

UPDATE

## GFSC: First Public Statement of 2018

Update prepared by Robert Shepherd (Senior Partner & Advocate, Guernsey) and Sally French (Senior Associate & Advocate, Guernsey)

---

The Commission has issued its first Public Statement of 2018. What are the warnings to be taken and lessons learned?

---

On 12 April the Guernsey Financial Services Commission (the **Commission**) issued its first Public Statement of 2018. The recipient was Richmond Fiduciary Group Limited. The Public Statement was coupled with a Financial Penalty of £45,500.

Public Statements and Financial Penalties are some of the sanctions available to the Commission to punish breaches of the regulatory laws and/ or non-fulfilment of the minimum criteria for licencing.

The Commission is required to use its enforcement powers fairly and proportionately to achieve effective outcomes. But the use of those powers does not follow prescribed criteria. For Public Statements in particular the Commission seeks to explain the circumstances and identify the breach or nonfulfillment relevant to the imposition of sanctions. To this extent Public Statements should have an educational role to play for industry, but they are usually difficult to decipher.

### **Richmond Public Statement**

The Richmond Public Statement<sup>1</sup> relates to defaults dating back to 2013, which had been identified to the licensee at that time.

The failings link to record keeping and connected matters. In particular there were failures to obtain adequate CDD and source of wealth information at the start of relationships. This created difficulties in monitoring and risk assessing. There were also issues with monitoring and addressing established risks.

Non-compliance with failings identified by the Commission in 2013 was an aggravating factor. Implementation of meaningful remediation was a mitigator, as was co-operation with the Commission and acceptance of findings. These latter two factors are also pre-conditions for reaching a settlement with the Commission.

The Financial Penalty imposed was £45,500, discounted by 30% for early settlement from the £65,000 which would otherwise have been sought. The level of Financial Penalty was determined by reference to the pre-November 2017 regime, for which the maximum is £200,000. From 13 November 2017 increased penalties are available in cases commenced on or after that date where the breaches also took place on or after that date.

---

<sup>1</sup> Full version available at <https://www.gfsc.gg/news/article/richmond-fiduciary-group-limited>

## Inferences

So far as breaches go, the issues described in the Public Statement appear to be reasonably trivial, far from unique, and not causative of loss to any client. However in view of the level of the Financial Penalty we infer that the Commission took some exception to:

- problems it identified as far back as 2013 not being tackled;
- the customers concerned posing risks; and
- the matter (seemingly) stemming from the Commission's 2016 on-site visit, rather than self-reporting by the licensee.

The licensee was the subject of a buyout in 2016. This is not mentioned in the Public Statement but the extensive remediation programme which followed is noted with apparent approval.

The Commission appears to be sending a message to industry regarding the need to fully address historic defects, in particular where these have already been noted by the Commission. However it also appears to indicate that it is satisfied with the direction that the licensee has since taken.

## Contacts

---



**Robert Shepherd**  
Senior Partner & Advocate, Mourant Ozannes  
Guernsey  
+44 1481 731 418  
robert.shepherd@mourant.com



**Sally French**  
Senior Associate & Advocate  
Guernsey  
+44 1481 739 341  
sally.french@mourant.com

---

This update is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual contacts. © 2018 MOURANT OZANNES ALL RIGHTS RESERVED