



Jersey Financial Services Commission

Natural Persons undertaking class G - Trust Company
Business ("Sole trader")

Our Ref.: RJ/TCB-ClassG

12 November 2012

Dear Sir/Madam,

On-Site Examination Feedback

Trust Company Business Codes of Practice ("TCB Codes")

Handbook for the prevention and detection of money laundering and the financing of terrorism ("the AML handbook")

Jersey Financial Services Commission ("the Commission")

Financial Services (Jersey) Law, 1998, ("the Law")

As you are aware, during the last 18 months, the Commission conducted a number of on-site examinations of natural persons undertaking class G of trust company business ("sole traders"). The on-site examinations were undertaken as part of the Commission's supervision of registered persons and provided the Commission with valuable knowledge of each sole trader and this particular sector of the finance industry.

This letter will be used to outline the specific areas examined during the on-site examinations, the findings arising from those areas and the Commission's views on the practices undertaken by the sole traders as a whole.

On-site Examination Scope

- Acceptance Process - Reviewing the process undertaken by the sole trader when considering a new appointment, including any documentation obtained and risk evaluation undertaken.
- On-going Monitoring and Assessment - to include nature of information/documentation obtained together with consideration of open source information or other information sources.
- Record keeping and access to records - including what information is held and in what form, whether reliance is placed on third party record keeping and, if so, what reviews or checks are conducted.
- Compliance with Anti-Money Laundering/CFT requirements

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- CPD

The Commission also sought to understand broadly each sole trader's current engagements and the nature of each business for which they act.

Overview of findings

1. Acceptance Process

The level of formal documented acceptance processes varied greatly throughout the population of sole traders examined. The Commission was encouraged by a number of sole traders that were able to demonstrate that they had recorded their considerations for a new appointment and undertaken a risk assessment as part of that process. A small number of sole traders were not in a position to demonstrate that a documented process is followed during the acceptance of a new appointment, however the Commission was reassured to note that from the discussions held, it was clear that each individual was acutely aware of the risks associated with their appointments prior to formal acceptance of a customer.

2. On-going Monitoring and Assessment

A proportion of sole traders were able to demonstrate a good level of on-going monitoring of the companies for which they are appointed. This level of monitoring was demonstrated through written confirmations being received from each applicable service provider that customer due-diligence ("CDD") has been obtained on customers, as required by the AML Handbook. A small number of sole traders performed random spot-checks of the service provider's records with regard to CDD and open source information held, whilst others obtained their own CDD with regard to the companies and funds they act for.

It was positive to note that a small percentage of the sole traders had a procedures manual in place to assist in the on-going monitoring of their engagements; the majority of those without formal procedures were still able to evidence that they had reviewed open source information.

Periodic reviews and risk assessments were undertaken by only a small number of sole traders. The Commission would like to see the practice being undertaken by all sole traders going forward.



3. Record keeping and access to records

Though the Commission noted varying standards of record keeping being maintained, it was evident that the vast majority of the sole traders held either hard or soft copies of board minutes, and those that did not keep copies on their premises, relied on service providers to maintain record and provide copies on request. As noted in point 2 above, the levels of CDD kept by the sole traders varied significantly, however the Commission is comfortable that almost all the sole traders examined would be able to demonstrate compliance with 3.7 of the TCB Codes.

4. Compliance with Anti-Money Laundering/CFT requirements

In addition to points 1 and 2 above, the Commission sought to determine the number of sole traders that had implemented a Business Risk Assessment ("BRA"), as required by section 2.3.1 of the AML Handbook. Those BRA's that had been implemented by a small number of sole traders, were fit for purpose and had been effectively tailored to each particular sole trader's engagements. The Commission is confident that those sole traders who have not carried out and documented a BRA, have the requisite knowledge to do so and thus fulfil the requirements of the AML Handbook.

5. CPD

The Commission found that all but one sole trader was able to demonstrate that appropriate CPD was being carried out. It is noted that, with the vast majority of sole traders being professionally qualified, a level of CPD is necessary to be maintained to fulfil the requirements of that professional body simultaneously with the requirements contained in the TCB Codes of Practice.

Summary

The Commission was satisfied that at least two thirds of sole traders examined were able to fully satisfy the requirements of the regulatory regime, through detailed documented procedures and on-going monitoring of appointments. The Commission hopes that this letter will enable those that may not be able to demonstrate full compliance with the regulatory regime, to assess their current practices and adjust as appropriate. It must be noted that at no point did the Commission feel that any sole trader was not fully aware of the circumstances surrounding their appointments and the companies for which they act, however demonstrating or evidencing this understanding through documentation and record keeping is required.



To further assist sole traders in their regulatory practices, the Commission is due to publish an update to the guidance note: "*Natural persons carrying on a single class of trust company business*", to include the Commission's expectation of sole traders in adhering to both the TCB Codes and AML Handbook. The updated guidance note will be made available for public viewing, along with a copy of this letter by the end of 2012.

I hope this letter has provided a useful summary of the Commission findings, along with suggestions as to best practices going forward.

Please do not hesitate to contact me should you have any queries.

Yours faithfully,

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