

New ESG Disclosure Rules – a ‘need to know’ for Jersey funds, service providers and investment businesses

Service area / [Investment Funds, Environmental Social Governance](#)

Legal jurisdictions / [Jersey](#)

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The Jersey Financial Services Commission (“JFSC”) has recently introduced new disclosure rules (the “**ESG Disclosure Rules**”) which apply to Jersey funds which are promoted on the basis of making sustainable investments and service providers who market, or advise on, such funds.

The ESG Disclosure Rules have been introduced in response to the increased investor appetite for socially and environmentally responsible investments and to ensure that Jersey maintains its high regulatory standards amid global concerns regarding ‘greenwashing’ (firms marketing investments which appear more environmentally and socially focussed than they are in reality).

However, the ESG Disclosure Rules represent what the JFSC considers to be a set of commercially viable and proportionate requirements which are in line with international standards and industry feedback, rather than being a direct replication of the EU Sustainable Finance Disclosure Regulation (“SFDR”).

This briefing is intended to provide a summary of the key requirements introduced under the ESG Disclosure Rules. For further information or advice on any specific circumstances, please get in touch with your usual Carey Olsen relationship contact.

[Who will be affected by the changes?](#)

[Jersey funds whose investment objectives include sustainable investments \(“ESG Funds”\)](#)

If a Jersey public or private ESG Fund is marketed on the basis of its investing in one or more sustainable investments, its governing body will need to ensure compliance with the ESG Disclosure Rules.

A sustainable investment for these purposes includes any investment which contributes to either a social or environmental objective.

[Service providers to ESG Funds](#)

Any Jersey service provider which accepts responsibility for the ESG Documents (as defined below) needs to ensure that these comply with the ESG Disclosure Rules.

Even where a Jersey service provider has not specifically taken such responsibility, it still needs to notify the JFSC if it becomes aware that the ESG Fund has not made the necessary disclosures.

[Jersey investment advisers](#)

A Jersey investment business which intends to advise clients on an investment in an ESG Fund must provide such clients with the appropriate information regarding the ESG Fund’s investment strategy and objectives as set out in the ESG Disclosure Rules. If that information is not available, the adviser must inform its clients of that fact.

Where the ESG Fund comprises a number of sub-funds which are the subject of the investment advice, the adviser may provide a single overarching disclosure covering all such sub-funds.

[What information is needed to comply with the ESG Disclosure Rules?](#)

Although the JFSC does not propose to provide a template for making the necessary disclosures, it requires that the information needed to comply with the ESG Disclosure Rules is

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provided to prospective investors via a website or in the ESG Fund's prospectus, subscription agreement or any other pre-contractual document containing the terms of investing in the ESG Fund (the "ESG Documents").

The ESG Documents will need to disclose all material information in relation to the ESG Fund's sustainable investment strategy and objectives, including the following:

- alignment with any specific taxonomy or, where there is no alignment to a specific taxonomy, a statement to that effect;
- the proportion of investments that are sustainable;
- the basis on which due diligence, benchmarking, and performance measurement and reporting are likely to be conducted; and
- any limitations to methodologies and data.

When do ESG Funds need to comply with the ESG Disclosure Rules?

The ESG Disclosure Rules already apply to newly regulated ESG Funds (as from 15 July 2021). However, existing ESG Funds and Jersey service providers and investment businesses will be given a transitional period within which to comply, which will expire on 17 January 2022.

The JFSC's Codes of Practice for Certified Funds, Fund Services Business and Investment Businesses, and the Jersey Private Fund Guide, have been updated to include the ESG Disclosure Rules.



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