

A BRIEF OUTLINE ON THE REGULATIONS OF FUND FUNCTIONARIES

On 14th November 2007 the regulation of fund functionaries acting for unclassified funds (other than a company issuing units) was transferred from the Collective Investment Funds (Jersey) Law 1988 ('CIF' law) to the Financial Services (Jersey) Law 1998 ('FSJ' law) with a new class of business being created called 'Fund Services Business'. At the same time Codes of Practice came into force and cover the responsibility of fund functionaries to demonstrate appropriate level of 'fitness and propriety' in areas such as;

- Corporate Governance
- Internal systems and controls
- Financial resource
- Reporting

Under the grandfathering provisions of the transfer those entities that already held fund functionary licences under the existing CIF legislation were automatically granted a licence under the FSJ regime.

Entities providing 'Funds Services Business' can be either those for whom it is their main stream business, or alternatively it could be entities set up with the specific purpose of holding the licence but be 'managed' as a client company of an island based service provider. The former will naturally have all the necessary resource to fulfil their obligations under the new Codes of Practice, however the latter will require the resource of the service provider who would be registered as a Trust and Company business provider and hold appropriate licences as currently exist under the FSJ law.

In recognising that many fund functionaries are effectively 'managed', the Jersey Financial Services Commission ('JFSC') has created another category of licence under the 'FSJ' law for which the manager of these entities must register annually. This is called Manager of Managed Entities ('MoME') and this entity will typically provide the Compliance Officer, Money Laundering Reporting Officer, Directors, Secretary to the licence holder.

This move will much simplify the setting up of fund structures, removing the need for fund functionaries to obtain a licence on each occasion a fund is launched as previously existed under the CIF law. It now only remains necessary to regulate the fund itself under this regime if required (the recent introduction of an Unregulated Fund regime has further simplified this process). The regulation of functionaries has therefore been separated from the regulation of the fund.

Moore Stephens in house company, Moore Stephens Fund Administration Limited, is regulated to provide Fund Services Business and can provide both MoME and fund administration services. These changes to the regulation of fund functionaries, along with the introduction of the Unregulated Fund regime, has further simplified the creation of fund structures and advanced Jersey's position as a leading offshore fund centre.

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For further information on these developments and discussions of your fund structuring requirements please contact

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