



Jersey Financial
Services Commission

Guidance notes

Conflicts of Interests requirements under Principle 2 the Code of Practice for Investment Business

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Glossary

Defined terms are indicated throughout this document as follows:

Abbreviation	Full name
FSJL	Financial Services (Jersey) Law 1998
IB Code	Code of Practice for Investment Business
JFSC	Jersey Financial Services Commission
registered person	a person who is registered by the JFSC under Article 9 of the FSJL to carry on Investment Business as defined in Article 2(2) of the FSJL

1 Introduction

- 1.1 This guidance note explains the JFSC's expectations under the Code of Practice for Investment Business (**IB Code**) in relation to conflicts of interest. It is intended to assist registered persons in assessing and strengthening their frameworks.

2 Code requirements

- 2.1 Conflicts of interest are dealt with under Principle 2 of the IB Code which requires that:

A registered person must have the highest regard for the interests of its clients.

- 2.2 Paragraph 2.11 of the IB Code requires that a registered person (or an appropriate delegated sub-committee) must identify and manage conflicts of interest and take steps to prevent them from arising.
- 2.3 Paragraph 2.12 of the IB Code requires that where conflicts do arise, a registered person must have effective procedures to address them, including:
- › disclosure to the client
 - › applying internal confidentiality rules
 - › declining to act
 - › other appropriate measures

3 Guidance

- 3.1 Where possible, registered persons should focus on avoiding conflicts of interest.
- 3.2 Registered persons conducting Investment Business should have policies and procedures in place, in respect of conflicts of interest, which are adequate for the complexity and size of the business and which are periodically reviewed to ensure that they remain sufficiently robust and are being adhered to.
- 3.3 Such policies and procedures should include the manner in which the registered person is identifying, managing and recording all conflicts of interest arising as a result of its business activities.
- 3.4 A number of outcomes may arise as a result of conflicts of interest. Consideration should be given to whether or not the registered person, or another entity or individual associated with that registered person:
- 3.4.1 Will make a financial gain, or avoid a loss, at the expense of a client;
 - 3.4.2 Has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;
 - 3.4.3 Has a financial or other incentive to favour the interest of another client or group of clients over the interests of the client; or
 - 3.4.4 Receives or will receive from a person other than the client a commission in relation to a service provided to the client.
- 3.5 This list is non-exhaustive.

- 3.6 Where the registered person is not reasonably confident that the client risk arising from the conflict has been avoided by the mitigations applied, it should disclose the conflict to the client. This should be provided in writing, in language which is easily understandable by all clients and sufficiently clear as to the exact nature of the conflict and the potential or actual risks arising, to enable them to make an informed decision as to whether or not to proceed with the activity in question.
- 3.7 Disclosure alone should be treated as a last resort. Policies and procedures should prioritise avoidance and effective mitigation so that reliance on disclosure alone is uncommon. Where disclosure is used, it should be accompanied by proportionate controls.
- 3.8 Satisfying the suitability requirements under Principle 2 does not remove or reduce the obligation to identify, avoid and manage conflicts of interest. See IB Code paragraphs 2.11 and 2.12.
- 3.9 Registered persons should ensure that periodic reviews are undertaken of conflicts which have arisen and reporting in this regard should be provided to the Board of the Directors/Governing body of the registered person at least annually.