

An aerial photograph of a city skyline at sunset. The sky is a mix of orange, yellow, and purple. In the foreground, a large, modern building with a curved facade is visible, its windows reflecting the light. A network of glowing yellow lines connects various points across the image, creating a digital or data network overlay. The overall mood is futuristic and technological.

Chambers Global  
Practice Guides:  
Fintech 2021  
Trends and  
Developments in  
Jersey

Jersey is fast becoming an established market for fintechs and professional investment firms, being home to a number of token issuers, global payment platforms and the world's largest investment fund (The SoftBank "Vision Fund", which raised USD97 billion over two years). Jersey enjoys a sophisticated legal, regulatory and technological infrastructure, supporting development and innovation in fintech. In the past few months alone, Jersey has seen multimillion-pound investments and capital raises structured using Jersey vehicles and advisers. Jersey clients include tech giants, cryptocurrency exchanges, payment platforms and emerging blockchain developer talent.

One reason for Jersey's growth in this area is the supportive approach of the Jersey regulator, the Jersey Financial Services Commission (the JFSC), which continues to embrace fintech. The JFSC is seen by many as both fintech-friendly and a pragmatic and approachable regulator. The JFSC is a member of the Global Fintech Innovation Network and participates in the cross-border testing pilot.

Jersey has assembled talent with exceptional fintech expertise, and has innovated using its flexible range of corporate vehicles and favourable tax regime. Examples of fintech activity in Jersey include:

- payment services and online payment solutions;
- Jersey funds investing in digital assets;
- custody services and arrangements for holding digital assets;
- fintech funds and other vehicles;
- cryptocurrency exchanges (Virtual Currency Exchanges – VCEs);
- security token and non-security token issuances and initial coin offerings/security token offerings (ICOs/STOs);
- staking of tokens;
- security token exchanges;
- custody of digital assets;
- electronic identification (e-ID);
- automation; and
- legal tech and regtech.

All deals mentioned in this article were advised on by Carey Olsen.

This article summarises:

- Jersey's recent fintech deals and the legal trends observed in the Jersey market;
- how Jersey supports innovation; and
- likely future developments in the Jersey fintech market.

## Recent Trends and Deals in Jersey

Trends over the past year include increased use of and enquiries about online payment solutions, and continued interest in the establishment of cryptocurrency and security token exchanges and related token issuances.

### Payment services

The past year has seen Jersey lawyers advise a number of established and upcoming payment services providers and payment platforms providing services to Jersey customers. As Jersey is not subject to PSD or PSD2 (save for limited provisions relating to SEPA payments), the Island has light touch regulation for payment services for those entities not carrying out a "deposit taking" business under the Banking Business (Jersey) Law 1991 and who can avail themselves of one of the exemptions for money services business under the Financial Services (Jersey) Law 1998 (FSJL).

Early advice should be sought as to whether a specific payment service comes under regulation by the FSJL, as much will turn on the nature of the specific payment services being offered. Any cryptocurrency or crypto-wallet element to a payment service will require a more in-depth analysis to be undertaken as there are additional regulatory considerations (including in relation to crypto-custody).

In January 2021, leading global payment solutions provider Checkout.com undertook a USD450 million Series C fundraising round. The transaction gave the company a post-money valuation of USD15 billion, making Checkout.com the fourth largest fintech globally and the EMEA's most valuable venture-backed business.

### VCEs and STEs

Jersey has seen an influx of potential VCE and STE platforms. A number of VCE launches have occurred, including by Binance Jersey and more recently the launch of Criptyque's Jersey cryptocurrency exchange platform, PryvateX, which opens for registration soon. VCEs benefit from light regulatory treatment, being required only to maintain a registration under the Proceeds of Crime (Jersey) Law 2009 as a "supervised business". This approach to regulation balances the need for Jersey to provide robust regulation with a desire to foster the development of Jersey's fintech industry.

In terms of STEs, however, the JFSC has indicated that security token exchange businesses will be required to be regulated under the FSJL in order to undertake "investment business"; none have yet received regulatory approval. Crucially, in Jersey, there is no requirement to have electronic clearing and settlement, nor for the clearing of security tokens to be carried out by a clearing house or central depository. This enables exchanges to provide on-chain settlement, and makes Jersey an attractive domicile for such exchanges.



## Crypto-backed funds

CoinShares (Europe's largest digital asset investment firm with USD3 billion in AUM) recently used Jersey for the establishment of its new institutional-grade cryptocurrency-backed exchange traded product (ETP). CoinShares Physical Bitcoin (Ticker: BITC) launched on 19 January 2021 with USD200 million in AUM, and is the first CoinShares product to be listed on the SIX Swiss Exchange. The ETP programme's physically backed structure provides institutions that are experienced in trading similar commodity-based investment securities with a familiar structure for cryptocurrency investments.

CoinShares previously used Jersey for the launch of both the world's first regulated, crypto-denominated investment fund (2017), which provided investors with exposure to the liquid digital asset ecosystem, and the 2014 launch of the first ever regulator-approved Bitcoin investment fund.

## Token issuances

Jersey continues to see a number of high-quality token issuances, with the JFSC recognising that token issuers with proper substance and backed by a credible promoter should be nurtured. This has enabled investment firms and fintechs alike to build investment products and services domiciled in Jersey. In the past few months alone, Jersey has seen various token issuances, including:

- Jersey-based token issuer Vow using Jersey for the launch of its Vow token ecosystem, a solution for distributing debt-free liquidity into local communities through a customer loyalty mechanic; and
- Radix, a decentralised finance platform, using Jersey for the launch of its utility token. The platform allows users to transact with each other over a fast, secure blockchain-based platform without the need for intermediaries. Tokenholders are able to use the tokens to pay transaction fees and/or to participate in the platform's "proof of stake" consensus mechanism to validate transactions.

## Other fintech developments in Jersey during COVID-19

As a result of COVID-19, there has been a surge in the uptake of technology and new entrants to the market. Whilst not fintech as such, Jersey has witnessed a sharp increase in the use and adoption of electronic signatures (including witnessing) and a general shift towards the digitisation and automation of manual procedures consistent with a widespread move to remote working. This trend is expected to continue in the coming months, and will bring welcome opportunities in terms of increased usage of smart contracts, automation and AI in Jersey.

## Supporting Fintechs and Innovation in Jersey

In terms of supporting innovation, Jersey is striving to promote fintech development by supporting local fintech talent and innovation and facilitating existing companies in relocating to Jersey. Digital Jersey, a government-backed economic development agency dedicated to the growth of the digital sector, aims to promote local talent, whilst Locate Jersey is a Jersey Government team that facilitates the relocation of businesses and high net worth individuals to Jersey.

As mentioned above, the JFSC also assists fintechs by offering the opportunity to test their products and services in multiple jurisdictions through the cross-border testing pilot run via the Global Fintech Innovation Network (a group of international regulators and observers committed to supporting innovative products and services).

Jersey also has a number of industry working groups focused on promoting thought-leadership in fintech in Jersey, including the Digital Assets Working Group (DAWG) and the VIWG, a working group focused on managing Virtual Assets Risk in relation to Virtual Assets and Virtual Assets Service Providers. Both working groups involve States of Jersey (government) representatives, JFSC representatives and other interest groups on the Island. Each is made up of individuals knowledgeable in the fintech space, the promotion of digital assets and blockchain technologies.

COVID-19 has also brought about pragmatic developments in Jersey's legal practice. Both The Law Society of Jersey and the Jersey Law Commission are actively engaged in reviewing Jersey legal practices, which would benefit from modernisation. Recent guidance from The Law Society of Jersey in relation to the signing of certain powers of attorney by electronic signature demonstrates Jersey's willingness to adopt technological developments. In addition, research soon to be published in the Jersey and Guernsey Law Review has concluded that smart contracts may be enforceable under Jersey law (subject to satisfying the ordinary rules of forming a contract), laying the foundation for the formation and use of smart contracts in Jersey.

## Future Developments

As fintech and the underlying technologies of blockchain, AI, cloud technology and internet of things are still in their nascent stages, Jersey industry practices around fintech, the treatment of virtual assets services providers and data management are still evolving. To maintain its place as a respected well-regulated international finance centre, Jersey is cognisant, and encouraging, of the advantages the fintech industry brings to Jersey's finance industry.

As a long-established and well-regulated international finance centre, Jersey boasts a host of industry experience and local expertise, making it an ideal jurisdiction for innovation. Leveraging this existing expertise and its low-tax environment, Jersey and Jersey vehicles are likely to continue to be used in both established areas of finance as they embrace fintech solutions (including proptech, online settlement solutions, e-ID and regtech, etc) and new areas of finance and other sectors as use cases are established.

Indeed, Jersey and its service providers have decades of experience in establishing and financing structures that share many similarities with structures used for tokenised assets (such as Jersey property unit trusts and Jersey share transfer properties (and companies), making Jersey an obvious choice to domicile tokenised assets and specifically tokenised real estate assets.

The JFSC's considered and measured approach to fintech regulation to date (Jersey has no specific blockchain or AI-enabling legislation, preferring to flex existing concepts to accommodate new technologies instead) should equip Jersey to be a leading jurisdiction of the future for innovation by ensuring that regulation in Jersey remains mainstream, appropriate and commensurate to the product or service in question.

## Endnotes

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### PLEASE NOTE

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

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Chris is a partner at the firm and advises on all aspects of fund and corporate transactions, including the legal and regulatory aspects of fund launches, and joint ventures. He also has considerable experience in dealing with the Jersey Financial Services Commission in navigating investment vehicles through the Jersey regulatory approval process as part of the Jersey funds team. Chris spearheads Carey Olsen's crypto practice, having advised on a series of token offerings/ICOs, crypto funds and crypto exchanges. He founded the Jersey Digital Assets Working Group (DAWG), bringing together industry, the regulator and government to formulate Jersey's digital asset policy and regulation. His clients include BlueCrest Capital Management, CoinShares, Duet Asset Management, Invesco, Patron Capital Advisers, Quinbrook Infrastructure Partners, Unigestion and Woodman Asset Management.



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