Jersey Financial Services Commission

Sound Business Policy

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1 The Policy

1.1 The Control of Borrowing (Jersey) Law 1947 ('**CBJL**') and the Financial Services Commission (Jersey) Law 1998 ('**the Commission Law'**) give the Jersey Financial Services Commission ('**the JFSC'**) the power to administer the Control of Borrowing (Jersey) Order 1958 ('**COBO**'). Both the Commission Law and the CBJL require the JFSC to have due regard[1] to protecting the commercial and financial integrity of Jersey as well as its economic interests when issuing consents under COBO.

1.2 The Sound Business Policy ('**SBP**"[2]) sets out the activities considered by the Government of Jersey ('**GoJ'**) and the JFSC, to be sensitive or pose a potential reputational risk to the island. These activities are not prohibited, however, due to their sensitive nature, the JFSC may request additional information from applicants and scrutinise applications in greater detail than for more routine matters.

1.3 Consideration should be given to ensure commercial activity aligns with Jersey's national risk appetite. The SBP operates under Jersey's Statement on Financial Services and Financial Crime: Activities, Risk Appetite and Mitigation framework that sets out Jersey's approach to risk relating to its finance sector[3].

1.4 Any person who wishes to carry out the activities listed in 2.1 requires a COBO consent and must submit a completed application form to the JFSC. This application form provides the JFSC with a wide range of information on the applicant and its proposed activities.

2 Scope of policy application

Issuance of COBO consents by the JFSC

2.1 This Policy applies to applications made to the JFSC in respect of consent under the following Articles of COBO on an initial and on-going basis:

- 2.1.1 Article 1 (external body corporate raising money in Jersey by issue of shares)
- 2.1.2 Article 2 (admission to membership of a Jersey body corporate)
- 2.1.3 Article 3 (external body corporate having shares registered in Jersey)
- 2.1.4 Article 4 (issue of securities other than shares)
- 2.1.5 Article 4A (Issue of securities other than LLC interests)
- 2.1.6 Article 5 (continuance of an external body corporate in Jersey)
- 2.1.7 Article 5A (continuance of external limited liability company in Jersey)
- 2.1.8 Article 8 (circulation of prospectuses to retail investors)

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[1] Having due regard in this context means to appropriately consider the risks linked or arising from the identified activities. Exercising due regard in accordance with any obligations established under Code of Practices or Guidance Notes (such as the Jersey Private Fund guidance) requires notification to the JFSC.

[2] The Sound Business Practice Policy has been amended to the Sound Business Policy. Where Sound Business Practice Policy is referenced in Codes of Practice, Policy and Guidance, they should be read as meaning the same.

[3] This includes any involvement and dealing with FATF High-Risk Jurisdictions subject to a Call for Action. This list is often externally referred to as the "black list".

2.1.9 Article 9 (raising money for the purpose of a unit trust or issuing units under a unit trust scheme)

2.1.10 Articles 10 and 11 (creation of partnership interests and the circulation of an offer document to retail investors)

2.1.11 Article 11A (creation of LLC interests and the circulation of an offer document to retail investors)

2.2 Applicants should also look to ensure that any application to carry on activity related to cryptocurrencies, initial coin offerings or tokenisation of real-world assets is in line with the JFSC's guidance[4].

2.3 This Policy also applies to applications made to the JFSC for approval for the transfer of a Reserved Company.[5]

Financial services businesses

2.4 Codes of Practice[6] issued by the JFSC require due regard[7] to be had by registered persons/certificate holders to the principles of this policy. This requirement applies irrespective of the incorporation/registration jurisdiction of the entity.

2.5 Alternative investment funds (AIF) and AIF services businesses are also covered by this policy through the relevant COBO consent and/or through the Code of Practice for fund services business or the Code of Practice for certified funds. This requirement, on the registered person, applies irrespective of the incorporation/registration jurisdiction of the entity to which the registered person is providing services.

2.6 All financial services businesses registered with the JFSC for financial crime purposes are required to complete a customer risk assessment and a business risk assessment (unless exempted by legislation[8]). In both instances the AML/CFT/CPF Handbook highlights that consideration should be given to this SBP when completing these assessments.

3 The application of the policy

3.1 Attached as an Appendix to this Policy is the table of activities which the GoJ and the JFSC have determined to be sensitive or potentially pose reputational risks to Jersey.

3.2 For the avoidance of doubt, the table applies whether the activity is to be carried out in Jersey or elsewhere by a Jersey incorporated/registered person or by a person.

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[4] Guidance : www.jerseyfsc.org/news-and-events/asset-tokenisation-and-initial-cointoken-offerings-guidance/ www.jerseyfsc.org/industry/guidance-and-policy/tokenisation-of-real-world-assets-rwas/ www.jerseyfsc.org/industry/guidance-and-policy/application-process-for-issuers-of-initial-coin-offerings/

[5] A pre-incorporated company that has been registered but has not yet traded or conducted any business. These companies are kept as "reserved" by corporate service providers and are available for purchase by clients who want to start operating quickly without going through the full incorporation process.

[6] Means the Code of Practice issued by the JFSC for fund services business, investment business, trust company business and certified funds.

[7] Registered persons or certificate holders should meaningfully consider and appropriately factor in any direct or indirect exposure to activities listed in the SBP. This includes how registered person have incorporated the SBP into their operations or decision-making.

[8] Relevant persons that meet the conditions contained in the Proceeds of Crime (Low Risk financial Services Business) (Jersey) Order 2024 are not required to complete a business risk assessment.

3.3 An applicant must indicate on their application form if the activity of the entity or of any subsidiary, wholly owned subsidiary or holding body, is listed on the table of sensitive activities. Any exposure, direct or indirect[9], to activities listed under the SBP must be disclosed within an application to the JFSC.

3.4 The Financial Action Task Force also requires all jurisdictions to be vigilant to current and emerging risks from the circumvention of measures taken against all suspended[10] countries to protect the international financial system.

3.5 Where a Jersey entity, its subsidiary, wholly owned subsidiary or holding body directly or indirectly, proposes to carry out a listed activity, the JFSC may require additional information and, in some cases, it will require verification. This may incur a necessary delay upon the processing of an application such that a relevant fast-track or one day incorporation/registration may not be possible. In such cases, the JFSC will contact the applicant and/or its formation agent. We recognise that legal advisors to the applicant may hold relevant information, and the JFSC shall (where appropriate and with express authority) liaise with the relevant legal advisors to obtain the necessary information to process the application expeditiously.

[9] Indirect exposure refers to a firm's financial or risk position that arises not from a direct relationship with the underlying customer, counterparty, asset, or jurisdiction, but through an intermediary, correspondent, investment vehicle, or other third party. The exposure is contingent on the intermediary's own exposures and activities.

[10] See www.fatf-gafi.org/en/countries/fatf.html for FATF members, including all suspended countries.

Appendix: Table – Activities that pose a potential risk to the reputation of the island and are not within the regulatory oversight of the JFSC

	Activity	Description
1	Defence	Any involvement, direct or indirect, in the manufacture, purchase, sale and use of controversial, restricted and prohibited arms, weapons and other defence equipment [11].
2	Pharmaceutical	Manufacture, marketing or sale of pharmaceutical goods or devices which are not licensed or have not received marketing authorisation in the jurisdiction where they are manufactured, marketed, sold or supplied. This is excluding such activities insofar as they relate to medicines that are in clinical or pre-clinical trials, with a view to such medicines being manufactured, marketed or sold (as appliable) under licence or with marketing authorisations.
3	Dual use goods	Involvement, directly or indirectly, in the exportation or importation of goods or technology, which would require an authorisation or licence under Jersey 'dual use' legislation. [12]
4	Mining, drilling or quarrying	Mining, drilling or quarrying: Involvement, directly or indirectly in mining, drilling or quarrying for natural resources where the entity is not listed on an UK regulated market[13], an EU/EFTA regulated market[14] or an EMIR equivalent regulated market[15]. Additionally, where the entity is being incorporated for the purposes of becoming listed itself on a regulated market, as above.
5	Financial services business	Where an activity is regulated in Jersey for financial services business but not in the 'target market' [16],applications will be considered higher risk, particularly if the "target" jurisdiction is listed with indicators on the JFSC's higher risk countries list Appendix D2 - countries and territories identified as presenting higher risk and subject to additional scrutiny.

[11] Controversial, restricted and prohibited arms, weapons and other defence equipment are those referred to in international treaties and conventions, United Nations principles and, where applicable, UK and EU legislation. They include anti-personnel mines (the'Ottawa Convention'), cluster munitions (the 'Oslo Convention'), chemical weapons and biological weapons (the Biological Weapons Convention 1972 and the Chemical Weapons Convention 1993). This sector remains heavily regulated and compliance with relevant jurisdictional and international rules is expected.

[12] The primary legislation is the Customs and Excise (Import and Export Control) (Jersey) Order 2006. Revenue and Goods Control department also rely on elements of the Customs and Excise (Safety and Security) (Export) (Jersey) Order 2019 and Article 6 of the Customs and Excise (Jersey) Law 1999 itself in matters that relate to Strategic Goods (**Military and Dual-Use**). Any assessment of risk for Jersey firms should have regard to the UK's Consolidated list of strategic military and dual-use items that require export authorisation. The Department of Business and Trade's online tool known as the 'Goods Checker' is available to help businesses determine whether specific goods are listed. Where goods are listed, a licence from Jersey Customs and Immigration (JCIS) may be required, the process for which can take in excess of 12 weeks. Further guidance can be viewed: JFSC's Proliferation Financing Guidance, Government of Jersey's Import and Export Guidance , FSIU's Sanctions Licences and Exceptions Guidance and National Risk Assessment: Proliferation Financing.

[13] UK regulated market means a regulated market which is a recognised investment exchange under section 285 of the Financial Services and Markets Act 2000 (UK), but not an overseas investment exchange within the meaning of that Act, and can be verified here: Recognised Investment Exchanges.

[14] EU/EFTA regulated market means a regulated market which is authorised and functions regularly and in accordance with Title III of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments, and can be verified here: ESMA Registers [select 'regulated market'].

[15] EMIR equivalent regulated market means a non-EU third country regulated market which has been recognised in accordance with article 2a of Regulation (EU) No 648/2012 European Market Infrastructure Regulation (EMIR), and can be verified here: Equivalence of non-EU financial frameworks - European Commission [summary table, Equivalence decisions, row headed "Art 2(a) Regulated markets"] or here for the regulated markets European Securities and Markets Authority.

[16] In the context of Jersey company registration and regulatory oversight by the JFSC, the term "target market" refers to the jurisdiction or country where the business activity is intended to be conducted or where clients are located, even if the company is incorporated and regulated in Jersey.