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UPDATE

Jersey Funds and Regulatory Industry Update – January 2025

Update prepared by Ben Robins, Felicia de Laat, Mathew Cook and Mike Jones (Jersey)

Speakers from our team, together with guest speaker, Miguel Zaragoza (Senior Policy Adviser of the Government of Jersey's Financial Services Unit) shared the latest market insights and emerging developments shaping the Funds' landscape; recent and forthcoming changes in regulation; and opportunities and challenges for industry in the year ahead.

Review of 2024 and forecast for 2025 (Ben Robins)

'Navigating Trump 2.0'

The current global macro picture is complicated, with some key themes emerging: public markets are hitting new highs with a 'risk-on' environment in the US; Trump's 'America First' policy is reconfiguring global risk and reward, with potential impacts from tariff protectionism on global trade; the US rejection of the 15% minimum rate of tax under the OECD's Pillar 2 initiative; technology (in particular, AI) re-shaping the global economy (DeepSeek v ChatGPT); and the fossil fuel v clean energy dynamic. In this environment, there is potentially a role for nimble International Finance Centres like Jersey to intermediate for global businesses.

UK economy

The UK economy continues to send mixed signals. Positively, the new Labour government is pitching for growth, with planning relaxations for new transport, tech and housing infrastructure and actively marketing for foreign direct investment (**FDI**). A recent survey of global chief executives placed the UK second after the US as the most desirable location for international investment.

The reality of the Reeves' budget, however, is now playing out, with national insurance increases applying pressure on businesses, Government borrowing up, and non-dom high-net-worth individuals (**HNWI**) leaving the UK. Query whether the re-think of some November budget positions sign-posted in Davos will result in revised spending plans and policy reversals?

Ultimately, though, UK growth for 2025 and beyond, although sluggish, is predicted to outpace the EU and a cheaper pound may encourage UK FDI (eg from emboldened US investors), which may play well for UK investment structuring through Jersey.

Global asset management in January 2025

- *Preqin* predictions/indicators remain positive for the future:
  - Global alternatives assets under management (**AuM**) predicted to grow to $30trn by 2030
  - Private equity (**PE**) and venture capital (**VC**)'s share of AuM to grow
  - PE AuM expected to rise to $12trn by 2029
  - A third of surveyed investors see the economy in recovery
  - Increased interest in tapping HNWI investors through evergreen products/perpetual capital models

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Preqin's predictions/indications for private equity, venture capital, real estate, infrastructure funds and private debt in January 2025

	Fund raising	Deals	Returns
Global private equity	• Return to growth predicted from 2027 through 2029 • Concentration of fund raising in well-established managers/GPs BUT • Investor interest returning to small- mid-market buy-out funds • Fund raising timescales nudging up to an 18-month average	• Volume down in early 2024 BUT • Enhanced IPO environment for exits • Valuations slowly on the mend • Deal-making slowly picking up	• Picked up between 2021 and 2024 • PE best performing alternative asset class • Investor PE sentiment more positive BUT • Relatively lower returns for PE expected up to 2029
Global venture capital	• 2024 VC fund raising hit a 10-year low	• Predicted recovery for VC over the long term to 2029 after a difficult run	• VC returns have dipped BUT • Managers expect a better environment in 2025 • VC will outperform in the longer term • Tech VC opportunities highlighted
Global real estate	• Global RE fund raising continued to slow BUT • Stronger interest in residential assets	• Deal volume rebound in 2024 • Enhanced UK/EU RE deal activity • Growth seen in residential, student housing, healthcare and retail	• Broadly flat from 2022 BUT • *Preqin* predict: ◦ RE return growth through to 2029 ◦ More positive investor RE sentiment
Global infrastructure funds	• *Stronger* than RE in 2024 • Europe outperforming US	• Reduction in deal value • Increased interest in telecoms; decline in energy/renewables; transport investment stable	• Steadily increasing from 2016 BUT • *Preqin* predict: ◦ Slight reduction in Infrastructure returns through to 2029 BUT ◦ More positive Infrastructure investor sentiment
Global private debt	• *Preqin* predict continued growth through to 2029 (up to US$2.9trn of AuM) • 2023/4 down on 2022 high; trough predicted in 2025 followed by 2026 recovery • Increased concentration of fund raising in top 10% of managers	• Deal activity stronger • Investment growth in other assets classes should support growth in Private Debt funding	• *Steadily* increasing rates from 2016 through 2024 • *Preqin* predict: ◦ Private Debt returns to grow through to 2029 BUT ◦ Investors more cautious of the asset class as interest rates stabilise

Where is Jersey Funds Industry?

- According to the 30th Annual Monterey Jersey Fund Report for 2024:
  - Fund assets serviced in Jersey increased by 6.1%
  - Total number of funds serviced rose by 3.9%
  - 88 new funds were Jersey domiciled
  - Alternatives are 90% of the market with PE/VC funds remaining the most popular product and experiencing the highest NAV growth, followed by RE
  - JFSC regulated fund statistics show a healthy bounce-back in 2024, reflective of a global trend

What is Mourant seeing?

- A strong 2025 pipeline for our Jersey funds team following a very busy 2024
- Monterey 2024 re-confirmed Mourant's market leading position (click here to view our press release), with:
  - 41% of the market by NAV
  - 33% of the market by number of funds
  - Increase of 125 funds advised to 1,114 which is the largest growth among all advisers
- A marked pick-up in UK RE activity (particularly residential, student living and office assets)
- More open-ended or hybrid closed/open structures, particularly for RE assets
- New VC funds (often tech-focused)
- Increase in deal-by-deal transactions
- Some mid-2000s vintage funds looking for schemes/disposals/mergers
- GP stakes transactions
- Continuation funds
- Co-investment and carry vehicles
- Jersey feeder and parallel vehicles into/alongside Luxembourg vehicles

Opportunities for Jersey in January 2025

- Against a backdrop of Trump 2.0 and cautious market optimism:
  - Capitalise on a period of relative regulatory/tax calm and stability
  - Make product and regulatory enhancements
  - Service delivery and cost still broadly advantageous
  - Clear opportunities in UK RE/infrastructure, PE and VC
  - Continue to market US, Middle East and Asia investor opportunities
  - Support JFL's Vision 2050 initiative

Sustainable Finance Action Plan – Q&A session (Felicia de Laat and Miguel Zaragoza (Senior Policy Adviser of the Government of Jersey's Financial Services Unit))

In November 2024, the Government of Jersey published its Sustainable Finance Action Plan (the **Action Plan**), the aim of which is to deliver growth and business opportunities for Jersey and to promote the Island as a centre of excellence for sustainable finance. Click here to view the Action Plan.

Miguel Zaragoza discussed the Action Plan with Felica de Laat.

Context/background and strategic priorities

FDL Please could you provide a brief overview of the Action Plan?

MZ We want to future-proof the financial services industry and expand market share by building business capabilities within our ecosystem within the next two to three years.

- 10 strategic priorities for the Island's finance industry form the framework of the Action Plan:
  - Five to protect: corporate sustainability disclosures, environmental crime, sustainability risk, ESG business integrity risk, and market access; and

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  - Five to promote its success: international engagement, fiduciary duties, skills, new products and jurisdictional data.
- The Action Plan sets out more details on each of the strategic priorities and targets three specific areas: risk and governance; engagement; and incentives.

FDL What are the next steps in developing these priorities and how will responsibility be allocated to make sure they happen?

MZ Responsibility for delivery is shared equally between Jersey Finance, the Jersey Financial Services Commission and the Government of Jersey. Next steps:

- 2025: year of consulting and upskilling
- 2026: focus on embedding regulatory frameworks, including an upgrade to the Codes of Practice (with a transition period) plus delivery of new products/data
- 2027: corporate sustainability disclosures into force (only applicable to a minority)

FDL If the Action Plan is successfully implemented, what are the key growth opportunities for Jersey?

MZ One area where there is great potential is in the Funds industry where Jersey could have an important role in the deployment of sustainable capital around the world. To note, Government's initial estimations suggest around 14% of the total regulated funds or just a bit less than 20% of the AuM (or £78bn) is linked to sustainability-oriented funds.

FDL ESG has been a buzz word for the last decade but there has been a small backlash recently, particularly from the US. How does that affect the Action Plan?

MZ We live in a world that is heavily contentious, and we are seeing the unintended consequences of industrial revolutions in the form of climate change and the start of the 4th technological revolution with the development of AI and new sources of energy (ie renewables). Change is always resisted. We need to avoid getting too distracted with the politics and look at the economic fundamentals, eg in the US, solar energy is cheaper than gas and that will drive investment decisions regardless as to who is in power.

FDL How does Jersey currently compare with other jurisdictions from a sustainable finance development perspective? Which jurisdictions do you think are doing particularly well in this area?

The EU is the jurisdiction that has gone the furthest in this area (though they are now suffering the consequences of over-regulation). Still some jurisdictions have monetised well their opportunities. For example, in Ireland there is €1.2tr ESG funds AuM and Luxembourg has €2.8tr ESG AuM. Jersey is different and we are going to take our time to develop what is right for us. Outside of the EU and in the offshore world, Jersey is probably leading the pack (with Guernsey or Isle of Man still considering their strategic approach).

Incentives

FDL Luxembourg has introduced financial incentives to help it attract sustainable investment. Are there any plans to do something similar in Jersey?

MZ It's not my decision but a matter for the government budget. However, we hope to be able to put some potential Pillar 2 revenue towards increasing competitiveness. For example, by:

- supporting the upskilling of our financial services industry; and
- developing targeted new products, using Government subsidies to bring some of the regulatory costs down.

FDL The Action Plan states that our Trusts Law is flexible enough to successfully accommodate sustainable considerations in the exercise of fiduciary duties. Can you share more detail on this topic?

MZ This is one for Trusts' lawyers, but most declarations of trust require a trustee to exercise its powers in the interests of the beneficiaries, and I understand the analysis to be that 'interests' are considered to be more than a pure value maximisation. Together with Jersey Finance, we are going to publish an article on this and we will raise awareness and issue some practical guidance for fiduciaries.

Monitoring and evaluation

FDL What mechanisms are in place to monitor the progress of the Action Plan, and how will success be measured over the next three years?

MZ Non-revenue generating activities are always hard to measure. Success will be measured by a number of metrics. Those that are more tangible, include new products developed, increased AuM and ranking in global sustainable finance indexes, etc.

Cooperation opportunities

FDL Are there any areas where you think Jersey and Guernsey could cooperate to deliver this?

MZ Yes. Jersey and Guernsey should work together on initiatives such as corporate sustainability disclosures so that they are a similar standard between the Channel Islands and not unduly complex or unnecessarily divergent.

Challenges

FDL What challenges are you anticipating in the implementation of the Action Plan?

MZ Many! This is not about the short term. This is about building capabilities for us to thrive in the future.

Engagement

FDL How can industry, in particular the Funds sector, assist the Government to develop Jersey into a centre of excellence in terms of sustainable finance?

MZ Industry can assist with the following:

- Participate in our consultations.
- Volunteer to test the AI tools that are being used in relation to the Action Plan to get a better understanding of the sustainable finance opportunities.
- Monterey has been approached to include questions about sustainable finance in Jersey in their annual report. Industry support on this would be appreciated.

Regulatory/consulting panel session (Mike Jones and Mathew Cook)

Sustainability (Mike Jones)

Mourant Consulting launched its sustainability advisory services towards the end of 2024. Click here for a list of services we provide. If you require assistance in complying with sustainability disclosure requirements or working out your own internal scale of ambition because you know that you want to do more on this subject but simply don't know where to start, then please don't hesitate to reach out.

MONEYVAL update / action plan (Mike Jones)

- By way of reminder, the official MONEYVAL outcome for Jersey was strong:
  - Effectiveness assessments: Of the 11 areas, Jersey's ratings were as follows: one highly effective (only four countries in the world achieved this standard), six substantially effective and four moderately effective, which means there were no low effectiveness ratings.
  - Technical assessments: 39 out of 40. Most of Jersey's ratings were compliant and a few largely compliant. One technical was partially compliant but that was intentional with authorities not wanting to insist on an independent audit requirement given this is not necessarily appropriate in all circumstances, eg for smaller entities.
- Unofficial outcome: Best IFC report ever, so the Jersey authorities deserve great credit for this excellent result.
- No fundamental improvements are required to the Jersey regime. There are, however, still some recommendations and action plans that are being worked through, including:

- Competent authorities should prioritise investigations relating to large-scale money-laundering cases
- The JFSC should focus on periodic reviews of high-risk customers, especially in relation to source of funds/source of wealth
- If a decision is made to use any exemptions under the Money Laundering Order, that decision should be documented
- The JFSC's consultation on enhancements to criminal background checks. Click here to view the consultation paper which was issued on 29 January 2025
- Application of sanctioning regime should be revised
- Usual focus on beneficial ownership
- Plus, focus on terrorist financing and related sanctions

- A Government-driven JFSC strategic review was announced when the MONEYVAL report was issued in the summer. The aim of the review is to ensure Jersey has the best regulatory environment possible (focusing on growth and competitiveness) and will consider the following:
  - Structure and accountability of the JFSC
  - Legislative framework and whether it can be simplified
  - Different views on appropriateness and operation of the JFSC
  - How supervision and enforcement actions can be prioritised
  - Given that the global model of regulation has evolved, how regulation in Jersey compares internationally

Deferred Prosecution Agreements (DPAs) (Mathew Cook)

- A DPA is a discretionary tool to enable a corporate to '*make full and carefully structured reparation for its criminal conduct and avoid the damaging consequences of a conviction*' whilst also avoiding an expensive and time-consuming trial. Click here to view our client guide on DPAs
- The first DPA in Jersey was entered into on 18 December 2024 by the Attorney General and Afex Offshore (Jersey) Limited (**AOL**)
- AOL had been under criminal investigation since 2022 in respect of services provided to a client who opened an account and received €3M which was paid out to various beneficiaries. AOL acted on an 'execution only basis'. AOL's various failings were described by the Court as 'serious'
- As part of the DPA, AOL agreed to pay a financial penalty of £408k plus £60k of costs
- Why is this noteworthy?
  - First DPA in Jersey and indication of how the Court will approach DPAs and 'test' proposals
  - Court aware of importance of first case and issued lengthy judgment detailing legal thresholds for DPAs and levels of financial penalty
  - Court will closely examine the level of financial penalty set out in any DPA which is submitted – not a 'rubber stamping' exercise
  - Court noted that, '*ordinarily, an entity already under investigation is not able to avoid the effect of a prosecution simply by filing a self-report*.' This highlights the importance of consideration of future options and liability in any situation concerning potential breaches.

Compliance Officer green paper (Mike Jones)

- As mentioned in the MONEYVAL report, Compliance resourcing is identified as a serious challenge in our jurisdiction. The JFSC published the 'Compliance Function: Key Persons Regime Green Paper' in October 2024, which closed in early December 2024. Click here to view the Green Paper.
- There are three broad options:
  - Status quo:
    - Compliance officer based in Jersey and an employee of the regulated entity
    - But the JFSC will try harder to enhance a business' ability to recruit, eg enhanced corporate governance code, clearer career path for a compliance officer, etc
    - Some compliance activities can be outsourced albeit responsibility must remain with the Key Person

- Relax residency requirement:
  - ie expert off Island
  - Concerns about the enforceability of sanctions where the individual is not resident within the jurisdiction. The JFSC would expect a greater level of supervisory scrutiny where a non-Jersey resident Key Person was in place
- Relax employment requirement:
  - Allow external parties to carry out the compliance function (as is the case in Guernsey and Cayman)
  - Issue with the clarity of responsibility but a solution might be to licence firms to provide this service

- Jill Britton, Director General at the JFSC, spoke at the recent Jersey Compliance Officers event and the Key Persons regime was listed as the number one policy priority.
- The Feedback Paper, which will outline the JFSC's next steps in addressing the resourcing challenges, is expected in February.

Summary of the Bitesize feedback paper on unregulated funds thematic assessment visits (TAVs) (Mike Jones)

- Fairly new tool in the JFSC's regulatory toolbox. Follow a similar methodology to usual TAVs but are sector specific, narrower in focus and led by the Supervision Team rather than the Examination Team.
- This TAV was undertaken in Q4 2023, but the results were only published last month.
- The JFSC has expressly said that the feedback is relevant to all fund boards (not just unregulated funds) as well as to FSBs and TCBs acting for funds in respect of their compliance with financial crime statutory and regulatory requirements. This is important as it means the JFSC expects boards to be aware of, and where relevant to discuss, any publications that the JFSC posts to its website.
- The JFSC identified common findings in respect of fund investors to those identified in the JPF TAVs
- Areas for improvement identified include: lack of customer profiles for the investors; inadequate customer risk assessments; periodic reviews not being completed in a timely manner; failure to record conflicts of interest; and a failure to reassess investor risk on an ongoing basis. Click here to view the Bitesize feedback paper.

Separately, the JFSC has just published a new industry update: 'Seven quick wins for financial crime compliance' which will be covered at a future session. Click here to view the JFSC's industry update.

Recent civil penalties (Mathew Cook)

- Two recent cases:
  - 20 September 2024 – civil penalty of £19,211.73 imposed on Belasko Jersey Limited
  - 8 November 2024 – public statement issued against Jersey Post Limited. Although contravention warranted Band 2A civil financial penalty, obligations under Article 21B(3)(e) of Commission Law meant £0 penalty imposed
- Key takeaways
  - Adequate AML/CFT controls – high-risk customers
  - Ensure policies and procedures are compliant, understood and followed
  - Thorough and ongoing customer due diligence and enhanced due diligence for high-risk customers
  - Risk-management – proactive review and update risk assessments
  - Board accountability – ensure board understands and complies with legal and regulatory obligations
  - Important even if regulated activities only form small part of overall business
  - Early consideration of notification obligations to JFSC and any other authorities

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