

Quarterly Newsletter

March 10

THE JERSEY FINANCIAL SERVICES COMMISSION NEWSLETTER TO INDUSTRY

Consumer Education

The Commission will be launching a consumer education initiative later this year. The aim of this campaign is to provide consumers with clear, impartial information and guidance in relation to financial products and services, so that they can have greater control

of their financial affairs and the confidence to make informed decisions when choosing such products.

The first part of this project will consist of the creation of a new financial education website.

The website is currently in development and will be launched later this year.

The Commission will communicate further updates on this project in advance of the go-live date for the website.

Banking update....

Basel Committee consultation

The Basel Committee on Banking Supervision issued two consultation papers in December 2009:

- *“Strengthening the resilience of the banking sector”*, which focuses on establishing new standards for capital adequacy; and
- *“International framework for liquidity risk measurement”*, which seeks to establish quantitative standards for banks’ liquidity.

No changes are proposed at this time in respect of Jersey regulations and hence no formal consultation is planned yet. However, feedback has been sought from all registered deposit takers regarding the proposals, including quantitative data on impacts. This should enable the Commission to make an informed response to the Basel Committee.

Internal Capital Adequacy Assessment Process (“ICAAP”) reviews

Most banking subsidiaries have now undertaken a first review of their initial ICAAP submissions, which should be done at least annually, with a “track change” copy in addition to a clean copy being submitted to the Commission for consideration. In order to accommodate future ICAAP reviews on a timely basis, subsidiaries should ensure that their next ICAAP submission to the Commission is no later than nine months after its current formal ICAAP notification from the Commission. This will allow the Commission a reasonable period to undertake its own review and correspond with the banking entity in respect of its response.

Audit certified Prudential Return for branches

The opportunity is taken to remind branches that the Senior Officer

based outside Jersey is required to sign the audit certified year-end Prudential Return.

Intermediate and Ultimate Parent Accounts

All banking entities should ensure that audited financial statements are sent to the Commission within four months of the relevant year-end. This requirement includes all holding companies in the organisational structure up to and including the ultimate parent company.

Staff changes in the Banking Supervision Team

We say farewell to Duncan McSparran, who retired from the Commission at the end of March and we wish him a long, happy and healthy retirement on the fairways at La Moye Golf Club! We also extend a warm welcome to Andy Wiseman, Duncan’s replacement.

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Jersey Financial
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The FSA's Retail Distribution Review

The Financial Services Authority ("FSA") has undertaken a Retail Distribution Review looking at the way in which investment products are sold within the retail market in the UK. The FSA is currently finalising some new rules as a result of this review and is expected to publish a Policy Statement announcing these rules soon.

The three main areas covered within the FSA's review were: remuneration, professional standards (qualifications, CPD and ethics) and independent advice versus restricted advice. The FSA's draft

proposals include plans to phase out commission payments from product providers and significant changes to the qualification requirements for individuals providing investment advice in the UK.

The Commission is considering revisions that it might make to the investment business regime in Jersey and, once the FSA has published its final rules, work will commence on a Position Paper that will be issued later this year in order to provide Industry with further detail in respect of the Commission's proposals in these areas.

Consultation on banking: financial reporting and disclosures



On 19 February 2010, the Commission published consultation paper No.4 on the regulatory requirements for Jersey registered deposit takers in respect of the provision of financial information and public disclosures. The aims are to:

- bring together existing requirements regarding the provision of financial information to the Commission;
- increase the availability to the public of financial information on banks, including via their websites; and

- require that disclosures regarding relevant depositor compensation schemes are made in banks' advertisements.

Responses to the consultation paper are invited and should be provided in writing to the Commission by 19 May 2010, and feedback is welcomed from all interested parties.

A copy of consultation paper No.4 can be downloaded from the Commission's Website by [clicking here](#) and paper copies obtained from the Commission's reception area or the Jersey Library.

Consultation on proposals for annual fees to be paid by designated non-financial businesses and professions

On 19 February 2010, the Commission published consultation paper No.3 on proposals for annual fees to be paid by Designated Non-Financial Businesses and Professions ("DNFBPs") carrying on activities specified in Part B of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, as amended (the "**Proceeds of Crime Law**"). Such activities include certain business conducted by lawyers, accountants, estate agents, high value goods dealers (those dealers accepting payment in cash over €15,000) and some other businesses not otherwise covered by the four regulatory laws.

In Jersey, the Commission has been requested by the States of Jersey to monitor and ensure compliance by DNFBPs and, to this end, the Minister for Economic Development has designated the Commission as the supervisory body for DNFBPs. DNFBPs have been supervised for compliance with the Money Laundering (Jersey) Order 2008, as amended, and associated regulatory requirements, by the Anti-Money Laundering Unit of the Commission (the AML Unit).

This is in line with international standards set by the Financial Action Task Force ("**FATF**"), who encourage

government commitment to its standards for anti-money laundering and combating the financing of terrorism ("**AML/CFT**") - the FATF's 40+9 Recommendations. FATF Recommendation 24 requires countries to ensure that DNFBPs are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.

The purpose of this consultation paper is to consult on the proposals for annual fees to be paid from 2010 by DNFBPs who carry on activities specified in Part B of Schedule 2 to the Proceeds of Crime Law and, as a result of carrying on such activities, are required to be registered under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

The consultation paper raises a number of questions and the Commission looks forward to receiving a full range of responses from DNFBPs. Responses should be submitted by 16 April 2010.

A copy of consultation paper No.3 can be downloaded from the Commission's website by [clicking here](#), and paper copies obtained from the Commission's reception area or the Jersey Library.



Consultation on proposed changes to secondary legislation in respect of trust company business exemptions

The Commission published consultation paper No.5 on 31 March 2010, in respect of natural persons undertaking the activity of acting as a director under the Financial Services (Jersey) Law 1998 (the “**FS(JL)**”).

This consultation paper will be of interest to those individuals that act as directors, on a professional basis, of companies that they do not beneficially own, and those individuals that are currently relying on the ‘Connected Persons’ exemption.

Two changes are proposed in respect of Trust Company Business exemptions:

1. To present a new exemption that introduces “de-minimis” provisions which will allow an individual to hold a maximum of six directorships (in addition to any that would otherwise be exempt) before the need to register under the FS(JL) is triggered.

2. To restrict the scope of the ‘Connected Persons’ exemption contained in the note to paragraph 1 of the Schedule to the Financial Services (Trust Company Business (Exemptions No.4)) (Jersey) Order 2000.

[Note the ‘Connected Persons’ exemption was created to exempt individuals who are directors of companies that they beneficially own (either solely or jointly with an associate e.g. a spouse), where the provision of the directorship service is undertaken by way of a formal agreement. However, the Commission believes that the ‘Connected Persons’ exemption, as currently drafted, does not fully reflect that intention.]

In addition, although not subject to the consultation process, the Commission has taken this opportunity to re-publish the

Guidance Note (first published in February 2009) entitled “Natural Persons undertaking the activity of acting as a director under the Financial Services (Jersey) Law 1998”. Amendments to the Guidance Note are reflected in section 3.26 (the interpretation of the term “in or from within Jersey” in Article 7(1)(a) of the FS(JL), and section 4.2.5 (providing directorship services for local trading companies).

Responses to the consultation paper should reach the Commission by 18 June 2010.

A copy of consultation paper No.5 can be downloaded from the Commission’s Website by [clicking here](#) and paper copies obtained from the Commission’s reception area or the Jersey Library.

Industry Survey 2009

The Commission has recently published a “Dear CEO” letter regarding the findings from the survey of the finance industry in Jersey on the Commission’s performance that was conducted in November 2009. The letter and the report on the Industry Survey are available on the Commission’s Website by [clicking here](#).

There are a few recurring themes within the responses that merit the Commission’s attention, some of which have already been recognised in the 2010-2012 Business Plan, but all are being reviewed with the aim of addressing them as soon as possible in the coming months.



Newsletter Feedback

The Commission hopes that this Quarterly Newsletter to the Industry is informative and useful. It welcomes any feedback on the Newsletter.

If you would like to comment on the content of this Newsletter, or suggest subjects that you would like to be covered in future, please contact: Chris Renault, Commission Secretary, on telephone number +44 (0)1534 822066 or by email to c.renault@jerseyfsc.org