



**Feedback on consultation paper dated 1 August 2016 on the rationalisation and consolidation of Jersey's private fund and unregulated fund regimes;**

**Introduction of a new Jersey private fund (JPF) guide; and**

**Consultation on the annual fee payable in connection with a JPF under an amended COBO fees notice.**

**Issued by:**

**Government of Jersey; and**

**Jersey Financial Services Commission**

## Consultation Feedback

Please note that terms in *italics* are defined in the Glossary of Terms.

This Joint *Feedback Paper* reports on responses received by the *Government* and *Commission* on the *CP*.

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## Glossary of Terms

AIF	means alternative investment fund.
AIFM	means alternative investment fund manager.
AIFMD	means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on AIFMs.
AIFMD Form	means any of the Commission application and notification forms relevant to AIFs, AIFMs and AIF depositaries pursuant to Jersey's AIFMD regime.
AML/CFT	Anti-Money Laundering/Countering Financial Crime and Terrorism.
CIF	means collective investment fund.
CIFJL	means the Collective Investment Funds (Jersey) Law 1988.
COBO	means the Control of Borrowing (Jersey) Order 1958.
COBO Fees Notice	means the updated notice of COBO fees amended to incorporate the new NDS (Non-Fund), UT (Non-Fund) and JPF fees, the form of which is attached as Appendix B to this Feedback Paper.
COBO Law	means the Control of Borrowing (Jersey) Law 1947.
COBO Only Fund	means a fund which falls within the definition of a collective investment fund in Article 3 of the CIFJL except that the offer of units in the scheme or arrangement is not an offer to the public within the meaning of Article 3 of the CIFJL, and which has not been granted a consent as either a PPF or a VPF.
Commission	means the Jersey Financial Services Commission.
CP	means the consultation paper dated 1 August, 2016 issued by Government and the Commission on the rationalisation and consolidation of Jersey's Private Fund and Unregulated Fund regimes.
DSP	means a 'designated service provider' required to be appointed by a JPF (as further described in Part G of the JPF Guide).
Effective Date	means 18 April 2017.
eligible investor	means any person meeting the criteria set out in paragraphs 2, 3 and 4 of Part A of the JPF Guide.
Expert Fund	means a Jersey expert fund.
Expert Fund Guide	means the Jersey Expert Fund Guide dated 2 April 2012 and updated 19 November 2012.
Feedback Paper	means this consultation feedback paper.
FSB	means fund services business.
FSB/TCB Authorisation Team	means the Commission's FSB/TCB authorisation team.
FSJL	means the Financial Services (Jersey) Law 1998.
Government	means the Government of Jersey.
IB	means investment business.
Indicative Application Timescales	means the updated indicative application timescales for fund products and fund service providers amended to take account of the introduction of the JPF and the phasing out of the existing private fund products (VPF, PPF and COBO Only Funds) from the Effective Date, the form of which is attached as Appendix H to this Feedback Paper.
Jersey UT (Non-Fund)	means a Jersey unit trust (UT) which is not an investment fund (Non-Fund).

Jersey UT1 (Non-Fund) Form	means the new application form to be submitted to the Registry by a Jersey UT (Non-Fund), the form of which is attached as Appendix K to this Feedback Paper.
Jersey UT2 (Non-Fund) Change of Particulars Form	means the new form of notice to Registry of a change of particulars of a Jersey UT (Non-Fund), the form of which is attached as Appendix L to this Feedback Paper.
JFA	means the Jersey Funds Association.
JPF	means a Jersey private fund.
JPF Consent	means the new form of consent issued to a JPF pursuant to COBO, the form of which is attached as Appendix E to this Feedback Paper.
JPF Documents	means together, the JPF Guide, the JPF Form, the JPF Consent, the JPF Notice of Change or Event and the JPF Return.
JPF Form	means the new application form for the authorisation of a JPF, the form of which is attached as Appendix D to this Feedback Paper.
JPF Guide	means the new Jersey Private Fund Guide, the form of which is attached as Appendix C to this Feedback Paper.
JPF Notice of Change or Event	means the new form of notice of a change or event of a JPF, the form of which is attached as Appendix F to this Feedback Paper.
JPF Return	means the new annual compliance return for a JPF, the form of which is attached as Appendix G of to this Feedback Paper.
MiFID	means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments and Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on Markets in Financial Instruments and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on Markets in Financial Instruments.
NDS (Non-Fund)	means a non-Jersey domiciled structure (NDS) which is not an investment fund (Non-Fund).
NDS1 (Non-Fund) Form	means the new application form to be submitted to the Registry by a non-domiciled structure which is not a JPF or any other fund product but which requires a relevant consent, the form of which is attached as Appendix I to this Feedback Paper.
NDS2 (Non-Fund) Change of Particulars Form	means the new form of notice to Registry of a change of particulars of a NDS (Non-Fund), the form of which is attached as Appendix J to this Feedback Paper.
PIRS	means a professional investor regulated scheme which would be able to utilise the exemption available under the PIRS Orders.
PIRS Orders	means the professional investor regulated scheme exemption under the Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001 and/or the Financial Services (Trust Company Business (Exemptions No.5)) (Jersey) Order 2001.
PPF	means a Jersey private placement fund.
PPF Guide	means the Jersey Private Placement Fund Guide issued 26 January 2012 (and updated 31 May 2013).
private fund	means a VPF; a PPF; a COBO Only Fund and/or a JPF.
professional investor	has the meaning given to this term under paragraph 1. of the Professional Investor Definition.
Professional Investor Definition	means the new multi-purpose “Professional Investor” definition (which forms part of the JPF Guide under Annex A).
public fund	means any CIF classification.
registered person	means a person who is registered, or holds a permit or certificate, as applicable, under one or more of the regulatory laws.

Registry	means the Jersey Companies Registry.
Registry Form	means the C2(a) form, ILP2 form, LLP2 form, LP2 form, SLP2 form, Jersey UT1 (Non-Fund) Form and NDS1 (Non-Fund) Form or such other form as the Registry may deem appropriate from time to time.
relevant consent	means the relevant consent issued by the Commission pursuant to COBO.
Restriction of Scope Order	means the Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000.
retail investor	means any investor that is not: (i) a professional investor; (ii) an investor that makes an acquisition in accordance with paragraph 3. of Annex A of the JPF Guide; or (iii) an investor that makes the minimum initial investment in or commitment to the JPF as prescribed under Part A of the JPF Guide.
Smaller Working Group	means a smaller sub-set of the Working Group which have been asked to design a series of proposed enhancements to Jersey's funds regime that address the jurisdictional review's recommendation.
TCB	means trust company business.
Unregulated Eligible Investor Fund	means one of the two categories of unregulated fund that may be established pursuant to the Unregulated Funds Order.
Unregulated Exchange-Traded Fund	means one of the two categories of unregulated fund that may be established pursuant to the Unregulated Funds Order.
unregulated fund	means any unregulated fund notified to the Commission pursuant to the Unregulated Funds Order.
Unregulated Funds Order	means the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.
VPF	means a Jersey very private fund.
VPPF	means a Jersey very private placement fund (the name proposed for the re-branded VPF under the CP).
VPPF Guide	means the Jersey very private placement fund guide as referred to and consulted on in the CP.
VPPF Form	means the proposed application form for the authorisation of a VPPF as referred to in the CP.
Working Group	means a working group comprised of members from the Government, the Commission, Jersey Finance Limited and Industry (including the JFA).

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 The *CP* was issued on 1 August 2016 in connection with Phase I of the Funds Review Project which focussed on the rationalisation and consolidation of Jersey's *private fund* regime.
- 1.1.2 The *CP* sought views on the:
  - 1.1.2.1 introduction of a *VPPF Guide*;
  - 1.1.2.2 introduction of a new and universal *Professional Investor Definition*;
  - 1.1.2.3 introduction of modern regulatory powers in the *COBO Law*;
  - 1.1.2.4 phasing out of *COBO Only Funds*; and
  - 1.1.2.5 phasing out of *Unregulated Exchange-Traded Funds*.
- 1.1.3 Industry provided feedback to the *CP*, which the *Government* and the *Commission* have since given their full consideration to. The *Government's* and *Commission's* joint response to the Industry feedback and to new product developments in other jurisdictions, has subsequently resulted in the *Government* and the *Commission* adopting a revised and more simplified strategy to effect Phase I of the Funds Review Project than was originally proposed; namely the launch of a new single *private fund* product to be known as the Jersey Private Fund (*JPF*) and the introduction of a *JPF Guide* from the *Effective Date*.

## 1.2 Consultation on the new annual fee payable in connection with a JPF

- 1.2.1 The *Commission* is also consulting on the proposal to charge a *JPF* annual fee as provided for in the updated *COBO Fees Notice* (attached as Appendix B to this *Feedback Paper*) (**fee consultation**). Details of the proposed *JPF* annual fee are summarised under paragraph 2.19.10 of this *Feedback Paper*.
- 1.2.2 The *Commission* is issuing this *fee consultation* in accordance with Article 8(3) of the Financial Services Commission (Jersey) Law 1998, as amended (**Commission Law**), under which the *Commission* "may, in connection with carrying out its functions ... consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate".
- 1.2.3 In addition, Article 15(3) of the *Commission Law* requires that before the *Commission* may introduce and publish any fee "*the Commission must first publish a report that must include:*
  - (a) *details of the duty or power for or in respect of which the fee is to be determined;*
  - (b) *details of the proposed fee;*
  - (ba) *details of the extent (if any) to which any penalties received have reduced the level of fee that would otherwise have been proposed;*
  - (c) *a request for comments on the level of the proposed fee; and*
  - (d) *a date, that is at least 28 days after the publication of the report, before which those comments may be made to the Commission."*
- 1.2.4 The *Commission* considers that this *fee consultation*, together with the *COBO Fees Notice*, constitute such a report as required by the *Commission Law* and invites



comments, in writing, from interested parties on this fee consultation and its likely impact on *JPFs* no later than 12 April, 2017.

### 1.3 Feedback received and joint response

- 1.3.1 Respondents provided comments to the *CP* either directly to the *Government* and/or the *Commission* or indirectly via Jersey Finance Limited. The majority of responses were received after the published deadline of 12 September, 2016 and were accepted up until 21 September, 2016.
- 1.3.2 In total, the *Government* and the *Commission* received 21 responses to the *CP*, 11 of which were provided via Jersey Finance Limited and included 6 fund administrators, 1 private bank and 4 law firms. 10 other respondents provided comments directly to the *Commission* and/or *Government* (together with two other respondents who had also provided their responses to JFL). A full list of respondents is given in Appendix A.
- 1.3.3 A number of common themes emerged from the responses to the *CP*, including Industry concerns with the:
  - 1.3.3.1 proposed re-branded *VPPF* name;
  - 1.3.3.2 proposed *VPPF* definition;
  - 1.3.3.3 extent of the role and responsibility of the *DSP* to a *VPPF*;
  - 1.3.3.4 potential requirement to appoint an auditor for a *VPPF*;
  - 1.3.3.5 closed-ended nature of the *PPF* in view of the plan to phase out *COBO Only Funds*; and
  - 1.3.3.6 finding an alternative product solution for UK REITs in view of the proposal to phase out *Unregulated Exchange-Traded Funds*.
- 1.3.4 The above Industry concerns combined with product developments in other jurisdictions has caused the *Government* and the *Commission* to re-consider their approach to some of the proposals detailed under the *CP*.
- 1.3.5 A wider consolidation of Jersey's *private fund* space will now be implemented than was originally anticipated under the *CP* which will see the phasing out of *PPFs* (in addition to *VPPFs* and *COBO Only Funds*) and the introduction of one single *private fund* product known as the Jersey Private Fund (***JPF***) from the *Effective Date* (the **Revised Proposal**). The intention remains to phase out *Unregulated Exchange-Traded Funds*. However, it is important to note that existing *VPPFs*, *PPFs*, *COBO Only Funds* and *Unregulated Exchange-Traded Funds* will be able to continue in operation until the end of their natural life or, alternatively, they may convert into another fund product subject to the consent of the *Commission*.
- 1.3.6 The terms of the *JPF* are set out in the *JPF Guide* and, in summary, are as follows:
  - 1.3.6.1 **50 or fewer** professional and/or *eligible investors* (£250,000 minimum investment);
  - 1.3.6.2 must not be a *CIF*. Offer to a "restricted circle of persons" only but admission of further investors is permitted provided that the offer, as a whole, does not in any way constitute an "offer to the public";
  - 1.3.6.3 must not be listed;
  - 1.3.6.4 open-ended (provided the "restricted circle of persons" test is met) or closed-ended;
  - 1.3.6.5 no promoter policy/approval;

- 1.3.6.6 no requirement for Jersey directors;
- 1.3.6.7 no requirement for an offer document;
- 1.3.6.8 no restrictions on investment and borrowing but requirement for investment warning and disclosure statement (see section E of the *JPF Guide* included under Appendix C of this *Feedback Paper*);
- 1.3.6.9 no requirement for audited accounts but any qualified audit must be reported (except in the circumstances when adopting modified GAAP);
- 1.3.6.10 48 hour *JPF* approval;
- 1.3.6.11 application fee of £1070 and **annual fee of £500**;
- 1.3.6.12 must appoint a *DSP* which is *FSJL* registered for Class V (Administrator), Class U (Manager), Class X (Investment Manager) or Class ZG (Trustee) *FSB* except where there are 15 or fewer offers/investors (a ‘very private’ *JPF*) in which case the *DSP* may be registered under the *FSJL* for any Class of *FSB*, *TCB* or *IB*;
- 1.3.6.13 **notice of change or event signed off by the *DSP***;
- 1.3.6.14 annual *JPF Return* signed off by *DSP*; and
- 1.3.6.15 no PQs in relation to the *JPF* itself.
- 1.3.7 With the exception of those terms **highlighted in bold** under paragraph 1.3.6. above all of the other *JPF* terms reflect what was consulted on in the *CP* under the draft *VPPF Guide*.
- 1.3.8 Broadly, the proposed changes, when compared with the existing *PPF Guide* (in the form of the new *JPF Guide*) are as follows:
  - 1.3.8.1 the requirement for a “placement” has fallen away and reference to ‘placement’ in the fund name has been removed;
  - 1.3.8.2 a *JPF* may now be open-ended (provided that the offer, as a whole, does not in any way constitute an “offer to the public”);
  - 1.3.8.3 the prior approval of the promoter by the *Commission* is no longer required (due to the reliance now placed on the *DSP*);
  - 1.3.8.4 no longer a requirement for two Jersey resident directors to be appointed to the fund board (but may do so);
  - 1.3.8.5 no longer a requirement for an offering document (but may do so);
  - 1.3.8.6 no longer a requirement to have audited accounts (but may do so);
  - 1.3.8.7 a reduced authorisation timeframe (48 hours vs 72 hours);
  - 1.3.8.8 a new annual fee of £500 will now be payable to the *Commission*;
  - 1.3.8.9 where there are 50 or fewer offers/investors the *DSP* does not need to be registered for Class V (Administrator) *FSB* but may instead be registered for Class U (Manager), Class X (Investment Manager) or Class ZG (Trustee) *FSB*. However, where there are 15 or fewer offers/investors the *DSP* may be registered under the *FSJL* for any Class of *FSB*, *TCB* or *IB*;
  - 1.3.8.10 a new notice of change or event (completed and signed by the *DSP*) is now required; and

- 1.3.8.11 a new annual compliance return (completed and signed by the *DSP*) is now required.
- 1.3.9 As originally proposed under the *CP*, it is intended that modern regulatory powers will be inserted into the *COBO Law/COBO* giving the *Commission* wider supervision, co-operation and enforcement powers over *JPFs* than is currently the case with the existing suite of Jersey *private fund* products. Whilst these *COBO Law/COBO* powers will not be in place from the *Effective Date*, we are working to have these powers in place as soon as possible (subject to States of Jersey and Privy Council approval).
- 1.3.10 Whilst details of the Revised Proposal have not gone out for wider public consultation, the *Smaller Working Group* and the *JFA* Committee have reviewed the *JPF Documents* and have confirmed that they are very keen for *Government* and the *Commission* to press ahead. Likewise, the Revised Proposal has been approved by the Board of Commissioners' and a Ministerial Decision from the Chief Minister for the necessary law drafting has been granted.
- 1.3.11 The *JPF Documents* and the *Registry* (Non-Fund) Forms will go "live" on the *Commission's* website a week in advance of the *Effective Date*.
- 1.3.12 Section 2 of this *Feedback Paper* presents a summary of the substantive comments received in connection with the *CP* and the *Government* and *Commission's* joint response.
- 1.3.13 The *Government* and *Commission* are grateful to respondents for taking the time to consider and comment on the proposals. Each respondent has been sent a copy of this *Feedback Paper*.

## 1.4 Next steps

- 1.4.1 For the reasons set out in this *Feedback Paper*:
  - 1.4.1.1 the *Commission* will proceed with the publication of the updated *COBO Fees Notice* from the date of this *Feedback Paper* and subject to the *fee consultation* set out under paragraph 1.2 of this *Feedback Paper* the fees set out in the *COBO Fees Notice* will be effective from the *Effective Date*;
  - 1.4.1.2 the *Commission* will proceed with the publication of the *JPF Documents* one week in advance of the *Effective Date*;
  - 1.4.1.3 the *FSB/TCB Authorisation Team* will not be accepting any new applications for *COBO Only Funds*, *PPFs* or *VPFs* from the *Effective Date*;
  - 1.4.1.4 subject to the relevant legislative changes being made to the *Unregulated Funds Order*, the *Registry* will not be accepting any new notifications for *Unregulated Exchange-Traded Funds*;
  - 1.4.1.5 alongside the publication of the *JPF Documents*, the *Jersey UT1 and 2 (Non-Fund) Forms* and the *NDS1 and 2 (Non-Fund) Forms* will be published by *Registry* from the *Effective Date*;
  - 1.4.1.6 the new multi-purpose Jersey "professional investor" definition will be introduced from the *Effective Date* in relation to *JPFs* only (although it is intended to extend this definition to cover Jersey *public funds* in Phase II of the Funds Review Project);
  - 1.4.1.7 the *Government* will proceed with drafting amendments to the *COBO Law/COBO* to bring in modern regulatory supervision, enforcement

- and co-operation powers for the *Commission* in line with the powers that are available to the *Commission* under the *CIFIL*; and
- 1.4.1.8 the *Government* will progress drafting the amendment of the *Unregulated Funds Order* to amend Article 3 which will prevent any person from serving notice on the Registrar pursuant to Schedule 2 of the *Unregulated Funds Order*; and to amend paragraph 5 (2) (a) of Schedule 1 of the *Unregulated Funds Order* to permit the appointment of a market maker by a fund company or by another person on behalf of the fund where such fund company is a UK Real Estate Investment Trust (REIT) listed on one or more of the exchanges or markets listed in Schedule 4 of the *Unregulated Funds Order* provided that all the other provisions of paragraph 5(2) of Schedule 1 are complied with, including 5(2)(e) (i.e. the exchange must permit restrictions on the transfer of units to ensure that no person other than an *eligible investor* may acquire units in the UK REIT through the trade).

## 2 Summary of responses

### 2.1 Structure of this section

- 2.1.1 This section summarises the substantive comments received on and in relation to the proposals in the *CP* and the *Government* and *Commission*'s joint response to those comments.
- 2.1.2 Where the specific comments of a "respondent" are summarised, the respondent will have been a *registered person* (or represented a group of *registered persons*) unless stated otherwise.

### 2.2 Question 1 - paragraph 2.1.11 of the *CP*

**Do you agree with the re-branding of the existing *VPF* a *VPPF*? If not, please explain why. There is an opportunity to change the name of this *private fund* product altogether. Some suggestions raised so far include 'Restricted PPF', 'Limited PPF', 'Ultra PPF', 'Qualified PPF' and '15 or Fewer PPF'. We would welcome your suggestions on the most suitable name for this *private fund* product.**

- 2.2.1 The majority of feedback received did not support the re-branding of the existing *VPF*, a *VPPF*.
- 2.2.2 One fund administrator commented that the introduction of another new regulatory product (the *VPPF*) is considered to be unnecessary.
- 2.2.3 One law firm commented that the *VPF* name "should be retained as it is tried and tested". Another law firm acknowledged that whilst there could have been better names for a "Very Private Fund" in the first place, it is now a name that has brand recognition in relation to the Jersey funds industry and its preference would be for the *VPF* name to be retained.
- 2.2.4 Another law firm commented that the word "placement" might not suit all circumstances as not all *VPFs* are placed, but rather operate on a club model or, in the context of the *AIFMD*, may rely on reverse solicitation.

#### **Government and Commission response:**

- 2.2.5 The new single Jersey *private fund* product; the Jersey Private Fund (*JPF*), being an amalgamation of the proposed *VPPF* and the existing *PPF* makes no reference to 'very' or 'placement' in its name.
- 2.2.6 Mindful of Industry's desire to retain the *VPF* brand in Jersey's *private fund* space, Part G. 3 of the *JPF Guide* provides that where in relation to a *JPF* there are to be 15 or fewer offers and professional and/or *eligible investors*, Industry may continue to refer to such arrangement as a 'very private' *JPF*.

### 2.3 Question 2 - paragraph 2.1.12 of the *CP*

**Do you have any observations or concerns regarding the proposal to publish the *VPPF Guide*? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.3.1 The feedback was largely supportive of the *Commission* publishing the *VPPF Guide*, commenting that it has been "an unpublished policy for too long". Another law firm

commented that if the *Commission* wishes to set new requirements and criteria for very private vehicles, they should be published.

- 2.3.2 One fund administrator proposed that the publication of the *VPPF Guide* would assist in competing with Cayman where there are similar arrangements in place.
- 2.3.3 One private bank commented that the objective is to 'rationalise' Jersey's funds regime but the *VPPF Guide* seems to be simply adding to it by applying *PPF*-like conditions to the Very Private Fund 'product'.
- 2.3.4 Another law firm commented that the draft *VPPF Guide* marks a material shift in the current understanding of what has previously been considered to not even be funds but "very private arrangements" through the application of a "scratch and sniff" test to determine whether an arrangement has fund qualities or not. The same law firm stated that the flexibility of the very *private fund* regime must be maintained and care must be taken to ensure that very private arrangements that are not investment funds are not inadvertently caught by the *VPPF Guide* and questioned where do very private arrangements that are not funds, JPUTs or joint ventures now sit?

**Government and Commission response:**

- 2.3.5 *Government* and the *Commission* welcomes the support from respondents to publish a new *private fund* Guide which, for the reasons set out under paragraph 1.3 of this *Feedback Paper* (some of which are repeated under paragraph 2.3 above) will now be in the form of the Jersey Private Fund (*JPF*) Guide.
- 2.3.6 The *Government* and the *Commission* considers that publication of a codified set of clear and transparent guidelines for Jersey's new single *private fund* product in the form of the *JPF Guide* will create certainty and consistency for Jersey's funds industry and will ensure that Jersey's *private fund* space/share of the market remains competitive.
- 2.3.7 Part B of the *JPF Guide* (Scope) expressly provides that "it is not intended that holding companies or joint venture arrangements will fall within the definition of a *JPF* or be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*. Equally, a special purpose/securitisation investment scheme issuing "securities" (as defined in the Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000 (Restriction Order)) and which has either (i) received a *relevant consent* from *Registry* and which meets all of the other requirements of Article 2 of the Restriction Order; or (ii) does not require a consent to be issued under *COBO* in respect of those securities, will not be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*."
- 2.3.8 Part B of the *JPF Guide* further provides that "provided that the criteria and relevant definitions outlined in Annex B of the *JPF Guide* are met, arrangements between persons who are connected to each other by way of a "family connection" or incentive arrangements between persons who are connected to each other by way of an "employment connection" will not be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*."
- 2.3.9 In line with what was proposed under paragraph 2.1.3 of the *CP*, from the *Effective Date*, all applications for a *relevant consent* by a structure/arrangement which is not an investment fund (Non-Fund) will be dealt with by *Registry* with no reference to the *FSB/TCB Authorisation Team*. On this basis as referred to under paragraph 1.4.1.5 of this *Feedback Paper*, two new *Registry Forms* known as the *Jersey UT1 (Non-Fund) Form* and the *NDS1 (Non-Fund) Form* will be published for use by *Jersey UT (Non-Fund)'s* and *NDS (Non-Fund)'s* requiring a *relevant consent* to be issued.

Like the other *Registry Forms*, the *Jersey UT1 (Non-Fund) Form* and the *NDS1 (Non-Fund) Form* must be filed directly with the *Registry* in order for the *relevant consent* to be issued. However, unlike the other *Registry Forms* the *Jersey UT1 (Non-Fund) Form* and the *NDS1 (Non-Fund) Form* will not require the disclosure of any beneficial owner/controller information (contrary to what was originally proposed under paragraph 2.1.4 of the *CP*). Instead reliance is placed on the local registered *TCB* to ensure that all data and information submitted to the *Commission* in the relevant form is gathered in accordance with the requirements set out in the *MLO* referring to guidance in the *AML/CFT Handbook*. The publication of the *Jersey UT1 (Non-Fund) Form* and the *NDS1 (Non-Fund) Form* by *Registry* will see an end to applications for a *relevant consent* being submitted to the *FSB/TCB Authorisation Team* from Jersey unit trust and non-domiciled structures which are not investment funds.

## 2.4 Question 3 - paragraph 2.1.13 of the *CP*

**Do you believe that there are any issues concerning the information or confirmations that must be given under the *VPPF Form*? If so, please explain why.**

- 2.4.1 Several respondents remarked that as the form had not been circulated in draft form that they could not comment definitely on this question with some of the respondents saying that further consultation on the form should take place.
- 2.4.2 One law firm commented that the scope and meaning of the *DSP*'s responsibilities needed to be clarified and suggested that it would be better to set out an express description of the minimum oversight and compliance responsibilities of the *DSP* in the Guide in a specific section which addresses their role rather than leaving their role to be derived by reference to confirmations they are required to sign up to in the form.
- 2.4.3 The same law firm said that it had concerns about the form being signed by the *DSP* and the form including confirmations that the *DSP* is effectively putting its name to that (a) all investors will be "*professional investors*" or "*eligible investors*" and (b) the number of offers for subscription and number of investors shall not exceed 15. This law firm questioned whether the *DSP* is required to verify to some degree the status of investors and cannot accept at face value the representations made by investors when signing the subscription forms where they will state that they qualify as *professional/eligible investors*?
- 2.4.4 Regarding the requirement for the *DSP* to confirm "all necessary due diligence on all parties to the *VPPF* prior to its launch date and, on an ongoing basis, to ensure compliance with all necessary due diligence and Jersey *AML/CFT* requirements applicable to the *VPPF*, the same law firm asked "what is all necessary due diligence" and "who are all parties to the *VPPF*? Does this include a promoter entity which does not in fact act as a service provider to the *private fund*? Does it include investors in the fund?". The same law firm commented that the requirement seemed to impose an ongoing duty to carry out "all necessary due diligence" as well as *AML/CFT* compliance only to the *DSP* and not to any other service provider and questioned whether this meant that there is a requirement for the fund governance body to delegate *AML/CFT* compliance only to the *DSP* and not to any other service provider?

- 2.4.5 Another law firm assumed that the *Commission* will not require the *DSP* or the governing body of the fund to (i) obtain *Commission* consent to changes to any of the information supplied in the application form; or (ii) notify the *Commission* of any changes to the information supplied in the application form except for notifying changes to the Jersey based service providers (including the *DSP*) and the *DSP* making the annual confirmation that the information in the form is still true and accurate but said that it would be better if this was explicitly stated.
- 2.4.6 Another law firm queried why details of the auditor would need to be provided, saying the naming of the *DSP* should be sufficient.

**Government and Commission response:**

- 2.4.7 The *Commission* does not ordinarily consult on its regulatory forms. Whilst the *JPF Form* has not gone out for wider public consultation, the *Smaller Working Group* and the *JFA Committee* have reviewed the *JPF Form* together with the other *JPF Documents*.
- 2.4.8 Part G of the *JPF Guide* (Designated Service Provider) expressly states that the duties and responsibilities of the *DSP* do not replace the duties and responsibilities of the governing body of the relevant *JPF* for all aspects of the *JPF* (including marketing and capital raising) and, for the avoidance of doubt, specifically sets out what duties the *DSP* must assume responsibility for in relation to the relevant *JPF*.
- 2.4.9 It must be understood that the quid pro quo for the *JPF* regime's enhanced flexibility is a requirement for broader *DSP* due diligence in relation to a *JPF* than a *PPF*. Part G. 6. ii. of the *JPF Guide* expressly provides that the *DSP* is responsible for "ensuring that all necessary due diligence on the *JPF* and its promoter is carried out and ensuring that the promoter of the *JPF* has put in place appropriate measures to ensure that all service providers to the *JPF* are fit and proper and can fulfil the tasks in a responsible, professional and suitable manner".
- 2.4.10 The requirement on the *DSP* to undertake "all necessary due diligence on the *JPF* and its promoter" at the outset and on a continuing basis is the cornerstone concept of the *JPF* regime. The wording is drafted intentionally wide as too prescriptive wording may result in the *DSP* doing the bare minimum of what is required and thereby causing it to fail in the exercise of an appropriate judgement call in the relevant circumstances. The *DSP* must carry out its duties with reference to the *JPF Guide*, Jersey's *AML/CFT* legislation and related notices and guidance, the *AML/CFT Handbook* for regulated financial services business (*AML/CFT Handbook*) and in particular the Funds and Fund Operators Section of the *AML/CFT Handbook*. For the avoidance of any doubt, "all necessary due diligence on the *JPF* and its promoter" will require an appropriate and proportionate level of due diligence to be undertaken by the *DSP* on the directors and other principal persons and key persons of the *JPF* and its promoter. The *DSP* will also need to make all reasonable enquiries to ensure that the *JPF* will meet the eligibility criteria referred to under Part. D of the *JPF Guide*, including that the service provider approving and processing the applications to invest in the *JPF* (which may or may not be the *DSP* itself) has appropriate policies and procedures in place in order to verify, to a reasonable degree, that all investors will be "*professional investors*" or "*eligible investors*" and the number of offers for subscription and number of investors will not exceed 50 (or 15 in the case of a 'very private' *JPF*).
- 2.4.11 Part G. of the *JPF Guide* provides that "there shall be no change in the *DSP* without the prior approval of an officer of the *Commission*." Please note that in the event of a change of *DSP*, the *Commission's FSB/TCB Authorisation Team* will require the



- incoming *DSP* to provide it with a written declaration in substantially the same form as the original declaration received from the outgoing *DSP* in the *JPF Form*.
- 2.4.12 Besides the prior approval provision in respect of any change in the *DSP*, there is no requirement to obtain the prior approval of the *Commission* to any other material change to the *JPF* provided the change is in accordance with the *JPF Guide*. Part G. 6.vi of the *JPF Guide* set out the requirements on the *DSP*, acting on behalf of the relevant *JPF* to notify the *Commission* in writing, using the *JPF Notice of Change or Event* as soon as reasonably practicable, and for the avoidance of doubt within 28 days', in the event of any:
- 2.4.12.1 material change in relation to the *JPF* which would impact the accuracy of the information provided to the *Commission* in the *JPF Form* (including the termination of the *JPF* (under any circumstances) or any change to the *JPF*'s Jersey service provider(s) other than the *DSP* (on the basis that there shall be no change in the *DSP* without the prior approval of an officer of the *Commission*));
  - 2.4.12.2 non-compliance with the *JPF*'s Jersey AML/CFT obligations (noting that the requirement for reporting/notice to be given in such circumstances may be a statutory requirement pursuant to other laws and regulations);
  - 2.4.12.3 material/unresolved complaint(s) made in relation to the *JPF*; or
  - 2.4.12.4 qualified audit of the *JPF*'s annual accounts and financial statements (where the *JPF* has appointed an auditor) except in the circumstances when adopting modified GAAP.
- 2.4.13 Part C of the *JPF Guide* provides that a "*JPF* is not required to appoint an auditor but may do so". Where the *JPF* does appoint a Jersey auditor, the name of the auditor is required to be disclosed under paragraph 3.2 of the *JPF Form* (along with the name of any other Jersey service provider to the *JPF* (other than the *DSP*).

## 2.5 Question 4 - paragraph 2.1.14 of the *CP*

**Do you agree that the *VPPF Guide* should apply to existing *VPFs* that require an amendment or variation to its *relevant consent*? If not, please explain in full why.**

- 2.5.1 Over half of the respondents did not agree to the proposal principally due to the additional costs of forcing the transition from *VPF* to *VPPF* with limited perceived benefit to existing *VPF* investors.
- 2.5.2 One law firm suggested that it might not be in the fund's best interest to be authorised under the *VPPF Guide* as the *VPPF* may not have been structured in such a way as to meet the *VPPF* criteria. Likewise, another respondent commented that it would be inappropriate to force a *VPPF* to have to make structural changes in order to comply with the conditions of the *VPPF Guide* – for example appoint a Jersey licensed entity under *FSJL* to act as the *DSP*.
- 2.5.3 One law firm said that it had concerns with the potential practicality of this requirement, for example, would existing *VPF* investors be required to sign the *VPPF* investment warning and urged for clarity to be given as soon as possible to confirm the *VPPF Guide* will not apply to existing *VPFs* unless particular circumstances arise, or the promoter "opts in" to the *VPPF* regime and makes an application for the same.

- 2.5.4 Another law firm commented that to date, there are many holding vehicles or joint venture vehicles which are not investment funds but which have been issued with the standard “15 or Fewer” *relevant consent* and questioned where such a vehicle does have a “15 or Fewer” restriction in its *relevant consent*, should future requests for variation go to the *FSB/TCB Authorisation Team* in the first instance or should the legal advisers reassess at the point of requesting a variation whether the vehicle is a fund, and if it isn’t approach *Registry* for a revised *relevant consent*?

**Government and Commission response:**

- 2.5.5 On the basis of the above, the *JPF Guide* will not, by default, apply to any existing *VPF* that applies to the *Commission* for an amendment or variation.
- 2.5.6 Part J of the *JPF Guide* (Transitional provisions and conversion) specifically provides that “existing *VPFs*, *PPFs* and *COBO Only Funds* may continue in operation until the end of their life or, alternatively they (through their *DSP*) may apply to the *Commission* to convert into a *JPF* by completing and submitting a *JPF Form* with the corresponding application fee in the amount prescribed in the *COBO Fees Notice*. Should an existing *VPF*, *PPF* or *COBO Only Fund* wish to convert into a *JPF* and be subject to the requirements of the *JPF Guide*, it must meet all of the eligibility criteria for a *JPF* set out under Part D. of the *JPF Guide*.”
- 2.5.7 With reference to the updated *Indicative Application Timescales* (attached as Appendix H to this *Feedback Paper*), any request from an existing *VPF* to amend its *relevant consent* will be dealt with by the *FSB/TCB Authorisation Team* as a ‘Maintenance Task’ which may take up to 10 working days’ unless the *VPF* applies to the *Commission* to convert into a *JPF* by completing and submitting a *JPF Form* with the corresponding application fee in the amount prescribed in the *COBO Fees Notice*.
- 2.5.8 Where, for example, a holding vehicle or joint venture vehicle has been issued with a standard “15 or Fewer” *relevant consent* but is at the point of requesting a variation to its *relevant consent* not considered to be a *private fund* (on the basis that it is incapable of meeting the eligibility criteria for a *JPF* set out under Part D of the *JPF Guide*), the application to amend the *relevant consent* should be addressed to *Registry* (by use of the appropriate *Registry Form* (which may include the new *Jersey UT1* or *NDS1 (Non-Fund) Forms*).

## 2.6 Question 5 - paragraph 2.2.5 of the CP

**Does the *VPPF Guide* make it sufficiently clear that a *VPPF* must meet the meaning of a ‘collective investment fund’ as set in Article 3 of the *CIFJL* including that an offer to invest in a *VPPF* must be addressed exclusively to a restricted circle of persons which must be 15 or fewer investors? If you do not think it does, please state why.**

- 2.6.1 The majority of respondents were not in favour of shackling the definition of a *private fund* to the statutory definition of a *CIF* under Article 3 of the *CIFJL* saying that it was unhelpful and confusing.
- 2.6.2 One law firm said that it would be better to just set out a simple statement that a *private fund* is a “collective investment arrangement involving the pooling of capital raised for the fund and which operates on the principle of risk spreading.”

- 2.6.3 One of the law firm respondents commented that it would be helpful to list the various arrangements that would be considered to be out of scope of the *VPPF Guide* in order to give certainty and that these out of scope arrangements should include not only family connections and employee connections, but JPUTs and joint ventures also.
- 2.6.4 A small proportion of the respondents felt that the risk spreading requirement was problematic for a *VPPF* on the basis that it could potentially close the *VPPF* off to single asset “club” deals. There was also concern that the term “risk spreading” is vague and undefined.

**Government and Commission response:**

- 2.6.5 On the basis of the above feedback, Part A of the *JPF Guide* (Basic definition) provides that “A *JPF* is a private investment fund involving the pooling of capital raised for the fund and which operates on the principle of risk spreading.”
- 2.6.6 Part A of the *JPF Guide* now specifically provides that “A *JPF* shall not be a collective investment fund (*CIF*) within the meaning of the Collective Investment Funds (Jersey) Law 1988, as amended (*CIFJL*)”. On this basis, any offer for subscription, sale or exchange of units of a *JPF* must be addressed exclusively to a “restricted circle of persons” (within the meaning of Article 3 of the *CIFJL*) so as to ensure that the offer does not in any way constitute an “offer to the public” within the meaning of Article 3 of the *CIFJL*.
- 2.6.7 Given the basic definition of a *JPF* and the eligibility criteria for a *JPF* provided for under Part. A and Part D. of the *JPF Guide*, the *Commission* would not ordinarily expect an existing *CIF* which has been granted a *CIF* certificate pursuant to the *CIFJL* to make an application to the *Commission* to convert to a *JPF* (see Part J of the *JPF Guide* (Transitional provisions and conversion)).
- 2.6.8 In terms of what is meant by “risk spreading”, the proposal to issue a guidance note on what is and what is not risk spreading was considered by the *Smaller Working Group* and, after significant deliberation, considered by it to be impractical.

## 2.7 Question 6 - paragraph 2.3.7 of the *CP*

**Do you foresee any issues in allowing a *VPPF* to take any of the forms described in Part D of the *VPPF Guide* (i.e. a company, partnership or unit trust incorporated or established either in Jersey or in a country or territory outside of Jersey)? If so, please explain what they are.**

- 2.7.1 The feedback from the respondents on this question was largely supportive of the forms described in the *VPPF Guide*.
- 2.7.2 One law firm commented that the *VPPF Guide* omitted to refer to general partnerships as an approved form of a *VPPF*.
- 2.7.3 Another law firm commented that the *PIRS Orders* would need updating so that LLPs could rely on such an exemption going forward.
- 2.7.4 A private bank queried what enforcement options are available to the *Commission* over non-domiciled *VPPFs* and noted that a non-domiciled *VPPF* coupled with a non-Jersey board potentially increases the risk for the *DSP* who may well turn away business opportunities because of that perceived enhanced risk.

**Government and Commission response:**

- 2.7.5 *Government* and the *Commission* have considered the feedback received. We do not agree that a general partnership should be included as one of the forms by which a *private fund* may be structured on the basis that general partnerships do not receive a *relevant consent* under *COBO*. On this basis the Part C of the *JPF Guide* (Structure) does not include general partnerships as a permissible form under which to structure a *JPF*.
- 2.7.6 In relation to the feedback given in relation to extending the *PIRS Orders* to LLPs, whilst this response does not specifically answer the specific question raised, from a policy perspective, we see no reason why LLPs cannot be listed in the *PIRS Orders* and we shall look to make this amendment in Phase II of the Funds Review Project.
- 2.7.7 Part A of the *JPF Guide* (Basic definition) provides that “A *JPF* may be established in Jersey or in a country or territory outside of Jersey which requires a *relevant consent* to be issued.” It has been accepted practice in our *private fund* space to permit non-Jersey domiciled structures and in order to remain competitive in the market the *Government* and the *Commission* understand that it is important to remain as flexible as possible on this point. It would not be in the Island’s best interests, going forwards, to prevent a *JPF* from being established outside of Jersey. In terms of the perceived enhanced risk with a non-domiciled structure, *Government* and the *Commission* would expect any enhanced risk(s) to be managed appropriately by the relevant *DSP* and any other Jersey service provider(s).

## 2.8 Question 7 - paragraph 2.3.8 of the *CP*

**Do you foresee any issues with not requiring a Jersey general partner, managing partner or trustee to be appointed to a *VPPF* which is established as one or more limited partnerships, a limited liability partnership or as a unit trust? If so, please explain your concerns in full.**

- 2.8.1 The feedback was largely supportive of the proposed position not to make it a requirement of the *VPPF Guide* that a Jersey general partner, managing partner or trustee be appointed to a *VPPF* which is established as one or more limited partnerships, a limited liability partnership or as a unit trust. Respondents thought that the proposed position ensured that *VPPFs* remain flexible in their structuring and in line with competitor products.
- 2.8.2 One law firm remarked that where a *VPPF* is a non-Jersey partnership or unit trust with a non-Jersey general partner, managing partner or trustee, there are no offers being made in Jersey and the only link to Jersey is a Jersey based *DSP* who is providing certain services (such as keeping a register or managing bank accounts), the *VPPF Guide* may end up catching vehicles which have almost no nexus with Jersey and questioned whether this was too broad in scope?

**Government and Commission response:**

- 2.8.3 In order to ensure the “optimal flexibility” of the *JPF* regime and owing to the hardwired requirement for a Jersey *DSP*, *Government* and the *Commission* do not propose to alter the proposed policy although of course there is nothing to prevent a Jersey general partner, managing partner or trustee from being appointed to the relevant *JPF*.

- 2.8.4 On this basis, Part C. of the *JPF Guide* (Structure) provides that it will not be necessary for a *JPF* to appoint a Jersey general partner, managing partner or trustee which is established as one or more limited partnerships, a limited liability partnership or as a unit trust.

## 2.9 Question 8 - paragraph 2.3.9 of the CP

**Do you foresee any issues with not requiring a *VPPF* to appoint one or more Jersey resident directors to its governing body? If so, please explain your concerns in full.**

- 2.9.1 A large proportion of the respondents did not express any concerns about not requiring Jersey resident directors to be appointed to the fund's governing body.
- 2.9.2 One respondent did however argue that the requirement to appoint Jersey resident directors to a *VPPF* ensured an appropriate level of regulatory oversight locally and a lack of Jersey resident directors appointed to a *VPPF* may result in it being more difficult to substantiate Jersey tax residence.
- 2.9.3 This same respondent also argued that the requirement to have at least one Jersey resident director would encourage further development and professionalization of the Jersey NED community.

### **Government and Commission response:**

- 2.9.4 For the reasons set out above, the *Government* and the *Commission* are in agreement that it would be beneficial to have Jersey resident directors but in order to retain the full flexibility of the *JPF* product do not wish to mandate this requirement in the *JPF Guide* recognising that the appointment of the board of directors to the governing body of the *JPF* (which may not be a Jersey entity itself) is ultimately a commercial decision for the promoter of the *JPF*.
- 2.9.5 On this basis, Part C of the *JPF Guide* (Structure) provides that "Whilst there is no explicit requirement for the mind and management of a *JPF* (including a non-Jersey domiciled *JPF*) to be in Jersey, the *Commission* would ordinarily expect, in the majority of cases, for one or more Jersey resident directors to be appointed to the board of a *JPF*'s governing body." There are a number of possible reasons for a *JPF* to choose to appoint Jersey resident directors on its board, such as real presence and substance requirements, *AIFMD*, *DSP* requirements or preferences, tax reasons (OECD, BEPS, establishing a Jersey nexus), future EU Directives such as *MiFID* and general good governance practices.

## 2.10 Question 9 - paragraph 2.3.10 of the CP

**Considering the *VPPF* criteria, as summarised in Part E of the *VPPF Guide*, do you believe it to be reasonable for a *VPPF* to have to meet this criteria? If not, please explain why.**

- 2.10.1 One law firm commented that without clarity, there will be confusion as to whether or not certain vehicles that were historically treated as "very private arrangements" will now be caught by the *VPPF Guide* (e.g. joint ventures).
- 2.10.2 A small group of respondents had strong concerns about the footnote in the *VPPF Guide* which suggested that 12 months after the *VPPF Guide*, the *Commission* shall

review the need to appoint an auditor to the *VPPF* not least due to the cost implications with one respondent saying that it would put us at a disadvantage with other jurisdictions and simply the potential for this to happen may dissuade promoters from using the product.

- 2.10.3 Another administrator thought that Part E. 2 of the draft *VPPF Guide* which provided that “No *retail investors* are permitted to invest in a *VPPF* except in the circumstances where paragraphs 3. or 5. of Annexure A of this Guide apply” contradicted Part G.7 which provided that “In accordance with paragraph 5 of Annexure A of this Guide, a *professional investor* may acquire an interest in a *VPPF* directly for an on behalf of one or more *retail investors* ....”.
- 2.10.4 One law firm thought that it would make the Jersey *VPPF* more competitive and flexible if there was a limit on the number of investors only as opposed to a limit on the number of offers and investors.
- 2.10.5 Approximately half the responses thought that it would enhance business if the number of offers and investors in a *VPPF* increased from 15 to, say, 20 or 30 or even 50.
- 2.10.6 One law firm commented that the term “offer” may be widely interpreted and extend to red herring documents and that the footnote in the *VPPF Guide* suggesting that *AIFMD* would be the only reason why a *VPPF* may have a private placement memorandum or offering document should be amended.
- 2.10.7 Another law firm suggested that *VPPFs* are not currently subject to the Sound Business Practice Policy so this is an increased obligation for these types of structures.

**Government and Commission response:**

- 2.10.8 Part B of the *JPF Guide* (Scope) expressly provides that “It is not intended that holding companies or joint venture arrangements will fall within the definition of a *JPF* or be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*.”
- 2.10.9 There is now no reference in the *JPF Guide* to the *Commission* reviewing or consulting at some point in the future on introducing a requirement for a *JPF* to appoint an auditor. We note that this is not current policy for existing *VPFs* and may be too heavy a burden for some *JPFs*. However we would also note that, as we understand it, there are in fact many *VPFs* that exist now that do have their accounts audited each year due to the professional nature of the investors investing in those funds and it is necessary for the *Commission* to retain the power to re-visit this point at some point in the future should circumstances dictate.
- 2.10.10 Part D. of the *JPF Guide* (Eligibility criteria) sets out the criteria for a *JPF* and paragraph D.4 provides that “No *retail investors* are permitted to invest (directly or indirectly) in a *JPF* (except in the circumstances where paragraphs 3. or 5. of Annex A of the *JPF Guide* apply) which clarifies when *retail investors* may invest in a *JPF*. To be clear, as a general rule, *retail investors* are not permitted to invest directly in a *JPF*. However, there are certain situations which are set out in paragraph 3 of the *Professional Investor Definition* found at Annex A of the *JPF Guide* where it would be permissible for a non-*professional investor* to hold an interest in a *JPF*. It is anticipated that these are not circumstances where such an investor is making an “investment” choice, but rather in a service provider capacity or to facilitate an involuntary transfer.
- 2.10.11 The *Government* and the *Commission’s* response to Industry feedback to the *CP* has resulted in the imposition of a ‘50 or Fewer Test’ for the *JPF* product as opposed to

a '15 or Fewer Test'. On that basis, Part A of the *JPF Guide* (Basic definition) provides that "the number of offers of units for subscription, sale or exchange shall not exceed 50 and the number of investors shall not exceed 50." Unlike the number of investors, which is a regulatory requirement, the number of offers is a legal requirement pursuant to the *CIFJL* and *COBO*. There was no intention to amend Article 3 of *CIFJL* in Phase I of the Funds Review Project; rather, the intention was to codify and simplify existing practice for Jersey's *VPF* regime. For this reason, the limit on the number of offers made will not be uncoupled from the regulatory requirement for there to be a limit on the number of investors in this Phase I. Phase II of the Funds Review Project may afford an opportunity to re-visit this issue.

- 2.10.12 Paragraph iv. of Part D of the *JPF Guide* (Eligibility criteria) provides that "A *JPF* is not required to have a private placement memorandum or an offer document, but may do so, provided that such document contains all of the material information which investors and their professional advisers (if any) would reasonably require, and would reasonably expect to find and to have brought fairly to their attention for the purpose of making an informed judgement about:
- 2.10.12.1 the merits of purchasing units in the *JPF*; and
  - 2.10.12.2 the nature and levels of the risks accepted by making such a purchase."
- 2.10.13 The *Commission's* Sound Business Policy applies in all circumstance where a *relevant consent* is sought and, for the avoidance of any doubt, applies to all existing *VPFs*. The *Commission* is committed to clarifying the position for Industry through the issue of FAQs etc. in due course.

## 2.11 Question 10 - paragraph 2.4.2 of the *CP*

**Do you agree that investors looking to invest in a *VPPF* should receive and acknowledge an investment warning before they can invest? If not, please explain the rationale behind your answer.**

- 2.11.1 The respondents were largely in support of the requirement for an investment warning with one law firm commenting that the vast majority of existing *VPFs* are *PIRS* and investors already acknowledge an investor warning so it saw no issue with asking investors to receive and acknowledge an investor warning before they invest in this product.
- 2.11.2 One law firm queried whether each investor in a feeder fund needed to acknowledge receipt of the investment warning.
- 2.11.3 Another law firm thought that the investment warning in the *VPPF Guide* and the *PIRS Orders* should be one and the same or at least able to easily co-exist in one document.

### **Government and Commission response:**

- 2.11.4 Based on the feedback received, investors looking to invest in a *JPF* will be required to receive and acknowledge the investment warning and the newly inserted disclosure statement (which includes a responsibility statement from the governing body of the *JPF*) as set out under Part E. of the *JPF Guide* (Investment warning and disclosure statement) before they can invest.

- 2.11.5 It will not be necessary for each underlying investor in a feeder fund to also receive and acknowledge an investment warning in order to invest in a *JPF* on the basis that the language in the investment warning itself ensures that the feeder fund is satisfied that the investment is suitable for the relevant underlying investors.
- 2.11.6 It is expected that the investment warning and the disclosure statement will be included in the same place as per the *PIRS Orders* disclosure (which Industry has to date found a home for where there is no offer document). This could be contained within an offer document or memorandum (if any), a deed of adherence or subscription agreement. The investment warning and disclosure language need not be replicated exactly (so long as it appears in substantially the same terms).
- 2.11.7 The *Government* and the *Commission* agree that it would be useful for the *JPF Guide* and the *PIRS Orders* to be synchronised in terms of the investment warning. In Phase II of the Funds Review Project, *Government* and the *Commission* will look to amend the *PIRS Orders* so that the investment warning in the *PIRS Orders* is consistent with the investment warning in the *JPF Guide*.

## 2.12 Question 11 - paragraph 2.4.3 of the *CP*

**Do you consider the investment warning itself to be appropriate and reasonable? If not, please explain why.**

- 2.12.1 Respondents to the consultation paper overwhelmingly supported the investment warning itself.
- 2.12.2 One law firm commented on how the investment warning is in a form similar to the *Expert Fund Guide* but didn't include the statement "Requirements which may be deemed necessary for the protection of *retail investors* or non-professional/*eligible investors*, do not apply to the fund" and commented further on the investment warning appearing quite lengthy and having the look and feel of a more regulated product.
- 2.12.3 One fund administrator queried whether the investment warning would be signed by a *professional investor* on behalf of *retail investors* and commented on the assumption that those *retail investors* would presumably have recourse against the *professional investor* signing the investment warning rather than the *VPPF* itself.

### **Government and Commission response:**

- 2.12.4 The prescribed investment warning set out under Part E of the *JPF Guide* (Investment warning and disclosure statement) is closely modelled on the warning in the existing *PPF Guide* and includes the following statement: "Requirements which may be deemed necessary for the protection of retail or non-professional/*eligible investors*, do not apply to the [Fund]."
- 2.12.5 The *JPF* investment warning is, in the view of both *Government* and the *Commission*, entirely reasonable for the *JPF* product which is a more regulated product than the existing *VPF*. It is common practice for *professional investors* to be required to sign such warnings.
- 2.12.6 *Professional investors* will be required to sign the warning where they invest, directly or indirectly, for or on behalf of a *retail investor* and by doing so the *Commission* expects (as is explicitly stated in the warning) that *professional investor* to be satisfied that the investment is suitable for the underlying *retail investors*.



The *professional investor* will be required to acknowledge in writing that it has received the investment warning and therefore is aware of the *Commission's* expectations with respect to investing on behalf of underlying investors. As to any recourse those underlying investors may have to the relevant *professional investor*, this is not within the scope of this *Feedback Paper*.

## 2.13 Question 12 - paragraph 2.5.5 of the CP

**Do you agree with the proposed rules and exceptions around the 15 or Fewer Test which are set out under Part G of the VPPF Guide? If not, please explain your reasons why.**

- 2.13.1 The majority of respondents felt that setting out rules concerning how to calculate 15 or fewer offers and investors was helpful.
- 2.13.2 However a number of respondents suggested that the number 15 should be increased with one fund administrator saying that it believed the current threshold of 15 could potentially leave Jersey at a distinct competitive disadvantage in terms of our competitors.
- 2.13.3 One law firm expressed concerns that the product would not necessarily be suitable for open-ended hedge funds where investors may redeem and potential new investors admitted.
- 2.13.4 One respondent commented that paragraphs 1 to 3 should be made clear that the number of investors in the relevant fund at any one time must not exceed 15, that paragraph 5 should include additional wording to make clear that the carried interest vehicle could also be established for the sole purpose of sharing in the profits of any other vehicle promoted or advised by the promoter of the VPF, and finally, paragraph 6 should also include GPs of ILPs and SLPs and managing partners of LLPs.
- 2.13.5 The same respondent also thought that there needed to be clarification that where there is a Feeder Fund through which *professional* or *eligible investors* invest, each of the *professional* or *eligible investors* in the Feeder Fund will be counted for the purposes of the '15 or Fewer Test' but that the Feeder Fund itself does not need to be counted as an investor in these circumstances.
- 2.13.6 Another law firm commented that paragraph 6 of the '15 or Fewer Test' should be clarified as to whether a GP would still not be considered as an "investor" if the GP commits capital to the partnership for the purposes of carried interest and/or co-investment.

### **Government and Commission response:**

- 2.13.7 The *Government* and the *Commission's* response to Industry feedback to the CP has resulted in the imposition of a 50 or Fewer Test for the JPF product as opposed to a 15 or Fewer Test. On that basis, Part A of the JPF Guide (Basic definition) provides that "the number of offers of units for subscription, sale or exchange shall not exceed 50 and the number of investors shall not exceed 50."
- 2.13.8 Any offer for subscription, sale or exchange of units of a JPF must be addressed exclusively to a "restricted circle of persons" so as to ensure that the offer does not in any way constitute an "offer to the public" within the meaning of Article 3 of the CIFLL. On this basis, whilst a JPF may be open-ended owing to the requirement for a "restricted circle of persons" it is unlikely that the JPF product would be a suitable product for an open-ended hedge fund structure.

- 2.13.9 Paragraphs 1 and 3 of Part F of the *JPF Guide* provide that the number of investors in the relevant *JPF* at any one time must not exceed 50.
- 2.13.10 Part F of the *JPF Guide* (Test for number of offers/investors) provides under paragraph 5 that “A carried interest vehicle which is established for the sole purpose of sharing in the profits of a *JPF* or any other vehicle promoted or advised by the promoter of the *JPF* shall not be counted as an investor. This is on the basis that generally, the principal purpose of a carry vehicle is to incentivise the relevant fund’s management and/or advisory team. Each participant of the carried interest vehicle must be a “professional” or an “eligible” investor as such terms are defined in the *JPF Guide*”.
- 2.13.11 Part F. 6 of the *JPF Guide* provides that “A general partner of *JPF* which is established as a form of limited partnership shall not be counted as an investor but shall be counted as an investor where that general partner commits capital to the limited partnership for the purposes of co-investment in that limited partnership. The same position shall apply to general partners of separate limited partnerships, general partners of incorporated limited partnerships and managing partners of limited liability partnerships”. The general partner committing capital to the *JPF* for the purpose of carried interest would not cause the general partner to be counted as an investor.
- 2.13.12 Part F. 9 of the *JPF Guide* provides that “Where there is a Feeder Fund which is not the type described in the above paragraph 8., through which *professional* or *eligible investors* invest, each *professional* or *eligible investor* in that Feeder Fund shall be counted for the purposes of the ‘50 or Fewer Test’ however the Feeder Fund itself shall not.”

## 2.14 Question 13 - paragraph 2.5.6 of the *CP*

**Do you believe that any other rules or exceptions around the 15 or Fewer Test should be included under Part G of the *VPPF Guide*? If so, please state the additional rule(s) or exception(s) clearly and give a full explanation as to why you think it should be included in the *VPPF Guide*.**

- 2.14.1 The majority of the respondents cross referenced the comments they made in Question 12, but overall did not have any further comments on this question.
- 2.14.2 One law firm thought that the concept of having a “certified sophisticated investor” category would be helpful on the basis that a similar concept exists in the UK whereby a qualified IFA certifies that they have considered the fund to be appropriate for a particular client.

### **Government and Commission response:**

- 2.14.3 Part F of the *JPF Guide* (Test for number of offers/investors) has been drafted taking into account the feedback to the *CP*.
- 2.14.4 In relation to the comment made concerning “certified sophisticated investors”, such investors are able to gain access to *JPFs* via discretionary investment managers.

## 2.15 Question 14 - paragraph 2.5.7 of the CP

Do you agree that *retail investors* should be able to invest indirectly in a *VPPF*? If not, please explain your reasons why.

- 2.15.1 A large majority of respondents felt that this approach was reasonable.
- 2.15.2 One respondent thought that by allowing *retail investors* to indirectly invest, it changes the look and feel of the product and that this places an additional level of risk for each *DSP* to consider.
- 2.15.3 Another respondent felt that although the *professional investor* through which the *retail investor* invests may be well regulated, this would not of itself prevent potential mis-selling and could result in reputational damage to Jersey.

### Government and Commission response:

- 2.15.4 The *DSP* is required to make all reasonable enquiry to ensure that the *JPF* meets all of the eligibility criteria referred to in Part D. of the *JPF Guide*. *Government* and the *Commission* would expect this to include ensuring that the service provider approving and processing the applications to invest in the *JPF* (which may or may not be the *DSP* itself) has appropriate policies and procedures in place in order to verify, to a reasonable degree, the status of the investors in the *JPF* and to satisfy itself that all investors will be “*professional investors*” or “*eligible investors*” (by reference, at all times to Part D of the *JPF Guide* (Eligibility criteria)).
- 2.15.5 To ensure the flexibility and competitiveness of the *JPF* product it was necessary to provide for the opportunity for *retail investors* to be invested in a *JPF* in the limited circumstances referred to under paragraphs 3 and 5 of Annex A of the *JPF Guide* (the “*Professional Investor Definition*”). Indeed, investment via a discretionary investment manager is not an uncommon occurrence and it was important to recognise this situation in the *JPF Guide* as well as the expectations on the discretionary manager in such a scenario.
- 2.15.6 Paragraph 3 of Annex A of the *JPF Guide* anticipates the situation where shares, interests and units in a *JPF* are created or issued for the purposes of the formation and structuring of the *JPF* or voting, management rights and entitlement to performance related fees or dividends as part of the management or advisory function of the *JPF*. In those situations, it is acknowledged that the person acquiring the shares, interests or units in the *JPF* may not be a *professional investor* or *eligible investor*. Paragraph 3 of Annex A of the *JPF Guide* also provides that the acquisition/transfer of any interest in a *JPF* “where the transfer has been involuntarily, such as on the death or bankruptcy of a registered holder...shall be permissible notwithstanding that the person acquiring the same is not a *professional/eligible investor*” provided that “once the administration is complete” the person who has acquired the interest satisfies the *professional/eligible investor* test under the *JPF Guide*.
- 2.15.7 Paragraph 5 of Annex A of the *JPF Guide* provides that “Any discretionary investment manager acquiring an interest in a *JPF*, directly or indirectly, for or on behalf of one or more persons who are not *professional investors* must be satisfied that such investment is suitable for the underlying investor, and that the underlying investors are able to bear the economic consequences of investment in the relevant *JPF*, including the possibility of the loss of their entire investment.” In such limited circumstances the entity making the decision to invest is the discretionary investment manager so in this sense, it is the investor.

- 2.15.8 Any instances of *retail investors* being exposed to a *JPF* outside of the specific circumstances provided for under paragraphs 3 and 5 of Annex A of the *JPF Guide* will be dealt with very seriously by the *Commission* and may result in regulatory action being taken by the *Commission* against the governing body of the *JPF* and its *DSP*.

## 2.16 Question 15 - paragraph 2.6.4 of the CP

**Do you foresee any issues in requiring a *VPPF* to appoint a *DSP*? If so, please explain your concerns.**

- 2.16.1 The general feedback from respondents was that the appointment of a *DSP* of itself was not a concern, however there were concerns about the precise role and responsibility of the *DSP* with one law firm saying that it should be made clear in the *VPPF Guide* that compliance with Guide is the responsibility of the *VPPF* itself and not the *DSP*.
- 2.16.2 Some respondents felt that the requirement for a *DSP* will lead to additional work owing to the increased regulatory responsibility on the *DSP* which, in turn, will increase costs to the clients and/or the *DSP*.
- 2.16.3 One respondent thought that the requirement on a *VPPF* to appoint a *DSP* was a major change to the existing *VPF* regime.
- 2.16.4 One law firm commented that it thought that it was important that entities with *TCB* licences only (i.e. no *FSB* licence) can act as the *DSP* to a *VPPF* even where the *VPPF* has multiple investors (i.e. more than two) and said that if this was not the case, it would be a significant change of regulation if only entities with *FSB* licences could act as *DSP* to *VPPFs*. In contrast, some respondents said that only those persons licensed to carry on fund services business should be permitted to act as *DSP*.
- 2.16.5 One law firm commented that the activities of a *DSP* in relation to a *VPPF* would arguably not constitute regulated business and queried the extent to which the *Commission* will monitor the activities of the *DSP* in relation to a *VPPF*?

### **Government and Commission response:**

- 2.16.6 Part G of the *JPF Guide* (Designated Service Provider) specifically sets out what duties the *DSP* must assume responsibility for in relation to the relevant *JPF* and expressly states that the duties and responsibilities of the *DSP* do not replace the duties and responsibilities of the governing body of the relevant *JPF* for all aspects of the *JPF*.
- 2.16.7 It must be understood that the quid pro quo for the *JPF* regime's enhanced flexibility is the requirement for a *DSP*. Requiring a *DSP* also facilitates the 48 hour fast-track *JPF* authorisation process.
- 2.16.8 Paragraphs 2 and 3 of Part G of the *JPF Guide* provide that "The *DSP* must be registered by the *Commission* under the Financial Services (Jersey) Law 1998 (*FSJL*) to carry on one or more of class V (Administrator), class U (Manager), class X (Investment Manager) or class ZG (Trustee) of Fund Services Business (*FSB*). Where however, in relation to a *JPF* there are to be 15 or fewer offers and professional and/or *eligible investors* (a 'very private' *JPF*), the duly appointed *DSP* does not have to be an *FSB* registered under the *FSJL* for class V, U, X or ZG and may instead be registered by the *Commission* to carry on any class of *FSB*, Trust Company Business (*TCB*) and/or Investment Business within the meaning of the *FSJL*." In order to

ensure the flexibility and the competitiveness of the new *JPF* product, it was important to continue to allow *TCBs* and *IBs* to provide services to ‘very private’ *JPFs*.

- 2.16.9 Paragraph 7 of Part G of the *JPF Guide* provides that “The *DSP* is required to comply with all relevant provisions of the *MLO* and *FSJL* and, the *Commission* may consider and take account of such conduct when assessing the “fit and proper” status of the *DSP* for the purposes of its *FSJL* licence”.
- 2.16.10 In addition to the requirement on the *DSP* to file the *JPF Notice of Change or Event* and the *JPF Return* the *Commission* will supervise and monitor *DSPs* activities going forwards by, for example, conducting themed visits on *DSPs*.

## 2.17 Question 16 - paragraph 2.6.5 of the *CP*

**Do you foresee any issues in requiring a *DSP* to sign the *VPPF Form*? If so, please explain what these issues are.**

- 2.17.1 Concern was expressed by a number of respondents regarding the confirmations to be provided by the *DSP* in the *VPPF Form*, particularly the due diligence requirement imposed on the *DSP* given that the *DSP* will have no control/ownership of the product. In contrast, one law firm responded by saying that on the basis the *DSP* will need to do due diligence before they complete the *VPPF Form*, in much the same way as the *PPF*, it could not foresee any issues.
- 2.17.2 Several of the respondents requested consultation in relation to the *VPPF Form* itself.
- 2.17.3 Another law firm remarked that any of the lawyers, fund or the *DSP* ought to be able to sign the *VPPF Form*.

### **Government and Commission response:**

- 2.17.4 Part G of the *JPF Guide* (Designated Service Provider) expressly states that the duties and responsibilities of the *DSP* do not replace the duties and responsibilities of the governing body of the relevant *JPF* for all aspects of the *JPF* (including marketing and capital raising) and, for the avoidance of doubt, specifically sets out what duties the *DSP* must assume responsibility for in relation to the relevant *JPF*.
- 2.17.5 Part G. 6. ii. of the *JPF Guide* expressly provides that the *DSP* is responsible for “ensuring that all necessary due diligence on the *JPF* and its promoter is carried out and ensuring that the promoter of the *JPF* has put in place appropriate measures to ensure that all service providers to the *JPF* are fit and proper and can fulfil the tasks in a responsible, professional and suitable manner”.
- 2.17.6 The requirement on the *DSP* to undertake “all necessary due diligence on the *JPF* and its promoter” at the outset and on a continuing basis is the cornerstone concept of the *JPF* regime. The wording is drafted intentionally widely as too prescriptive wording may result in the *DSP* doing the bare minimum of what is required and thereby causing it to fail in the exercise of an appropriate judgement call in the relevant circumstances. The *DSP* must carry out its duties with reference to the *JPF Guide*, Jersey’s *AML/CFT* legislation and related notices and guidance, the *AML/CFT Handbook* for regulated financial services business (*AML/CFT Handbook*) and in particular the Funds and Fund Operators Section of the *AML/CFT Handbook*. For the avoidance of any doubt, “all necessary due diligence on the *JPF* and its promoter” will require an appropriate and

proportionate level of due diligence to be undertaken by the *DSP* on the directors and other principal persons and key persons of the *JPF* and its promoter. The *DSP* will also need to make all reasonable enquiries to ensure that the *JPF* will meet the eligibility criteria referred to under Part. D of the *JPF Guide*, including that the service provider approving and processing the applications to invest in the *JPF* (which may or may not be the *DSP* itself) has appropriate policies and procedures in place in order to verify, to a reasonable degree, that all investors will be “professional investors” or “eligible investors” and the number of offers for subscription and number of investors will not exceed 50 (or 15 in the case of a ‘very private’ *JPF*).

- 2.17.7 The *Commission* does not ordinarily consult on its regulatory forms. Whilst the *JPF Form* has not gone out for wider public consultation, the *Working Group* and the *JFA Committee* have reviewed the *JPF Form* together with the other *JPF Documents*. All of the forms are available, in draft, as hyperlinks in the appendices to the *Feedback Paper* and will be published in final form a week in advance of the *Effective Date*.
- 2.17.8 The *JPF Form* expressly states that it should be “completed and submitted by the relevant *DSP* (or on behalf of the relevant *DSP*, signed by the relevant *DSP*) by email in readable pdf format to: fundauth@jerseyfsc.org”.

## 2.18 Question 17 - paragraph 2.6.6 of the *CP*

**Do you foresee any issues in requiring a *DSP* to file an annual confirmation or notify the *Commission* of the matters listed in paragraph 3 of Part H of the *VPPF Guide*? If so, please explain your concerns.**

- 2.18.1 One fund administrator commented that a *PPF* is not required to submit an annual declaration and it is not clear why this is being introduced in relation to *VPPFs* adding that the declaration should come from the *VPF* itself and be filed by the *DSP*.
- 2.18.2 Another fund administrator commented that annual confirmation of no changes seems reasonable but it would be helpful if this can be timed around the submission of the *FSB* returns. Other fund administrators were in agreement that the annual confirmation should be filed concurrent with the annual *FSB* declarations and not the annual anniversary of the *VPPF* as to do so would create an unwelcome burden for administrators.
- 2.18.3 One law firm asked “what will the *Commission* do if it receives a notification and asked at what point is the *relevant consent* required to be re-issued due to a material change in the original information?”
- 2.18.4 Another fund administrator observed that of the matters listed, there seems to be an over reliance on the *DSP* to report to the *Commission*, in particular on *AML/CFT* which is typically the responsibility of the governing body of the fund.
- 2.18.5 One law firm suggested that Part I of the *VPPF Guide (AML/CFT)* be amended to provide that “The *DSP* and, to the extent applicable, the managing entity of the *VPPF*, are required to comply with all relevant provisions of the Money Laundering (Jersey) Order 2008 with respect to the *VPPF* and for the avoidance of doubt, a *VPPF* is a specified Schedule 2 business for the purposes of the Money Laundering (Jersey) Order 2008.”

**Government and Commission response:**

- 2.18.6 Part G. 6.vi of the *JPF Guide* (Designated Service Provider) sets out the requirements on the *DSP*, acting on behalf of the relevant *JPF* to notify the *Commission* in writing, using the *JPF Notice of Change or Event* as soon as reasonably practicable, and for the avoidance of doubt within 28 days', in the event of any:
- 2.18.6.1 material change in relation to the *JPF* which would impact the accuracy of the information provided to the *Commission* in the *JPF Form* (including the termination of the *JPF* (under any circumstances) or any change to the *JPF's* Jersey service provider(s) other than the *DSP* (on the basis that there shall be no change in the *DSP* without the prior approval of an officer of the *Commission*)); or
  - 2.18.6.2 non-compliance with the *JPF's* Jersey AML/CFT obligations (noting that the requirement for reporting/notice to be given in such circumstances may be a statutory requirement pursuant to other laws and regulations);
  - 2.18.6.3 material/unresolved complaint(s) made in relation to the *JPF*; or
  - 2.18.6.4 qualified audit of the *JPF's* annual accounts and financial statements (where the *JPF* has appointed an auditor) except in the circumstances when adopting modified GAAP.
- 2.18.7 Both the *JPF Notice of Change or Event* and the *JPF Return* are required to be completed by every *DSP* appointed by a *JPF* in its capacity as *DSP* to the relevant *JPF*. It is by means of the *JPF Form*, the *JPF Notice of Change or Event* and the *JPF Return* that the *Commission* will be able to monitor and supervise the *JPF* space.
- 2.18.8 The *JPF Return* period is from 1 July to 30 June to conform with the period when the *JPF* annual fee is due and payable to the *Commission*. The process around the *FSB* annual compliance return is subject to review by the *Commission's* supervision team in the context of the *Commission's* wider supervisory approach.
- 2.18.9 The *Commission* will respond appropriately to the material change/event notified to it by the relevant *DSP* under the *JPF Notice of Change or Event*.
- 2.18.10 In terms of any requirement to issue the relevant *JPF* with a revised *relevant consent* to take account of the information provided in the *JPF Notice of Change or Event*, the *JPF Notice of Change or Event* contains the following paragraph in the declaration from the *DSP* acting in its capacity as *DSP* to the *JPF* "Acting in our capacity as *DSP* to the *JPF*, we hereby request on behalf of the *JPF* that any *relevant consent* to be issued to take account of any change/event notified to the *Commission* under this *JPF Notice of Change or Event* should (i) replace any previous *relevant consent* issued to the *JPF* pursuant to *COBO* and (ii) be issued with immediate effect."
- 2.18.11 There is no separate Part on AML/CFT in the *JPF Guide*. Part D of the *JPF Guide* (Eligibility Criteria) instead provides under paragraph 9 that "The *DSP* and, to the extent applicable, the governing body of the *JPF* are required to comply with all relevant provisions of the Money Laundering (Jersey) Order 2008 (MLO) and, for the avoidance of doubt, a *JPF* is a specified Schedule 2 business for the purposes of the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (to be read with reference to Article 13 (10) of the Money Laundering (Jersey) Order 2008 and the meaning of a non-public fund).

- 2.18.12 Please note that, as is the case for existing *VPFs*, a ‘very private’ *JPF* which has appointed a *DSP* which is registered solely for *IB* under the FS(J)L and is provided with no other service in Jersey by a person registered for *TCB* or *FSB* under the FS(J)L, is itself required to register with the *Commission* under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.
- 2.18.13 Likewise, and as is also the case for existing *VPFs*, a service provider (for this example, “SP1”) providing services to a *JPF* may rely on the *PIRS Orders* to exempt it from the requirement to register for *IB* and/or *TCB* under the FS(J)L, however, if SP1 is provided with services by a person solely registered for *IB* under the FS(J)L SP1 will:
- 2.18.13.1 not be exempt from *AML/CFT* requirements; and
  - 2.18.13.2 be required to register under the Proceeds of Crime (Supervisory Bodies ) (Jersey) Law 2008.

## 2.19 Question 18 - paragraph 2.7.4 of the *CP*

**Do you have any observations or concerns regarding the proposed 48 hour stream-lined *VPPF* authorisation process or the proposed *VPPF* application fee of £1070? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.19.1 The 48 hour turn around was largely welcomed by the respondents to the *CP* and was considered an improvement from the previous 5 day turn around for standard *VPF* applications by the *Commission*.
- 2.19.2 One respondent raised concerns about whether the *Commission* could in fact meet this deadline.
- 2.19.3 One respondent law firm suggested that the *VPPF* application fee was a very significant increase from the existing fee, was concerned that the proposed fee was the same as the *PPF*, and thought that some promoters are likely to be concerned, whereas a private bank thought that the fee seemed reasonable compared to other jurisdictions.
- 2.19.4 A fund administrator also commented that they had concerns about Jersey’s competitiveness against Cayman as they thought that these types of *private funds* are very cost sensitive.
- 2.19.5 Another law firm thought that the proposed *VPPF* fee was only reasonable if no additional fees were payable to the *Commission* under the *AIFMD* regime.

### **Government and Commission response:**

- 2.19.6 Part I of the *JPF Guide* (Timescale and Cost) provides that “The *relevant consent* will be granted in 48 hours in relation to a *JPF* provided that the *FSB/TCB Authorisation Team* receives the fully completed *JPF Form* and the corresponding application fee in the amount prescribed in the *Commission’s* notice of fees payable by or in relation to *COBO* (*COBO Fees Notice*), as amended from time to time”.
- 2.19.7 A *VPPF* application fee of £1070 was proposed under the *CP* in line with the existing *PPF* application fee. On this basis, the *COBO Fees Notice* provides, under paragraph 2.1.1 (Application fee) that “a fee of £1070 (which is the same fee as was applied to *PPFs*) shall be payable in respect of a *JPF* which is applying to the *FSB/TCB Authorisation Team* for the issue of a *relevant consent*.”



- 2.19.8 The 48 hour *JPF* application timescale is subject to the usual caveat set out in the *Indicative Application Timescales* which provides that “It may not always be possible to meet the above indicative timescales (for example, during very busy periods or on receipt of multiple applications in connection with the same group or scheme arrangement). In such circumstances, applications will be dealt with on a best endeavours basis. Requests to the *FSB/TCB Authorisation Team* for applications to be dealt with on an expedited basis outside of the above indicative timeframes will be considered only if overall workloads permit. Where any application is not in compliance with relevant *Commission* Policies, Codes and Guidance Notes the “clock” will stop until such time as all queries are satisfactorily resolved. Alternatively, where an application is seriously deficient, it will be returned to the applicant.”
- 2.19.9 In terms of fees related to *Registry* and the *AIFMD* regime, Part I of the *JPF Guide* expressly provides that “For the avoidance of doubt, the 48 hour *JPF* timescale and fee is separate from the timescale and fee attaching to any application to the *Registry* for the incorporation/registration of a Jersey company or partnership. Similarly, where a *JPF* is also an *AIF*, the application timescale and fee attaching to the relevant *AIFMD Form(s)* shall be separate from the 48 hour *JPF* timescale and fee.” The *AIFMD* regime is an ‘overlay’ on the *JPF* regime and as such has separate timescales and fees applying to it (as reflected in the *Indicative Application Timescales* (attached as Appendix H to this *Feedback Paper*).
- 2.19.10 Part I of the *JPF Guide* further provides that “an annual *JPF* fee (in the amount prescribed in the *COBO Fees Notice*) is also payable to the *Commission* in each relevant year”. This annual fee is intended to cover the cost of supervising the *JPF* regime going forwards. A *VPPF* annual fee was not originally proposed under the *CP*. Instead, the proposed annual fee for a *JPF* is consulted on by the *Commission* pursuant to the *fee consultation* provided for under paragraph 1.2 of this *Feedback Paper* and pursuant to the *COBO Fees Notice* itself. On this basis, the *COBO Fees Notice* provides, under paragraph 3 (*JPF* annual fee) the following:
- 2.19.10.1 A fee shall be paid in respect of a *JPF* on the 1 July in each relevant year for so long as the *JPFs’ relevant consent* remains in force.
- 2.19.10.2 The fee must be paid no later than 31 July in each relevant year, and shall be paid directly by the governing body of the *JPF* or by the *DSP* on behalf of the *JPF*.
- 2.19.10.3 The fee payable on an annual basis shall be £500 and shall be pro-rated.”
- 2.19.11 The *Commission* invites comments, in writing, from interested parties on the *fee consultation* and its likely impact on *JPFs* no later than 12 April, 2017.
- 2.19.12 The *Commission* is of the view that both the *JPF* application fee and the *JPF* annual fee are fair and reasonable and do not put us at a disadvantage to our competitors.
- 2.19.13 The *COBO Fees Notice* further provides under paragraph 2.1.3 and 2.1.4 that a fee of £330 is payable in respect of any application to *Registry* for the issue of a *relevant consent* in respect of a Jersey *UT (Non-Fund)* or an *NDS (Non-Fund)*. This amount, now payable to *Registry*, is the same as the amount that was payable previously to the *Commission’s FSB/TCB Authorisation Team* in such circumstances.

## 2.20 Question 19 - paragraph 2.8.5 of the CP

**Do you agree that an 'employment connection' and 'family connection' should not be treated as a VPPF? If you do not agree please explain why.**

- 2.20.1 The majority of responses were in agreement that an 'employment connection' and a 'family connection' should not be treated as a VPPF and welcomed both exemptions.
- 2.20.2 Two law firms considered that there should be an opportunity for such arrangements to be able to "opt in" and be treated as a VPPF should they wish to do so with one law firm saying that it thought it important that Jersey be seen to be as flexible as possible in offering potential structuring solutions for family office vehicles that may derive advantages from being able to be a VPPF.
- 2.20.3 Whilst most respondents agreed that an 'employment connection' and a 'family connection' should not be treated as a VPPF, a number said that there is a requirement for a number of other exemptions with one law firm saying that it would welcome a carve out for joint venture non-fund arrangements as they are excluded from AIFMD.

### **Government and Commission response:**

- 2.20.4 There is nothing in the *JPF Guide* which would prevent an 'employment connection' or a 'family connection' from "opting in" to the *JPF* regime if it so wished to do so. However, the relevant 'employment connection' or a 'family connection' could not then decide, at some point in the future, that the *JPF Guide* no longer applied to it.
- 2.20.5 Part B of the *JPF Guide* (Scope) expressly provides that "it is not intended that holding companies or joint venture arrangements will fall within the definition of a *JPF* or be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*. Equally, a special purpose/securitisation investment scheme issuing "securities" (as defined in the Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000 (Restriction Order)) and which has either (i) received a *relevant consent* from *Registry* and which meets all of the other requirements of Article 2 of the Restriction Order; or (ii) does not require a consent to be issued under *COBO* in respect of those securities, will not be treated by the *Commission* as a *JPF* for the purpose of the *JPF Guide*."
- 2.20.6 The *Government* and the *Commission* acknowledge that Part. B of the *JPF Guide* is not exhaustive however, other appropriate exemptions may be considered by the *Government* and the *Commission* in due course, but such consideration will not be undertaken by the *Commission* in relation to individual applications.

## 2.21 Question 20 - paragraph 2.8.6 of the CP

**Do you agree with how 'employment connection' and 'family connection' have been defined in the VPPF Guide? If not, please explain your concerns.**

- 2.21.1 The majority of respondents raised no concern with the definitions of 'employment connection' and 'family connection'.
- 2.21.2 One law firm remarked that part b. of the definition of "eligible employee" had been drafted too restrictively and should apply to arrangements established for "the sole benefit of an individual referred to in paragraph a. or such an individual and his/her dependants."

**Government and Commission response:**

- 2.21.3 Taking account of the feedback, the meaning of “eligible employee” for the purpose of the *Commission’s* treatment of family office and employee incentive arrangements for the purpose of the *JPF Guide* is:
- 2.21.3.1 “an individual that is a senior employee, partner or director of an employer or of a company in the same group as the employer; or
  - 2.21.3.2 a trust, foundation, company, partnership or other scheme or arrangement established for the sole benefit of an individual referred to in paragraph a. of this definition or such an individual and his/her dependants.”

**2.22 Question 21 - paragraph 3.2.1 of the CP**

**Do you have any observations or concerns regarding the proposed universal application of the *Professional Investor Definition* across our *private fund*, *public fund* and *unregulated fund* regimes (including the *PIRS Orders*, but excluding our *AIFMD* framework)? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.22.1 The majority of respondents agreed that it makes sense to have a universal definition across the various fund regimes (excluding *AIFMD*), remarking that a universal definition will simplify the overall Jersey fund regimes in line with the recommendation coming out of Jersey’s jurisdictional review, bringing coherence and consistency to Jersey’s various fund regimes and will enhance certainty in relation to the suitability of the Jersey funds regime for promoters and potential investors.
- 2.22.2 One law firm replied no such concerns subject to a) the need to amend the *PIRS Orders* and b) it is important that the *Restriction of Scope Order* is not changed and that it does not adopt the *Professional Investor Definition*.
- 2.22.3 One law firm questioned whether references to “a Fund” in paragraphs d. and g. of Annex A of the *JPF Guide* should be clarified to exclude uncertainty and limit its meaning to the subject fund to which investors are subscribing? The same law firm proposed that paragraphs d. and e. of the *Professional Investor Definition* should be widened, certainly for *private funds*, beyond regulated service providers to encompass any service provider entities engaged by the *private fund* whether or not required to be regulated in Jersey or elsewhere or exempt from regulation.
- 2.22.4 Another respondent commented that expanding the definition of “investments” in the footnote to the definition would fundamentally impact the present treatment of real estate promoters, who are not usually regulated for such activity in their home jurisdiction.

**Government and Commission response:**

- 2.22.5 The application of the *Professional Investor Definition* is limited to *JPFs* for the time being. The *Government* and the *Commission* will look to apply the same “*Professional Investor Definition*” to the *PIRS Orders* and other *public fund* and *unregulated fund* products through Phase II of the Funds Review Project.
- 2.22.6 Subject to 2.22.5, there is no proposal to amend the *Restriction of Scope Order* to adopt the *Professional Investor Definition*.

- 2.22.7 Paragraphs d. and g. of Annex A of the *JPF Guide* (Definition of a “*professional investor*”) refer exclusively to the *JPF*.
- 2.22.8 The *Government* and the *Commission* were of the view that to widen paragraphs d. and e. of the *Professional Investor Definition* beyond regulated service providers to encompass any service provider entities engaged by a *JPF* whether or not required to be regulated in Jersey or elsewhere or exempt from regulation would not be appropriate.
- 2.22.9 There is no expansion on the definition of “investments” as it appears under paragraph 1a. of Annex A (Definition of a “*Professional Investor*”) to the *JPF Guide*.

## 2.23 Question 22 - paragraph 3.2.2 of the *CP*

**Are there categories of persons that should be considered *professional investors* but who currently do not meet any of the criteria set out in the *Professional Investor Definition*? If so, please explain who they are and why they should be considered a *professional investor*.**

- 2.23.1 The majority of respondents considered the categories to be adequate.
- 2.23.2 One fund administrator said that there should be an allowance for certain persons who would have previously qualified, for example, an investment manager/professional but who is no longer employed in such capacity.
- 2.23.3 One law firm observed that the *Professional Investor Definition* should not be more restrictive than the equivalent definitions/rules onshore and in the UK in particular.
- 2.23.4 Another law firm and one fund administrator suggested that where another international category of investor is found, consideration should be given to adopting it (as has been done for *MiFID* professional clients).

### ***Government and Commission response:***

- 2.23.5 Whilst the *Government* and the *Commission* have given due regard to the above feedback, Annex A to the *JPF Guide* (Definition of a *Professional Investor*) remains in substantially the same form as was consulted on under the *CP*.

## 2.24 Question 23 - paragraph 3.2.3 of the *CP*

**Would the *Professional Investor Definition* be better placed in legislation or in *Commission* guidance or other documentation? Please explain the reasons for your response.**

- 2.24.1 The majority of respondents suggested *Commission* guidance or a subordinate Order or Regulation so that the *Professional Investor Definition* can be amended fairly swiftly if circumstances so require.
- 2.24.2 One fund administrator said that its preference would be for the *Professional Investor Definition* to be annexed to each Jersey fund guide.

### ***Government and Commission response:***

- 2.24.3 The *Professional Investor Definition* is included under Annex A to the *JPF Guide* (Definition of a *Professional Investor*).

- 2.24.4 The application of the *Professional Investor Definition* is limited to *JPFs* for the time being. The *Government* and the *Commission* will look to apply the same “*Professional Investor Definition*” to the *PIRS Orders* and other *public fund* and *unregulated fund* products through Phase II of the Funds Review Project and will, at the same time, consider whether the *Professional Investor Definition* is better placed in the form of legislation or *Commission* guidance.

## 2.25 Question 24 - paragraph 4.1.3 of the CP

**Do you have any immediate observations or concerns regarding the proposal to amend the *COBO Law* to include the same modern regulatory supervision, enforcement and co-operation powers as are contained in the *CIFJL*? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.25.1 The majority of respondents said that they had no immediate concerns or observations regarding the proposal to amend the *COBO Law* with one fund administrator commenting that the proposal would appear a logical change.
- 2.25.2 However, one fund administrator said that the proposed amendment to the *COBO Law* to provide regulatory powers similar to the *CIFJL* is perhaps an unnecessary addition to an already over-burdensome regime and misses the opportunity to consolidate regulation under the *CIFJL* and not create more of it by way endorsing dual regimes.
- 2.25.3 Another fund administrator commented that whilst difficult to quantify at this stage, it felt that the proposal would have a significant impact on Industry and should be considered in great detail prior to further consultation.

### **Government and Commission response:**

- 2.25.4 There was an opportunity at the outset of the Funds Review to consolidate Jersey’s dual *COBO/CIFJL* investment funds regime but the *Working Group* did not favour this approach and opted to retain *COBO Law/COBO* as the regulatory law for *JPFs*.
- 2.25.5 A Ministerial Decision from the Chief Minister has been issued for the necessary law drafting to *COBO Law/COBO* to introduce the same modern regulatory supervision, enforcement and co-operation powers under *COBO Law/COBO* as are contained in the *CIFJL*.
- 2.25.6 The amending draft law will be subject to further public consultation with Industry. The precise nature and extent of which is yet to be determined by *Government* and the *Commission*. In addition, such amending draft law will be subject to debate by the States of Jersey and will require approval by Privy Council.

## 2.26 Question 25 - paragraph 5.2.2 of the CP

**Do you have any observations or concerns regarding the proposal that new applications for *COBO Only Funds* will no longer be accepted by the *Commission* going forwards and the gradual phasing out of *COBO Only Funds*? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.26.1 A number of respondents agreed that there has been very little interest in *COBO Only Funds* in recent years owing to the introduction of the *PPF Guide*, with one law firm commenting that the proposal seems to be a sensible step towards the reduction of the unnecessarily large number of fund regimes Jersey currently has.
- 2.26.2 However, a number of respondents were concerned that a *PPF* cannot be open-ended and whilst open-ended *private funds* are rare, the *COBO Only Fund* regime offered an authorisation process for such funds. One law firm asked what would be the alternative for an open-ended *private fund*? One fund administrator and one law firm suggested that consideration be given to amending the *PPF Guide* to allow open-ended funds.

**Government and Commission response:**

- 2.26.3 Paragraph 2 of Part D of the *JPF Guide* provides that “A *JPF* may be open or closed-ended provided that the 50 or Fewer Test (within the meaning of Part F. of the *JPF Guide* is met).” On this basis, whilst a *JPF* may be open-ended, any offer for subscription, sale or exchange of units of a *JPF* must be addressed exclusively to a “restricted circle of persons” so as to ensure that the offer does not in any way constitute an “offer to the public” within the meaning of Article 3 of the *CIFJL*.
- 2.26.4 For the avoidance of doubt, the rules provided for the ‘50 or Fewer Test’ within the meaning of Part F of the *JPF Guide* (Test for number of offers/investors) will apply equally (with the substitution of 15 for 50) where in relation to a *JPF* there are only to be 15 or fewer offers/investors (a ‘very private’ *JPF*).
- 2.26.5 The *JPF Guide* further provides, in a footnote to Part J (Transitional provisions and conversion) that “A converting fund must ensure that any subsequent offer, when taken together with any previous offer, is addressed to persons capable of falling within the “restricted circle of persons” to whom the original offer was addressed so as to ensure that the offer, as a whole, does not in any way constitute an “offer to the public” within the meaning of Article 3 of the *CIFJL*.” For this reason and as expressly stated under Part J of the *JPF Guide* “Given the basic definition of a *JPF* outlined in Part A of the *JPF Guide* and the eligibility criteria which needs to be met referred to in Part D of the *JPF Guide*, the *Commission* would not expect for a collective investment fund which has been issued with a certificate pursuant to the *CIFJL* to be able meet the requirements of this Guide or utilise this Part J of the *JPF Guide* to convert to a *JPF*”.

## 2.27 Question 26 - paragraph 6.2.1 of the *CP*

**Do you have any observations or concerns regarding the proposal that new notifications for *Unregulated Exchange-Traded Funds* will no longer be accepted by the *Commission* going forwards and the gradual phasing out of *Unregulated Exchange-Traded Funds*? If you do, please state in detail what your observation or concern is and explain the reason for it.**

- 2.27.1 Whilst the majority of respondents said that they did not have any concerns with this proposal three law firms did raise concern over the cessation of the *Unregulated Exchange-Traded Fund* product.
- 2.27.2 One law firm said that they would not welcome the withdrawal of the *Unregulated Exchange Traded Fund* product on the basis that it would limit choice for promoters.

- 2.27.3 Two other law firms responded by saying that they do have concerns about the cessation of the *Unregulated Exchange-Traded Funds* regime on the basis that it is their belief that there is now greater interest being shown in the regime by sponsors and professional advisers of Real Estate Investment Trusts (REITs) under the UK REIT legislation as a potential solution for such REITs over any other Jersey fund product. In addition, one of the law firms made reference to the recent change made by The International Stock Exchange (previously known as the Channel Islands Securities Exchange) on 1 September, 2016 to its Chapter 7 Listing Rules to allow an easier take up for the listing of REITs. The common concern shared by both law firms is that if the *Unregulated Exchange-Traded Funds* regime is not available, sponsors are likely to look, not to another Jersey fund product (such as the Jersey Listed Fund product) but to other jurisdictions where they are able to access fund products which are similar to the Unregulated Exchange Traded Funds, such as Luxembourg saying that they have already seen examples of this.
- 2.27.4 One law firm observed that some REITs could be established as *Unregulated Eligible Investor Funds* but for paragraph 5 (2) (a) of Schedule 1 of the *Unregulated Funds Order* which provides that where units in the fund are traded on a stock exchange or stock market, there must not be a market maker.

**Government and Commission response:**

- 2.27.5 Owing to the historic misuse of *Unregulated Exchange-Traded Funds* and the inherent risks of the product for Jersey Plc, a decision has been taken by *Government* and the *Commission* to prepare an amendment to the *Unregulated Funds Order* to prevent any person from serving notice on the Registrar pursuant to Schedule 2. For reference, as at 10 March 2017 only 3 *Unregulated Exchange-Traded Funds* have been notified to the Registrar since January, 2015. On that basis, the *Government* and the *Commission* does not see this course of action as a significant issue for Industry.
- 2.27.6 We understand from Industry that UK REITs are ordinarily held by a small number of institutional or sovereign wealth investors (who would meet the *eligible investor* test) and therefore, being mindful of the feedback to the *CP*, the *Government* and the *Commission* has provided a structuring solution for narrowly held REIT structures in the form of the *Unregulated Eligible Investor Fund*. This will involve an amendment to paragraph 5 (2) (a) of Schedule 1 of the *Unregulated Funds Order* (Exchange trading of units) to permit the appointment of a market maker by a Jersey incorporated fund company or by another person on behalf of the fund where such fund company is a UK REIT and units in the fund company are listed on one or more exchanges or markets listed on Schedule 4. This is subject to all of the other provisions of paragraph 5(2) of Schedule 1 being complied with (noting that paragraph 5 (2) (b) of Schedule 1 provides that “the fund companies, so far as reasonably possible, restrict transfers of the units in order to ensure that no person other than an *eligible investor* can acquire units in the fund through that trade;” and paragraph 5 (2) (e) of Schedule 1 further provides that “the stock exchange or stock market is conducted in such a way as not to prevent the restriction referred to in clause (b) from operating).
- 2.27.7 The *Commission* is committed to looking into an amendment/clarification to the Jersey Listed Fund Guide to cater for more widely held REIT structures, given that they have to be tax resident in the UK under Phase II of the Funds Review Project.

## 2.28 Question 27 - paragraph 6.2.2 of the CP

**Do you believe that existing *Unregulated Exchange-Traded Funds* should be able to continue in operation until the end of their natural life or, do you believe that they should be required to make an application to the *Commission* to convert into a regulated *public fund* product (for example an unclassified or a listed fund product)? If so, please explain why.**

- 2.28.1 The majority of respondents said that existing Unregulated Exchange Traded Funds should be able to continue in operation until the end of their natural life with one law firm commenting specifically that one of the benefits of Jersey's regime is the stability and maturity of its regulation and unilaterally requiring a change of regime could be perceived to be damaging to Jersey's reputation.
- 2.28.2 One law firm said that perhaps the opportunity should be offered to existing Unregulated Exchange Traded Funds to convert to another regime such as the listed fund regime. Other respondents did not think that an option to convert from an Unregulated Exchange Traded Fund into a regulated *public fund* product would be well received due to the associated costs of conversion.

### **Government and Commission response:**

- 2.28.3 Unregulated Exchange Traded Funds will be able to continue in operation until the end of their natural life. On this basis, Schedule 2 of the *Unregulated Funds Order* will be retained in its entirety with Article 3 being amended to prevent any person from serving notice on the Registrar pursuant to Schedule 2.

## 2.29 Question 28 - paragraph 6.2.3 of the CP

**For those existing *Unregulated Exchange-Traded Funds*, would you be minded to convert to another Jersey fund product? If so, which fund product would you choose and what would be the anticipated timescale for any such conversion (subject to *Commission* approval if a regulated fund product)?**

- 2.29.1 Whilst the majority of respondents made no comment on this question, a number of respondents repeated the concerns raised under paragraph 2.28 above (that *Unregulated Exchange-Traded Funds* should be able to continue in operation until the end of their natural life).
- 2.29.2 One law firm commented that in their discussions with clients wishing to convert their existing *Unregulated Exchange-Traded Funds* the two options that are discussed the most often are the *Expert Fund* and the Listed Fund regimes. In terms of timescales, the same law firm suggested that this should broadly follow the same timescales as would apply to a launch of a new *Expert Fund* or Listed Fund.

### **Government and Commission response:**

- 2.29.3 Unregulated Exchange Traded Funds will be able to continue in operation until the end of their natural life.
- 2.29.4 Any application for an existing *Unregulated Exchange-Traded Fund* to convert into an *Expert Fund* or a Jersey Listed Fund will be dealt with by the *FSB/TCB Authorisation Team* in accordance with the *Commission's* updated *Indicative Application Timescales* (attached as Appendix H to this *Feedback Paper*) for that particular product.



## Appendix A

### List of respondents to the CP

The *Government* and the *Commission* received 21 responses to the CP in total, 11 of which were provided via Jersey Finance Limited and included 6 fund administrators, 1 private bank and 4 law firms. 10 other respondents provided comments directly to the *Commission* and/or *Government* (together with two other respondents (Ogier and Howard Law) who had also provided their responses to JFL). The table below lists the respondents:

	Respondent
1.	Altair Partners Limited
2.	Anonymous
3.	Aztec Financial Services (Jersey) Limited
4.	Carey Olsen
5.	Fairway Fund Services Limited
6.	JFL – (15-09-16) – Respondent 1 (fund administrator)
7.	JFL – (15-09-16) – Respondent 2 (law firm)
8.	JFL – (15-19-16) – Respondent 3 (fund administrator)
9.	JFL – (15-09-16 and 20-09-16) – Respondent 4 (fund administrator)
10.	JFL – (15-09-16) – Respondent 5 (fund administrator)
11.	JFL – (15-09-16) – Respondent 6 (Ogier)
12.	JFL – (15-09-16) – Respondent 7 (law firm)
13.	JFL – (15-09-16) – Respondent 8 (Howard Law)
14.	JFL – (20-09-16) – Respondent 9 (private bank)
15.	JFL – (20-09-16) – Respondent 10 (fund administrator)
16.	JFL – (21-09-16) – Respondent 11 (fund administrator)
17.	JTC Group
18.	Langham Hall Fund Management (Jersey) Limited
19.	Mourant Ozannes
20.	R&H
21.	Simon Allen

## Appendices B - L

To access Appendices B – L please click the individual links:

Appendix B - [COBO Fees Notice](#)

Appendix C - [JPF Guide](#)

Appendix D - [Sample JPF Form](#)

Appendix E - [Sample JPF Consent](#)

Appendix F - [Sample JPF Notice of Change or Event](#) with [Guidance Note](#)

Appendix G - [Sample JPF Return](#)

Appendix H - [Draft Indicative Application Timescales for Fund Products and Fund Service Providers](#)

Appendix I - [Sample NDS1 \(Non-Fund\) Form](#) with [Guidance Note](#)

Appendix J - [Sample NDS2 \(Non-Fund\) Change of Particulars Form](#) with [Guidance Note](#)

Appendix K – [Sample Jersey UT1 \(Non-Fund\) Form](#) with [Guidance Note](#)

Appendix L - [Sample Jersey UT2 \(Non-Fund\) Change of Particulars Form](#) with [Guidance Note](#)