

CAN YOU PREVENT A CIVIL FINANCIAL PENALTY WHILST WORKING REMOTELY?

Two important reviews will undoubtedly assist.

Oben has acted for both entities subject to a civil financial penalty, levied by the JFSC, pursuant to a settlement agreement. Oben is, therefore, uniquely placed not only to advise on the process, potential pitfalls and associated documents (including the settlement agreement and public statement) but also on the underlying issues ('root causes') which led to the JFSC levying financial penalties.

In both cases, amongst the principal 'root causes' are issues associated with governance, to include the relationship between the board and the compliance function.

These are key and fundamental issues for any regulated entity. Key to good corporate governance is an effective board of directors and an effective compliance framework. Both are always capable of improvement and refinement and undoubtedly benefit from lessons learned in other businesses.

While there are no guarantees, there are measures a regulated entity may undertake, even when, and perhaps particularly when, working remotely which will go some way to preventing and mitigating the prospect of breaching regulations and, therefore, being subject to a financial penalty and accompanying public statement.



WHAT SHOULD YOU BE CONSIDERING?

What is the relationship like between the board and the compliance function?

Does the board challenge reports it receives from the compliance function - can it evidence effective oversight?

Do the compliance reports contain the right information to enable the board to gain comfort that compliance resources are being devoted to those areas of the business that present the highest risk?

Have reviews been undertaken and would the business benefit from having reviews undertaken by experts to include those who have assisted in the design of the JFSC's own risk model?

Key to answering these questions is to first determine whether the board and the compliance framework are operating effectively.

The Codes of Practice require businesses to review compliance effectiveness annually and board effectiveness periodically having regard to business activity and risk profile.



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You can find more about Jamie & the team at Oben at www.oben.je

HOW CAN OBEN HELP?

We have designed and undertake two comprehensive reviews to assess the effectiveness of the board and the compliance framework.

These reviews are designed to be conducted remotely, with minimal business intervention. The reviews comprise a self-assessment questionnaire, the provision of key documentation and structured surveys of personnel which take about 15 minutes to complete.

Importantly, the reviews provide regulated entities with a structure and methodology it may use in undertaking future reviews. They are, therefore, not only independent but cost effective in the longer term.

You may opt to have the results of your assessment benchmarked against the results of your peers.

Please do not hesitate to contact a member of the Oben team if you would like to discuss 'root causes' and our reviews in further detail.