



Jersey Financial  
Services Commission

**SOUND BUSINESS PRACTICE POLICY**

DOCUMENT OVERVIEW

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## 1 Relevant Legislation

- 1.1 This Policy, which sets principles regarding the activities that the Jersey Financial Services Commission (the “**Commission**”) considers sensitive, is issued as a result of the following legislative requirements placed on the Commission:
- 1.1.1 The requirement in Article 2(3) of the Control of Borrowing (Jersey) Law 1947 that the Commission, when discharging the functions assigned to it by the Control of Borrowing (Jersey) Order 1958 (“**COBO**”), have regard to the need to protect the integrity of Jersey in commercial and financial matters and the best economic interests of Jersey.
- 1.1.2 The function of administering the Control of Borrowing (Jersey) Law 1947 rests with the Commission by virtue of Article 6(b)(i) of the Financial Services Commission (Jersey) Law 1998 (the “**Commission Law**”). Consequently, the Commission’s guiding principles (Article 7 of the Commission Law) are relevant and, in discharging its functions, the Commission may take into account any matter which it considers appropriate, but shall in particular have regard to:
- 1.1.2.1 the reduction of the risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers;
- 1.1.2.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
- 1.1.2.3 the best economic interests of Jersey; and
- 1.1.2.4 the need to counter financial crime both in Jersey and elsewhere.
- 1.2 Legislation governing the formation of Jersey companies, partnerships and foundations requires that they are formed for a lawful purpose. The activities described in Tables 1 and 2 of this Policy should not be construed as unlawful; rather they are indicative of activities that the Commission considers potentially pose reputational risks to Jersey.

## 2 Background

- 2.1 In order to form an opinion on whether to issue consent under COBO, for one of the activities set out in paragraph 3.1, the Commission requires an applicant to complete a published application form.
- 2.2 The completed application form provides information to the Commission on a range of matters, for example authorised share capital, partnership holdings, ultimate beneficial ownership and the proposed activities of the applicant. The application form includes a declaration which an applicant is required to sign stating that the information provided to the Commission is accurate and complete.
- 2.3 The provision of information, combined with the declaration, is essential in enabling the Commission to meet its legislative requirements detailed above and issue consent.

### **3 Scope of Application**

- 3.1 This Policy applies to applications made to the Commission in respect of consent under the following Articles of COBO on an initial and on-going basis:
- 3.1.1 Article 1 (external body corporate raising money in Jersey by issue of shares);
  - 3.1.2 Article 2 (admission to membership of a Jersey body corporate);
  - 3.1.3 Article 3 (external body corporate having shares registered in Jersey);
  - 3.1.4 Article 4 (issue of securities other than shares);
  - 3.1.5 Article 5 (continuance of an external body corporate in Jersey);
  - 3.1.6 Article 7 (issue of government securities);
  - 3.1.7 Article 8 (circulation of prospectuses);
  - 3.1.8 Article 9 (raising money for the purpose of a unit trust or issuing units under a unit trust scheme); and
  - 3.1.9 Articles 10 and 11 (creation of partnership interests) and the circulation of an offer document.
- 3.2 This Policy also applies to applications made to the Commission for approval for the transfer of a Reserved Company.
- 3.3 Additionally, the Codes of Practice for fund services business, investment business and trust company business, issued by the Commission in accordance with Article 19 of the Financial Services (Jersey) Law 1998 and the Codes of Practice for certified funds issued by the Commission in accordance with Article 15 of the Collective Investment Funds (Jersey) Law 1988, require that due regard is to be had by registered persons to the principles of this sound business practice policy document, issued by the Commission. Alternative investment funds and AIF services businesses are also covered by this policy through the relevant COBO consent and/or through the Codes of Practice for fund services business or the Codes 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.
- 3.4 Applicants should also look to ensure that any application is in line with the [Government statement on abusive tax schemes issued on 29 July 2014](#) and any guidance notes issued by Jersey Finance expanding on the principles advocated in the Government statement. The Commission will have regard to the Government statement and guidance notes when considering any application.

### **4 The Policy**

- 4.1 Attached as Appendices to this Policy are two tables. The tables set out those activities which, as a matter of policy, the Commission has determined potentially pose reputational risks to Jersey.

- 4.1.1 **Table 1** sets out those activities that are subject to oversight by the Commission for one or more of supervision of financial soundness, conduct of business and compliance with requirements relating to anti-money laundering and countering the financing of terrorism, and as a result fall within the scope of this Policy.
- 4.1.2 **Table 2** sets out those activities not within the regulatory oversight of the Commission but are considered to likely pose a potential reputational risk to Jersey.
- 4.2 For the avoidance of doubt, the tables apply:
- 4.2.1 to e-commerce related activities; and
- 4.2.2 whether the activity is to be carried out in Jersey or elsewhere by a Jersey incorporated/registered person, or by a person that is administered by a Jersey registered person.
- 4.3 Where an application for consent is being made to the Commission for one of the activities set out in paragraph 3.1, the applicant must indicate on the relevant application form and provide additional information, if the activity of the entity or of any subsidiary, affiliate or associated entity is listed in Table 1 or 2.
- 4.4 Where a Jersey entity, or its subsidiary, affiliate or associated entity, directly or indirectly, proposes to carry out an activity listed in Table 1 or 2, it is likely that this may result in a delay in the processing of that application in accordance with the Registry Processing Statement, published by the Companies Registry and available from the Companies Registry Website. The delay may be incurred whilst the additional information is reviewed and checked, including verification with third parties as necessary.
- 4.5 There may well be activities which are not listed in the Tables but which may, if conducted by a Jersey entity, or its subsidiary, affiliate or associated entity damage Jersey's reputation. The Commission reserves the right to deem activities that do not appear in the Tables as potentially posing a risk to the reputation of Jersey. Where an activity is deemed to pose a risk, the consequence will most likely be as set out at 4.4 above.

**TABLE 1 - REGISTERED, AUTHORISED, AND/OR SUPERVISED ACTIVITIES**

<b>Activity</b>	<b>Description</b>
1.	<p>Any financial service business as defined in Article 2(1) of the Financial Services (Jersey) Law 1998, namely:</p> <ul style="list-style-type: none"> <li>(a) AIF services business;</li> <li>(b) fund services business;</li> <li>(c) general insurance mediation business;</li> <li>(d) investment business;</li> <li>(e) money service business; and</li> <li>(f) trust company business.</li> </ul>
2.	<p>Any of the following within the meaning of the Collective Investment Funds (Jersey) Law 1988:</p> <ul style="list-style-type: none"> <li>(a) the business of being a functionary;</li> <li>(b) the business of a recognized fund; and</li> <li>(c) the business of an unclassified fund.</li> </ul>
3.	<p>Any deposit taking business as defined in Article 1 of the Banking Business (Jersey) Law 1991.</p>
4.	<p>Any long-term business as defined in Article 1(1) of the Insurance Business (Jersey) Law 1996.</p>
5.	<p>Any of the following within the meaning of the Alternative investment Funds (Jersey) Regulations 2012:</p> <ul style="list-style-type: none"> <li>(a) the business of an alternative investment fund; and</li> <li>(b) the business of being an AIF prescribed service provider.</li> </ul>
6.	<p>Any activity outlined in Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 - including lawyers, accountants, casinos (including internet casinos) and unregulated funds.</p>
7.	<p>Any non-profit organization as defined in Article 1 and which is obliged to register in accordance with Article 4 of the Non-Profit Organizations (Jersey) Law 2008.</p>

**TABLE 2 - ACTIVITIES THAT POSE A POTENTIAL RISK TO THE REPUTATION OF THE ISLAND AND ARE NOT WITHIN THE SCOPE OF TABLE 1**

Activity	Description
1.	<p>Trading activities which include the provision of goods or services that require payment in advance, where such goods or services are not subject to consumer protection or pose a risk of fraud. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>(a) travel agents which are not 'bonded';</li> <li>(b) container leasing;</li> <li>(c) sale or leasing of overseas property development; and</li> <li>(d) time share activities.</li> </ul>
2.	<p>In respect of arms, weapons, ammunitions, countermeasures or other military or defence equipment, goods, technology, and personnel (as applicable) involvement, directly or indirectly, in one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) manufacture;</li> <li>(b) maintenance;</li> <li>(c) sale;</li> <li>(d) supply;</li> <li>(e) delivery;</li> <li>(f) transfer;</li> <li>(g) purchase;</li> <li>(h) importation;</li> <li>(i) exportation;</li> <li>(j) transportation;</li> <li>(k) financing or financial assistance;</li> <li>(l) use of;</li> <li>(m) provision of brokering services; or</li> <li>(n) training or technical assistance.</li> </ul>
3.	<p>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.</p>
4.	<p>Conduct of scientific research.</p>
5.	<p>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.</p>
6.	<p>Investment in or purchase of 'debt' as defined in the Debt Relief (Developing Countries) (Jersey) Law 2013</p>
7.	<p>Involvement, directly or indirectly, in mining, drilling or quarrying for natural resources.</p>