



Jersey

FINANCIAL SERVICES (INVESTMENT BUSINESS (CLIENT ASSETS)) (AMENDMENT No. 2) (JERSEY) ORDER 202-

Made [date to be inserted]
Coming into force [date to be inserted]

THE MINISTER FOR EXTERNAL RELATIONS, on the recommendation of the Jersey Financial Services Commission, makes this Order under Articles 20 and 42 of the Financial Services (Jersey) Law 1998 –

1 Interpretation

This Order amends the Financial Services (Investment Business (Client Assets)) (Jersey) Order 2001.

2 Article 1 (interpretation) amended

In Article 1, after the definition “documents of title” there is inserted –

“ “foreign jurisdiction” means any jurisdiction outside Jersey;”.

3 Article 18 (safekeeping of documents held by an approved custodian who is not the registered person's own nominee) amended

After Article 18(1)(b) there is inserted –

“(c) if the custodian is in a foreign jurisdiction, the registered person or custodian has disclosed to the client –

- (i) that the client’s protected property will be subject to the client protected property asset protection regime or the insolvency regime, as the case may be, of the foreign jurisdiction;
- (ii) the risks to the client arising from the client’s protected property being held in the foreign jurisdiction;
- (iii) the differences (if any) between the client protected property asset protection regime or the insolvency regime in Jersey and that of the foreign jurisdiction, and
- (iv) the potential consequences of those differences.”.

4 Article 22 (third parties) amended

In Article 22 of the Financial Services (Investment Business (Client Assets)) (Jersey) Order 2001, there is inserted –

- (a) in paragraph (1), for “title documents”, there is substituted “protected property”;
- (b) after paragraph (1), there is inserted –
 - “(1A) A registered person must exercise all due skill, care and diligence when selecting, appointing or reviewing a third party to whom clients’ protected property is lent.
 - (1B) A registered person must not lend a client’s protected property to a third party in a foreign jurisdiction, unless the registered person or third party has disclosed to the client –
 - (a) that the client’s protected property will be subject to the client protected property asset protection regime or the insolvency regime, as the case may be, of the foreign jurisdiction;
 - (b) the risks to the client arising from the client’s protected property being lent to a third party in the foreign jurisdiction;
 - (c) the differences (if any) between the client protected property asset protection regime or the insolvency regime in Jersey and that of the foreign jurisdiction, and
 - (d) the potential consequences of those differences.”;

5 Citation and commencement

This Order may be cited as the Financial Services (Investment Business (Client Assets)) (Amendment No. 2) (Jersey) Order 202- and comes into force on [dd] [mm] 2021.