

Summary of Jersey Funds Updater – June 2022

UPDATE

Update prepared by Felicia de Laat, Alistair Horn, Joel Hernandez, Mathew Cook, Sarah Huelin, Amy Gurm and Tony Shiplee (Jersey)

Speakers from our team shared the latest market insights and developments including developments to the Civil Penalties regime, the new Limited Liability Companies law and enhancements to the Jersey Limited Partnership Law - as well as covering changes to the historic AML exemptions, JFSC's key priorities, Cyber Risk, High Risk Customer Guidance and other topics of interest.

Upcoming developments to Civil Penalties regime

The civil financial penalty regime in Jersey is expanding and will cover additional individuals going forward, including MLROs and people carrying out 'senior management functions'. A current consultation paper issued by the JFSC sets out those intended to be caught as carrying out 'senior management functions', namely:

- A person who manages any aspect of an AML/CFT compliance/risk function
- A person whose management function may have an impact on compliance with MLO or AML/CFT Code
- A person who carries out a duty or responsibility required to be conducted by senior management

The consultation provides some guidance on the type of people who are intended to be caught by the above-mentioned definitions. Regulated businesses should review the consultation and consider whether additional individuals are within the expanded scope. Businesses should also then ensure their governance structure is considered and adequately addresses the responsibilities of those individuals with reference to their regulatory obligations.

The consultation closes on 29 July 2022.

Limited Liability Companies Law

The Limited Liability Companies (Jersey) Law, 2018 (the LLC Law) will come into force on 1 September 2022. It provides you the establishment of limited liability companies (LLCs) in Jersey. In other jurisdictions where LLCs are already a feature, they are used in a diverse range of roles such as general partners, management vehicles, carried interest vehicles, portfolio holding vehicles, joint venture vehicles and private equity vehicles.

LLCs have traditionally been associated with the United States (US) and the introduction of a Jersey LLC will, in particular, give US advisers, investors and businesses the option of using a Jersey vehicle with features and characteristics they are already familiar with.

The LLC Law will also offer another option to those looking to do business in Jersey, combining many of the more desirable features of companies and partnerships into one flexible vehicle.

Some of the key features of Jersey LLCs include:

- High degree of contractual freedom when determining the terms of an LLC agreement
- Separate legal personality without being a body corporate
- Limited liability protection for members
- Managers (akin to directors of a company) can be appointed to manage the LLC or management can reside with the members themselves
- Subject to the LLC agreement, a manager does not owe any duty (fiduciary or otherwise) to the limited liability company or any member other than a duty of good faith
- LLC agreement may confer enforceable rights on a third party
- Segregated series with own assets and liabilities and different members and/or managers can be created

LLCs will be treated as tax transparent for Jersey tax purposes and Economic Substance rules will apply to LLCs.

Should you have any questions on the introduction of the LLC Law, or its potential application in the context of any new or existing vehicles, please get in contact with a member of our team.

Enhancements to the Jersey Limited Partnerships Law

On 27 April 2022, the States of Jersey adopted the Limited Partnerships (Amendment No. 2) (Jersey) Law (the Draft Law) with a view to the amendments coming into force in autumn 2022.

The Draft Law introduces some welcome enhancements and further flexibility into the Limited Partnerships (Jersey) Law 1994 (the LP Law) and sets out a new statutory process for terminating a limited partnership (an LP) in Jersey. [Click here to read more.](#)

Panel Session, Moderated by Felicia de Laat, Head of Funds (Jersey)

Our experts shared their views on a variety of topics including:

- General market trends, including the positive benefits for Jersey on the upcoming changes to the double taxation treaty between Luxembourg and UK
- AML exemptions changes to be implemented this year:
 - May require regulated businesses to update their list of activities notified to the JFSC
 - Will require trust companies and fund services businesses to review their client entities, to identify those needing to comply with Jersey's AML requirements
 - Details awaited but client entities conducting 'financial services business' activities as a business and not connected to the relevant third party are likely to need to comply
 - Still opportunities to give feedback on these planned changes – let us know if you want to be involved or look out for consultation papers
- Speculation about changes to the PIRS exemption
 - Exemption will remain available for conducting trust company business and investment business activity
 - Entities that rely on this exemption and have a trust company or fund service business service provider are currently exempt from the AML regime and this AML exemption will be removed
 - Details of how a previously exempt entity will be able to comply with its new AML obligations are under consideration
- New fund fees will be live as of 1 July 2022
- High risk clients and guidance from the JFSC. Our top tips for dealing with higher risk clients: staff training and tone at the top, periodically reviewing effectiveness and adequacy of AML/CFT Governance arrangements and internal systems and controls, including on-going monitoring and policies and procedures

- JFSC Priorities:
 - The thematic examinations programme (AML/CFT Business Risk Assessment and Strategy, The role of the MLCO and Beneficial Ownership and Control)
 - Remediation effectiveness testing
 - New consolidated AML/CFT Handbook effective 31 May
 - Ongoing preparation for Moneyval and increased focused on Sanctions, TF and PF matters and the application of a risk-based approach

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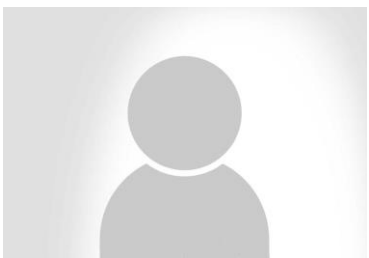
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