

Jersey's new register of beneficial owners and significant persons

Briefing Summary: The Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 and associated secondary legislation, in force 6 January 2021, establishes a new, central register of beneficial owners and significant persons in Jersey.

Service Area: Corporate, Corporate Regulation and Compliance, Regulatory, Corporate Regulation and Compliance

Location: Jersey

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Background

Beneficial owners are those persons (normally being individuals) who directly or indirectly beneficially own or control the entity, and significant persons are those persons who manage the entity (for example directors of a company).

The new law is intended to satisfy FATF Recommendation 24 on beneficial ownership of legal persons, as well as to help facilitate the development of a more modern, fully digital, future-ready companies registry in Jersey.

The types of entities covered are:

- Companies
- Foundations
- Incorporated limited partnerships (ILPs)
- Separate limited partnerships (SLPs)
- Limited liability companies (LLCs)
- Limited liability partnerships (LLPs)

The new law also makes certain consequential amendments to the primary legislation governing those entity types.

Limited partnerships (LPs) are not within the scope of the new law, although additional in-scope entity types can be added by regulation.

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Summary of key changes

The key changes brought into effect by the new law are as follows:

| Position under new law | Summary of changes |
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| <p>Information on current beneficial owners and significant persons of entities will be collected and maintained on a new central register operated by the Jersey Financial Services Commission (JFSC)</p> | <p>The vast majority of the relevant information (and more) is already reported to and centrally held by the JFSC as part of its function as financial services regulator</p> <p>What the new law does is establish a central repository for certain of that information, and will be a key factor in enabling Jersey to ensure it continues to comply with international standards in this area (including FATF Recommendation 24) as they develop over time</p> |
| <p>Details of beneficial owners will not be made public until an EU consensus has been reached on beneficial ownership disclosure standards, and then only to comply with those standards</p> | <p>Beneficial owner information was not publicly available and there will be no immediate change to this position</p> |
| <p>Details of significant persons will be made public (subject to exceptions) but not before 1 October 2021</p> | <p>Only limited information on what are now "significant persons" was available via the JFSC's Registry website (for example director details for public companies)</p> <p>The new law expands the scope of the information in relation to directors, managers, GPs etc of entities that is publicly available (absent rights to inspect registers etc at an entity's registered office, which remain unchanged)</p> |

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| <p>Entities will need to appoint a locally resident "nominated person" to act as the main interface between the JFSC and the entity</p> | <p>This is a new requirement, but for most clients will not be a material change as this role will be fulfilled by their existing regulated corporate services provider</p> |
| <p>Entities will need to file an annual confirmation statement to confirm the accuracy of the information on the new register, which replaces the requirement to file an annual return</p> | <p>Certain entity types (for example companies) were required to file annual returns containing broadly similar information, save that annual confirmation statements are now required to contain significant persons information (only public company annual returns were previously required to include director information)</p> |
| <p>Entities will be required to make periodic filings to keep the information on the register up-to-date</p> | <p>This is a new requirement, though in relation to beneficial owners is consistent with the pre-existing requirement to notify material changes of beneficial ownership to the JFSC as financial services regulator</p> |

Timetable

The following summarises the key timetable for implementation of the new law and associated actions required by entities (current anticipated dates, which may be subject to change):

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| <p>6 January 2021</p> | <p>New law comes into force</p> |
| <p>No later than 6 April 2021</p> | <p>All in-scope entities required to appoint a nominated person</p> |

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| <p>No later than 30 June 2021</p> | <p>All in-scope entities required to:</p> <ul style="list-style-type: none"> • update the new register with the information that will be provided in their first annual confirmation statement; and • file that annual confirmation statement (instead of a 2021 annual return) |
| <p>Not before 1 October 2021</p> | <p>Details of all "significant persons" of entities will be made public (subject to exceptions)</p> |
| <p>2022-2023</p> | <p>Once an EU consensus has been reached on public disclosure policy, certain beneficial owner information may become publicly available</p> |

Public versus private information

Information on beneficial owners will continue not to be made publicly available. A decision on whether and, if so, when and the extent to which such information may be made public will be deferred until a consensus on approach has been reached in the European Union under the EU's Fifth Money Laundering Directive, anticipated to be some time in 2022.

Information on significant persons will be made publicly available on the JFSC's registry website, subject to exceptions, but not before 1 October 2021. The information to be made public will relate to current significant persons only.

Nominated person information will not be made publicly available, nor will information on who has nominated a "nominated director".

Beneficial owners

The new law requires specified details of all direct or indirect beneficial owners of entities to be submitted to and held on the register.

Who are "beneficial owners"?

The definition of "beneficial owner" within the new law is very wide, covering any individual who ultimately owns or controls the entity or on whose behalf a transaction is being conducted by the entity, and includes any individual who exercises ultimate effective control over the entity, in each case whether directly or indirectly.

This wide definition enables the scope of who is or is not considered a beneficial owner for the purposes of reporting to be adjusted over time through JFSC guidance, to ensure that the new law is and remains compatible and consistent with the international approach without the requirement to amend primary or secondary legislation.

The current JFSC guidance on beneficial owners is available here: [Beneficial ownership information – Jersey Financial Services Commission \(jerseyfsc.org\)](https://www.jerseyfsc.org)

At the time of writing the JFSC has only published detailed guidance covering the position where an entity is in receipt of services provided by a Jersey regulated service provider. If and when detailed JFSC guidance is provided in relation to other entities we will update this note.

The following summarises the JFSC's current guidance:

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| <p>Nature of a beneficial owner</p> | <ul style="list-style-type: none"> • Subject to exceptions, a beneficial owner must be an individual (ie a natural person) • Those exceptions are (broadly) where the entity is: <ul style="list-style-type: none"> ◦ listed on a regulated market; ◦ wholly-owned by an entity listed on a regulated market; ◦ wholly-owned by a specified category of Jersey regulated entity; or ◦ state-owned |
| <p>Who is a beneficial owner?</p> | <ul style="list-style-type: none"> • A person is a “beneficial owner” if that person: <ul style="list-style-type: none"> ◦ has a direct or indirect material beneficial ownership interest in the entity; or ◦ can exercise control over the entity • This “looks through” legal ownership to ultimate beneficial ownership or, where no person can be identified as having a material beneficial ownership interest, to those persons who control the entity |
| <p>Material beneficial ownership interests</p> | <ul style="list-style-type: none"> • For the purposes of establishing an entity, the materiality threshold is 10% • For the purposes of ongoing reporting of changes, the materiality threshold is 25% • Where a Jersey regulated service provider has determined that an entity, beneficial owner or controller is higher risk, the materiality threshold may be reduced |

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| <p>Determining who is a beneficial owner</p> | <ul style="list-style-type: none"> • To determine who is reportable, a “three tier test” should be applied • Each “tier” is applied in turn until a reportable person is identified • The “three tier test” is summarised by the JFSC in its guidance as follows: <p>Tier 1 - <i>Each individual with a material controlling ownership interest in the capital of the company (through direct or indirect holdings of interests or voting rights) or who exerts control of the company through other ownership means.</i></p> <p>Tier 2 - <i>To the extent that there is doubt as to whether the individuals exercising control through ownership are beneficial owners, or where no individual exerts control through ownership, any other individual exercising control over the company through other means.</i></p> <p>Tier 3 - <i>Where no individual is otherwise identified under this section, individuals who exercise control of the company through positions held (who have and exercise strategic decision-taking powers or have and exercise executive control through senior management positions).</i></p> |
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The current JFSC guidance provides examples explaining how the above should be applied in various circumstances and for various entity types, including entities owned by trusts.

The beneficial owner reporting requirements include specific provisions dealing with where legal title to equity securities (or equivalent) is held by a nominee (not being a locally regulated nominee) on behalf of a third party beneficial owner, although that information would generally already be required to be disclosed within general beneficial owner information.

Information required

Subject to the exceptions below, the following information is required to be provided to the JFSC in relation to beneficial owners:

- Name and any former name or other names by which the individual is or was known
- Correspondence address
- Residential address
- Nationality

- Occupation
- Gender
- Date of birth
- Place and country of birth

Entities that are listed on a regulated market, and entities that are wholly-owned by an entity or organisation that is listed on a regulated market, are exempt from the obligation to file and update beneficial owner information and confirm its accuracy in their annual confirmation statements if they instead provide specified information in relation to the listed entity / the entity's listed parent (as applicable).

A similar exemption applies where an entity is wholly-owned or controlled by a registered person under Jersey's financial services law or is state-owned.

Interaction with financial services reporting

Reporting of beneficial owners and controllers to the JFSC as financial services regulator is currently undertaken pursuant to the consents issued to entities under the Control of Borrowing (Jersey) Order 1958 (COBO consents).

In due course (anticipated to be later in 2021) the JFSC will be issuing new COBO consents to in-scope entities which integrate reporting obligations with those under the new law.

Until that time, the JFSC has confirmed that, provided an entity has complied with the new law, it will be deemed to have complied with its COBO consent in relation to the provision of beneficial owner and controller information to the JFSC (including where a prior consent would otherwise be required under the COBO consent). This will avoid the need for double-reporting.

For the avoidance of doubt:

- Given LPs are outside the scope of the new law their COBO consents and associated reporting / consent requirements are unaffected.
- The new law does not affect other regulatory disclosure or consent requirements, for example where an entity is licenced to undertake regulated financial services business

To read our comprehensive guide in full please click here: [Jersey's new register of beneficial owners and significant persons](#)

Carey Olsen Jersey LLP is registered as a limited liability partnership in Jersey with registered number 80.

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