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MFSA Issues Guidance Note on Administrative Penalty Calculations

The Malta Financial Services Authority has published a Guidance Note outlining the principles and processes it would use when calculating an administrative penalty for breaches of regulatory requirements.

Although the information in the Guidance Note is not binding on the Authority, it clearly outlines the method that could be used by the MFSA to assess the impact and seriousness of a potential breach, and includes detailed tables and case studies to explain how an administrative penalty is calculated.

The Guidance Note is another step forward in ensuring that there is transparency of the Authority's policies and practices for licence-holders authorised and supervised by the MFSA, as well as persons who are found carrying out financial services activities without having the necessary licence or authorisation.

While the MFSA has a degree of discretion through the relevant laws in determining the amount of an administrative penalty appropriate in each case, the MFSA among others, is guided by the principle of proportionality and ensures that an administrative penalty does not exceed the maximum amounts specified in the respective legislation.

The Authority also considers the size and financial strength of the licence-holder or person carrying out unauthorised licensable activities, in order to ascertain that the administrative penalty does not cause disproportionate financial distress.

The factors which the Authority takes into consideration when determining the risk rating of a potential breach include among others, the degree of impact and seriousness of the potential breach, the level of cooperation with the MFSA, as well as the repetition and duration of the potential breach. The MFSA may also take into consideration any other circumstances relating to the potential breach which it may deem relevant in determining an administrative penalty which is effective, proportionate and dissuasive.

Read the full Guidance Note [here](#).

About MFSA

The Malta Financial Services Authority (MFSA) is the single regulator of financial services in Malta, covering banks, insurance companies, investment services, trusts and pensions. In 2018, the MFSA became the first European regulator to develop a framework to regulate virtual financial assets. The MFSA's mission, as enshrined in its Vision 2021, is to enhance its position as an independent, proactive and trustworthy supervisory authority with the main purpose of safeguarding the integrity of markets and maintaining stability within the financial sector, for the benefit and protection of consumers. The MFSA licenses over 2,000 entities to operate in the financial services sector.



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