

Jersey Public Funds

Last reviewed: August 2023

A fund which is to be listed or offered to more than 50 potential investors will constitute a publicly-offered collective investment fund for the purposes of the CIF Law.

There are different requirements and authorisation procedures for publicly-offered collective investment funds which fall within the JFSC's definition of any of the following: an expert fund, a recognized fund, a listed fund or an unregulated fund. Separate Mourant guides in relation to these funds are available. This guide deals only with a publicly-offered collective investment fund which is not an expert fund, a recognized fund, a listed fund, an eligible investor fund or an unregulated fund (a **Public Fund**).

Following the implementation of the AIFMD in July 2013, regulations and codes apply in Jersey to AIFMs, actively marketing funds in the EEA.

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

Key features of a Public Fund

- A Fund Certificate is required in relation to a Public Fund.
- All Public Funds must comply with the Certified Funds Code which sets out a regulatory framework of fundamental principles and practical guidance for all Certified Funds.
- Each of the Jersey Fund Service Providers must be registered under the FS Law and comply with the FSB Code.
- A Public Fund which will be marketed in the EEA and its Fund Service Providers must comply with the applicable sections of the AIF Code.
- The promoter of the fund must comply with the JFSC's Promoter Policy.
- Public Funds which are open-ended and offered to the general public must comply with the OCIF Guide. The JFSC expects Public Funds aimed at more sophisticated investors to be aligned with the OCIF Guide so far as possible unless this is not feasible or inappropriate in light of the nature of the Public Fund and its investors.
- Where the fund is open-ended, a Jersey resident manager and custodian are required. These would usually be expected to be independent of each other. Where the fund is closed-ended, there is no requirement for a separate custodian.
- The JFSC will need to be satisfied with the structure and documentation of the fund.
- Directors and certain other officers of corporate funds and the fund's Fund Service Providers are required to seek confirmation that the JFSC has no objection to their appointment in relation to the Public Fund 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.
- The fund must be audited.

Investors in a Public Fund

There is no restriction on the number or type of investors in a Public Fund.

Authorisation process for a Public Fund

The requirements for approval of a Public Fund are not set by statute but are governed by the JFSC's policy. The authorisation process involves three stages:

1. **Initial review stage:** based on limited information supplied in an application for in principle consent, the JFSC will confirm that it sees no reason in principle why the required Fund Certificate should not be issued in due course. An initial review checklist is published by the JFSC for completion by the applicant.
2. **Documentary review stage:** the structure and draft documents (ie the offer document, constitutional documents and material contracts) are reviewed in detail by the JFSC.
3. **Formal licensing stage:** the authorisation process will conclude with the issue of a Fund Certificate in relation to the fund and the registration under the FS Law of any Jersey Fund Service Provider 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 conditions previously imposed on Public Funds are now included within the Certified Funds Code.

Registration under the FS Law to carry on fund services business

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

All registered Fund Service Providers are required to comply with the FSB Code which consists of eight core principles together with detailed requirements in respect of each of these principles. However, Managed Entities acting in relation only to expert funds, related expert funds or materially equivalent funds are subject only to the core principles and a set of standard conditions attaching to their registration under the FS Law unless they have elected to comply with the FSB Code in full.

Once a person (other than a Managed Entity) 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.

AIF Regulations

In relation to Public Funds that will be marketed in the EEA:

- there is no requirement to obtain a certificate pursuant to the AIF Regulations provided the JFSC is notified and gives its written permission for the Public Fund to be marketed in the EEA; and
- its Fund Service Providers may seek an exemption from the requirement to register for AIFSB if AIFM functions are included within the classes of business on their FSB registration.

The Public Fund 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 Public Fund is 10 working days for in principle consent and 30 working days in total. The timescale is 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 respect of 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. Please note that as mentioned above, once a Fund Service Provider is registered, then if it is not a Managed Entity, 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. 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

All Public Funds must comply with the CFPO and, if the Public Fund will be marketed in the EEA, the disclosure requirements of the AIF Code.

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 Public Fund 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 OCIF 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.

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.

FS Law the Financial Services (Jersey) Law 1998.

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.

Managed Entity broadly, a Fund Service Provider who is managed or administered by a third party service provider in the Island under the supervision of a board (usually of non-executive directors).

OCIF Guide the guide published by the JFSC setting out the conditions applicable to Jersey open-ended collective investment funds offered to the general public.

Promoter Policy where this policy applies, the JFSC needs to be satisfied as to the track record, experience and reputation of the promoters of the fund. The JFSC will also consider the financial resources of the promoter and the spread of ownership of the promoter. The requirements will vary according to how public or private the fund is, with a higher standard accordingly being applied for a Public Fund than for a very private fund.

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