Enforcement Regime

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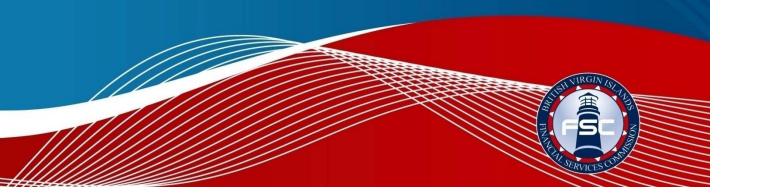
Enforcement Regime

- BVI regulatory regime
- Role of enforcement action
- Assisting overseas counterparts
- Promoting high standards of regulation



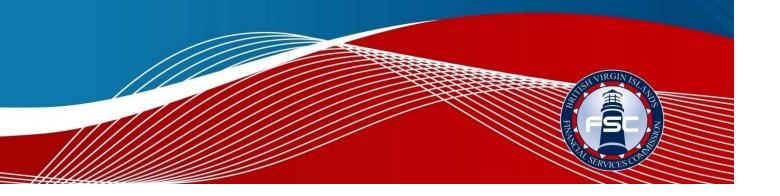
Regulatory Objectives

- The protection of investors
- The protection of the reputation of the Territory as a financial services centre
- The reduction of financial crime



Regulatory Objectives (cont'd)

- The power to grant authorisation
- The power to make rules
- The power to discipline non-compliance with obligations and standards



Underlying Purpose

- Financial services business presents risk
- Rules and requirements aimed at mitigating risks
- Commission's responsibility to monitor and enforce compliance



Authorisation Process

- To filter out potential threats
- Applicant, its directors and senior officers must be fit and proper
- LSC determines applications for licensing and approval of director and senior officer appointments



On going Supervision

- Proactive monitoring to control the risks of financial services business
- Compliance inspections involving an off-site review of records and on-site meetings with management and review of records
- Inspections conducted using "KReview"



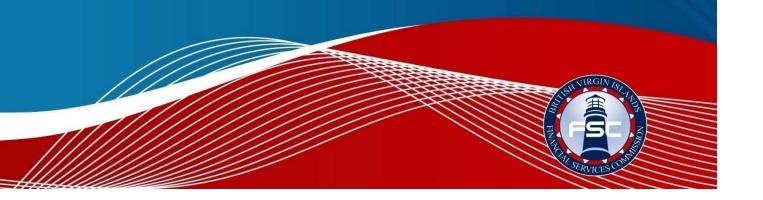
Enforcement Process

- Protective measures to secure compliance with regulatory requirements
- In many cases regulatory non-compliance addressed without recourse to enforcement action
- Proportionate response, fairness and consistency



Enforcement Powers

- Different powers aimed at addressing different consequences of regulatory breaches
- Powers aimed at punishing and deterring
- Powers to enable the Commission to prevent breaches



- To promote public awareness of regulatory standards
- To show that regulatory standards are being upheld
- To protect the public interest and the interests of clients, creditors and investors



- Revocation or suspension of licence
- Appointment of examiner
- Appointment of qualified person
- Issue of directive



- Appointment of liquidator
- Imposition of administrative penalty
- Costs and expenses
- Protection orders



Order preventing the transfer or disposition of property

- Order appointing an administrator to take over and manage licensee
- Order granting a search warrant

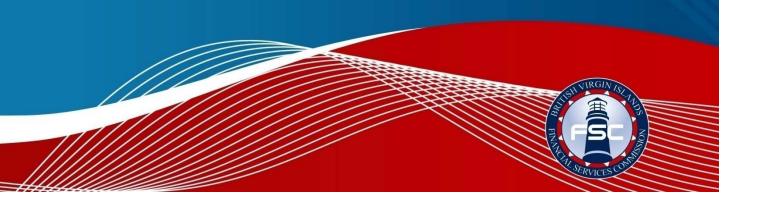


Administrative Penalty Regime

 Penalty ranges recognise the differences in licensees' resources

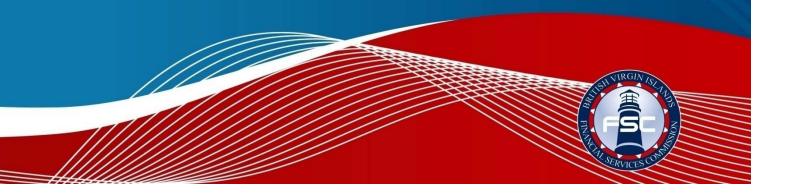
Range from \$100 to \$20,000

Notice of intention to impose penalty



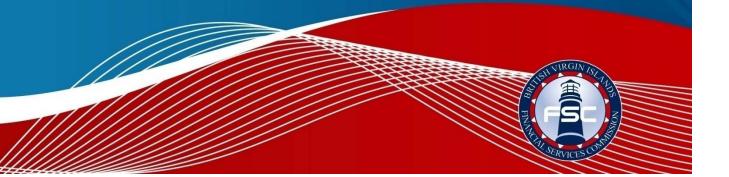
Administrative Penalty Regime (cont'd)

- Opportunity to make representations
- Final decision on penalty



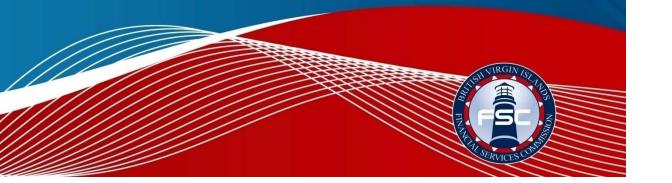
Enforcement Committee

- Responsible for decisions on enforcement action
- Guidelines and Operating Procedures set out policies on the used of enforcement powers
- Guiding principles include confidentiality, consistency, fairness and transparency



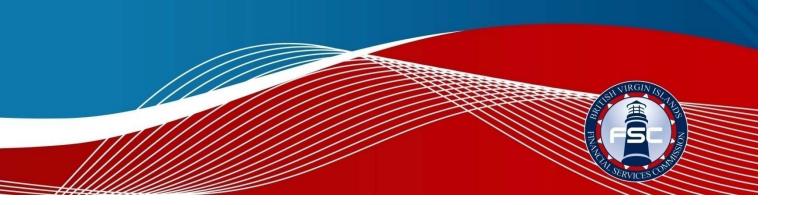
Regulatory Misconduct

- Breaches of regulatory laws
- Failure to comply with a regulatory requirement
- Conduct giving rise to concerns about fitness and propriety



Regulatory Misconduct (cont'd)

 Conduct that is detrimental to the public interest or the interests of clients, creditors or investors



Investigating Misconduct

 Scope of investigations depends on nature and seriousness of the matter

Use of information gathering and investigation powers

Appointment of examiners – firm of auditors or forensic accountants



Appropriate Action

- Nature and seriousness of breach
- Reasonable cause explanation
- Remedial measures
- Other regulatory concerns



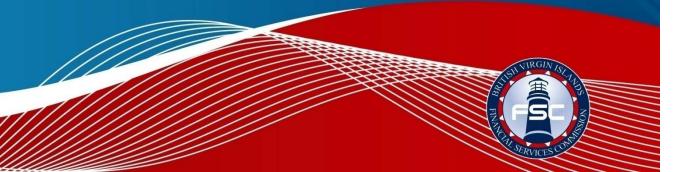
Accountability

- Commission accountable to Government
- Decision making processes subject to judicial review
- Decisions subject to appeal to Financial Services Appeal Board



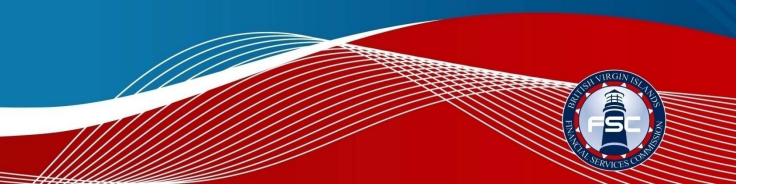
International Cooperation

- Significant feature of enforcement regime
- Seamless flow of information across borders and among agencies
- Domestic efforts alone inadequate in global financial markets



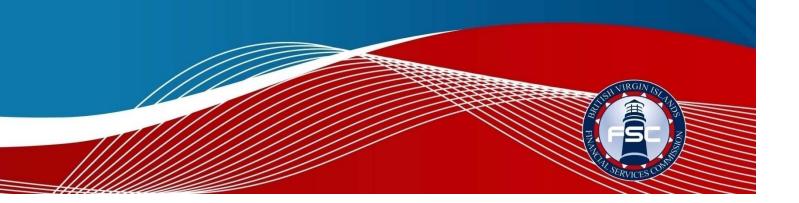
International Cooperation (cont'd)

- Basel Committee, FATF, CFATF, IOSCO and IAIS principles and recommendations to facilitate effective cross border cooperation
- Regulator must have power to assist overseas counterparts



International Cooperation (cont'd)

Use of information in civil and administrative enforcement proceedings



Conclusion

 Financial regulators must use collaborative efforts to promote highest standards of regulation

 The consequences of waning vigilance in any area may be catastrophic

