

STATES OF JERSEY



DRAFT FINANCIAL SERVICES (AMENDMENT OF LAW) (No. 2)(JERSEY) REGULATIONS 200

**Lodged au Greffe on 28th August 2007
by the Minister for Economic Development**

STATES GREFFE



Jersey

DRAFT FINANCIAL SERVICES (AMENDMENT OF LAW) (No. 2) (JERSEY) REGULATIONS 200

REPORT

The proposed Regulations are one of a series of changes in order to transfer the regulation of functionaries of funds from the Collective Investment Funds (Jersey) Law 1988 (the ‘CIF(JL’) to the Financial Services (Jersey) Law 1998 (“the Law”). These changes are part of a larger set of amendments with the purpose of regulating all financial services businesses operating in Jersey under a single law. This will increase efficiencies in both the finance industry and the Commission in accordance with the latest international standards and good practice.

It will also permit the Commission to introduce Codes of Practice in accordance with international standards and those required by the IMF.

These particular changes include the creation of a new class of business, fund services business under the Law as well as consequential and transitional provisions.

Financial/manpower implications

No measurable cost or manpower implications arise for the Commission, the States or industry.

Explanatory Note

These Regulations amend the Financial Services (Jersey) Law 1988 to include “fund services business” as a class of financial services business to which the Law applies.

The Regulations also amend the definition of “client asset” to include references to fund assets and include definitions of “unclassified funds” and “recognized funds”.

The Regulations contain transitional provisions whereby persons registered, as at the day the Regulations come into force, under the Collective Investment Funds (Jersey) Law 1988, as permit holders in relation to unclassified funds, shall be registered under the Financial Services (Jersey) Law 1998.

The Regulations shall come into force 7 days after they are made.



Jersey

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Arrangement

Regulation

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 1 of Law amended</u>
<u>3</u>	<u>Article 2 of Law amended</u>
<u>4</u>	<u>Schedule 5 to Law amended</u>
<u>5</u>	<u>Citation and commencement</u>



Jersey

DRAFT FINANCIAL SERVICES (AMENDMENT OF LAW) (No. 2) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 4 of the Financial Services (Jersey) Law 1998^[1], have made the following Regulations –

1 Interpretation

In these Regulations, “Law” means the Financial Services (Jersey) Law 1998^[2].

2 Article 1 of Law amended

In Article 1(1) of the Law –

(a) for the definition “client asset” there shall be substituted the following definition –

“ ‘client asset’ means –

(a) property belonging to a client, including money, investments and insurance policies; and

(b) any fund asset;”;

(b) after the definition “financial service business” there shall be inserted the following definitions –

“ ‘fund asset’ means an asset of a collective investment fund;

‘fund services business’ has, subject to any Order under Article 4, the meaning given to that expression by Article 2;”;

(c) after the definition “principal person” there shall be inserted the following definition –

“ ‘recognized fund’ means a collective investment fund in relation to which there is a recognized fund certificate granted under the Collective Investment Funds (Recognized Funds) (General Provisions (Jersey) Order 1988 or the Collective Investment Funds (Recognized Funds) (Rules) (Jersey) Order 2003;”;

(d) in the definition “trust property” for the words “Law 1984.” there shall be substituted the words “Law 1984;”;

(e) after the definition “trust property” there shall be inserted the following definition –

“ ‘unclassified fund’ means a collective investment fund that is not a recognized fund.”.

3 Article 2 of Law amended

In Article 2 of the Law –

- (a) in paragraph (1), for the words “or money service business” there shall be substituted the words “, money service business or fund services business”;
- (b) at the end there shall be added the following paragraph –

“(10) A person carries on fund services business if by way of business the person is –

- (a) a manager, manager of a managed entity, administrator, registrar, investment manager or investment adviser;
- (b) a distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent or repurchase agent;
- (c) a trustee, custodian or depositary; or
- (d) a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country or territory outside Jersey, in relation to an unclassified fund.”.

4 Schedule 5 to Law amended

In Schedule 5 to the Law, at the end, there shall be added the following paragraph–

“3 Certain fund services business

- (1) Sub-paragraph (2) applies to a person (other than a company issuing units within the meaning of the Collective Investment Funds (Jersey) Law 1988) who, immediately before the commencement day, holds a permit under that Law authorizing the person to carry on fund services business in relation to an unclassified fund.
- (2) On and from the commencement day –
 - (a) a person to whom this sub-paragraph applies shall be taken to have applied for registration under this Law to carry on fund services business in relation to an unclassified fund;
 - (b) the Commission shall be taken to have registered the person to carry on, in relation to the unclassified fund in respect of which the permit referred to in paragraph (1) was issued, fund services business of a class specified in the permit; and
 - (c) the Commission shall, as soon as practicable, issue to the person a registration certificate under Article 9.
- (3) Sub-paragraph (4) applies to a person who, immediately before the commencement day, was a manager of a person –
 - (a) who was a functionary in relation to an unclassified fund; and
 - (b) to whom a permit that was in force immediately before the commencement day was issued under the Collective Investment Funds (Jersey) Law 1988.
- (4) On and from the commencement day –
 - (a) a person to whom this sub-paragraph applies shall be taken to have applied for registration under this Law to carry on, as a manager of a managed entity, fund services business in relation to an unclassified fund;
 - (b) the Commission shall be taken to have, on the commencement day, registered the person to carry on, in relation to the unclassified fund in respect of which the permit referred to in sub-paragraph (3) was issued, fund services business of a class specified in the permit; and

- (c) the Commission shall, as soon as practicable, issue to the person a registration certificate under Article 9.
- (5) Nothing in sub-paragraph (2) or (4) shall be taken to prevent the Commission amending, varying or revoking the registration of a person that is taken by virtue of that sub-paragraph to have occurred.
- (6) In this item, ‘commencement day’ means the day on which the Financial Services (Amendment of Law) (No. 2) (Jersey) Regulations 200 come into force.”.

5 Citation and commencement

- (1) These Regulations may be cited as the Financial Services (Amendment of Law) (No. 2) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force 7 days after they are made.

[1]

chapter 13.225

[2]

chapter 13.225