



**Jersey Financial
Services Commission**

Feedback on Consultation Paper

No. 11 2017

Feedback to a consultation on proposed maintenance amendments to the laws that regulate the financial services industry and other non-financial businesses and professions in Jersey

Issued: March 2018

Consultation feedback

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

This paper reports on responses received by the *JFSC* to its Consultation Paper No. 11 2017 – Miscellaneous Amendments to Regulatory Legislation.

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Glossary of terms

AIF Amendment Regulations	Alternative Investment Funds (Amendment) (Jersey) Regulations 201-
AIF Regulations	Alternative Investment Funds (Jersey) Regulations 2012
amending legislation	collectively, the <ul style="list-style-type: none"> › <i>AIF Amendment Regulations</i> › <i>Miscellaneous Provisions Law</i> › <i>Miscellaneous Provisions Regulations</i> › <i>Recognized Funds PCO Amendment Order</i>
Bankruptcy Law	Bankruptcy (Désastre) (Jersey) Law 1990
BBJL	Banking Business (Jersey) Law 1991
CIFJL	Collective Investment Funds (Jersey) Law 1988
Commission Law	Financial Services Commission (Jersey) Law 1998
FSJL	Financial Services (Jersey) Law 1998
JFSC	Jersey Financial Services Commission
IBJL	Insurance Business (Jersey) Law 1996
Lloyd's	Society of Lloyd's insurance market
Miscellaneous Provisions Law	Financial Regulation (Miscellaneous Provisions No.5) (Jersey) Law 201-
Miscellaneous Provisions Regulations	Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 201-
principal person	<ul style="list-style-type: none"> › with respect to the <i>BBJL</i> means a director, controller and manager as defined in Article 1 of the <i>BBJL</i>; › with respect to the <i>AIF Regulations</i> shall have the meaning assigned to it in Regulation 4 thereof; › with respect to the <i>CIFJL</i>, the <i>FSJL</i> and the <i>SBJL</i> shall have the meaning assigned to it in Article 1 of the respective law; and › with respect to the <i>IBJL</i> means a chief executive and shareholder controller as defined in Article 1 of the <i>IBJL</i> and any individual intending to act, or acting, as a director.
Recognized Funds PCO	Collective Investment Funds (Recognized Funds) (Permit Conditions for Functionaries) (Jersey) Order 1988

Recognized Funds PCO Amendment Order	Collective Investment Funds (Recognized Funds) (Permit Conditions for Functionaries) (Amendment No. 4) (Jersey) Order 201-
regulated business	a person who is registered, or holds a permit or certificate, as applicable, under one or more of the <i>regulatory laws</i>
regulatory laws	the <i>AIF Regulations</i> , the <i>BBJL</i> , the <i>CIFJL</i> , the <i>FSJL</i> , the <i>IBJL</i> and the <i>SBJL</i>
restricted information	non-public information that the <i>JFSC</i> obtains in the course of carrying out its functions under the <i>regulatory laws</i>
SBJL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008

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1 Executive summary

1.1 Overview

- 1.1.1 The *CP* sought views on a miscellany of amendments to the *regulatory laws*, the *Commission Law* and the *Bankruptcy Law*.
- 1.1.2 In summary, the *amending legislation* consulted on would:
 - 1.1.2.1 resolve issues in the *regulatory laws* that currently prevent, or limit the circumstances in which, *restricted information* may be disclosed by the *JFSC* to *Lloyd's*, professional bodies (such as those for the accountancy and legal professions) and pension supervisors;
 - 1.1.2.2 ensure that the *principal person* provisions in the *regulatory laws* consistently apply to liquidators of *regulated businesses* (whether appointed under a bankruptcy or otherwise) and administrators of bankrupt *regulated businesses*;
 - 1.1.2.3 update the *Recognized Funds PCO* to take account of the establishment of the Channel Islands Financial Ombudsman;
 - 1.1.2.4 bring the *BBJL* and the *IBJL* into line with the other *regulatory laws* so that a registration and permit, respectively, may be revoked where a bank or insurance company has failed to pay a fee due to the *JFSC*;
 - 1.1.2.5 update provisions in the *AIF Regulations* to make them consistent with those in the *CIFJL*;
 - 1.1.2.6 make a number of administrative amendments to the *regulatory laws*, the *Commission Law* and the *Bankruptcy Law*.
- 1.1.3 The purpose of this paper is to provide feedback on the responses received to the *CP*.

1.2 Feedback received

- 1.2.1 Respondents provided comments directly to the *JFSC* (none were indirectly received via *Jersey Finance* on this occasion).
- 1.2.2 A full list of respondents is given in Appendix A.
- 1.2.3 Section 2 of this paper presents a summary of the substantive comments received and the *JFSC's* response.
- 1.2.4 The *JFSC* is grateful to respondents for taking the time to consider and comment on the proposals. Each respondent has been sent a copy of this paper.

1.3 Next steps

- 1.3.1 The *JFSC* will be recommending the *amending legislation*, in the form consulted on, to the Chief Minister.
- 1.3.2 If the Chief Minister is content with the *amending legislation*:
 - 1.3.2.1 the *AIF Amendment Regulations* and the *Miscellaneous Provisions Regulations* will need to be considered by the States Assembly and, if adopted, would come into force seven days later;
 - 1.3.2.2 the *Miscellaneous Provisions Law* will need to be considered by the States Assembly and, if adopted, would come into force one month after registration¹;
 - 1.3.2.3 the *Recognized Funds PCO Amendment Order* will come into force on the day after it is made by the Chief Minister.

¹ Registration occurs shortly after a law is approved by the Privy Council.

2 Consultation feedback

2.1 Feedback received

- 2.1.1 This section summarises the substantive comments received in response to the CP. Whilst not every comment received is individually listed, this section contains summaries of the most commonly made and pertinent comments in relation to each question posed and, as appropriate, the JFSC’s response to those comments.
- 2.1.2 One of the respondents welcomed the opportunity to provide feedback but advised that, after reviewing the proposals, it had no specific comments to raise.
- 2.1.3 Where the specific comments of a “respondent” are summarised, the respondent will have been a *registered person*, unless stated otherwise.

2.2 Question 1: Do you have any observations on, or concerns about, the proposed information gateway to *Lloyds*?

- 2.2.1 No respondent had any observations on, or raised concerns about, the proposed information gateway to *Lloyds*.

JFSC response

2.2.2 The proposed information gateway, as drafted, will be recommended to the Chief Minister.

2.3 Question 2: Do you have any observations on, or concerns about, the proposed amended information gateway to professional bodies?

- 2.3.1 No respondents raised any concerns about the proposed amended information gateway.
- 2.3.2 A professional body for solicitors, as a potential recipient of *restricted information*, in appropriate circumstances, under the proposed amended gateway, welcomed it. The professional body observed that the provision of *restricted information* relevant to its regulatory functions would enable it to better protect the public and consumers.

JFSC response

2.3.3 The proposed amended information gateway, as drafted, will be recommended to the Chief Minister.

2.4 Question 3: Do you have any observations on, or concerns about, the proposed information gateway to pension supervisors?

- 2.4.1 No respondent had any observations on, or raised concerns about, the proposed information gateway to pension supervisors.

JFSC response

2.4.2 The proposed information gateway, as drafted, will be recommended to the Chief Minister.

2.5 Question 4: Do you have any observations on, or concerns about, the proposed consistent inclusion of liquidators of *regulated businesses* (whether appointed under a bankruptcy or otherwise) and administrators of bankrupt *regulated businesses* in the *principal person* provisions?

2.5.1 No respondent had any observations on, or raised concerns about, the proposed amendment.

JFSC response

2.5.2 The proposed amended *principal person* provisions, as drafted, will be recommended to the Chief Minister.

2.6 Question 5: Do you have any observations on, or concerns about, the proposed amendment to the *Recognized Funds PCO*?

2.6.1 No respondent had any observations on, or raised concerns about, the proposed amendment.

JFSC response

2.6.2 The proposed amendment, as drafted, will be recommended to the Chief Minister.

2.7 Question 6: Do you have any observations on, or concerns about, the proposed statutory provision that would allow the *JFSC* to revoke the registration of a bank or the permit of an insurance company where a fee due to the *JFSC* has not been paid?

2.7.1 No respondent raised concerns about the proposal.

2.7.2 One respondent positively welcomed the proposal given that it would bring the position of banks and insurance companies into line with other *regulated businesses*.

JFSC response

2.7.3 The new statutory provision, as drafted, will be recommended to the Chief Minister.

2.8 Question 7: Do you have any observations on, or concerns about, the proposed amendments that would make the *AIF Regulations* once again consistent with the *CIFJL*?

2.8.1 No respondent had any observations on, or raised concerns about, the proposed amendments.

JFSC response

2.8.2 The proposed amendments, as drafted, will be recommended to the Chief Minister.

2.9 Question 8: Do you have any observations on, or concerns about, the proposed administrative amendments?

2.9.1 No respondent had any observations on, or raised concerns about, the proposed administrative amendments.

JFSC response

2.9.2 The proposed administrative amendments, as drafted, will be recommended to the Chief Minister.

Appendix A – List of respondents to the CP

- Solicitors Regulatory Authority (of England and Wales)
- Standard Bank Jersey Limited

In addition, a response was received from a trust company and fund services business that wishes to remain anonymous.