



Jersey Financial Services Commission

From the office of the Director General

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Our Ref.:

JH/JL

26 September 2007

Chief Executives (or equivalent)
Of Trust Company Businesses and Fund Functionaries

Dear Chief Executive,

The Control of Borrowing (Jersey) Order 1958, as amended ("CoBo"), the Companies (Jersey) Law 1991, as amended ("the Companies Law"), the Financial Services (Jersey) Law 1998, as amended ("the FS(J) Law") and the Collective Investments (Jersey) Law 1988, as amended ("CIF Law").

In view of current market turbulence, the Commission wishes to remind all Jersey service providers, particularly those involved with Special Purpose Vehicles ("SPVs"), Structured Investment Vehicles ("SIVs") and Collective Investment Funds, to ensure proper control of those matters for which they provide a service. In particular, the Commission would urge such service providers to continue to monitor market developments and to remain vigilant of potential risks posed to the entities for which they act.

Areas that may require closer consideration, include, but are not restricted to, the following:

- The keeping of accounting records in accordance with Article 102 and the delivery of accounts to the Registrar in accordance with Article 106 of the Companies Law;
- Conditions set as part of the granting of consents under CoBo, particularly the Commission's standard conditions:
 - *"that the board of directors of the Company shall immediately advise the Commission if the Company defaults on any security issued"; and*
 - *"that at the same time as submitting the Company's Annual Return the directors shall provide a separate confirmation in the following format: " The directors having taken reasonable steps to ascertain the position, confirm that to the best of their knowledge there have been no breaches of [this consent], other than those (if any) previously disclosed to the Commission"".*



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- The terms of the offering document; relevant functionary conditions placed on permits, and the requirements of relevant funds guides issued by the Commission, relating to notification of any material change in the circumstances of a fund; and

Where an entity is responsible for submitting statistical data to the Commission, ensuring that such data is both accurate and timely.

In light of the above I would also ask you to remind those in your institution who act or fulfil the role of director to SPVs or SIVs to have due regard to section 3.1.9 of the Trust Company Business Codes of Practice. The Commission would encourage local CEO's and directors of SPVs to make the Commission's views known to non-Jersey resident directors of SPVs. This section was the subject of a CEO letter issued by the Commission in 2006, given the current state of the market it is considered appropriate to draw CEOs attention again to the previous letter, which can be found, on the Commission's web site under the Registry tab at [www.jerseyfsc.org/pdf/CEO SPV audit letter.pdf](http://www.jerseyfsc.org/pdf/CEO_SPV_audit_letter.pdf).

The Commission must treat seriously any failures on the part of directors to understand and discharge their obligations, given the Commission's statutory responsibility to protect the reputation of the Island and investors' interests. The Commission can therefore be expected, as part of the normal on-site examinations programme, to review the conduct of directors in respect of their duties and responsibilities. In saying this, the Commission is not under the impression that there is a systemic problem in this respect, nor unwilling to acknowledge real difficulties in certain areas such as, for example, fair value accounting for securities valuations in certain SPVs. The overriding aim is to ensure any such difficulties are identified and raised with the Commission at the earliest opportunity and for industry to work together with us in these areas in the current difficult market climate.

Yours sincerely,

John Harris
Director General