

IMPOSITION OF ADMINISTRATIVE PENALTIES (AMENDMENT) RULES 2025

THE FINANCIAL SERVICES (FRAMEWORK FOR THE IMPOSITION OF ADMINISTRATIVE PENALTIES) (AMENDMENT) RULES 2025 (“ADMINISTRATIVE PENALTIES AMENDMENT RULES 2025”) WERE LEGISLATED IN FEBRUARY 2025 AND BRING IN CERTAIN AMENDMENTS TO THE FINANCIAL SERVICES (FRAMEWORK FOR THE IMPOSITION OF ADMINISTRATIVE PENALTIES) RULES 2022 (“ADMINISTRATIVE PENALTIES RULES 2022”).

ADMINISTRATIVE PENALTIES RULES 2022

Under the Mauritius Finance Services Act 2007, the Financial Services Commission (“FSC”) has the powers to impose an administrative penalty, among other possible actions, to enable it to effectively discharge its functions. The Administrative Penalties Rules 2022 sets out the methodology in determining the penalties to be imposed onto licensees, where the FSC has reasonable grounds to believe that they have committed certain breaches¹. Such breaches are referred to either the Enforcement Committee of the FSC or, for the purpose of assessing the possibility for early resolution of disciplinary matters, these will be referred to the Settlement Committee.

Administrative Penalties Categories

The administrative penalties are determined and imposed based on the following categorisation:

CATEGORY	% OF RELEVANT GROSS INCOME
MAJOR	11% - 15%
MODERATE	6% - 10%
MINOR	1% - 5%

Exclusions

The Administrative Penalties Rules 2022 and by extension, the Administrative Penalties Amendment Rules 2025 do not apply to the administrative penalties imposed under the Financial Services (Administrative Penalties) Rules 2013. The latter caters specifically to non-compliance of licensees with certain legal obligations which relate mainly to the provision of statistical information to the FSC and the filing of financial statements/annual reports/financial summary/quarterly accounts, as applicable, within the prescribed timeframe.

¹ The following actions will be considered breaches by the FSC and may lead to disciplinary proceedings. Where the licensee:

- > Has contravened any relevant Act, AML/CFT legislation, direction or order issued under a relevant Act or any condition of his licence;
- > Has carried or is carrying out his business in a manner which threatens the integrity of the financial system of Mauritius or is contrary or detrimental to the interest of the public;
- > Is committing or has committed a financial crime;
- > No longer fulfils any condition or criterion specified under a relevant Act for the grant of a licence;
- > No longer carries out the business activity for which it is licensed;
- > Has failed to commence business within six (6) months from the date on which it is licensed;
- > Is not a fit and proper person; or
- > Becomes aware that a person is acting as an officer of a licensee but whose appointment is in contravention of section 24(1) of the Financial Services Act 2007

MAIN CHANGES IN THE ADMINISTRATIVE PENALTIES AMENDMENT RULES 2025

> The main change revolves around an increase in the discount that may be applied by the Settlement Committee on the amount of administrative penalty imposed on a licensee excluding any disgorged amount, as per below:

STAGE AT WHICH THE LICENSEE HAS COMMUNICATED ITS INTENTION TO SETTLE	DISCOUNT
1 - Early settlement at any stage before the matter is referred to the Enforcement Committee	50% (previously 30%)
2 - Settlement between referral to the Enforcement Committee and the issue of a Warning Notice	20% (previously 10%)
3 - Settlement between the issue of a Warning Notice and the issue of a Decision notice	10% (previously 5%)
4 - Settlement after a matter has been remitted to the Enforcement Committee by the Financial Services Review Panel for reconsideration	0% ² (unchanged)

- > The settlement committee's discount applies only if the FSC agrees to settlement discussions with conclusive outcomes. No settlement discussions will be held if:
 - > A decision notice has already been issued.
 - > An application for review is being heard by the Financial Services Review Panel ("FSRP").
 - > A matter has been remitted to the Enforcement Committee by the FSRP.
- > Where a penalty may give rise to serious financial hardship for the licensee, the FSC will not consider reducing the amount of penalty in the following instances:
 - > The defaulting licensee refuses to correct the violation or comply with the applicable requirements;
 - > The defaulting licensee has a long history of previous violations and non-compliance;
 - > The breach is of serious nature; or
 - > Any other situation that the Commission may deem applicable.

The Administrative Penalties Amendment Rules 2025 clarifies that a "breach of serious nature" includes a financial crime.

CONCLUDING REMARKS

The FSC is dedicated to maintaining the integrity of the jurisdiction and reminds licensees of the critical importance of complying with the relevant regulatory requirements.

HOW WE CAN ASSIST

Should you require any information, or should you become aware of any matters or instances which may result in a breach, please contact your usual Trident Trust representative or our office at mauritius@tridenttrust.com.

² When a matter is referred to the Enforcement Committee, the latter will determine the amount of the penalty and may then apply a discount on the amount of the penalty imposed, excluding any disgorged amount, as follows:

- > Within 7 Days: 5%
- > Within 14 Days: 3%
- > Within 21 Days: 2%

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| ▶ PEOPLE LED | ▶ 1,100 STAFF | ▶ FUNDS |
| ▶ TECH ENABLED | ▶ 25 JURISDICTIONS | ▶ PRIVATE CLIENTS |
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