Jersey investment funds – Spring 2025 update

Service area / Investment Funds

Legal jurisdiction / Jersey

Date / April 2025

Publication of the Jersey Financial Services Commission's MONEYVAL Action Plan

July 2024 saw the publication by the MONEYVAL committee (a permanent body of the Council of Europe set up to assess compliance with international standards to counter money laundering and the financing of terrorism) of its Evaluation Report for Jersey (see here).

Although the Report acknowledged Jersey's approach to preventing financial crime to be one of the most effective in the world, with Jersey's financial regulator, the Jersey Financial Services Commission ("JFSC"), having made successful efforts in establishing the key structures and powers needed to prevent and combat financial crime, the Report made key recommendations for enhancements by the JFSC in certain areas, including improvements in the areas of supervision, preventative measures, financial intelligence and investigation and prosecution (the "**Recommendations**").

In response, the JFSC, with input from industry bodies and governmental agencies, released its comprehensive Action Plan in November 2024 (the "**Action Plan**" – see here) which aims to ensure a smooth and effective implementation by the JFSC of the Recommendations and encompasses 25 recommended actions, each with an indicative timeline for completion of the first stage of work.

Key actions due for completion in the first half of 2025 include:

- Reviewing the application of Jersey's sanctions regime;
- Reviewing entities' understanding of and approach to periodic reviews of high-risk customers;
- Undertaking a review of guidance and supervisory practices related to risk assessment and the application of exemptions; and
- Enhancing scrutiny of breaches identified through supervision.

The Action Plan has given as much detail as possible at this stage, identifies those areas where more analysis is needed, and notes that some of the Recommendations will require further analysis before determining appropriate solutions and deadlines meaning that priorities and timelines may evolve.

The JFSC will provide updates as progress is made on the Action Plan, and the practical adoption of the Recommendations will unfold over time.

Our Autumn 2024 Newsletter considered MONEYVAL's Evaluation Report for Jersey in more detail (see here) and, for further details or specific enquiries on this or the JFSC's Action Plan, please get in touch with your usual Carey Olsen contact.

Pillar Two tax reforms: Legislation Now in Force

The key aim of the Organisation for Economic Co-operation and Development's ("**OECD**") Pillar Two international tax reforms is to implement a co-ordinated system of Global Anti-Base Erosion model rules ("**GloBE Rules**") as part of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, so that large multinational groups pay a minimum effective tax rate of at least 15% on profits in every jurisdiction in which they operate.

In implementation of these reforms, the Government of Jersey proposed in May 2024 the introduction of an Income Inclusion Rule ("**IIR**") and a Multinational Corporate Income Tax ("**MCIT**"), with legislation implementing both (the "**Jersey Pillar**

2 Rules") sitting alongside Jersey's existing corporate income tax regime.

The Jersey Pillar 2 Rules will, for accounting periods starting on or after 1 January 2025, apply only to certain Jersey entities which are, or are deemed to be, included in a consolidated group or accounting purposes of multinational enterprises with more than €750 million global annual revenue.

Under the Jersey Pillar 2 Rules, in-scope entities will pay MCIT at an effective rate of 15% on their Jersey profits; whilst under the IIR, Ultimate Parent Entities ("UPEs") and/or Intermediate Parent Entities based in Jersey will be subject to a top-up tax (paid in Jersey) on their non-Jersey profits in certain limited circumstances.

The GloBE Rules provide for certain entities to be excluded from its scope, including government entities, international organisations, pension funds, non-profit organisations and subsidiaries of non-profit organisations, as well as investment funds and real estate investment trusts that are themselves UPEs.

While only approximately 5% of Jersey companies fall within the scope of the Jersey Pillar 2 Rules, Jersey is well-equipped to manage the introduction of this new regime, thanks to its robust and longstanding corporate tax framework. The adoption of the Jersey Pillar 2 Riles further reinforces Jersey's reputation as a forward-thinking jurisdiction that remains closely aligned with international tax initiatives.

Our Autumn 2024 Newsletter considered Jersey's implementation to the Pillar Two reforms in more detail (see here) and, for additional information, see here. For further details or specific inquiries, please get in touch with your usual Carey Olsen contact.

Launch of Sustainable Finance Action Plan

In March 2021, Jersey Finance unveiled an industry-led strategy titled 'Jersey for Good - A Sustainable Future', outlining a vision and roadmap (its 'Pathway to Success') to build Jersey's reputation as a jurisdiction of choice for sustainable finance, including detailed plans to foster collaboration with relevant stakeholders, raise awareness, promote skills, and develop a deeper understanding of Jersey's sustainable finance ecosystem.

Following this, the Government of Jersey sought to reaffirm its commitment to sustainable finance through the publication of Jersey's Financial Services Policy Framework, and, in 2024, initiated a public consultation on the need for a new policy and regulatory framework. In response to the overwhelmingly positive feedback received, the Government has now published its Sustainable Finance Action Plan (the "**Sustainability Plan**").

The Sustainability Plan is designed to future-proof Jersey's financial services sector and aims to enhance the business capabilities and maturity of Jersey's financial ecosystem over the coming years by focussing on three core areas: risk and governance, market incentives, and international engagement. It concludes with ten key action points, divided into two categories; protecting Jersey's financial industry and promoting its success:

Protecting Jersey's financial industry:

- Environmental crime: facilitating suspicious activity reporting and identification of offences;
- Corporate sustainability disclosures: adopting a robust disclosure framework aligned with international standards;
- Sustainability risk management: embedding proportional obligations within Jersey's existing regulatory framework;
- ESG business integrity risk: expanding existing principles at both product and corporate levels; and
- Market access: safeguarding Jersey's financial services access to key markets.

Promoting Jersey's financial industry:

- International engagement: leveraging inter-agency cooperation to strengthen communications with international partners and organisations;
- Fiduciary duties: promoting the flexibility of Jersey's trusts law to accommodate sustainability considerations;
- Skills: upskilling the financial services sector to ensure better risk management practices;
- New products: encouraging the development of innovative products to attract sustainable capital; and
- Data: enhancing sustainability data analysis capabilities, utilising technology, including AI.

By delivering on these key action points and leveraging Jersey's longstanding governance and regulatory pedigree and the Island's entrepreneurial track record, it is hoped Jersey will be placed in a competitively advantageous position ready to respond to the evolving aspirations and needs of clients, investors and the wider financial services community in Jersey.

If you require any advice relating to any aspect of the Sustainability Plan, please get in touch with your usual Carey Olsen contact.

JFSC's Bitesize Feedback

Virtual Asset Service Providers ("VASPs") – Travel Rule

The Financial Action Task Force ("**FATF**") leads global action to tackle money laundering and terrorist and proliferation financing, setting international standards to ensure national authorities can effectively pursue illicit funds linked to drugs trafficking, the illicit arms trade, cyber fraud and other serious crimes.

For the digital assets space, FATF called on jurisdictions to implement its "Travel Rule", which requires transfers of virtual assets to be accompanied by accurate originator and beneficiary information. Following engagement with industry, the JFSC published its "Travel Rule" guidance note (the "**Guidance Note**") in early 2024, setting out its expectations for VASPs' compliance with the Travel Rule under different circumstances.

The JFSC subsequently undertook thematic assessment visits of **VASP**s in order to understand their progress in implementing relevant systems and controls, their adoption of Travel Rule

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system solutions, and the measures they are taking when sending virtual assets to jurisdictions without the Travel Rule. In November 2024, the JFSC released its bitesize feedback based on its observations:

Good practice observed

- Adoption of detailed policies and procedures setting out measures to comply with the Travel Rule;
- Maintenance of documented records in relation to decision-making processes regarding the Travel Rule; and
- Procedures to monitor Travel Rule implementation globally.

Areas of improvement identified

- Some VASPs did not have adequate systems and controls in place for determining whether transactions were in/out of scope and to identify steps to be taken where a jurisdiction had not implemented the Travel Rule; and
- Some VASPs could not demonstrate their understanding of "intermediary VASPs" and had not considered section 3.8 of the Guidance Note dealing with this specific issue.

Fund Services Business – unregulated funds

At the end of 2023, the JFSC undertook thematic assessment visits to assess unregulated funds' compliance with statutory and regulatory requirements regarding financial crime in relation to fund investors, releasing its bitesize findings in December 2024 which are of particular relevance to all fund boards (e.g. public and private funds) and to fund services businesses or trust company businesses acting on behalf of funds in relation to a fund's compliance with financial crime statutory and regulatory requirements.

Good Practice observed

- Detailed investor business and risk profiles are accessible and comprehensive, allowing for active on-going monitoring;
- Systems and controls allow for investors to be reassessed and updated periodically, ensuring risk information remains current and accurate; and
- Understanding of ownership and control structures for investors is clearly documented, with consideration of the three-tier test, and the application of a risk-based approach to customer due diligence.

Areas of improvement identified

- Some funds did not have customer business and risk profiles for their investors, including inadequate records/corroboration of source of funds and wealth;
- Some investor customer risk assessments were inadequate, e.g. failure to consider the cumulative effect of risks, full jurisdictional exposure, complexity of investor structures, charitable/NPO connections and pooled investments; and
- Periodic reviews of investors were in some instances not completed in a timely manner, resulting in a misalignment of frequency of reviews with investor risk ratings.

For further details or specific enquiries regarding either of the JFSC's Bitesize Feedbacks, please get in touch with your usual Carey Olsen contact.

Jersey Government Consultation: Amendments to Companies (Jersey) Law 1991

The Government of Jersey has, following a period of engagement with industry, consulted on the first proposed amendments to the Companies (Jersey) Law 1991 since 2014, and on the introduction of a new company administration scheme.

The proposed amendments are largely technical in nature and are intended to maintain the flexibility of Jersey company law, streamline certain existing processes, recognise and build on current practice in Jersey and elsewhere, and respond to case law and developments in domestic and international law and practice.

The consultation also sought feedback on a number of proposed clarifications and updates to the creditors' winding up regime, and on a proposed new insolvency procedure, namely the addition of an administration regime similar to UK administration, intended to assist an essentially viable Jersey company to recover despite being technically insolvent due to cashflow issues.

The consultation ended in mid-December 2024 and can be found in full here. For further details or specific enquiries, please get in touch with your usual Carey Olsen contact.

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