

# Jersey Unregulated Funds

Last reviewed: January 2025

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An Unregulated Fund is a Jersey domiciled fund which is offered to certain eligible investors only and opts out of regulation as a fund in Jersey.

Following the implementation of the AIFMD, it is no longer possible to actively market Jersey Unregulated Funds in the EEA where such funds or their managers are subject to AIFMD authorisation (unless national transitional provisions apply).

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

## Key features of an Unregulated Fund

- An Unregulated Fund may only be offered to Eligible Investors (see below).
- It may be open or closed-ended.
- It may take the form of a Jersey company, Jersey limited partnership or unit trust.
- 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.
- The JFSC's Promoter Policy does not apply.
- 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.
- There is no requirement for Jersey audit sign-off.

## Investors in an Unregulated Fund

An Unregulated Fund may only be offered to Eligible Investors.

The term Eligible Investor includes:

- an investor who makes an initial minimum investment equivalent to US\$1 million; or
- a person or entity (or an employee, director or shareholder thereof, or consultant thereto) whose ordinary business or professional activity includes acquiring, managing or giving advice on investments; or
- a Functionary or an associate of a Functionary to the Unregulated Fund; or
- an employee, director or shareholder of, or consultant to, such Functionary or associate who is acquiring the interest in the fund as remuneration or reward or any trust established by them; or
- an individual whose property has a total market value of not less than US\$10 million.

## Jersey service providers

- There is no requirement to appoint any Jersey Functionary to an Unregulated Fund, save that an Unregulated Fund that is:
  - a Jersey company, must have its registered office in Jersey;

- a Jersey limited partnership, must have its registered office in Jersey; and
- a unit trust or a Jersey limited partnership, must have a Jersey company as a trustee or a general partner respectively.
- There is no requirement to appoint Jersey resident directors to an Unregulated Fund that is a Jersey company or to a special purpose general partner or trustee of an Unregulated Fund that is exempted from regulation under the FS Law (see below), although they may be appointed, for example to maintain management and control in a benign tax environment.
- There is no requirement that directors of an Unregulated Fund that is a Jersey company or of a special purpose general partner or trustee of an Unregulated Fund that is exempted from registration under the FS Law (see below), be independent from the promoter.
- All Jersey fund services businesses providing services to an Unregulated Fund must have an appropriate registration under the FS Law. Note that for these purposes, Jersey fund services businesses include providers of the registered office to an Unregulated Fund. Note also that, where the registered office of a special purpose general partner or trustee of an Unregulated Fund is provided by a fund services business with the appropriate registration under the FS Law, the general partner or trustee is exempted from regulation under the FS Law.

### **Investment or borrowing restrictions**

There are no investment or borrowing restrictions applicable to Unregulated Funds.

### **Custody**

There are no requirements as to the appointment of custodians or prime brokers to Unregulated Funds.

### **Authorisation process for an Unregulated Fund**

A simple filing of a notice with the JFSC listing certain basic features of the fund and declaring that the fund qualifies as an Unregulated Fund in conjunction with the incorporation or establishment of the fund vehicle will be the only process required to take a fund outside the application of the CIF Law and the FS Law.

### **Timescale for establishment**

An Unregulated Fund may be launched immediately after the filing has been made at the JFSC, if all other conditions of Unregulated Fund status are satisfied.

In addition, a special purpose general partner or trustee can be established immediately without the need for Jersey regulatory approval, provided that the registered office of the general partner or trustee is provided by a fund services business with the appropriate registration under the FS Law. The exemption regime is broadly framed and allows such special purpose general partners or trustees to act in respect of more than one fund in a single scheme or arrangement without being required to be regulated (eg such as in a master feeder structure or where multiple partnerships or trusts make parallel investments).

### **Statutory fees**

Generally, no statutory fees are payable in relation to an Unregulated Fund, other than the fees payable on the incorporation of a Jersey company or establishment of a limited partnership, if applicable. However, if a Jersey fund services business only provides services to Unregulated Funds, it will be required to pay an annual fee of £7,654.

### **Offer document**

No offer document is required but an investor warning as to the unregulated nature of the fund must be included and acknowledged by prospective investors in the subscription document.

### **Maintenance requirements**

There is no special annual return for an Unregulated Fund, though companies and limited partnerships which are Unregulated Funds will still be required to file annual confirmations in accordance with the general companies law and limited partnerships law.

## Glossary

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

**Certified Fund** a fund in relation to which a certificate has been issued by the JFSC pursuant to the CIF Law.

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

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

**EEA** the European Economic Area.

**FS Law** the Financial Services (Jersey) Law 1998.

**Functionary** a person in relation to the fund who is by way of business:

- 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.

**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 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](#).