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# FinReg Update

Jersey – 16 October 2024

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# Quick Fire Updates

## 1. Helpful changes to AML regime

Following the positive news from MONEYVAL, the JFSC and Government have finalised some helpful changes to the AML regime, although no doubt there is more to follow.

### What's it about?

1. The Proceeds of Crime (Low Risk Financial Services Business) Order 2024 implements 3 low risk exemptions, for Directors, Crown & Anchor and the Co-Op.
2. Schedule 2 guidance update excludes Securities Issuers.
3. 5 new AMLSP Forms published with turnaround times.

### How does this affect me or my regulated business?

1. The Low Risk Order reflects transitional provisions for specific low risk activities – so is mainly of interest to individual non-TCB directors. If the Order were extended to other activities in future, it's interesting that the exempted requirements are different in each case.
2. The Securities Issuer update results from 2023 discussions and is helpful in carving certain issuers out of Schedule 2 – this means that AMLSPs can now de-register or withdraw pending applications for these issuers.
3. AMLSPs will have to use these new online forms now. They cover 'ceasing to act', 'new applications', 'revocation' and 'key person applications', in place of AMLSP workbooks. Consider downloading records when making portal filings!

## 2. JFSC Supervision and Examinations update

The JFSC continues to provide regular updates in respect of its Supervision and Examination activity. Below are the highlights for October 2024.

### What's it about?

Video update 1 October discussing, amongst other things:

1. Upcoming examinations - Conflicts of Interest (Cross-sector), Client Monies (GIMB);
2. Upcoming bitesize feedback - staff training and awareness (DNFBPs/Estate Agents);
3. Upcoming industry briefings - DNFBPs (Professional enablers, sanctions, VASP travel rule) and NPOs (Regulatory framework, diversion risk, sanctions, useful guidance);
4. Upcoming Industry updates - Supervisory Risk data collections (new questions, AMLSP specific data, data validation/integrity checking, late filing fees), DNFBP specific data collection (group structures).

### Examinations:

- Conflicts of Interest questionnaires issued, examinations due Q1 2025 focusing on systems and controls to identify, manage, record conflicts;
- TF/PF 2023 thematic feedback paper published describing shortcomings and good practice.

### How does this affect me or my regulated business?

JFSC expects businesses to monitor its website output and consider in the context of their own arrangements. These considerations should be documented, and enhancements made where relevant.

## 3. Draft Cyber-Security (Jersey) Law 202-

The draft Jersey Cyber-Security Law aims to enhance the island's cyber resilience, focusing on protecting critical services from cyber threats. It introduces the Jersey Cyber Security Centre (JCSC) and defines obligations for Operators of Essential Services (OES) such as utilities, transport, healthcare, and financial services.

### What's it about?

Recent consultations addressed the OES threshold and reporting requirements, with financial services temporarily removed for further review. The law is expected to be enacted in 2025.

### How does this affect me or my regulated business?

Businesses potentially classified as OES, particularly banks and financial services, must prepare for new reporting obligations and incident response requirements. Regulated businesses should assess their status as OES and ensure they can report significant cyber incidents to JCSC within 48 hours, as required under the proposed law.

While the law is still being refined, businesses should start preparing for potential OES designation and the upcoming reporting obligations. We recommend that you engage with future consultations and workshops to highlight provisions that could present challenges for your business.

## 4. MONEYVAL update

Jersey's 5th round MONEYVAL Mutual evaluation report was published on 24 July 2024. The Jersey authorities deserve great credit for their hard work in achieving such an excellent result.

### What's it about?

Strong performance - Jersey is 'top 10 globally' for both technical compliance and effectiveness and has received the best report of any IFC.

### How does this affect me or my regulated business?

You should read the report (or the Executive summary) and consider some of the recommendations for industry such as:

- Enhancing Periodic reviews for SOF/SOW;
- Only apply MLO exemptions where risks are low;
- Undertake criminal background checks;
- Ensure BOC recording/change is fully compliant;
- Better understanding of TF and TFS risk including close associations and indirect links to sanctioned persons.

# Quick Fire Updates

Likewise, you should contribute to upcoming consultations and review how well you are performing against Priority Actions now, to be prepared for change.

## 5. Access to Beneficial Owner Information

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Access to beneficial owner information held by the Registry, at the JFSC, is carefully controlled, both to ensure that Jersey meets international standards and to ensure that individuals' information is appropriately protected.

### What's it about?

The Financial Services (Disclosure and Provision of Information) (Jersey) Amendment Law 202- was adopted on 11 September 2024 and is expected to come into force this year. It will enable access to beneficial owner information, held by the Registry, by persons who are required to do CDD under the Money Laundering Order.

Wider access to beneficial owner information, for persons with a 'legitimate interest', remains under consideration and is expected to follow by late 2026 or 2027.

### How does this affect me or my regulated business?

Jersey regulated businesses should prepare for the law coming into force this year by:

- updating CDD procedures, to make use of the option to access information;
- implementing controls to:
  - comply with restrictions on disclosure of information obtained from the Registry;
  - be able to evidence that information obtained has only been used for CDD purposes; and
  - if you are a trust company, preparing to communicate with clients about increased access to their information.

## 6. New JFSC Guidance on Tokenisation of Real World Assets

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The JFSC has issued a new guidance note in relation to the issuance of tokenised real world assets. Jersey remains an attractive regulatory environment for digital asset issuers. The JFSC's new guidance provides clarity and flexibility for token issuers looking to establish a token issuing vehicle in Jersey.

### What's it about?

The guidance note sets out a principles-based approach to the JFSC treatment of tokenised real world asset issuer vehicles, emphasising substance over form and that the nature and regulatory treatment of the underlying assets will influence the regulatory treatment of the token issuing vehicle. On the other hand, it also sets out streamlined application requirements, including around corporate form, the requirement to appoint a Jersey TCB and including a senior locally-resident director, AML/CFT expectations and audit requirements.

In addition, the guidance touches briefly on the regulatory treatment of stablecoins. Alongside the publication of the new guidance, the JFSC also updated its IC/TO Guidance Note (previously the ICO Guidance Note), to reflect more up-to-date terminology.

### How does this affect me or my regulated business?

It only affects your business if you have or would like to have clients in the digital assets space. If you do, we recommend reading the guidance in detail (including the updated IC/TO Guidance Note), and getting in contact with us if you have any questions on it.

## 7. Outsourcing Compliance Functions

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The JFSC published a Green paper consultation on Compliance functions and the Key Persons Regime.

### What's it about?

The green paper invites comments on three possible future approaches in relation to compliance functions. The consultation closes on 6 December 2024.

### How does this affect me or my regulated business?

There are three options for consideration:

- Option 1 - Status Quo – Retain the requirement for compliance functions (CO/MLRO/MLCO) to be employed by firms and resident in Jersey.
- Option 2 – Retain the employment connection requirement to a Jersey firm but remove the Jersey residency requirement.
- Option 3 – Retain the Jersey residency requirement but remove the employment requirement allowing the outsourcing of key person roles.

We would recommend firms review the green paper carefully considering the potential impact, risks and opportunities. The JFSC is genuinely interested in different views.

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