

Jersey Eligible Investor Funds

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A Jersey Eligible Investor Fund (**EIF**) is a fund which is suitable for Eligible Investors (essentially professional or experienced investors) and which can be authorised on a fast-track basis provided it fulfils the criteria of the Jersey Eligible Investor Fund Guide published by the JFSC.

Please refer to the Glossary at the end of this guide for the definitions of various capitalised terms.

Key features of a Jersey EIF

- A Jersey EIF is an alternative investment fund as defined by the AIF Regulations and a collective investment fund for the purposes of the CIF Law which is established in Jersey.
- A Jersey EIF may be offered to any number of Eligible Investors (see below) (worldwide including in the EEA).
- A Jersey EIF can be open or closed-ended, established using any of the common forms of investment vehicle available in Jersey and is not subject to any JFSC investment or borrowing restrictions.
- It may be listed but only on exchanges or markets that permit transfer restrictions to ensure that only Eligible Investors may acquire the securities or interests.
- Regardless of the number of potential investors to whom the fund is offered, a Fund Certificate is required in relation to a Jersey EIF and Jersey EIFs must comply with the Certified Funds Code.
- Each of the Jersey Fund Service Providers must be registered under the FS Law and comply with the FSB Code.
- The Jersey AIFM (if registered under the FS Law) may be exempt from the requirement to be registered for the conduct of AIFSB but the AIF Code will apply involving compliance with AIFMD disclosure and reporting requirements when the Jersey EIF is marketed in the EEA.
- The investment manager should be appropriately qualified in accordance with published criteria (principally it must be established and regulated in an approved jurisdiction).
- A Jersey EIF must appoint a Jersey administrator or Jersey manager and/or, in relation to a closed-ended Jersey EIF that is a unit trust, a Jersey trustee.
- The fund company, general partner or trustee must have at least two Jersey-resident directors.
- Directors and certain other officers of corporate-structured Jersey EIFs and the Jersey EIF's Fund Service Providers are required to seek confirmation that the JFSC has no objection to their appointment in relation to the Jersey EIF by completing an application on the JFSC's myProfile system.
- Jersey tax-resident fund management companies (ie managers, investment managers, trustees (where there is no separate manager) and general partners (where there is no separate manager)) must satisfy the requirements of the Taxation (Companies - Economic Substance) (Jersey) Law 2019.
- Every Jersey EIF must have adequate arrangements for the safe custody of the property of the fund and in the case of open-ended funds the custodian should be Jersey based. However, in the case of a hedge fund, the need for a custodian will be waived provided a prime broker with a credit rating of A1/P1 is appointed. There is no requirement for an AIFMD depositary to be appointed although the AIFM of a Jersey EIF may elect to do so (where seeking an EEA marketing passport, for example).

- A Jersey EIF must be audited.
- The JFSC will discuss any variations from the requirements of the Jersey Eligible Investor Fund Guide on a case-by-case basis.

Investors in a Jersey EIF

A Jersey EIF may only be offered to Eligible Investors. The term Eligible Investor includes:

- an investor who makes an initial minimum investment of not less than US\$1 million (or equivalent); or
- a person or entity (or an employee thereof) whose ordinary business or professional activity includes acquiring, managing or giving advice on investments; or
- an individual or entity whose property has a total market value of not less than US\$10,000,000 (or equivalent).

An investment manager who invests in a Jersey EIF on behalf of investors who are not Eligible Investors must provide a declaration that the investment is suitable for the underlying investors and they are able to bear the economic consequences of the investment including the possibility of the loss of the entire investment.

Any application to include other types of carried interest investor within the definition of Eligible Investor is likely to be treated sympathetically by the JFSC.

There is no restriction on the number of Eligible Investors.

Authorisation process for a Jersey EIF

In order to establish a Jersey EIF, a standard application form must be completed, signed on behalf of the Jersey EIF and the relevant Jersey Fund Service Provider and filed with the JFSC, together with a copy of the stated documentation and fees. Principal persons must seek confirmation that the JFSC has no objection to their appointment in relation to the Jersey EIF by completing an application on the JFSC's myProfile system.

The authorisation process will conclude with the issue of a Fund Certificate in relation to the Jersey EIF and the registration under the FS Law of any Fund Service Providers not yet registered.

Fund Certificate

The Fund Certificate is granted to the fund itself if the fund is a company, to the general partner if the fund is a limited partnership or to the trustee if the fund is a unit trust. The majority of Fund Certificates have no conditions as standard conditions are included within the Certified Funds Code.

Registration under the FS Law to carry on fund services business

Each Jersey Fund Service Provider of a Jersey EIF needs to be registered under the FS Law to carry on fund services business.

Once a person is registered to provide fund services business of the relevant type, it does not need to apply for authorisation in relation to each new fund for which it intends to carry on the same type of fund services business.

- **Jersey AIFM:** if the Jersey EIF has a Jersey AIFM, such Jersey AIFM may seek an exemption from the requirement to be registered for AIFSB if AIFM functions are included within the classes of business on its fund services business registration.
- **Jersey depositary:** a Jersey depositary of a Jersey EIF, where appointed, must be registered under the FS Law to conduct fund services business as a depositary/custodian. Written notification of the appointment of a Jersey depositary must be submitted to the JFSC.
- **AIF Code:** the Jersey EIF must comply with the applicable sections of the AIF Code. These sections mirror the Transparency and Asset Stripping provisions of Chapters IV and V of the AIFMD.

Timescale for authorisation

The JFSC's published timescale for authorising a Jersey EIF is three working days (subject to prior FSB approval) and 30 working days for the FSB registration of any unregistered Fund Service Providers.

These timescales are based on the JFSC receiving a fully completed application and satisfactory responses to enquiries.

Statutory Fees

Application fees

A fee of £3,440 is payable on application for the Fund Certificate plus £3,440 in respect of each of the fund's Jersey Fund Service Providers.

Annual fees

Annual fees are payable in relation to a fund which holds a Fund Certificate. The amount depends on the total number of pools of assets in the fund at the time the fee is payable (this ranges from £5,680 (£2,255 in respect of a limited partnership) if there is only one pool of assets to £55,880 if there are 200 or more pools of assets).

Statutory fees are also payable by Jersey Fund Service Providers. A fee of £4,260 is payable for a Fund Service Provider's application for registration under the FS Law. The annual fees payable by a Fund Service Provider depend on the number of pools of assets in all the collective investment funds in relation to which it is a Fund Service Provider. This ranges from £7,080 to £66,890. A Fund Service Provider is required to pay the minimum annual fee of £7,080 even if the number of pools of assets in all the collective investment funds in relation to which it carries on fund services business is zero.

If the Fund Certificate is granted or the Fund Service Provider registered on a day after 1 July the annual fees are calculated pro rata for each complete month of the year to the following 1 July.

Offer document

The Jersey Eligible Investor Fund Guide prescribes certain information which must be contained in a Jersey EIF's offer document. This includes all material information that investors would reasonably require to enable them to make an informed judgement about the merits of participating in the Jersey EIF and the associated risks.

A Jersey EIF is not required to comply with the CFPO but its offer document must comply with the disclosure requirements of the AIF Code.

Offer documents for Jersey EIFs must include an investment warning in the approved form.

Additional requirements in relation to sustainable investments (ie investments which contribute to either an environmental or social objective) were introduced on 15 July 2021. When a Jersey EIF is marketed on the basis of investing in a sustainable investment, it must disclose all material information in relation to the sustainable investment strategy and objectives.

A copy of the Jersey Eligible Investor Fund Guide is available at www.jerseyfsc.org.

Glossary

AIF an alternative investment fund as defined in the AIF Regulations.

AIF Code the Code of Practice for Alternative Investment Funds and AIFSB issued by the JFSC.

AIF Regulations the Alternative Investment Funds (Jersey) Regulations 2012.

AIFM a manager of one or more AIFs.

AIFMD the European Union's Alternative Investment Fund Managers Directive.

AIFSB a person carries on AIF services business if its regular business is managing one or more AIFs.

Certified Fund a fund in relation to which a Fund Certificate has been issued.

Certified Funds Code the Code of Practice for Certified Funds issued by the JFSC.

CFPO the Collective Investment Funds (Certified Funds – Prospectuses) (Jersey) Order 2012.

CIF Law the Collective Investment Funds (Jersey) Law 1988.

EEA the European Economic Area.

FS Law the Financial Services (Jersey) Law 1998.

FSB fund services business.

FSB Code the Code of Practice for Fund Services Business issued by the JFSC.

Fund Certificate a certificate issued by the JFSC pursuant to the CIF Law.

Fund Service Provider a person who carries on fund services business within the meaning of the FS Law, which would include any of the following:

- a manager, manager of a managed entity, administrator, registrar, investment manager, or investment adviser;
- a distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent, or repurchase agent;
- a trustee, custodian, or depositary; or
- a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country outside Jersey.

JFSC the Jersey Financial Services Commission.

Contacts

For further information in relation to this subject matter, please contact one of our industry leading experts. A full list of our senior funds team can be found on our [website](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this guide, please get in touch with one of your usual contacts. You can find out more about us, and access our legal and regulatory notices at [mourant.com](#). © 2023 MOURANT OZANNES ALL RIGHTS RESERVED