP contains the Commission's proposals for the imposition of APs as a regulatory sanction. The Commission, in line with its collaborative approach, is seeking comments from the industry and its stakeholders.

The Commission reserves its rights, should it conclude it reasonable to do so, to take APs into consideration where regulatory concerns arise and for the protection of the good repute of Mauritius as an international centre for financial services.

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## **Appendix I**

### **SECOND SCHEDULE** (*section 2*)

#### **PART I – FINANCIAL BUSINESS ACTIVITIES**

Assets Management

Credit Finance

Custodian services (digital asset)

Custodian services (non-CIS)

Digital asset marketplace

Distribution of financial products

Factoring

Funeral Scheme Management

Global headquarters administration

Global treasury activities

Leasing

Overseas family office (multiple)

Overseas family office (single)

Pension scheme administrator

Registrar and Transfer Agent

Treasury management

Such other financial business activity as may be specified in FSC Rules

## Appendix II

### Financial Services (Administrative Penalties) Rules 2013

#### Administrative penalties

(1) Subject to paragraph (4), where a licensee fails to comply with a legal obligation specified in the first column of the Schedule, the licensee shall be liable to pay to the Commission the corresponding administrative penalty specified in the second column of the Schedule for each business day of non-compliance.

(2) Without prejudice to any provisions of the relevant Acts, any administrative penalty levied under paragraph (1) shall be a debt due to the Commission and may be recovered by the Commission as a civil debt in a court of competent jurisdiction.

(3) Any administrative penalty levied under paragraph (1) shall be credited to the General Fund established under section 82 of the Act.

(4) The administrative penalty payable in respect of each breach of a legal obligation specified in the first column of the Schedule and committed by a licensee after 31 December 2017 shall not exceed 150,000 rupees (USD 5,000).

<b>Legal Obligation</b>	<b>Amount of administrative penalty for each business day of non-compliance (Rupees /US\$*)</b>
An obligation to furnish the Commission with such statistical information required to be furnished pursuant to Section 7 (2) of the Act, within such time as may be required.	Rs 300 (US\$ 10)
An obligation, pursuant to Section 30 of the Act, to file with the Commission audited	Rs 300 (US\$ 10)

financial statements or financial summaries, within such time as may be required.	
An obligation, pursuant to Sections 51 and 72 of the Insurance Act 2005, to file any account, balance sheet, certificate, report, return or statement with the Commission within such time as may be required.	R 300 (US\$ 10)
An obligation, pursuant to Sections 20, 55, 88 and 106 of the Securities Act 2005, to file any annual report or financial statements with the Commission within such time as may be required.	Rs 300 (US\$ 10)
An obligation, pursuant to Regulation 29 of the Securities (Collective Investment Schemes and Closed- end Funds) Regulations 2008, to file quarterly and audited annual financial statements with the Commission within such time as may be required.	Rs 300 (US\$ 10)

\*The administrative penalties set out in US\$ shall be applicable for the holder of the Global Business Licence

### Appendix III

#### Jurisdictions where an effective financial penalty regime has been adopted

Items	Jurisdiction	Legislation	Short Notes
1.	United Kingdom ("UK")	Financial Services Market Act (FSMA)  Section 206 & 207 of the FSMA	<p>The FCA has the power to regulate conduct of financial firms providing services to consumers. Financial penalties and public condemnations are tools that the FCA implement to help it attaining its statutory objectives.</p> <p>Pursuant to <i>section 206 of the FSMA</i>, the Authority may impose financial penalty in respect of the contravention. The penalty-setting regime is based on the principle of disgorgement, discipline and deterrence. The amount of penalty is determined taking into considerations many factors for instance seriousness and nature of the breach.</p>
2.	Cayman Islands Monetary Authority	Monetary Authority Law (2018 Revision)	The Authority has the power to impose an administrative fine on a person who committed a breach of the regulatory law or other regulations under <i>section 42A (1)</i> of the act.

			<p>The penalty regime is categorized into 3 components mainly the minor, serious and very serious breaches.</p> <p>For a <b>minor breach</b>, the fine is fixed at an amount of \$5,000. The Authority may impose one or more continuing fines of \$5,000 at intervals till the breach is stopped or the payment for the initial fine imposed has been made.</p> <p>In the case of a <b>serious breach</b>, the fine shall be \$50,000 for an individual and \$100,000 for a body corporate.</p> <p>For a breach prescribed as <b>very serious</b>, the fine is set at \$100,000 for an individual and \$1,000,000 for a body corporate respectively.</p>
3.	Guernsey Financial Services Commission	The Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations, 2016	<p>The Guernsey FSC has the power under <i>section 11D(1)</i> of the <i>FSC Law</i> to levy a Discretionary Financial Penalty of an amount not exceeding £4,000,000 to the licensee if the latter has contravened or do not fulfill the minimum requirements of the provisions of the law.</p> <p>In the case of a registered prescribed business or any person who is a director, controller, partner, senior officer or beneficial owner of a registered prescribed business, the regulator may impose financial penalty up to £200,000</p>

			pursuant to <i>section 13(1)</i> of the <i>Prescribed Business Law</i> .
4.	L'Autorité Des Marchés Financiers  (AMF)	Le Code Monétaire et Financier	<p>Professionals regulated by the AMF, such as investment service providers, management companies are subjected to a fine up to 100 million euros or 10 times the amount of any profits realized for all types of contraventions.</p> <p>Natural persons under the authority or acting on behalf of professionals are liable to a fine up to 300 000 euros or 5 times the amount of any profits obtained for failure to meet the professional obligations.</p> <p>The AMF may impose on natural persons under the authority or acting on behalf of professionals a maximum fine of 15 million euros or 10 times the amount of profits earned.</p> <p>The AMF may levy a maximum fine of 100 million euros or 10 times the amount of any profits made on persons including issuers, directors of issuers, auditors, or any other person.</p>
5.	Jersey Financial Services Commission	Financial Services Commission (Financial	4% of relevant income up to a maximum of £10,000 are imposed for failure, on more than one occasion in any period of 2 years, to notify

		<p>Penalties) (Jersey) Order 2015</p>	<p>the Commission of any matter required by a Code of Practice</p> <p>6% of relevant income up to a maximum of £4,000,000 can be imposed for contraventions rectified to the satisfaction of the Commission within the timeframe determined by the Commission after discussion with the registered person concerned, which timeframe must be reasonable.</p> <p>8% of relevant income up to a maximum of £4,000,000 can be imposed for contravention committed either <i>intentionally</i> or <i>recklessly</i> that satisfied one or more of the following, namely that it:</p> <ul style="list-style-type: none"> <li>a) caused or risked causing financial loss to the public;</li> <li>b) damaged or risked damaging the reputation and integrity of Jersey in commercial and financial matters;</li> <li>c) damaged or risked damaging the economic interests of Jersey;</li> <li>d) jeopardized or risked jeopardizing the need to counter financial crime both in Jersey and elsewhere;</li> <li>e) took place for commercial reasons.</li> </ul>
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6.	Dubai Financial Services Authority		Section 90 of the Regulatory DIFC <sup>9</sup> law sets out that where the DFSA considers that a person has contravened a provision of any legislation administered by the DFSA, the DFSA may fine the person such amount as it considers appropriate in respect of the contravention.
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CONSULTATION

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<sup>9</sup> DIFC is a global financial centre strategically located between the East and West, providing a stable and secure platform for businesses and financial institutions to tap into the emerging markets of the Middle East, Africa and South Asia.