



Jersey investment funds update Q1 2024

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Jersey Financial Services Commission updates and news

Supervisory Risk Data Collection

The Jersey Financial Services Commission (“JFSC”) launched its annual Supervisory Risk Data Collection (“SRDC”) exercise on 5 February, the results of which are used by the JFSC to inform its approach for risk-based supervision and its financial crime examination process and, in aggregated form, to refresh its risk model and national risk assessments.

While the sector-specific information sought by the exercise remains largely the same as before, the JFSC has this year expanded the information sought to include additional financial crime and conduct data, and additional data relating to trust company service providers. Businesses have also been advised that further requests for information will be included in the 2025 exercise (relating to the 2024 reporting period), so should consider whether appropriate adjustments to client records are required to enable this data to be more easily extracted.

Financial Services Business – Schedule 2 registrations

The JFSC has confirmed that in 2023 it processed over 3,000 new registrations under Jersey’s revised regime for anti-money laundering, countering the financing of terrorism and countering proliferation financing (“AML/CFT/CPF”). Due to the scale of new registrations, the JFSC has indicated that it needs sufficient time to consider the impact of supervisory risk data reporting for these entities and has confirmed that newly-registered Schedule 2 businesses will not be required to complete a SRDC return in 2024.

2024 Business Plan

The JFSC has unveiled its [2024 Business Plan](#) which details its priorities and goals for the year ahead in terms of its vision to be “a high performing regulator, building for the long-term success of Jersey”.

In what is the final year of the JFSC’s current strategic framework, among the JFSC’s key areas of focus for 2024 will be: (a) the outcome of Jersey’s Moneyval assessment (expected in July, following the onsite assessment in October 2023); (b) digital transformation; (c) its organisational capability and capacity; (c) balancing financial crime prevention with conduct and prudential risks; (d) the introduction of a consumer lending conduct regime and (d) development of its regulatory framework and bank supervision in line with Basel III.

Regtech

The JFSC has issued its [Financial crime and regulatory technology-guide](#), which aims to serve as an initial step towards raising awareness about technology solutions available in combatting financial crime.

The JFSC’s Innovation Hub is encouraging the adoption of technology in the financial services industry, in the belief that the adoption of Regulatory Technologies (“RegTech”) can facilitate high standards of business integrity: their ambition is for Jersey’s supervised persons to reach a prominent level of RegTech maturity by the end of 2024, evidenced by high adoption rates, cost efficiencies and improved compliance and management of regulatory complexity.

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The guide provides an introductory overview, including an explanation of what is meant by “Regtech”, how it can be successfully applied and case studies of good practice (including procurement considerations). It also details that its Innovation Hub is designed to support the development and adoption of new and innovative technology, including the provision of a dedicated point of contact for firms to raise questions on Fintech and Regtech related issues and seek non-binding guidance on regulatory expectations.

Recent changes to the JFSC’s outsourcing policy

The JFSC’s revised outsourcing policy will apply to existing and new outsourcing arrangements from 1 January 2024, following a six-month transitional period. It is likely that a significant number of entities will be newly caught by the policy. Those entities will need to seek no objections from the JFSC in respect of existing and new outsourcing arrangements, to the extent that those arrangements meet the materiality threshold and do not fall within an exemption or concession.

The policy has been expanded to capture:

- Schedule 2 entities, i.e. entities which are registered (or deemed registered) under Jersey’s proceeds of crime legislation; and
- Funds which hold a certificate under the Alternative Investment Funds (Jersey) Regulations 2012 (“AIFs”).

Other areas of change:

- tighter provisions regarding IT and cloud services (but concessions have been made in respect of the notification and no objection requirements for such services);
- additional exemptions have been included (e.g. telecommunications services and managed trust company business are out of scope);
- the “funds exemption” has been narrowed.

The Policy will apply where (a) a regulated business outsources any activity (including unregulated activity) and (b) the “Materiality Threshold” is met, namely that the service provider’s failure to perform or inadequate performance of the outsourced activity would materially prevent, disrupt or impact upon the continuing compliance of the business’ regulated activity.

For further information and guidance, please refer to our [FAQs](#) and [online tool](#).

Beneficial ownership information

On 13 December 2023, the Crown Dependencies published a [joint commitment](#) and associated [press release](#) acknowledging the importance of access to accurate and up-to-date beneficial ownership information in combatting financial crime in all its forms, and detailing plans for the extension of the availability and transparency of beneficial ownership information beyond that currently exchanged with domestic and international law enforcement entities and tax authorities.

It is proposed that beneficial ownership information will be made available to domestic financial services business and certain other domestic businesses that are required to conduct customer due diligence for AML/CFT/CPF purposes (collectively described as obliged entities), and media and civil society organisations who can demonstrate a legitimate interest in accessing relevant information in order to combat financial crime (in order to align the legitimate interest access to international standards).

Whilst it is anticipated that beneficial ownership information will be made available to obliged entities by the end of 2024, access on the basis of legitimate interest will require more substantial legislative changes, and it is anticipated that proposals will be developed during 2024 and submitted to the parliaments of Jersey, Guernsey and the Isle of Man towards the end of the year.

There is no current intention to make beneficial ownership information available to the public more generally.

AIFMD II and Jersey funds

With more than a decade having now passed since the Alternative Investment Fund Managers Directive (“AIFMD I”) was adopted, the EU Parliament and the Council of the EU have agreed recently on specific amendments to the text of AIFMD I (as amended) by way of “AIFMD II”. Although AIFMD II does not constitute a total overhaul of AIFMD I, certain of the proposed amendments will impact Jersey funds (non-EU AIFs) marketed into the EU/EEA.

The changes contemplated by AIFMD II primarily relate to delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds (AIFs). Jersey fund managers (non-EU AIFMs) will mainly be impacted by the additional reporting obligations which will apply to Jersey funds (non-EU AIFs) marketed into the EU/EEA.

The key points of AIFMD II for Jersey funds and Jersey managers are:

- AIFMD II will replace the existing FATF Requirement (being that the third country where the non-EU AIFM or the non-EU AIF is established (i.e. Jersey) is not listed as a ‘Non-Cooperative Country and Territory’ by FATF) and will instead provide that access via national private placement regimes will only be available where the third country where the non-EU AIFM or the non-EU AIF is established is not identified as a “high-risk third” country pursuant to the EU’s 4th Anti-Money Laundering Directive. Jersey has never been listed as a “high-risk third country” by the EU (and is not expected to) and therefore this change should not have any effect on Jersey funds or Jersey fund managers.
- Additional, more detailed reporting and disclosure in relation to:
 - a. the possibility and conditions under which the liquidity management tools might be used;

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- b. fees, charges and expenses: (i) borne by the AIFM in connection with the operation of the AIF that will be borne by the AIF and (ii) directly and indirectly borne by investors;
- c. the composition of the originated loan portfolio;
- d. the current risk profile of the fund, including the market risk, liquidity risk, counterparty risk, other risks including operational risk and the total amount of leverage employed by the fund; and
- e. delegation arrangements.

Furthermore, Jersey AIFM's will have to provide information to the Jersey Financial Services Commission on all markets and instruments and any exposure of each of the AIFs it manages (as opposed to only main instruments and principal markets and exposures provided for under AIFMD I).

Managers of Jersey funds should familiarise themselves with these additional reporting requirements as they apply to their funds in advance of AIFMD II coming into effect.



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