

Questionnaire covering letter

Dear Compliance Officer,

July 2020

As part of the Jersey Financial Services Commission's (**JFSC**) statutory function, supervisory examinations are conducted to monitor compliance with the prudential, conduct of business and Anti-Money Laundering and Countering the Financing of Terrorism (**AML/CFT**) regulatory and legislative framework. Supervision examinations identify incidences of non-compliance which promotes best practice and discourages breaches.

In December 2019, the JFSC set out, in high level terms, its planned thematic examination programme for 2020, to be undertaken by the JFSC's Supervision Examination Unit (**SEU**). The programme identified that, the theme of Jersey Private Funds (**JPFs**) had been selected. In this respect, the SEU will examine whether Designated Service Providers (**DSPs**) are fulfilling their role as set out in the Jersey Private Fund Guide (**JPF Guide**). Where the service provided to the JPF is an activity regulated by the Financial Services (Jersey) Law 1998 (**FSJL**) the SEU is to examine whether they are fulfilling their AML/CFT obligations in accordance with applicable Laws, Orders and Codes. To facilitate a greater understanding of the operation of JPFs, this thematic examination includes requesting DSPs to provide information about the JPFs to which they provide services.

The JPF themed examination will be conducted through two workstreams: (i) a questionnaire sent to a selection of DSPs who manage JPFs and hold applicable licenses (attached); and (ii) a different number of DSPs who have been selected for a more comprehensive examination. Those DSPs receiving the questionnaire will not be subject to a desk-based examination.

What do we need from you?

Article 8(2) of the FSJL and Article 8(3) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (**SBL**), provide the JFSC with the power to request that registered/supervised persons (i) supply information to the JFSC; and (ii) provide answers to questions.

In completing this questionnaire, the JFSC also takes this opportunity to remind the registered/supervised persons of their obligations under Article 28 of the FSJL and Article 34(7), (8) and (9) of the SBL which concerns the provision of false or misleading information or failure to supply information to the JFSC.

We have issued the DSPs completing the survey with a unique identifying number so that individual entities' responses are identifiable by the JFSC. The survey is not designed or intended to collect personal data therefore please do not include any information in the survey that directly identifies any individual or firm. Your unique identifying number is XXX. Please provide answers to the questions as at the 30 June 2020.

If you require assistance or have any queries, please email
FSCSupervisionExaminationUnit@jerseyfsc.org

Responses are required by, or before, 31 August 2020

Thank you in advance for taking time to complete this questionnaire and your participation in this themed examination.

1. For the purpose of statistical analysis, please provide the following information:

Sub Question	Number of JPFs
The total number of JPFs to which the DSP provides a service	
The number of JPFs that the DSP provides services to, which apply Jersey AML/CFT standards	
The number of JPFs the DSP provides AML/CFT compliance services to.	
The total number of JPFs established/incorporated in Jersey.	
In the case of a legal arrangement, the total number where the governing body is established/incorporated in Jersey.	
The total number of JPFs that are Alternative Investment Funds as per the Alternative Investment Funds Directive 2011/61/EU.	

2. Since assuming the role as DSP, do the Board minutes of the DSP make reference to JPFs and the DSP role?

Yes/No

3. Do the compliance reports of the DSP make reference to JPFs and the DSP role?

Yes/No

4. Does the business risk assessment of the DSP have a section(s) dedicated to JPFs and the DSP role?

Yes/No (if no, please provide rationale)

5. Do the DSP's policies and procedures cover the DSP role and responsibilities as set out in Section G of the JPF Guide?

Yes/No/Partially (if no or partially please provide rationale)

6. If the DSP has a registration as a Fund Services Business (**FSB**) under the FSJL are the same policies and procedures used for JPFs as public funds (save for any modifications for the DSP role)?

N/A – not an FSB/Yes/No/Partially (if no or partially please explain)

7. If the DSP has a registration as a Fund Services Business (**FSB**) under the FSJL do the same staff provide services to JPFs as public funds?

N/A – not an FSB /Yes/No/Partially (if no or partial please explain)

8. In relation to the directors on the JPF's governing body please provide the following information?

Sub Question	Number of JPFs
Number of JPFs that the DSP provides directors to	
Number of JPFs where one or more of those directors is a Jersey resident	

Number of the JPFs that have Jersey resident directors on the board of their governing body not provided by the DSP	
Number of JPFs with Jersey directors (not provided by the DSP) where one of the directors has a class G Trust Company Business (TCB) registration	

9. How many of the JPFs does the DSP provide the following TCB services to (Article 2(4) of the FSJL), including where the DSP is relying on an exemption;

Article 2(4) TCB Services	Number of JPFs
Formation agent;	
Partner of a partnership;	
Secretary, alternate, assistant or deputy secretary	
Providing a registered office or business address	
Providing accommodation, correspondence or administrative address	
Trustee of an express trust	
Nominee for another person	

10. Does the DSP test whether the JPFs it provides services to (as the DSP), comply with the JPF Guide (noting the obligations imposed on the DSP by the JPF Guide, particularly section G, paragraph 6)?

Yes/No/Partially (If no or partially please provide rationale)

11. In the last 12 months how many incidents of non-compliance with the JPF Guide (including Jersey AML/CFT requirements) have been identified in the JPFs the DSP provides services to?

Number of JPFs:

12. How many of these incidents of non-compliance have been reported to the JFSC?

Number of JPFs:

13. When the DSP undertakes a customer risk assessment on the JPFs, is it assessed whether AML/CFT standards equivalent to Jersey standards are applied by the relevant JPFs?

Yes/No/Comments

14. How many JPFs have been assessed as not applying AML/CFT standards that are equivalent to Jersey standards?

Number of JPFs:

15. How many JPFs outsource any aspect of AML/CFT compliance?

Number of JPFs:

16. Of the JPFs that outsource AML/CFT compliance, who do they outsource it to?

Sub Question	Number of JPFs
Number of JPFs that outsource AML/CFT to the DSP	

Number of JPFs that outsource AML/CFT to another Jersey Service Provider	
Number of JPFs that outsource AML/CFT to a non-Jersey administrator	
Number of JPFs that outsource AML/CFT to a non-Jersey manager	
Number of JPFs that outsource AML/CFT to another entity	

17. Over the next 12 months, does the DSP anticipate the number of JPFs it provides services to will remain the same, increase or decrease?
 same/increase/decrease (if the number of JPFs is likely to decrease, please explain why)

18. Do you have any additional information or wish to share any observations on the DSP/JPF relationship (particularly as the JFSC are reviewing the JPF Guide)?