

UPDATE

Jersey Financial Services Commission – Outsourcing Policy

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On 1 March 2017 the Jersey Financial Services Commission published the final text of its amended Outsourcing Policy, following an extensive consultation process in which funds and regulatory specialists from Mourant Ozannes were actively involved. The amended Outsourcing Policy will take effect from 1 June 2017 for new outsourcing arrangements. It will apply to all existing outsourcing arrangements from 1 June 2018.

Mourant Ozannes would be pleased to assist you and your business with any queries that you may have regarding the scope and implementation of the amended Outsourcing Policy. The key changes adopted through the amended Outsourcing Policy include:

- expanding the scope of the existing Outsourcing Policy, to also capture activity which is not in itself regulated but which would have a material impact on the outsourcer's regulated activities if it was not performed to an appropriate standard;
- introducing a specific process for notifying the JFSC of proposed outsourcing arrangements;
- aligning the core principles with international standards; and
- providing additional guidance and FAQs.

There are some extremely positive changes specifically for Jersey registered collective investment funds and fund services businesses, including:

- the removal of the distinction between outsourcing and delegation;
- the exclusion of collective investment funds from the amended Outsourcing Policy provided that certain disclosure conditions are met; and
- the carve-out of certain types of fund services activity, including the provision of investment advisory services and MoME arrangements.

For all other registered persons to whom the Outsourcing Policy applies, the amended Outsourcing Policy is also helpful since it includes an express list of activities which are not subject to the amended Outsourcing Policy, such as:

- advisory services which do not form part of the registered person's own regulated activities; and
- arrangements between different parts of the same legal person (such as between branches).

What do you need to do?

If you are a Jersey registered Collective Investment Fund

You will need to consider whether any additional disclosures should be made to your investors as contemplated by the amended Outsourcing Policy and, if so, how best to approach that communication in line with the guidance provided in the amended Outsourcing Policy.

If you are a Registered Person

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| New arrangements | Will be subject to the amended Outsourcing Policy from 1 June 2017 . |
| Arrangements which are currently being negotiated | These will be subject to the existing Outsourcing Policy (if they are executed before 1 June 2017), but it may be sensible to consider the amended Outsourcing Policy now, since otherwise they may need to be revised shortly after they are implemented. |
| Existing arrangements | Must comply with the amended Outsourcing Policy no later than 1 June 2018 . As part of the next annual review process, consider whether these would be compliant with the amended Outsourcing Policy. You may find that it will not be necessary to make substantial changes to the agreements themselves because many of the principles in the amended Outsourcing Policy are similar to those in the existing Outsourcing Policy. |
| Previously out of scope arrangements (which will now be caught by the amended Outsourcing Policy) | Must comply with the amended Outsourcing Policy no later than 1 June 2018 . It is likely that changes will need to be made to the text of these agreements, in addition to implementing additional internal governance measures. You should consider these as soon as possible, to ensure that change of control procedures can be invoked, as well as to ensure sufficient time to complete the JFSC's new Outsourcing Notification procedure. |
| Policies and procedures | You should also consider what updates need to be made to existing policies and procedures to reflect the requirements of the amended Outsourcing Policy. For all outsourcing arrangements which are caught by the amended Outsourcing Policy, additional internal governance measures are likely to be required. |

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[Document Reference]