



**Jersey Financial
Services Commission**

Schedule 3 Jersey Listed Fund Guide

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Objective

The purpose of this guide is to define a Listed Fund and to set out the characteristics that such a fund would usually be expected to have. An essential feature of a Listed Fund for the purposes of this guide is that it must be closed ended.

In all cases, applications for necessary certificate and consents should be accompanied by a completed application form, a copy of which can be found at:

http://www.jerseyfsc.org/funds_securities_issues/forms/index.asp

A Listed Fund meeting the criteria set out in this guide may be established using a streamlined authorisation process, as described in Section 3 of this guide. The *JFSC* aims to authorise Listed Funds within 3 working days of receipt of an application provided the requirements set out in this guide are complied with. If a Listed Fund does not meet such requirements, variances and approval may be sought from the *JFSC* on a case-by-case basis, however in such cases it may not be possible to authorise the fund within the stated time frame.

Glossary of Terms

The following table provides a glossary of terms used in this guide:

Applicable Rules	has the meaning to be assigned to it in any <i>Codes of Practice</i> .
Application Form	means the application form which can be found on http://www.jerseyfsc.org/funds_securities_issues/forms/index.asp
Associate	means, in relation to a company, any company which is a subsidiary or a holding body of that company or a subsidiary of any such holding body and any individual, partnership or other unincorporated association or firm which has direct or indirect control of that company and any company which is directly or indirectly controlled by any such individual, partnership or other unincorporated association, or firm and, in relation to an individual, partnership or other unincorporated association, means any company directly or indirectly controlled by that individual, partnership or other unincorporated association. For these purposes, 'holding body' and 'subsidiary' shall have the meanings set out in the Companies (Jersey) Law 1991, as amended.
CFPO	means the Collective Investment Funds (Certified Funds - Prospectuses) (Jersey) Order 2012, as amended.
Closed-ended Fund	means a fund which is not open for redemptions at the option of holders of securities.
Codes of Practice	means such Codes of Practice for Certified Funds and Fund Services Business as may from time to time be issued by the <i>JFSC</i> and be in force pursuant to Article 15 of the <i>Law</i> and Article 19 of the Financial Services (Jersey) Law 1998, as amended.
collective investment fund	has the same meaning as in Article 3 of the <i>Law</i> .
Constitutive Documents	means the principal documents constituting the Listed Fund, which may include: <ul style="list-style-type: none"> › the memorandum and articles of association; › the fund rules; › the administration agreement; › the investment management agreement; › the investment advisory agreement; › the management agreement, if applicable; and › where the fund has a custodian in Jersey, the agreement appointing such a custodian.
fund service provider	has the same meaning as in Article 1 of the <i>Law</i> .

Holder of Securities	means a person registered as the holder of securities in a Listed Fund.
incorporated cell company	has the meaning set out in the Companies (Jersey) Law 1991, as amended.
Investment Manager	includes an investment adviser and may be the <i>Manager</i> if no separate investment manager is to be appointed ¹⁰ .
IOSCO	means the International Organisation of Securities Commissions.
JFSC	means the Jersey Financial Services Commission.
Law	means the Collective Investment Funds (Jersey) Law 1988, as amended from time to time.
Manager	means any <i>fund service provider</i> to whom the board of directors has delegated overall responsibility for the executive management of the fund.
OECD	means the Organisation for Economic Co-operation and Development.
Offer Document	means any prospectus or other offering document offering <i>securities</i> in a Listed Fund for subscription, sale or exchange and includes any listing document.
principal person	has the meaning set out in the <i>Law</i> .
pProtected cell company	has the meaning set out in the Companies (Jersey) Law 1991, as amended.
Recognised Stock Exchange or Market	means an exchange or market listed in Appendix 1, as amended from time to time.
securities	refers to those securities issued by the Listed Fund representing the rights of holders with regard to the assets of the Listed Fund and which are Units within the meaning of the <i>Law</i> .
Umbrella	in relation to a structure or a fund means there is more than one class of redeemable shares or Units and where the assets are held as a single pool.

¹⁰ In a fund of funds, the investment managers of the underlying funds will not be considered *Investment Managers* for the purpose of this guide.

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Section 1

1 The Structure of the Fund

The Fund

- 1.1 A Listed Fund is a *collective investment fund* that falls within Article 3 of the *Law* and is incorporated as a company in Jersey¹¹. It will be issued with a certificate under the *Law*.
- 1.2 A Listed Fund must:
- 1.2.1 have a listing on a *Recognised Stock Exchange or Market*¹²; and
 - 1.2.2 be a *Closed-ended Fund*.
- 1.3 The board of directors of the fund company is ultimately responsible for the management and control of the Listed Fund in accordance with and subject to the *Constitutive Documents* and applicable law and this ultimate responsibility cannot be delegated.
- 1.4 At least two Jersey resident directors with appropriate experience must be appointed to the board of the fund company.
- 1.5 A majority of the directors of the board of the fund company (including the chairman) must be independent. It will be a matter for the board to determine whether a director meets the independence requirements established by the listing authority of the exchange or market where the fund company is listed, and whether there are relationships or circumstances (including financial dependence on a director's relationships with the *Manager* or *Investment Manager* of the fund) which are likely to affect, or could appear to affect, the director's judgement¹³. As a minimum condition of independence, the director should not be a past (within the last five years) or present employee of the *Manager* or *Investment Manager* or any of their *Associates* even if permitted by the relevant listing authority.

Investment Manager

- 1.6 The *Investment Manager* should be of good standing and in particular should:
- 1.6.1 have had no disciplinary sanctions imposed on it by any supervisory authority or professional body in the previous five years;
 - 1.6.2 have no convictions for any offence under the legislation of any country relating to the conduct of financial service business or involving fraud or dishonesty or be the parent, subsidiary or an associated company of any company which has such a conviction;

¹¹ The *Commission* will consider including other types of investment vehicle such as limited partnerships and unit trusts in a revised version of this guide.

¹² The list of Recognised Stock Exchanges or Markets is given in Appendix 1. It will be a condition of the certificate issued by the *Commission* that the fund is approved for admission to a Recognised Stock Exchange or Market prior to its launch.

¹³ Where the rules of the exchange or market are silent on the matter of directors and independence, the directors should have regard to the principles set out in paragraph 1.5.

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- 1.6.3 be able to pay its debts as they fall due;
 - 1.6.4 be established in an *OECD* state or jurisdiction or any other state or jurisdiction with which the *JFSC* has entered into a Memorandum of Understanding (or equivalent) on investment business and *collective investment funds*¹⁴;
 - 1.6.5 be regulated in that state or jurisdiction in relation to managing or advising on funds, subject to paragraph 1.6.6;
 - 1.6.6 where it is proposed that the *Investment Manager* should act in relation to a property fund, or other type of fund in relation to which the activity of the investment manager is not a regulated activity in its home state or jurisdiction, and the requirement in paragraph 1.6.5 is not otherwise met by the *Investment Manager*, be either:
 - 1.6.6.1 a subsidiary of a company that is regulated in relation to managing or advising on investors' funds in its home state or jurisdiction;
 - 1.6.6.2 a listed company with a minimum market capitalisation of at least US\$500 million (or its currency equivalent) or a subsidiary of a company with such capitalisation;
 - 1.6.6.3 a company or partnership with a trading record of at least five years, or whose *principal persons*, who form its span of control, can demonstrate relevant business experience for this period or possess relevant professional qualifications; or
 - 1.6.6.4 in any other case, be granted approval to act in relation to the Listed Fund by the *JFSC*, provided that the other requirements in paragraphs 1.6 and 1.7 are met;
 - 1.6.7 subject to paragraph 1.6.6.3, possess relevant experience in relation to managing or advising on investors' funds using similar strategies to those to be adopted by the Listed Fund; and
 - 1.6.8 satisfy the *JFSC's* general principles of corporate governance in relation to the span of control over a business as set out in Appendix 2, meeting the four-eyes principle if the *Investment Manager* cannot handle client monies, and the six-eyes principle if it can handle such monies.
- 1.7 In addition, no *principal person* of the *Investment Manager* shall:
- 1.7.1 have had any disciplinary sanctions imposed on him by any supervisory authority or professional body in the previous five years; or
 - 1.7.2 have been convicted for any offence under the legislation of any country relating to the conduct of financial services business or involving fraud or dishonesty.
- 1.8 As part of the application process for establishing a Listed Fund, the *Investment Manager* should confirm in writing to the *JFSC* that it satisfies the requirements set out in paragraphs 1.6 and 1.7, and provide documentary evidence in relation to the requirements at

¹⁴ A list of the *OECD* member states and those countries with which the *Commission* has entered into a Memorandum of Understanding (either on a bilateral basis or through the *IOSCO* Multilateral Memorandum of Understanding) covering investment business and collective investment funds may be obtained on the *Commission's* website, www.jerseyfsc.org, from the International Co-operation section.

paragraphs 1.6.4 and 1.6.5 (and if applicable paragraph 1.6.6). In addition, the administrator or *Manager* (as applicable) appointed in accordance with paragraph 1.11 must counter-sign such confirmation, stating that it has carried out its own general due diligence on the *Investment Manager* and has no reason to believe that the statement of the *Investment Manager* is incorrect¹⁵.

- 1.9 In the event that the *Investment Manager* does not fulfil these criteria (for example, a global institution may have committed a number of regulatory breaches in different jurisdictions) prior clearance should be sought from the *JFSC*. An *Investment Manager* that has previously been granted consent to establish a Listed Fund may, in satisfaction of the requirement set out at paragraph 1.8, confirm in writing to the *JFSC* that there have been no material changes to the information most recently provided to the *JFSC* in that regard.
- 1.10 Where the administrator or *Manager* (as applicable) become aware of any other issue, in addition to those mentioned in paragraphs 1.6 and 1.7, which might cast doubt on the good standing of the *Investment Manager* (or any of its *principal persons*), they should bring the matter to the attention of the *JFSC*. Relevant issues might for example include knowledge that the *Investment Manager* (or any of its *principal persons*) has been the subject of a formal investigation by a supervisory authority or professional body, even if this did not result in a disciplinary sanction.

Note:

- 1 *If a distributor of a Listed Fund is not the Investment Manager or one of its Associates and it falls within one of the following definitions, the provisions of paragraphs 1.6 – 1.10 inclusive (with the exception of paragraph 1.6.7) shall apply to the distributor as if it were an Investment Manager:*
 - a. *The distributor is the driving force behind the Listed Fund such that, if the distributor were to withdraw from the proposal, the Listed Fund would not go ahead. Evidence of this would be, for example, the name of the Listed Fund being linked with the distributor.*
 - b. *The majority of investors going into the Listed Fund are put into the fund by the distributor or its agents.*

Administration/Management

- 1.11 Every Listed Fund shall appoint an administrator and/or a *Manager* which has at least two Jersey resident directors with appropriate experience together with staff and a physical presence in the Island.
- 1.12 Unless alternative arrangements are put in place by the board of directors of the fund company, the duties of the administrator or *Manager* (as applicable) shall include the responsibility for monitoring the *Investment Manager* set out in paragraphs 1.14 and 1.15. Where such alternative arrangements are to be put in place, the *JFSC* should be approached in advance on a case by case basis.

¹⁵ In the *Commission's* view, it is implicit that an administrator's or *Manager's* due diligence enquiries can only extend to sources of enquiry available to it, and not to those beyond it.

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- 1.13 Any outsourcing by the administrator or *Manager* (as applicable) must comply with the *JFSC's* policy on outsourcing as may be updated from time to time.

Monitoring of the Investment Manager

- 1.14 The responsibility of the administrator or *Manager* (as applicable) in relation to the actions of the *Investment Manager* shall be to take reasonable measures to satisfy itself that such actions do not breach the investment and borrowing restrictions applicable to the Listed Fund as set out in the *Offer Document* and the *Constitutive Documents*, and to promptly notify the board of directors of the fund company of any concerns it has in that regard so that appropriate action may be taken.
- 1.15 The administrator or *Manager* (as applicable) must maintain in Jersey sufficient records (in electronic or documentary form) to enable it to fulfil its monitoring functions, and should be able to obtain other relevant records on demand.

Review by the Board of Directors of the Fund Company

- 1.16 In addition to the monitoring function in paragraphs 1.14 and 1.15, the board of directors of the fund company must undertake regular reviews of the investment strategy and risk profile of the fund and the investment performance of the *Investment Manager*. In addition, the board shall regularly consider associated matters such as gearing, asset allocation, marketing/investor relations, peer group information and general industry issues.

Custody Arrangements

- 1.17 Every Listed Fund must have adequate arrangements for the safe custody of the property of the fund including, if applicable, prime brokerage arrangements. Such arrangements shall be fully disclosed in the *Offer Document*.
- 1.18 Where a hedge fund appoints a prime broker, the prime broker must be part of a group with a minimum credit rating of A1/P1 or long term equivalent. Prior clearance will be required for any prime broker with a rating below this level.

The Name of the Fund

- 1.19 The name of the Listed Fund must not be undesirable or misleading. If the name of the Listed Fund indicates a particular objective, geographic region or market, this should be reflected in its investment policy and in the manner in which the Listed Fund maintains the majority of its non-cash assets.

The Auditor

- 1.20 An auditor must be appointed for a Listed Fund.
- 1.21 The auditor must have the same qualifications as are required under the Companies (Jersey) Law 1991, as amended.
- 1.22 The audited accounts must be filed with the *JFSC* within seven months of the end of the Listed Fund's financial year.

Fund service providers

- 1.23 Any Jersey entity acting as a *fund service provider* to a Listed Fund must be registered under the Financial Services (Jersey) Law 1998, as amended, to conduct fund services business and be managed and operated in accordance with any applicable *Codes of Practice*.

Borrowing and Gearing

- 1.24 There are no restrictions imposed upon the level of borrowing or gearing adopted by a Listed Fund, provided that the approach to borrowing or gearing is clearly disclosed in the *Offer Document*. If the fund is permitted to borrow money in excess of 200% of the net asset value of the fund, full details of the manner in which the risk posed by such borrowing is to be managed must be set out in the *Application Form* submitted to the *JFSC*. In such a case, the *JFSC* reserves the right to undertake additional scrutiny.

Section 2

2 The Offer Document of the Fund

General

- 2.1 The *Offer Document* must comply with the requirements set out in the *CFPO* and confirmation of this should be provided in the *Application Form*. In addition to the specific requirements stated in the *CFPO*, Article 18 of the schedule of the *CFPO* provides that the *Offer Document* must contain any other material information that investors would reasonably require to enable investors to make an informed judgement about: (i) the merits of participating in the Listed Fund; and (ii) the nature and levels of the risks accepted by making such a purchase. The *JFSC* considers the following additional information to be material:
- 2.1.1 the structure of the Listed Fund, including brief particulars of all documents constituting the Listed Fund and details of how to obtain complete copies of such documents;
 - 2.1.2 the *fund service providers* to the Listed Fund, including details such as their registered office, place and date of incorporation, details of share capital and the manner in which *fund service providers* may be appointed and replaced;
 - 2.1.3 biographical and other relevant information of directors, including current employment and relevant experience, other directorships, including of fund companies managed by the same *Manager* or *Investment Manager*, current or past employment or other material connections with the *Manager* or *Investment Manager*, length of service, qualifications and significant shareholdings;
 - 2.1.4 the identity of the independent directors (including the Chairman) determined in accordance with paragraph 1.5 and, if relevant, the reasons why the board has determined a director to be independent notwithstanding factors that might appear to impair that status;
 - 2.1.5 the policies and procedures for the appointment and replacement of directors (including the Chairman);
 - 2.1.6 the manner in which the board of directors will operate, including how it will review the investment strategy and the risk profile of the fund and its investment performance, delegate or allocate operational responsibilities to the various *fund service providers*, including particularly the *Manager*, *Investment Manager* or administrator, and will exercise oversight of the way in which these responsibilities are fulfilled;
 - 2.1.7 the structure, composition and summary terms of reference of board committees;
 - 2.1.8 any conflicts of interest that may exist in relation to the Listed Fund;
 - 2.1.9 the investment objective and investment management strategies to be employed by the Listed Fund (including the Listed Fund's approach to borrowing and gearing), and any investment or borrowing restrictions applicable to the Listed Fund;

- 2.1.10 the manner in which changes likely to have a material effect on investors may be made to the Listed Fund, noting that any changes that would be contrary to the terms of this guide or contrary to any of the *JFSC's* published policies applicable to Listed Funds will require the prior consent of the *JFSC*;
 - 2.1.11 the basis upon which dealing on the secondary market is to take place, including the expected level of activity;
 - 2.1.12 the basis upon which any subsequent offerings in the Listed Fund may be made;
 - 2.1.13 the basis upon which the value of the assets of the Listed Fund is to be calculated;
 - 2.1.14 the manner in which *securities* of the Listed Fund are to be created, issued and paid for;
 - 2.1.15 the manner in which votes to be held by *Holders of Securities* will be conducted, and the manner in which meetings of *Holders of Securities* are to be convened and managed generally;
 - 2.1.16 the fees, charges and expenses payable from the property of the Listed Fund;
 - 2.1.17 the address at which the most recent audited annual report and accounts of the Listed Fund may be inspected;
 - 2.1.18 the manner in which any voting rights in underlying assets held by the Listed Fund will be exercised;
 - 2.1.19 the safe custody arrangements for the property of the Listed Fund including disclosure, if applicable, of prime broker arrangements;
 - 2.1.20 in the case of *Umbrella* structures, details of the “ring-fencing” of assets within sub-funds, or, if there is no such arrangement, a statement to the effect that “in the event of the Listed Fund being unable to meet liabilities attributable to any particular sub-fund out of the assets attributable to such sub-fund, the excess liabilities may be met out of the assets attributable to the other sub-funds” and an explanation of the manner in which such liabilities may be apportioned; and
 - 2.1.21 statements to the effect that:
 - “Further information in relation to the regulatory treatment of Listed Funds domiciled in Jersey may be found on the website of the Jersey Financial Services Commission at www.jerseyfsc.org.
 - “The directors of the company have taken all reasonable care to ensure that the facts stated in this document are true and accurate in all material respects, and that there are no other facts the omission of which would make misleading any statement in the document, whether of fact or of opinion. The directors accept responsibility accordingly.”
- 2.2 Nothing in any of the *Constitutive Documents* of a Listed Fund may exclude the jurisdiction of the courts of Jersey to entertain an action concerning the Listed Fund.
- 2.3 In the event that an *Offer Document* is issued in a language other than English, a copy of an English language version of the document must be lodged with the *JFSC*. A statement shall be included in both the original *Offer Document* and the translation stating which version will take precedence in the event of a dispute.
- 2.4 Any variations from the requirements imposed by the *CFPO* must be set out in the *Application Form*.

Investment Warning

- 2.5 All Listed Funds must contain an investment warning in a prominent position in the *Offer Document* in substantially the following terms:

“This fund has been established in Jersey as a listed fund under a fast-track authorisation process. It is suitable therefore only for professional or experienced investors, or those who have taken appropriate professional advice.

Regulatory requirements which may be deemed necessary for the protection of retail or inexperienced investors, do not apply to listed funds. By investing in this fund you will be deemed to be acknowledging that you are a professional or experienced investor, or have taken appropriate professional advice, and accept the reduced requirements accordingly.

You are wholly responsible for ensuring that all aspects of this fund are acceptable to you. Investment in listed funds may involve special risks that could lead to a loss of all or a substantial portion of such investment. Unless you fully understand and accept the nature of this fund and the potential risks inherent in this fund you should not invest in this fund.”

Ongoing Requirements

- 2.6 All material changes to information provided to the *JFSC* in connection with a Listed Fund shall be notified to the *JFSC* as soon as possible and in any event within 28 days of such change taking place.
- 2.7 The *JFSC* must be informed immediately if a Listed Fund is refused permission to be listed on a *Recognised Stock Exchange or Market*, or if such permission is revoked or if there is any other material event such as a suspension of trading in the *securities* of the Listed Fund or any investigation into the Listed Fund or any of its *fund service providers*.
- 2.8 Any change to a Listed Fund that would not meet the criteria set out in this guide or that would breach any certificate condition applicable to that Listed Fund will require the prior consent of a duly authorised officer of the *JFSC*.

Section 3

3 Authorisation of the Fund

- 3.1 In order to authorise a Listed Fund, the *JFSC* must receive a completed copy of the *Application Form*.
- 3.2 The administrator or *Manager* (as applicable) shall:
 - 3.2.1 complete and sign a copy of the *Application Form*;
 - 3.2.2 arrange for such form to be countersigned on behalf of the board of the fund company; and
 - 3.2.3 forward a copy of the completed *Application Form* and the stated supporting documentation to the *JFSC*.
- 3.3 Upon receipt of a completed *Application Form*, the *JFSC* will take steps to authorise the Listed Fund and/or its *fund service providers* as the case requires.
- 3.4 Applications will normally be processed within three working days except in cases where variances are being sought. In the event that the *Application Form* states that the Listed Fund complies with the terms of this guide, or that any deviation from the terms of this guide has previously been agreed in writing by a duly authorised officer of the *JFSC*, the *JFSC* will authorise the Listed Fund in reliance upon the *Application Form*. In other cases the *JFSC* will discuss with the applicant those deviations that have not been previously agreed, however in those cases it may not be possible to meet the stated time frame.
- 3.5 The relevant certificate application forms and fees shall be submitted at the time the application is made and prior to the issue of any certificate and other consents.
- 3.6 For an *Umbrella Fund*, an *incorporated cell company*, or a *protected cell company* which has already been granted a certificate under the *Law*, a sub-fund, incorporated cell or protected cell certificate application and fee will need to be submitted for each additional sub-fund, incorporated cell or protected cell that is added prior to an amended certificate being issued. In the case of an *incorporated cell company*, the incorporated cell certificate application form is to be used.

Appendix 1

1 Recognised Stock Exchanges or Markets

1.1 The list of Stock Exchanges or Markets recognised by the *JFSC* for the purposes of the Listed Fund Guide will be based on the following criteria:

1.1.1 Stock Exchanges of EU Countries and members of the European Free Trade Association who have ratified the European Economic Area Agreement (Iceland, Liechtenstein and Norway);

1.1.2 Stock Exchanges recognised by the UK Financial Services Authority as:

1.1.2.1 Recognised Investment Exchanges:

[London Stock Exchange plc.](#)

1.1.2.2 Recognised Overseas Investment Exchanges:

[National Association of Securities Dealers Automated Quotations; and](#)
[The Swiss Stock Exchange.](#)

or;

1.1.2.3 Designated Investment Exchanges (includes The International Stock Exchange, previously called the Channel Islands Stock Exchange):

American Stock Exchange

Australian Stock Exchange

Bermuda Stock Exchange

Bolsa Mexicana de Valores

Bourse de Montreal Inc

Chicago Stock Exchange

Hong Kong Exchanges and Clearing Limited

The International Stock Exchange (previously called the Channel Islands Stock Exchange)

Johannesburg Stock Exchange

Korea Stock Exchange

New York Stock Exchange

New Zealand Stock Exchange

Osaka Securities Exchange

Pacific Exchange

Philadelphia Stock Exchange

Singapore Exchange

Tokyo Stock Exchange

Toronto Stock Exchange

1.1.3 Any other Stock Exchange or Market recognised by the *JFSC* (whether nominated by Jersey Finance Limited or otherwise) for the purposes of this guide.

1.1.3.1 the following markets are recognised:

Alternative Investment Market (AIM)

Mauritius Stock Exchange (Official Market)¹⁶

Specialist Fund Market

1.2 For the purposes of paragraph 1.1.1, the relevant Stock Exchanges are as follows:

Country	Stock Exchange
Austria:	Wiener Bourse
Belgium:	Euronext
Bulgaria	Bulgarian Stock Exchange
Cyprus:	Cyprus Stock Exchange
Czech Republic:	Prague Stock Exchange
Denmark:	Copenhagen Stock Exchange
Estonia	Tallin Stock Exchange
Finland:	Helsinki Stock Exchange
France:	Euronext
Germany:	Deutsche Bourse
Greece:	Athens Stock Exchange
Hungary:	Budapest Stock Exchange
Iceland:	Iceland Stock Exchange
Ireland:	Irish Stock Exchange
Italy:	Borsa Italiana
Latvia:	Riga Stock Exchange
Lithuania:	National Stock Exchange of Lithuania
Luxembourg:	Bourse de Luxembourg
Malta:	Malta Stock Exchange
Netherlands:	Euronext
Norway:	Oslo Bors

¹⁶ Added 5 April 2017

Appendix 1: Recognised Stock Exchanges or Markets

Country	Stock Exchange
Poland:	Warsaw Stock Exchange
Portugal:	Lisbon Stock Exchange
Romania:	Bucharest Stock Exchange
Slovakia:	Bratislava Stock Exchange
Slovenia:	Ljubljana Stock Exchange, Inc
Spain:	Bolsas y Mercados Espanoles
Sweden:	Stockholmborsen
United Kingdom:	London Stock Exchange

Appendix 2

2 Span of Control Requirements

- 2.1 This appendix expands on the general principles of corporate governance in relation to “span of control” as referred to at paragraph 1.6.8.
- 2.2 All *Investment Managers* are advised to read the following and to discuss the contents with their Jersey legal adviser in order to ensure that they satisfy the principle.
- 2.3 In the context of the *Investment Manager*, the principle requires that the *Investment Manager* be able to demonstrate that its business is actively managed by two or three skilled, experienced individuals: two persons if the *Investment Manager* cannot handle client monies, three if it can.
- 2.4 The “four eyes” or “six eyes” are the *principal persons* of the business, who must be able to exercise executive power on behalf of the *Investment Manager*. These individuals must be actively involved in the day-to-day management of the business and able to exercise executive powers on behalf of the *Investment Manager*. Normally, such persons will be directors of the *Investment Manager*.
- 2.5 They must be able to demonstrate independence, competence, experience and integrity and be able to effectively exercise management control over the *Investment Manager*. Together, the persons providing the “four or six eyes” should be able to demonstrate a balance of appropriate qualifications, skills and experience. As part of the independence requirement care must be taken where members of the same family are *principal persons* of the *Investment Manager*.**
- 2.6 Although the individuals making up the span of control do not need to be involved in the day-to-day execution of the *Investment Manager’s* policy, they should have day-to-day involvement in general management as well as knowledge of and influence upon the way in which the company’s strategy is being implemented through day-to-day policy.
- 2.7 The *JFSC* acknowledges there may be exceptional circumstances for allowing some degree of relaxation of the principles outlined above. Each request for a relaxation will be considered on its merits and on a case-by-case basis, however, it must be borne in mind that requests of this nature will not be granted lightly and that, once granted, are not to be treated as setting a precedent notwithstanding any similarity of circumstances. Furthermore, consideration of such requests may increase the time taken to process an application.
- 2.8 With respect to 2.5, where close family are eligible to form part of the span of control only one member may be counted. In this respect close family comprises spouses (including co-habitees), civil partners, children, dependants, parents, brothers, and sisters.