

Delegation of Powers of the Jersey Financial Services Commission

(From 1 March 2018)

1 General policy

- 1.1 Article 11 of the Financial Services Commission (Jersey) Law 1998 empowers the Board of Commissioners to delegate to an officer of the Jersey Financial Services Commission (**JFSC**) any of its powers other than:
 - 1.1.1 the power of delegation;
 - 1.1.2 any statutory functions relating to the procuring of the winding up of any company under the Companies (Jersey) Law 1991 or a declaration that the property of any person is en désastre under the Bankruptcy (Désastre) (Jersey) Law 1990; or
 - 1.1.3 the review of any of its decisions.
- 1.2 With the exception of the items in paragraph 1.1 and those set out in the Schedule to this document, the Board of Commissioners has decided to delegate all other powers to an officer (or officers) of the JFSC. In specific cases the Board may also decide to delegate items in the Schedule (but not those in paragraph 1.1) to an officer (or officers) of the JFSC.
- 1.3 The Board of Commissioners will receive regular reporting on the exercise of delegated powers by officers of the JFSC.
- 1.4 Nothing in this policy statement prevents a matter subject to the exercise of delegated powers being referred to the Board of Commissioners for a decision. Such items will be those considered by JFSC officers to be both material and also either novel, controversial or involving fundamental matters of principle.
- 1.5 The Board of Commissioners may exercise its powers through a Committee of the Board. Any such Committee will have terms of reference which are approved by the Board.

2 Delegation to officers of the JFSC

- 2.1 The Director General shall exercise the administrative function of determining the officer or officers who may exercise each delegated power, according to the extent to which any decision has an effect on the achievement of the JFSC's key purposes, or on its finances or reputation.
- 2.2 The Director General shall maintain a list of powers that are delegated (including at minimum those where the Commission is exercising powers under statute).

3 Reviews of JFSC decisions

- 3.1 As noted at paragraph 1.1 above, Article 11 of the Financial Services Commission (Jersey) Law 1998 does not allow the JFSC to delegate the review of any of its decisions.
- 3.2 This provision applies only in respect of any decision taken by a meeting of the Board of Commissioners that is being reconsidered in relation to the original information, i.e. a review properly so called; but it does not preclude the delegation of further consideration in other circumstances.
- 3.3 The Board has decided that if after the original decision was taken, a change in circumstances occurs, or material information becomes available that was not known to any of the parties at the time of the original decision, for the purposes of applying the delegation policy any reconsideration of the matter is properly to be regarded as a new decision, and thus to become delegable. The exception is that if the original decision was taken by a meeting of the Board of Commissioners, it is the Board which will consider the new decision – it will not be delegated.
- 3.4 That apart, the general principle is that where a case needs to be reconsidered, that reconsideration may be undertaken at a level of authority no lower than that which took the original decision, unless the Board decides in a particular case that it will undertake the deliberation that might otherwise have taken place under delegated authority.

Schedule of matters reserved to the Board of Commissioners

Policy documents

1. Changes to the “Commissioners’ Code of Conduct Regarding Conflicts of Interest”.
2. Changes to this document (i.e. the scheme of delegation).
3. Changes to the Decision-Making Process guide.

Regulatory matters

4. Decisions that are reserved to the Board of Commissioners under the Decision-Making Process guide.

Corporate – financial / strategic

5. Approval of the annual budget, Business Plan, Annual Report, final and interim (if any) financial statements and any financial forecasts which are to be published.
6. Approval of unbudgeted expenditure of £100,000 or more and any contract exceeding £500,000 in the aggregate.
7. Recommendation to the Comptroller & Auditor General regarding the appointment of Auditors and their remuneration.

Corporate – structural

8. Approval of the creation, dissolution, composition and Terms of Reference of any Committee of the Board, or of any Executive Committee established to report to the Board on a specific matter.
9. Decisions relating to any external review of any aspect of the JFSC’s activities.
10. Creation of subsidiary companies and appointments to the Boards thereof.
11. Recommendations to the Chief Minister regarding the appointment of, or early termination of the appointment of, any Commissioner.
12. Approval of the appointment or removal¹ of a Deputy Chairman, Director General, Deputy Director General, Registrar of Companies and Commission Secretary.

Other

13. Decisions to initiate or defend any legal proceedings, with the exception of:
 - a. proceedings arising from any law under which the Commission has statutory powers (decisions relating to such proceedings are delegated to the Legal Proceedings Committee of the Board, except where the proceedings consist of an appeal to the Royal Court against a regulatory sanction imposed, or other decision taken, by the Board itself); and
 - b. proceedings under which the JFSC is seeking to enforce the payment of monies due to the JFSC.

¹ The word “removal” should be interpreted to include any method whereby the post is vacated on an involuntary basis.