



Public Statement

Lumiere Wealth Limited (in liquidation) (Lumiere)

Issued: 9 September 2020

Financial Services (Jersey) Law 1998, as amended (**FS(J)L**)

Code of Practice for Investment Business (**IB Code**)

1 Action

- 1.1 The Jersey Financial Services Commission (**JFSC**) issues this public statement pursuant to Article 25 of the FS(J)L.
- 1.2 The JFSC's actions support its objectives of reducing the risk to the public of financial loss and protecting and enhancing the reputation and integrity of Jersey in commercial and financial matters.
- 1.3 This public statement therefore serves to highlight breaches by the registered person, namely Lumiere, of the following principles of the IB Code:
 - 1.3.1 **Principle 1:** A registered person must conduct its business with integrity;
 - 1.3.2 **Principle 2:** A registered person must have the highest regard for the interests of its clients;
 - 1.3.3 **Principle 3:** A registered person must organise and control its affairs effectively for the proper performance of its business activities, and be able to demonstrate the existence of adequate risk management systems;¹
 - 1.3.4 **Principle 4:** A registered person must be transparent in its business arrangements;
 - 1.3.5 **Principle 5:** A registered person must maintain, and be able to demonstrate the existence of, adequate financial resources and adequate insurance; and
 - 1.3.6 **Principle 6:** A registered person must deal with the JFSC in an open and co-operative manner.
- 1.4 This statement relates to the conduct of Lumiere during the period April 2015 up to June 2016. The subsequent investigation was put on hold from October 2016 in order to avoid any risk of prejudicing a criminal investigation into, and subsequent trial of, the Managing Director. He was sentenced on 30 November 2018. The investigation restarted in January 2019 when the JFSC was satisfied that no further foreseeable criminal investigations arising from Lumiere's activities would be placed at risk.

¹ Principle 3 requires a registered person to, *inter alia*, establish and maintain an effective complaint handling system and procedures.

2 Background

- 2.1 Lumiere is a Jersey-registered company which previously provided, *inter alia*, investment advice services to Jersey residents. Lumiere is a member of a group of companies operating globally (the **Corporate Group**).
- 2.2 In June 2016, the JFSC conducted an on-site examination of Lumiere (the **Examination**) which identified a number of significant concerns over the conduct of Lumiere's business. Consequently, the JFSC commenced an investigation to assess Lumiere's compliance with the legal and regulatory regime in Jersey during the period 16 April 2015 to 10 June 2016 (the **Investigation**). The findings of the Examination are considered to be findings of the Investigation.
- 2.3 Following the commencement of the Investigation, on 4 October 2016, the Board of Lumiere successfully applied to the Royal Court of Jersey for the appointment of Joint Liquidators to oversee the winding up of Lumiere's affairs.
- 2.4 In accordance with Article 25 of the FS(J)L, this Public statement is issued in respect of the registered person Lumiere, and not in respect of any individual or director involved in the business of Lumiere. Regulated entities and individuals are obliged to co-operate with the JFSC in accordance with the Codes of Practice. The JFSC acknowledges that certain directors assisted in efforts to achieve an orderly wind-down of Lumiere.

3 Summary of Findings

- 3.1 A summary of findings arising from the Investigation are detailed below:
- 3.2 **Lumiere's investment advice process**
 - 3.2.1 Prior to 1 January 2016, where Lumiere assessed its clients' appetite for investment risk it routinely failed to consider its clients' capacity to suffer financial loss and didn't recognise, explore or resolve anomalous results when assessing its clients' appetite for investment risk.
 - 3.2.2 Lumiere prepared letters in which it presented its investment recommendations to its clients (**Suitability Letters**). Lumiere's Suitability Letters were largely untailed to the client receiving the recommendation. For example, client specific circumstances and their investment objectives were described generically and the length of time the clients wished to hold their investments for was not documented.
 - 3.2.3 Lumiere's Suitability Letters also failed to provide sufficient rationale and information to the client to evidence that the recommendation being made to them was the most suitable for them. For example, the Suitability Letters stated other products had been considered but provided no explanation as to what those were or why the product being recommended was considered most suitable.
 - 3.2.4 In addition, Lumiere failed to adequately explain the key risks associated with the recommended product and the advantages and disadvantages of the recommended product were not presented in a balanced manner.
 - 3.2.5 Consequently, information presented by Lumiere to clients was considered to be insufficient to allow them to make a fully informed investment decision.
 - 3.2.6 A particular area of concern identified by the JFSC related to recommendations Lumiere made to its clients to invest in a particular fund (the **Fund**). Like Lumiere, the Fund was a member of the same Corporate Group. This therefore presented a risk of product bias when recommending investments in the Fund to Lumiere clients and the Examination identified instances where clients were recommended to invest

a high proportion of their investible wealth into the Fund and in some cases the entirety of their Lumiere investment portfolio.

- 3.2.7 Based on a sample assessed during the Examination, it was concluded that Lumiere was unable to demonstrate it gave suitable advice to its clients when recommending they invest in the Fund.
- 3.2.8 In addition, when making investment recommendations to its clients Lumiere failed to consistently adhere to its own internal policies and procedures.
- 3.2.9 It is therefore concluded that Lumiere has breached principles 2, 3 and 4 of the IB Code.

3.3 **Lumiere's assessment of the Fund**

- 3.3.1 Prior to advising clients to invest in the Fund, Lumiere was required to assess the Fund's relevant features and those of its provider, to establish whether it would be suitable for Lumiere clients.
- 3.3.2 To perform its assessment, Lumiere prepared and obtained documentation in respect of the Fund and its provider. The following information is relevant to the adequacy of Lumiere's assessment:
 - 3.3.2.1 Lumiere's assessment was largely based on information produced by the product provider itself and therefore lacked independence.
 - 3.3.2.2 Information purportedly prepared by Lumiere had been directly copied from the Fund's own product literature.
 - 3.3.2.3 Lumiere accepted documentation, prepared by the product provider, which was incomplete.
 - 3.3.2.4 Historical financial information relevant to making an investment in the Fund was obtained by Lumiere. No evidence was identified, however, to demonstrate Lumiere had considered this information. In particular, the historical financial information demonstrated that monies invested in the Fund could be, and were being, loaned to other companies operating in the Corporate Group (**the Loans**) and not invested as outlined in the Fund's product literature.
 - 3.3.2.5 The Loans were guaranteed by the Corporate Group and Lumiere was satisfied with this arrangement. Lumiere, however, was unable to demonstrate how it had concluded the guarantee could work in practice, based on the historical financial information it held, nor did it obtain any further relevant financial information to support the position.
 - 3.3.2.6 Lumiere determined that an investment in the Fund presented a medium risk, where the product had the application of some insurance cover² but was unable to demonstrate how it had reached this conclusion.
- 3.3.3 Lumiere therefore failed to perform an adequate assessment of the Fund in terms of suitability for its clients. In addition, Lumiere continually failed to provide material information to its clients regarding the potential alternative use of their monies when investing in the Fund.
- 3.3.4 It is therefore concluded Lumiere has breached principle 2 of the IB Code.

² The insurance cover related to the mitigation of specified political risks.

3.4 **Failure to provide information**

- 3.4.1 Lumiere failed to make notifications to the JFSC with regard to its business and its clients.
- 3.4.2 Following the commencement of the Investigation, it was identified that certain information and documentation provided to the JFSC during the course of the Examination was false and misleading.
- 3.4.3 It is therefore concluded Lumiere has breached principles 1 and 6 of the IB Code.

3.5 **Lumiere's insurance arrangements**

- 3.5.1 The JFSC expects careful diligence in the completion of an insurance proposal form, or similar. Lumiere completed a proposal form to apply for its Professional Indemnity Insurance for the period 2016 – 2017. The proposal form is a primary source of information for Underwriters, when giving consideration to arranging insurance cover. Lumiere completed the proposal form declaring the statements and particulars given were true, full enquiry having been made, and that Lumiere had not omitted, suppressed or misstated any material facts. This was not the case.
- 3.5.2 Lumiere omitted certain material facts from the proposal form and therefore failed to take all reasonable steps to maintain adequate insurance cover, or alternative arrangements, due to the manner in which the proposal form was completed. This contributed to its insurance cover being voided.
- 3.5.3 It is therefore concluded Lumiere has breached principles 2 and 5 of the IB Code.

3.6 **Conflicts of Interest**

- 3.6.1 When providing financial services, a situation may arise between a business, its clients and/or employees which may be considered to present a conflict of interest. It is a regulatory requirement for the business to endeavour to avoid such conflicts of interest arising and, where they do arise, it must have effective procedures to address such conflicts of interest.
- 3.6.2 Lumiere failed to identify or, where it had identified, failed to address several conflicts of interest. The conflicts of interest primarily related to Lumiere's clients, its relationship with the Fund and/or the Corporate Group. The following are examples of inadequacies relating to conflicts of interest as identified by the JFSC:
 - 3.6.2.1 Lumiere held and used a bank paying in book in the name of the Fund's administrator, to deposit Lumiere client investments in the Fund. Lumiere did not hold a paying in book in connection with any other product it advised its clients on and therefore this demonstrated the extent of Lumiere's relationship with the Fund. Lumiere failed to recognise this presented a conflict of interest and did not disclose the extent of its relationship with the Fund to its clients when recommending related investments.
 - 3.6.2.2 Lumiere considered a matter arising in respect of a client and concluded there was no conflict of interest with its business. During the Examination, the JFSC identified the matter and raised concerns with Lumiere. The JFSC concluded there was a conflict of interest and this conflict of interest resulted in a financial crime risk to the client.
- 3.6.3 It is therefore concluded Lumiere has breached principle 2 of the IB Code.

3.7 **Complaints**

- 3.7.1 Prior to the Examination, Lumiere received two complaints from two clients who invested in the Fund, following investment advice they received from Lumiere (the

Complaints). Lumiere reviewed the Complaints and concluded it did not uphold them. To resolve the Complaints, however, Lumiere arranged for the complainants' monies invested in the Fund to be returned to them by the Fund provider directly.

3.7.2 Notwithstanding Lumiere arranged for the clients to have their monies returned to them, Lumiere's review of the Complaints did not consider relevant information and material facts, nor did it conduct the review impartially. As a consequence, Lumiere's review of the Complaints was deemed inadequate.

3.7.3 It is therefore concluded Lumiere has breached principle 3 of the IB Code.

3.8 **Monies received from product providers**

3.8.1 In January 2016, Lumiere notified the JFSC it had received remuneration, as a result of recommendations it made to its clients to invest in the Fund and a second product. In accordance with the regulatory regime, Lumiere was not permitted to receive this remuneration.

3.8.2 Lumiere, having recognised it was not permitted to receive the remuneration, advised the JFSC it had written to clients affected to inform them it would no longer receive such payments. The communications sent to clients invested in the Fund, however, were inconsistent and Lumiere failed to demonstrate it had written to those clients invested in the second product.

3.8.3 It is therefore concluded Lumiere has breached principle 4 of the IB Code.

4 Conclusion

4.1 Due to the materiality and multiplicity of the breaches, the JFSC regards this catalogue of failures to be serious. The breaches demonstrate Lumiere has failed to comply with the legal and regulatory regime operated in Jersey.

4.2 The JFSC has powers, in certain circumstances, to impose a sanction on a business where significant and material breaches have occurred. Had Lumiere not been subject of a liquidation to wind up its affairs, the JFSC would have been obliged to give consideration to revoking its registration to carry on financial service business.

4.3 Furthermore, in addition to conducting the Investigation, the JFSC has also assisted law enforcement agencies in Jersey with matters connected to Lumiere. Please see the following link for related information:

[https://www.jerseylaw.je/judgments/unreported/Pages/\[2018\]JRC221.aspx](https://www.jerseylaw.je/judgments/unreported/Pages/[2018]JRC221.aspx)

For further enquiries, please contact the Acting Director of Enforcement Kerry Petulla.