



Jersey funds market update: the EComms Law, JPF review, economic substance for partnerships, fund vehicles fee changes

Service area / [Investment Funds, Corporate, Taxation and Economic Substance](#)

Legal jurisdictions / [Jersey](#)

Date / [June 2021](#)

Proposed changes to the Electronic Communications (Jersey) Law 2000

The Jersey Government has conducted a review of the Electronic Communications (Jersey) Law 2000 (the “**EComms Law**”) and has proposed amendments which are intended either to help clarify aspects of the EComms Law or ensure that the law remains up to date with current and future business practice, particularly in light of the accelerated move to remote working caused by the COVID-19 pandemic. Alongside other clarificatory amendments, a number of areas have been identified as a priority for modernisation, including:

- Remote witnessing of signatures: The present assumption is that a witnessing requirement (such as in respect of Jersey law powers of attorney or documents relating to the purchase of Jersey property) will only be met where the witness is physically present at the time of signature. The proposed amendment will allow for a witnessing requirement to be met where the witness is not in the same location as the person providing the signature (for example, by webcam or screen sharing).
- Attaching a signature electronically on behalf of another: In the absence of any existing statutory or case law precedent, there is currently a lack of legal certainty as to whether an electronic signature may be validly affixed on behalf of another. It is therefore proposed to put in place a general power to allow for the affixing of a signature on behalf of another, provided the person affixing has the authority to do so.

Draft legislation reflecting the above proposals is awaited.

JFSC JPF thematic review

During a recent thematic examination in relation to Jersey Private Funds (“**JPFs**”), the Jersey Financial Services Commission (the “**JFSC**”) assessed how Designated Service Providers (“**DSPs**”) and JPFs (or their general partners) are meeting their obligations under the JPF Guide. Among its findings, the JFSC highlighted a number of areas for remediation, including: inadequate training on the requirements of the JPF Guide; inadequate policies and procedures; failure to follow existing policies and procedures; and a lack of understanding of the role of the DSP, the JPF Guide and/or applicable AML/CFT requirements.

In light of its findings, the JFSC outlined the following expectations:

- DSPs:
 - a. Board papers should include evidence of regular monitoring and compliance with the JPF Guide and applicable AML/CFT requirements (exception reporting alone is not sufficient).
 - b. Evidence of consideration of DSP declarations and annual JPF Returns should be properly recorded in board minutes.
 - c. The DSP’s business risk assessment should contain a section dedicated to JPFs and the DSP’s role.
- JPFs:
 - a. MLRO/MLCO appointments should be clearly recorded in the board minutes of the JPF (or its GP).
 - b. The board of the JPF (or its GP) should review the services provided by DSP to ensure that they (a) comply with duties of the JPF Guide, and (b) are being delivered adequately and effectively.

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- All relevant individuals should receive training on the JPF Guide and the relevant sections of the AML/CFT Handbook.

A review of the JPF Guide, together with possible updates to the JPF application and notification forms and annual JPF Return, is expected to be published shortly.

Proposed extension of substance regime to limited partnerships

The recently submitted [Draft Taxation \(Partnerships – Economic Substance\) \(Jersey\) Law 2021](#) is expected to be approved in Jersey on 29 June 2021. In line with EU global commitments, it will extend the Jersey economic substance regime to Jersey resident partnerships generating income from relevant activities from 1 July 2021, with existing partnerships having a 6-month transition period. Partnerships that are funds will be predominantly out of scope but the activities of a general partner may themselves require substance under the existing legislation.

Under the new law, from 1 July 2021, an 'economic substance test' similar to that for Jersey resident companies will apply to 'resident partnerships' generating gross income from 'relevant activities' in relevant financial periods, being financial periods starting on or after: (a) for those formed after 1 July 2021, their date of formation; and (b) for those formed before 1 July 2021, 1 January 2022. The regime will be familiar to those with an understanding of the company regime, with the main difference being that the test will look at the activities of the relevant governing body. For example, for limited partnerships, the activities of the general partner will be key.

Please see this [briefing](#) for further information.

Further extension of confirmation statement deadline to 30 September

The deadline for submitting your company or partnership's first annual confirmation statement in Jersey, which is to be made via the JFSC's new myRegistry portal, has been extended to 30 September 2021. From 2022 going forward you will be required to submit your annual confirmation statement between 1 January and the end of February, as was previously the case for the annual return. Entities dissolved or placed into winding up before or during the annual confirmation period (6 January – 30 September, 2021), do not have to complete an annual confirmation statement in 2021.

Proposed fee changes for fund vehicles

The deadline for the JFSC's consultation paper proposing: (a) a 2% increase in fee rates for the funds sector; (b) a new fee for transaction where a fund services business (FSB) applies to acquire a business; and (c) a new fee for changes in the name, conditions or licence of an FSB, passed on 21 June 2021. The final fees notice is expected to be published shortly with the new fees coming into effect in July 2021.

Please see a copy of the [consultation paper](#) for further information.

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