

# COBO Consents are changing to update the Register of Beneficial Owners and Controllers

UPDATE

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With effect from 1 January 2017, COBO Consents are changing to facilitate the update and maintenance of the JFSC's register of beneficial owners and controllers of Jersey entities. COBO Consents granted to new and existing entities will contain some new conditions to require entities to notify the JFSC of beneficial owner and controller information.

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All companies and limited partnerships require a consent from the JFSC to issue shares or create partnership interests (a **COBO Consent**). With effect from 1 January 2017, these COBO Consents are changing to facilitate the maintenance of the JFSC's register of beneficial owners.

## Who is affected?

Most companies and limited partnerships currently on the register (**Existing Entities**) and all new companies and limited partnerships to be incorporated/registered (**New Entities**).

There are a few exceptions (for example, those companies and limited partnerships with special conditions on their current COBO Consent or holding a Collective Investment Fund Certificate) but generally, you should expect Existing Entities to be affected.

## What is changing?

In recent years, the COBO Consents granted by the JFSC have been in a familiar form. The form that we have become accustomed to seeing is being updated.

New Entities will be granted a COBO Consent to issue shares/create partnership interests in the new form. Existing Entities will be granted a new COBO Consent, in the new form, to replace any consent previously granted to them for the issue of shares/creation of partnership interests.

The new form will mainly follow the form most recently used by the JFSC but with some additional conditions to:

1. require the entity to notify the JFSC of information on its beneficial owners or controllers at any time on or before 30 June 2017; and
2. after the entity has given the notification required by 1, notify the JFSC within 21 days of becoming aware of any change to its beneficial owner or controller information.

One benefit of the changes is that all companies and limited partnerships granted a replacement COBO Consent will have consent to issue an unlimited number and class of shares or interests, regardless of any previous limits. There will be no need to apply for a new COBO Consent upon an increase or change of share capital, as there has been in the past.

## When do the new COBO Consents take effect?

New Entities will be granted a COBO Consent in the new form upon incorporation.

For Existing Entities, the position is more complex. Most Existing Entities will receive their replacement COBO Consent after they submit their annual return/pay their annual fee (in the past with the physical receipt for their annual return/annual fee), which may be at any time over the first quarter of 2017 but, the consent will be effective from 1 January. If an Existing Entity needs the replacement COBO Consent granted to it with effect from 1 January 2017 and it has not received the original from the JFSC, the Existing Entity may contact the JFSC to request the replacement COBO Consent before it files its annual return/pays its annual fee.

### **What do trust companies need to do?**

Be aware that most Existing Entities will be granted a replacement COBO Consent to issue shares/create partnership interests, with effect from 1 January 2017. The Existing Entity might not receive the replacement consent, if it has not filed its annual return/paid its annual fee, but the consent may have been granted nonetheless.

The requirement to notify the JFSC of beneficial owner or controller information will apply to the companies and limited partnerships themselves. If a company or limited partnership is administered by a trust company, however, it is expected that the trust company will be making the requisite notifications, as part of the administration services provided to the company or limited partnership. Each trust company should, therefore:

- confirm from its records, who is the beneficial owner or controller of each Existing Entity under its administration, according to the definition in the Money Laundering (Jersey) Order 2008 (as applied by the three tier test in the JFSC's Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism);
- consider whether this change is a trigger event for some or all of those Existing Entities, such that it may be necessary to contact clients to update identification information or documentation held by the trust company on the Existing Entity's beneficial owner or controller;
- prepare to notify the JFSC of the requisite beneficial owner or controller information by 30 June 2017, bearing in mind that the JFSC is offering a number of electronic means of doing so, with paper submissions being a last resort; and
- implement revised policies and procedures to ensure that all companies and limited partnerships under its administration comply with the requirement to notify the JFSC of changes to beneficial owners or controllers within 21 days.

### **Why is all of this necessary?**

Jersey Government has agreed with the UK to enhance the existing arrangements for the exchange of information between the Jersey Financial Crimes Unit (the **JFCU**) and UK law enforcement agencies. With effect from 30 June 2017, it has been agreed that the JFCU will be able to provide details of the beneficial owner or controller of any Jersey entity to a UK agency within one hour of receiving a request. To deliver on this promise, it is no longer sufficient for trust companies to be the sole keepers of maintained beneficial owner and controller information. The Registry needs to collect and keep this information so that the JFCU can meet the one hour time frame.

It is intended that the companies, limited partnerships, limited liability partnerships and foundations laws should all be amended during the first half of 2017 to require such entities to notify the JFSC of changes to their beneficial owner or controller within 21 days of the entity being aware of the change.

In the meantime, changes to COBO Consents will enable everyone (the JFSC and trust companies alike) to start doing the necessary work now, to update beneficial owner and controller information held by the Registry, rather than wait for changes to legislation, given the 30 June deadline.

If you have any questions or concerns, please do get in touch.

## Contacts

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[Document Reference]