

## • JERSEY PROPOSALS COULD SIMPLIFY FINANCE INDUSTRY CODES OF PRACTICE

The Jersey Financial Services Commission (JFSC), the body responsible for the regulation of the finance industry in Jersey, issued a consultation paper in April 2011 with a view to clarifying, aligning and augmenting the requirements of the seven sets of Codes of Practice issued under the relevant finance industry legislation in Jersey.

At present, each code covers one of the following activities to the extent carried on, in or from within Jersey: Deposit-taking Business, Fund Services Business, General Insurance Mediation Business, Investment Business, Insurance Business, Money Service Business and Trust Company Business. The consultation paper is proposing amendments to all seven sets of codes.

Proposed amendments broadly fall into three categories; those that:

- a) provide clarification on the scope and basis on which the codes are issued
- b) align regulatory requirements across the codes wherever possible, recognising that differing requirements will be required to reflect specific characteristics of financial sectors
- c) augment existing requirements or set new requirements that are particular to a financial sector.

The JFSC has stated its view that although the amendments may appear extensive, overall the amendments are not controversial or contentious and their implementation by the finance industry should not be costly.

The proposed changes to the codes include general changes across all seven codes, in particular changes relating to requirements

concerning corporate governance: span of control, compliance function and continuing professional development, complaints, record keeping, financial resources, professional indemnity insurance and principle 6 notifications. Sector specific changes will apply in addition to the general changes.

Equally importantly, the consultation paper recognises that many registered persons carry on more than one type of financial services business in a single vehicle and are therefore required to consider more than one code. The consultation paper also recognises that the JFSC invests heavily in maintaining the current suite of seven codes such that the regulatory requirements established by the codes are not in conflict, as far as is possible, where they set requirements which operate on the entire registered person rather than being financial service or product specific.

Although differences exist in the content of the codes due to differences in the finance activities which they seek to regulate, as part of the process of preparing the consultation paper the JFSC has identified certain similarities as well as differences between the codes and is currently considering the feasibility of producing a single set of consolidated codes. A single set of consolidated codes would be practical and user friendly, and comprise a practical solution to some of the issues alluded to above.

The JFSC's thinking appears to be that the consolidated codes could follow a similar structure to the current codes - enforceable requirements in the form of high level principles supported by detailed rules - except that there would be general regulatory requirements, applicable to all registered persons, augmented by sector specific regulatory requirements as necessary.

The JFSC has stated that it is not looking to set rules covering all scenarios (a so-called "rules-based approach") and would continue to vary regulatory requirements where strict adherence to the Codes of Practice would produce anomalous results for a particular registered person. What the JFSC appears to be proposing to do is clarify, align and augment; all words which have the ability to simplify, which is always welcome in the finance industry. The consultation paper is currently open for comment and can be viewed at [www.jfsc.org](http://www.jfsc.org).

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