



Jersey Financial
Services Commission

Consultation Paper No. 10 2018

Amendments to Codes of Practice

A consultation on proposals regarding maintenance amendments, amendments to address regulatory concerns and to ensure compliance with international regulatory standards and consideration of aligning the Codes of Practice

Issued: November 2018

Consultation Paper

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **7 January 2019**. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the *JFSC*.

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It is the policy of the JFSC to make the content of all responses available for public inspection (unless specifically requested otherwise by the respondent).

It is the policy of JFL (unless otherwise requested or agreed) to collate all responses and share them verbatim with the JFSC on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.). This collated, anonymised response will, typically, be placed in JFL's permanent electronic archive which is currently open to all JFL members.

Glossary of Terms

Defined terms are indicated throughout this document as follows:

AIF	alternative investment fund
AIF Code	Code of Practice for Alternative Investment Funds
AIF Regulations	Alternative Investment Funds (Jersey) Regulations 2012
Banking Code	Code of Practice for Deposit-taking Business
BBJL	Banking Business (Jersey) Law 1991
Certified Funds Code	Code of Practice for Certified Funds
CIFJL	Collective Investment Funds (Jersey) Law 1988
Codes of Practice (or Codes)	collectively, the <ul style="list-style-type: none"> › <i>AIF Code</i>; › <i>Certified Funds Code</i>; › <i>Banking Code</i>; › <i>FSB Code</i>; › <i>GIMB Code</i>; › <i>IB Code</i>; › <i>Insurance Code</i>; › <i>MSB Code</i>; and › <i>TCB Code</i>
Commission Law	Financial Services Commission (Jersey) Law 1998
FSB	fund services business
FSB Code	Code of Practice for Fund Services Business
FSJL	Financial Services (Jersey) Law 1998
GIFCS Standard	Standard on the Regulation of Trust and Corporate Service Providers issued by the GIFCS ¹
GIMB	general insurance mediation business
GIMB Code	Code of Practice for General Insurance Mediation Business
IB	investment business
IB Code	Code of Practice for Investment Business
IBJL	Insurance Business (Jersey) Law 1996
Insurance Code	Code of Practice for Insurance Business

¹ See <http://www.gifcs.org/images/GIFCSStandardonTCSPs.pdf>

IOSCO	International Organization of Securities Commissions
JFSC	Jersey Financial Services Commission
JPF	Jersey Private Fund
MSB	money service business
MSB Code	Code of Practice for Money Service Business
NIST	National Institute of Standards and Technology, see also: https://www.nist.gov/cyberframework
registered person	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> and the <i>IBJL</i>
TCB	trust company business
TCB Code	Code of Practice for Trust Company Business
TCSP	trust and company service provider

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1 Executive Summary

1.1 Background

- 1.1.1 The *Codes of Practice* are issued by the *JFSC* under provisions in the *regulatory laws* and set regulatory requirements that *registered persons* must comply with.
- 1.1.2 The contravention of a Code of Practice can result in regulatory action being taken against a *registered person*.
- 1.1.3 The *regulatory laws* provide that the *Codes* can be revised by the *JFSC* following consultation with such persons or bodies as appear representative of the interests of *registered persons*.

1.2 What is proposed and why?

- 1.2.1 The proposed amendments to the *Codes* in this consultation paper are presented in Chapter 4 and fall, broadly, into three categories:
 - 1.2.1.1 amendments that could be termed ‘routine maintenance’ - for example, to improve the clarity of certain provisions in the *Codes*;
 - 1.2.1.2 amendments that will modify regulatory requirements in order to address issues that the *JFSC* has identified during the course of supervising *registered persons*; and
 - 1.2.1.3 amendments to ensure that the *JFSC*’s regulatory requirements comply with international regulatory standards.
- 1.2.2 Chapter 5 outlines the *JFSC*’s considerations around future development of the *Codes* which might see alignment of the high level principles as well as certain detailed requirements across the *Codes* in order to increase their comparability and, potentially their practical ease of use, particularly for multi-licenced firms.
- 1.2.3 Alignment of the *Codes* ought to provide opportunity for the presentation of the *Codes* in a more accessible format than in their current form as .pdf documents published on the *JFSC* website. For example, in a filterable form for relevant financial services activity – tailored to individual *registered persons*.
- 1.2.4 It should be noted that the considerations in Chapter 5 are not proposals that will be introduced at the same time as the proposals in Chapter 4, but considerations on which the *JFSC* seeks feedback from industry.

1.3 Who would be affected?

- 1.3.1 The proposals in this consultation paper have the potential to affect all *registered persons*.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The *JFSC* has issued this consultation paper in accordance with provisions in the *regulatory laws* that require it, before revising any Code of Practice, to, “[consult] with such persons or bodies as appear representative of the interests concerned”.

2.2 Responding to the consultation

- 2.2.1 The *JFSC* invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.

2.3 Next steps

- 2.3.1 The intention is that amended *Codes of Practice* in the form shown in Appendices B to J (subject to the making of any revisions considered necessary as a result of responses to this consultation) will be issued during Q1 2019 and come into force two months after issue.
- 2.3.2 Feedback in respect of Chapter 5 of this consultation paper will be collated and feedback regarding the appetite to align the *Codes* provided in Q1 of 2019.
- 2.3.2.1 If *registered persons* do not express an appetite to align the *Codes* then this feedback will be provided simultaneously with the feedback on the other questions posed in this consultation paper.
- 2.3.2.2 If *registered persons* do express an appetite to align the *Codes* then this feedback will be provided in a separate feedback paper detailing the intended programme of revisions to achieve an alignment of the *Codes*.

3 The JFSC

3.1 Overview

- 3.1.1 The *JFSC* is a statutory body corporate established under the *Commission Law*. It is responsible for the supervision and development of financial services provided in or from within Jersey.

3.2 The JFSC's functions

- 3.2.1 The *Commission Law* prescribes that the *JFSC* shall be responsible for:
- 3.2.1.1 the supervision and development of financial services provided in or from within Jersey;
 - 3.2.1.2 providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
 - 3.2.1.3 preparing and submitting to the Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;
 - 3.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:
 - › as are required or authorised by or under any enactment, or
 - › as the States may, by Regulations, transfer; and
 - 3.2.1.5 such other functions as are conferred on the *JFSC* by any other Law or enactment.

3.3 Guiding principles

- 3.3.1 The *JFSC's* guiding principles require it to have particular regard to:
- 3.3.1.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence, malpractice, or the financial unsoundness of persons carrying on the business of financial services in or from within Jersey;
 - 3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
 - 3.3.1.3 the best economic interests of Jersey; and
 - 3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

4 Proposals

4.1 Introduction

- 4.1.1 This chapter describes, and explains the reasons for, the proposed amendments to the *Codes*.
- 4.1.2 Where the same (generic) amendment to more than one of the *Codes* is proposed these are described in sections 4.2 to 4.5. The other sections in this chapter describe changes to be made to individual *Codes*.
- 4.1.3 Appendices B to J contain red-lined versions of the *Codes* showing all of the proposed amendments. Readers are asked to note that minor typographical or clarificatory changes to the *Codes* are not described in this consultation paper but, in the interests of transparency, are shown in the red-lined version of each Code in the appendices.
- 4.1.4 In Consultation No.6 2017, a number of amendments were proposed in order to address requirements of the *GIFCS Standard*, the international regulatory standard for the regulation of *TCSPs*. The *JFSC*'s regulatory standards were independently assessed against the requirements of the *GIFCS Standard* in Q4 2017 and a further amendment is proposed in this consultation.
- 4.1.5 The requirements of the *GIFCS Standard* primarily impact on the content of the *TCB Code*. However, as in Consultation No.6 2017, the amendment to the *TCB Code* to meet the *GIFCS Standard* has been replicated in other *Codes*, in cases where the *GIFCS Standard* is considered to represent best regulatory practice for other types of financial service business.

4.2 Generic Amendment: Payment of financial penalties

- 4.2.1 It is proposed that each of the *Codes*, with the exception of the *Certified Funds Code* will feature requirements to ensure that where a financial penalty is imposed by the *JFSC*:
 - 4.2.1.1 the person on whom the penalty is imposed will pay the penalty;
 - 4.2.1.2 an insurer will not pay the penalty; and
 - 4.2.1.3 insurance should not be sought to cover financial penalties.
- 4.2.2 This would, for example, prevent a *registered person* or an insurer settling a financial penalty where that penalty is imposed on a principal person.
- 4.2.3 It is made clear in each of the *Codes* that it is not intended to prevent a *registered person* from securing insurance that indemnifies against costs associated with defending *JFSC* enforcement action, or indeed, any costs the person may be ordered to pay to the *JFSC* as a result of such action.

4.2.4 Question 1

Do you have any observations on, or concerns about, the proposed generic amendment regarding the payment of financial penalties?

If you do, please state in detail what your observation or concern is and the reason for it.

4.3 Generic Amendment: Cyber risk management

- 4.3.1 A note has been included within Section 3 of each Code, with the exception of the *AIF Code*, that clarifies expectations in respect of *registered persons'* cyber security risk management processes:
- 4.3.1.1 “With respect to the various risk management provisions under principle 3 of the *Code*, particularly [x.x], it is expected that a *registered person* will have specifically considered, amongst other risks, the risk of a cyber security incident, and have in place a corresponding documented policy to identify assets and risks, to protect them, to quickly detect potential cyber security incidents, to respond to contain the impact of an incident and to recover from it.”
- 4.3.2 It is intended that the inclusion of this note will highlight the importance of adequate consideration of cyber security risk management and the creation of a documented policy.
- 4.3.3 In particular, the note draws attention to the *NIST* cybersecurity framework such that a *registered person's* policy will feature the following five stages: Identify, Protect, Detect, Respond and Recover.
- 4.3.4 The note is not intended to create a disproportionate burden on *registered persons* and the *JFSC* notes that its Cyber Security Survey 2017 highlighted several examples of good practice which would already meet the recommendations of the note.

4.3.5 Question 2

Do you have any observations on, or concerns about, the proposed generic amendment that would include a note regarding Cyber Security risk management?

If you do, please state in detail what your observation or concern is and the reason for it.

4.4 Generic Amendment: Client, Customer and Fund Money

- 4.4.1 The *GIFCS Standard* mandates controls that a *TCSP* should implement where it holds or controls client money. In the next version of the *GIFCS Standard* which will be released by the end of Q1 2019, it is proposed that these controls will include the implementation of an independent review of the controls over client money.
- 4.4.2 In response to this new requirement under the *GIFCS* standard, Section 3 of the *TCB Code* has been amended to incorporate such an independent review. Because this requirement in the *GIFCS Standard* is considered to represent best regulatory practice for other types of financial service business as well, Section 3 of the *GIMB*, *FSB* and *IB Codes* have been amended likewise:
- 4.4.3 “Where a *registered person* controls [Client, Customer or Fund money] it should implement an independent review of the controls over [such] money on, at least, an annual basis:
- 4.4.3.1 The review shall verify the effectiveness of the *registered person's* relevant controls over [such money] with particular regard to those controls that prevent the:
- › Loss;
 - › Misuse; and
 - › Misappropriation of [such] money.

- 4.4.3.2 The review should be performed by an appropriately qualified independent person who may be an internal or external party.
- 4.4.3.3 Where an internal party performs such review they must be operationally independent from the individuals or functions within the *registered person* responsible for the operation of the controls under review.”
- 4.4.4 In respect of the *FSB Code*, the inclusion of “Fund Money” is intended to replicate “Customer Money” in the *TCB Code* and “Client Money” in the *IB Code*. The inclusion of “Client Money” in the *GIMB Code* is similarly intended to replicate “Customer”, “Client” and “Fund” money with the overall intention being to develop parity in the requirements across the *Codes* where this represents best regulatory practice as described at 4.1.5.

4.4.5 **Question 3**

Do you have any observations on, or concerns about, the proposed generic amendment to arrangements for the review of controls over client, customer and fund money?

If you do, please state in detail what your observation or concern is and the reason for it.

4.5 Generic Amendment: PII Arrangements

- 4.5.1 During 2017 the *JFSC* performed a review of Professional Indemnity Insurance (**PII**) arrangements among *GIMBs*, *FSBs*, *IBs* and *TCBs*. The results of this review were published on 7 December 2017 ([JFSC Professional Indemnity Insurance \(PII\) Review Results – 2017](#), **Review Results – 2017**) and an updated PII guidance note was published on 26 June 2018.
- 4.5.2 In addition to the updated guidance, it is proposed to align the requirements under each of the *Codes* for *GIMBs*, *FSBs*, *IBs* and *TCBs* such that there is consistency in the requirements for PII arrangements.
- 4.5.3 These alignments include, among other things:
- 4.5.3.1 making the required policy inclusions for *PII* as well as the required notifications to the *JFSC* consistent across the *FSB*, *GIMB*, *IB* and *TCB Codes*;
- 4.5.3.2 clarifying that where *registered persons* may be subject to Eligible complaints as defined at Article 7 of the Financial Services Ombudsman (Jersey) Law 2014 they must ensure that *PII* cover is adequate; and
- 4.5.3.3 clarifying the period that “run off” *PII* is expected to cover where a *registered person* ceases to conduct a class of financial services business.

4.5.4 **Question 4**

Do you have any observations on, or concerns about, the proposed generic amendment to *PII* Arrangements for *FSBs*, *GIMBs*, *IBs* and *TCBs*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.6 Amendments to the *AIF Code*

- 4.6.1 Where the glossary of terms referred to the Limited Liability Partnerships (Jersey) Law 1997, this has been updated to reflect the successor legislation, the Limited Liability Partnerships (Jersey) Law 2017.
- 4.6.2 *JPF* is now defined within the glossary of terms.
- 4.6.3 The Application of the Code section has been updated to clarify that the introduction of passporting and withdrawal of private placement rules has not taken effect during 2018. As such, non-EU AIFMs continue to be able to market Directive *AIFs* under the Private Placement Rules for the time being.
- 4.6.4 *JPF* is now included within the table, Part I: Application of the Code in response to feedback from industry.
- 4.6.5 A requirement is introduced through paragraphs 2.5.6 and section 5.12 to implement the proposed *Generic Amendment: Payment of financial penalties* which is explained at 4.2 above, with consequential changes to the navigation table on page 14.
- 4.6.6 Other than the above, no substantive changes to the *AIF Code* are proposed.

4.6.7 Question 5

Do you have any observations on, or concerns about, any of the proposed amendments to the *AIF Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.7 Amendments to the *Banking Code*

- 4.7.1 A note is introduced beneath section 3.1 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.7.2 A requirement is introduced through section 3.10 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 1 beneath section 3.10 clarifies the intended scope in respect of insurance against costs.
- 4.7.3 A paragraph will be introduced (6.15) that requires a Jersey bank to notify the *JFSC*, in writing, not less than 10 business days before a change to its capital structure is implemented and that “no objection” is received before such change takes place. This is intended to ensure that *registered persons who*, for example, intend to repay or vary the terms of capital, receive appropriate consent from the *JFSC*.
- 4.7.4 Other than the above, no substantive changes to the *Banking Code* are proposed.

4.7.5 Question 6

Do you have any observations on, or concerns about, any of the proposed amendments to the *Banking Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.8 Amendments to the *Certified Funds Code*

- 4.8.1 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.

- 4.8.2 Paragraph 6.7.2 will be amended to clarify the notification requirements in the event of the winding up or dissolution of a Fund except where the event has already been agreed by the *JFSC*. This is intended to clarify that notification is expected for all such events and is not limited to specific circumstances or specific fund vehicles.
- 4.8.3 Other than the above, no substantive changes to the *Certified Funds Code* are proposed.

4.8.4 **Question 7**

Do you have any observations on, or concerns about, any of the proposed amendments to the *Certified Funds Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.9 Amendments to the *FSB Code*

- 4.9.1 “Fund Money” is introduced as a definition within the glossary of terms. This is in order to support the introduction of the Generic Amendment: Client, Customer and Fund Money proposed at 4.4 above.
- 4.9.2 A requirement is introduced at paragraph 3.2.2 to implement regular independent reviews of controls over “Fund Money”. The rationale for this proposed generic amendment is explained at 4.4 above. An accompanying notification requirement is included at section 6.5.
- 4.9.3 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.9.4 A requirement is introduced through section 3.8 and paragraph 5.2.3 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 2 beneath section 5.2 clarifies the intended scope in respect of insurance against costs.
- 4.9.5 Section 5.2 is amended in line with the Generic Amendment: PII Arrangements, proposed at 4.5 above.
- 4.9.6 Other than the above, no substantive changes to the *FSB Code* are proposed.

4.9.7 **Question 8**

Do you have any observations on, or concerns about, any of the proposed amendments to the *FSB Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.10 Amendments to the *GIMB Code*

- 4.10.1 “Client Money” is introduced as a definition within the glossary of terms. This is in order to support the introduction of the Generic Amendment: Client, Customer and Fund Money proposed at 4.4 above. An accompanying notification requirement is included at section 6.4.
- 4.10.2 “Insurance Money” is introduced as a definition within the glossary of terms. This is the definition at Article 3 of the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005 and is introduced in order to support

the introduction of the Generic Amendment: Client, Customer and Fund Money proposed at 4.4 above, see also 4.10.1.

- 4.10.3 Paragraph 3.2.1 is amended to clarify the requirements for the holding of policy and procedures manuals in Jersey, or where the *registered person's* established place of business is not in Jersey, that the manuals must be made available to the *JFSC without delay*.
- 4.10.4 A requirement is introduced at paragraph 3.2.6 to implement regular independent reviews of controls over Client Money. The rationale for this proposed generic amendment is explained at 4.4 above.
- 4.10.5 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.10.6 Sub-paragraph 3.3.4.1 is amended to clarify that the Compliance Officer must be based in Jersey where the *registered person* has a physical presence in Jersey.
- 4.10.7 A requirement is introduced through section 3.8 and paragraph 5.2.3 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 2 beneath section 5.2 clarifies the intended scope in respect of insurance against costs.
- 4.10.8 A note is introduced beneath section 4 to clarify that the requirements to disclose the nature and amount of all standard fees and charges associated with the policy levied over and above the premium charged apply to each and every policy of insurance. It is made clear that the *JFSC* expects that clients will receive a breakdown of costs, must not be misled and must be informed of all relevant material facts.
- 4.10.9 Section 5.2 is amended in line with the Generic Amendment: PII Arrangements, proposed at 4.5 above.
- 4.10.10 Other than the above, no substantive changes to the *GIMB Code* are proposed.

4.10.11 **Question 9**

Do you have any observations on, or concerns about, any of the proposed amendments to the *GIMB Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.11 Amendments to the *Insurance Code*

- 4.11.1 Paragraph 3.2.2.15 is amended to clarify that the *JFSC's* Policy on Outsourcing applies to Category B Permit Holders only.
- 4.11.2 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.11.3 A requirement is introduced through section 3.9 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 1 beneath section 3.9 clarifies the intended scope in respect of insurance against costs.
- 4.11.4 Other than the above, no substantive changes to the *Insurance Code* are proposed.

4.11.5 Question 11

Do you have any observations on, or concerns about, any of the proposed amendments to the *Insurance Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.12 Amendments to the *IB Code*

- 4.12.1 A requirement is introduced at paragraph 3.2.2 to implement regular independent reviews of controls over Client Money. The rationale for this proposed generic amendment is explained at 4.4 above. An accompanying notification requirement is included at section 6.6.
- 4.12.2 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.12.3 A requirement is introduced through section 3.9 and paragraph 5.2.3 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 2 beneath section 5.2 clarifies the intended scope in respect of insurance against costs.
- 4.12.4 Section 5.2 is amended in line with the Generic Amendment: PII Arrangements, proposed at 4.5 above.
- 4.12.5 Other than the above, no substantive changes to the *IB Code* are proposed.

4.12.6 Question 10

Do you have any observations on, or concerns about, any of the proposed amendments to the *IB Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.13 Amendments to the *MSB Code*

- 4.13.1 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.13.2 A requirement is introduced through section 3.7 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 1 beneath section 3.7 clarifies the intended scope in respect of insurance against costs.
- 4.13.3 Other than the above, no substantive changes to the *MSB Code* are proposed.

4.13.4 Question 12

Do you have any observations on, or concerns about, any of the proposed amendments to the *MSB Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.14 Amendments to the *TCB Code*

- 4.14.1 Paragraph 3.2.5 and the Third Schedule are amended to include limited liability partnerships where reference is made to Class I *TCB*.
- 4.14.2 A requirement is introduced at paragraph 3.2.13 to implement regular independent reviews of controls over Customer Money. The rationale for this proposed generic amendment is explained at 4.4 above. An accompanying notification requirement is included at section 6.4.
- 4.14.3 A note is introduced beneath section 3.2 in line with the proposed generic amendment in respect of cyber risk management at 4.3 above.
- 4.14.4 A requirement is introduced through section 3.8 and paragraph 5.2.3 to implement the proposed generic amendment regarding the payment of financial penalties which is explained at 4.2 above. Note 2 beneath section 5.2 clarifies the intended scope in respect of insurance against costs.
- 4.14.5 Section 5.2 is amended in line with the Generic Amendment: PII Arrangements, proposed at 4.5 above.
- 4.14.6 Other than the above, no substantive changes to the *TCB Code* are proposed.

4.14.7 **Question 13**

Do you have any observations on, or concerns about, any of the proposed amendments to the *TCB Code*?

If you do, please state in detail what your observation or concern is and the reason for it.

4.15 Implementation timescale

- 4.15.1 The *JFSC* recognises that *registered persons* may require a lead-in period to update their internal procedures to facilitate compliance with the amended *Codes*. In this regard, the *JFSC*'s intention is to bring them into force two months after they are issued.

4.15.2 **Question 14**

Do you consider a lead-in period of two months to be adequate?

If you do not, please explain why and suggest an alternative time period.

4.16 Cost Benefit Analysis

- 4.16.1 It is not expected that the proposed amendments to the *Codes* will result in *registered persons* incurring significant additional expenditure.
- 4.16.2 Save for staff costs incurred in carrying out this consultation and the publication of final amended *Codes* in due course, no other substantive expenses are expected to be incurred by the *JFSC*.
- 4.16.3 The proposals in Chapter 4 of this paper will, in aggregate, improve the clarity of the *Codes* for *registered persons*, enhance consumer protection and ensure that the Island meets international regulatory standards.

5 Alignment of the Codes

5.1 Overview

- 5.1.1 The *JFSC* invites views regarding the future development of the *Codes*, specifically towards aligning the high level principles as well as detailed requirements where they are the same or similar.
- 5.1.2 The intended effect of such development would be to increase their comparability and, potentially, their practical ease of use. This would be particularly relevant for multi-licenced firms.
- 5.1.3 The alignment of the *Codes* would prepare the *JFSC* for issuing the *Codes* in a different format rather than the existing pdf files. This might, for example, be as a filterable webpage where *registered persons* could select only the relevant sections of a fully aligned Code.
- 5.1.4 The considerations in this chapter are not formal proposals to be introduced at the same time as the proposals in Chapter 4. It is not proposed to consider amendments to the *AIF Code*.
- 5.1.5 *Codes of Practice* have been in issue since 2000 (in the case of the *IB Code* and *TCB Code*) and since 2008 (with the exception of the *AIF Code*), the *Codes* have featured broadly similar high level principles.
- 5.1.6 Nevertheless there are differences even at this high level and, where each of the *Codes* specifies detailed requirements for relevant firms and their activities, the divergence is amplified.
- 5.1.7 This is appropriate in the context of the different kinds of activity undertaken by *registered persons* and the need to specify discrete requirements. For example:
- 5.1.7.1 Section 2 of the *IB Code* specifies requirements introduced in 2008 in order to comply with *IOSCO* Objectives which are not relevant to, and so not requirements for, non-*IB* firms; and
- 5.1.7.2 Section 3 of the *TCB Code* specifies requirements that are relevant to specific classes of Trust Company Business defined in the *FSJL* which are not relevant to, and so not requirements for, firms that do not hold these classes of licence.
- 5.1.8 What is notable when comparing the *Codes*, however, are the areas where clearly specified requirements in respect of similar, or the same, activities are prescribed in different ways.
- 5.1.9 For example, the first principle in each of the *Codes* is designed to achieve the same outcome, that is: to ensure that business is conducted with integrity.
- 5.1.10 As illustrated in the table at Appendix K, with the exception of the *TCB* and *IB Code*, there are differences that mean that for the eight *Codes*, there are seven different specifications for the first principle.
- 5.1.11 The differences within Appendix K fall into three categories:
- 5.1.11.1 Terminology;
- 5.1.11.2 Numbering, punctuation and typesetting; and
- 5.1.11.3 Emphasis.

- 5.1.12 A fourth category of difference exists within the *Codes* though is not illustrated at Appendix K, Tailoring. Tailoring is the need to specify discrete requirements for different kinds of activity (as noted at 5.1.7).

5.2 Terminology

- 5.2.1 Terminology may or may not be a contentious issue should the *Codes* undergo a process of alignment. Indeed, it would be the intention of terminological alignment to capture the activities performed and the businesses performing these activities coherently, but not to revise the *Codes* in such a way that activities that currently fall out of scope are captured or vice versa
- 5.2.2 Within this Consultation Paper and in its predecessor, Consultation Paper No.6 2017, the term *Registered person* is defined in the glossary of terms to capture *registered persons* (under the *FSJL* and *BBJL*), permit holders (under the *IBJL*) and certificate holders (under the *CIFJL*).
- 5.2.3 This demonstrates that it is possible to specify a collective term that spans across the *regulatory laws*, however, it might be that contrary views to this position are held. The *JFSC* would be keen to understand these views.
- 5.2.4 By way of further example, within the second principle and throughout the relevant *Codes*, the following groups of individual with whom *registered persons* transact business are prescribed:
- 5.2.4.1 “Client” within the *GIMB*, *IB* and *MSB Codes*;
 - 5.2.4.2 “Customer” within the Banking and *TCB Codes*;
 - 5.2.4.3 “Fund” within the *FSB Code*;
 - 5.2.4.4 “Policyholder” within the *Insurance Code*; and
 - 5.2.4.5 “Unitholder” within the *Certified Funds Code*.
- 5.2.5 The origin of these differences are definitions within the *regulatory laws* and general practice within industry sectors. For example:
- 5.2.5.1 the *FSJL* states that “client” is not a relevant term for *TCBs*:
 - › “in relation to a registered person, means a person, whether resident on or off Jersey, with or for whom the registered person transacts or has transacted financial service business (*other than trust company business*) or gives or has given advice about financial service business (*other than trust company business*).
 - 5.2.5.2 “Unitholder” or “policyholder” more specifically describe the individuals with whom insurance business and certified funds, respectively, transact regulated financial services business.
- 5.2.6 The *JFSC* would like to understand the extent to which *registered persons* believe it would be possible, or not, to employ a collective term in the case of 5.2.4. If it emerged that this would not be achievable for legal or practical reasons it would not necessarily prevent closer alignment or the *Codes*, however, would influence their future presentation.
- 5.2.7 A final example of a terminological difference is highlighted in Appendix K where “breadth” (*Banking*, *Certified Funds* and *FSB Codes*) and “scope” (*GIMB*, *IB*, *TCB*, *Insurance* and *MSB Codes*) are used in the same paragraph and have the same meaning in the context of the requirement.

- 5.2.8 It would be proposed through a process of alignment to adopt the same term, say “scope”, in order to bring consistency across the *Codes*.

5.3 Numbering, punctuation and typesetting

- 5.3.1 Prima facie, numbering, punctuation and typesetting differences within the *Codes* are straightforward to address. That is in the sense that alignment of the *Codes* would not be designed to shift the fundamental meaning of the *Codes*.
- 5.3.2 However, in respect of numbering, the *JFSC* is cognisant that *registered persons* compliance monitoring plans, internal databases and systems will often hold explicit reference to numbered items within the *Codes* which could result in a not-insignificant exercise that may be a practical impediment to alignment (i.e. a cost to *registered persons*, but unknown practical value).
- 5.3.3 The *JFSC* currently holds the view, excepting the numbering issue noted at 5.3.2 that typesetting and punctuation would not present a difficulty for industry should the *Codes* be aligned, however, invites feedback particularly where contrary views are held.

5.4 Emphasis

- 5.4.1 Within Appendix K there are examples of different emphasis being placed on aspects of the first principle. These are broadly illustrative of the differences throughout the *Codes* where the same, or similar, matters are addressed in different ways. These are summarised in the following examples with a brief summary of potential alignments:
- 5.4.1.1 Paragraph 1.1 of the *Certified Funds Code* states that “Failure to comply with the above principle will be considered amongst the most serious of breaches of the *Code*.” This emphasis was historically included across all *Codes* (with the exception of the *AIF Code*).
- › The removal of the emphasis within the other *Codes* did not diminish the *JFSC*’s view of the importance of compliance with the first principle.
 - › Indeed, the importance of compliance with all principles is paramount to the effectiveness of the *Codes*.
 - › The alignment of the first principle across the *Codes* may mean that this emphasis within the *Certified Funds Code* would be removed.
- 5.4.1.2 Within the *Certified Funds* and *FSB Codes* the emphasis “and the [full legal] consequences of not following [the *Codes*]” is not included.
- › The emphasis stresses that *registered persons* must maintain an awareness of all potential outcomes should they fail to comply with the *Codes*.
 - › The emphasis is intended to highlight that non-compliance with *Codes* may have implications in law beyond the civil implications of non-compliance.
 - › There may be a view that the emphasis is rhetorical, however, in explicitly drawing *registered persons*’ attention to considering the legal implications of non-compliance the emphasis serves a useful purpose.

- › The alignment of the first principle across the *Codes* may mean that this emphasis would be included across all of the *Codes*.
- 5.4.1.3 Within the *Banking Code* the emphasis “unless the *Code* expressly permits any such avoidance” is not included.
- › The emphasis stresses that *registered persons* may be able to avail themselves of certain exceptions to compliance with the *Codes* where an explicit provision exists.
 - › The emphasis is intended to highlight that there are circumstances where the *Codes* permit variances (often after explicit “no objection” from the *JFSC*).
 - › As at 5.4.1.2 there may be a view that this is a rhetorical feature of the *Codes*, however, it is also reasonable to clarify that where a provision does exist, *registered persons* may avail themselves of it.
 - › The alignment of the first principle across the *Codes* may mean that this emphasis would be included across all of the *Codes* or vice versa.

5.5 Tailoring

- 5.5.1 Tailoring, as briefly explored at 5.1.7, is a fundamental part of the *Codes* and through a process of alignment it would be necessary to preserve a significant volume of specific requirements that apply, for various reasons, to specific types of firm and specific classes of activity.
- 5.5.2 Where these differences exist, it would nevertheless be the intention to align terminology, numbering, typesetting, punctuation and emphasis in order to simplify the *Codes* for *registered persons* to the extent that this is possible.
- 5.5.2.1 A relevant theme would be where “a *registered person*” and “the *registered person*”, along with the appropriate grammatical tense, are employed in similar requirements across different *Codes*.
- 5.5.2.2 The intention in this case would be to align the terminology while maintaining the specific matters of relevance for *registered persons*.
- 5.5.3 Developing consistency through a process of alignment would preserve necessary tailoring, however, would also facilitate the creation of filterable *Code* in a dynamic format which may increase the practical ease of use for *registered persons*.

5.6 Alignment of the principles

- 5.6.1 Prerequisite to aligning the *Codes* would be the alignment of the principles. This has been summarised above in respect of principle 1, including the detailed requirements. The *JFSC* is aware that there may be additional concerns should this approach be pursued across the other principles, particularly in light of the comparative simplicity of principle 1 against the other principles.
- 5.6.2 The *MSB Code* features five principles, the *FSB Code* features eight, the *Certified Funds Code* features nine and the other *Codes* feature seven principles. An overarching caveat would be that only relevant principles apply to *registered persons* and these would need to be explicitly documented within an aligned Code of Practice.

- 5.6.3 It might be a concern for *registered persons* if, for example, *MSBs* were required to comply with principles 1-4 and 6 rather than 1-5 at present.
- 5.6.4 If the principles are aligned, it might present further issues for *registered persons*. For example if the second principle was aligned to state “highest regard” where currently within the Banking, *FSB*, *GIMB*, Insurance and *MSB Codes* the nominal threshold is “due regard” and within the *Certified Funds Code* is “best interest”.
- 5.6.5 The *JFSC*’s initial view is that “highest regard” would be the most appropriate among the different principles.
- 5.6.6 Appendix L lists each of the high level principles under the *Codes* at present (and for the avoidance of doubt, as they will be after this consultation).
- 5.6.7 Comments on the potential impact that aligning the principles might have on *registered persons* are invited.

5.7 Next Steps

- 5.7.1 In Consultation Paper No.4 2011, a similar question was posed which elicited strong responses both in favour of, and against alignment of the *Codes*. On balance, the *JFSC* concluded that further work was required in this area as communicated in the feedback issued in January 2014.
- 5.7.2 By reintroducing a similar question in this consultation it is hoped that a consensus position might now be reached to inform on the future development of the *Codes*.
- 5.7.3 The *JFSC* invites respondents not to limit their responses to the question below at 5.7.5 if there are additional matters that they feel are pertinent to a process of alignment.
- 5.7.4 As stated at paragraph 2.3.2:
- 5.7.4.1 If *registered persons* do not express an appetite to align the *Codes* then this feedback will be provided simultaneously with the feedback on the other questions posed in this consultation paper.
- 5.7.4.2 If *registered persons* do express an appetite to align the *Codes* then this feedback will be provided in a separate feedback paper detailing the intended programme of revisions to achieve an alignment of the *Codes*.

5.7.5 **Question 15**

Do you have any observations on, or concerns about the considerations regarding alignment of the *Codes* raised in Chapter 5 of this consultation paper?

- › Do you have views on whether it is appropriate to limit such a process of alignment to, say, just *Codes* relating to *FSJL* licences?
- › Do you have views on the involvement of *registered persons* in such a process (for example, industry working groups)?

Please state in detail what your observations or concerns are and the reasons for them.

6 Summary of Questions

Page	Question
10	<p>Question 1:</p> <p>Do you have any observations on, or concerns about, the proposed generic amendment regarding the payment of financial penalties?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
11	<p>Question 2:</p> <p>Do you have any observations on, or concerns about, the proposed generic amendment that would include a note regarding Cyber Security risk management?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
12	<p>Question 3:</p> <p>Do you have any observations on, or concerns about, the proposed generic amendment to arrangements for the review of controls over client, customer and fund money?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
12	<p>Question 4:</p> <p>Do you have any observations on, or concerns about, the proposed generic amendment to PII Arrangements for <i>FSBs</i>, <i>GIMBs</i>, <i>IBs</i> and <i>TCBs</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
13	<p>Question 5:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>AIF Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
13	<p>Question 6:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>Banking Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
14	<p>Question 7:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>Certified Funds Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
14	<p>Question 8:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>FSB Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>

Page	Question
15	<p>Question 9:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>GIMB Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
16	<p>Question 10:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>IB Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
16	<p>Question 11:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>Insurance Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
16	<p>Question 12:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>MSB Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
17	<p>Question 13:</p> <p>Do you have any observations on, or concerns about, any of the proposed amendments to the <i>TCB Code</i>?</p> <p>If you do, please state in detail what your observation or concern is and the reason for it.</p>
17	<p>Question 14:</p> <p>Do you consider a lead-in period of two months to be adequate?</p> <p>If you do not, please explain why and suggest an alternative time period.</p>
22	<p>Question 15:</p> <p>Do you have any observations on, or concerns about the considerations regarding alignment of the <i>Codes</i> raised in Chapter 5 of this consultation paper?</p> <ul style="list-style-type: none"> › Do you have views on whether it is appropriate to limit such a process of alignment to, say, just <i>Codes</i> relating to <i>FSJL</i> licences? › Do you have views on the involvement of <i>registered persons</i> in such a process (for example, industry working groups)? <p>Please state in detail what your observations or concerns are and the reasons for them.</p>

Appendix A: List of representative bodies who have been sent this consultation paper:

- › Channel Islands Financial Ombudsman
- › Chartered Institute for Securities & Investments
- › Institute of Chartered Secretaries and Administrators, Jersey branch
- › Institute of Directors – Jersey branch
- › Insurance Institute of Jersey
- › Jersey Association of Trust Companies
- › Jersey Bankers' Association
- › Jersey Chamber of Commerce and Industry Incorporated
- › Jersey Compliance Officers Association
- › Jersey Consumer Council
- › Jersey Finance Limited
- › Jersey Funds Association
- › Jersey International Insurance Association
- › Jersey Society of Chartered and Certified Accountants
- › Law Society of Jersey
- › Personal Finance Society
- › Society of Trust and Estate Practitioners (STEP), Jersey Branch
- › Chartered Financial Advisors (UK)
- › Jersey Association of Directors and Officers

Appendices B to J – proposed amended *Codes*

- › Proposed amended *Codes* (red-lined to show changes from current versions)

Appendix B – [Code of Practice for Alternative Investment Funds and AIF Services Business](#)

Appendix C – [Code of Practice for Deposit-taking Business](#)

Appendix D – [Code of Practice for Certified Funds](#)

Appendix E – [Code of Practice for Fund Services Business](#)

Appendix F – [Code of Practice for General Insurance Mediation Business](#)

Appendix G – [Code of Practice for Insurance Business](#)

Appendix H – [Code of Practice for Investment Business](#)

Appendix I – [Code of Practice for Money Service Business](#)

Appendix J – [Code of Practice for Trust Company Business](#)

Appendix K: Illustrative differences under principle 1 (excluding AIF Code)

Under each column in the table below, the text of principle 1 of each of the *Codes* is presented alongside the same text from the other *Codes*. Notes to accompany principle 1 are included within the *Banking Code* and *FSB Code*, but are not replicated in this table.

<i>Banking Code</i>	<i>Certified Funds Code</i>	<i>FSB Code</i>	<i>GIMB Code</i>	<i>IB Code and TCB Code</i>	<i>Insurance Code</i>	<i>MSB Code</i>
1	1	1	1	1	1	1
A	A	A	A	A	A	A
registered		registered	registered	registered		registered
person		person	person	person		person
					permit holder	
	Fund					
must	must	must	must	must	must	must
conduct	conduct	conduct	conduct	conduct	conduct	conduct
its	its	its	its	its	its	its
						money service
business	business	business	business	business	business	business
with	with	with	with	with	with	with
integrity.	integrity.	integrity.	integrity.	integrity.	integrity.	integrity.
1.1	1.1	1.1	1.1	1.1	1.1	1.1
	Failure to comply with the above principle will be considered amongst the most serious of breaches of the Code.					
	1.2					
Without limiting	Without limiting	Without Limiting	Without limiting	Without limiting	Without limiting	Without limiting

<i>Banking Code</i>	<i>Certified Funds Code</i>	<i>FSB Code</i>	<i>GIMB Code</i>	<i>IB Code and TCB Code</i>	<i>Insurance Code</i>	<i>MSB Code</i>
the	the	the	the	the	the	the
breadth	breadth	breadth				
			scope	scope	scope	scope
of	of	of	of	of	of	of
			this		this	
the	the	the		the		the
above	above	above		above		above
Principle,	Principle,	Principle,	principle,	principle,	principle,	principle,
a	a	a	a	a	a	a
registered		registered	registered	registered		registered
person		person	person	person		person
					permit	
					holder	
	Fund					
must	must	must	must	must	must	must
not						
	not:	not:	not:	not:	not:	not:
	1.2.1	1.1.1	1.1.1	1.1.1	1.1.1	1.1.1
act	act	act	act	act	act	act
or	or	or	or	or	or	or
refrain	refrain	refrain	refrain	refrain	refrain	refrain
from	from	from	from	from	from	from
	acting;	acting;	acting;	acting;	acting;	acting;
acting,						
or	or	or	or	or	or	or
	1.2.2	1.1.2	1.1.2	1.1.2	1.1.2	1.1.2
contract	contract	contract	contract	contract	contract	contract
or	or	or	or	or	or	or
have	have	have	have	have	have	have
any	any	any	any	any	any	any
other	other	other	other	other	other	other
			form		form	
			of		of	
arrangement,			arrangement,	arrangement,	arrangement,	arrangement,
	arrangement;	arrangement;				
so	so	so	so	so	so	so
as	as	as	as	as	as	as
to	to	to	to	to	to	to
avoid,	avoid,	avoid,	avoid,	avoid,	avoid,	avoid,
or	or	or	or	or	or	or
seek	seek	seek	seek	seek	seek	seek
to	to	to	to	to	to	to

Banking Code	Certified Funds Code	FSB Code	GIMB Code	IB Code and TCB Code	Insurance Code	MSB Code
avoid,	avoid,	avoid,	avoid,	avoid,	avoid,	avoid,
any	any	any	any	any	any	any
regulatory	regulatory	regulatory	regulatory	regulatory	regulatory	regulatory
responsibilities	responsibilities	responsibilities	responsibilities	responsibilities	responsibilities	responsibilities
it	it	it	it	it	it	it
may	may	may	may	may	may	may
have	have	have	have	have	have	have
under	under	under	under	under	under	under
the	the	the	the	the	the	the
Banking						
Code	Code	Code	Code	Code	Code	Code
and			and	and	and	and
the			the	the	the	the
full			full	full	full	full
			legal	legal		legal
consequences			consequences	consequences	consequences	consequences
					at	
					law	
of			of	of	of	of
not			not	not	not	not
following			following	following	following	following
			them	them	them	them
them.						
	unless	unless	unless	unless	unless	unless
	the	the	the	the	the	the
	Code	Code	Code	Code	Code	Code
	expressly	expressly	expressly	expressly	expressly	expressly
	permits	permits	permits	permits	permits	permits
	any	any	any	any	any	any
	such	such	such	such	such	such
	avoidance.	avoidance.	avoidance.	avoidance.	avoidance.	avoidance.

Appendix L: Illustrative aligned high-level principles (excludes AIF Code)

Under each column in the table below, the text of the principles of each of the *Codes* is presented alongside the same text from the other *Codes*. In the final column a potential aligned principle is presented.

	<i>Insurance Code</i>	<i>Certified Funds Code</i>	<i>FSB Code</i>	<i>GIMB Code</i>	<i>IB Code</i>	<i>TCB Code</i>	<i>MSB Code</i>	<i>Banking Code</i>	<i>Aligned Codes</i>
1	A permit holder must conduct its business with integrity.	A Fund must conduct its business with integrity;	<i>A registered person</i> must conduct its business with integrity.	<i>A registered person</i> must conduct its business with integrity.	<i>A registered person</i> must conduct its business with integrity.	<i>A registered person</i> must conduct its business with integrity.	<i>A registered person</i> must conduct its money service business with integrity.	<i>A registered person</i> must conduct its business with integrity.	<i>A registered person</i> must conduct its business with integrity.
2	A permit holder must have due regard for the interests of its policyholders.	A Fund must act in the best interests of Unitholders;	<i>A registered person</i> must have due regard for the interests of the Fund.	<i>A registered person</i> must have due regard for the interests of its clients.	<i>A registered person</i> must have the highest regard for the interests of its clients.	<i>A registered person</i> must have the highest regard for the interests of its customers.	<i>A registered person</i> must have due regard for the interests of its clients.	<i>A registered person</i> must have due regard for the interests of its customers.	<i>A registered person</i> must have the highest regard for the interests of its clients.
3	A permit holder must organise and control its affairs effectively for the proper performance of its business and be able to demonstrate the existence of adequate risk management systems.	A Fund must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems;	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business activities, and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its money service business activities and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.	<i>A registered person</i> must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.

	Insurance Code	Certified Funds Code	FSB Code	GIMB Code	IB Code	TCB Code	MSB Code	Banking Code	Aligned Codes
							management systems.		
4	A permit holder must be transparent in its business arrangements.	A Fund must be transparent in its business arrangements with Unitholders;	<i>A registered person</i> must be transparent in its business arrangements with the Fund.	<i>A registered person</i> must be transparent in its business arrangements.	<i>A registered person</i> must be transparent in its business arrangements.	<i>A registered person</i> must be transparent in its business arrangements.	<i>A registered person</i> must be transparent in its money service business arrangements.	<i>A registered person</i> must be transparent in its business arrangements.	<i>A registered person</i> must be transparent in its business arrangements.
5	A permit holder must maintain and be able to demonstrate the existence of adequate capital resources to enable it to meet its insurance liabilities.	A Fund must maintain, and be able to demonstrate the existence of, both adequate financial resources and adequate insurance;	<i>A registered person</i> must maintain, and be able to demonstrate the existence of, both adequate financial resources and adequate insurance.	<i>A registered person</i> must maintain, and be able to demonstrate the existence of, adequate financial resources and adequate insurance.	<i>A registered person</i> must maintain, and be able to demonstrate the existence of, adequate financial resources and adequate insurance.	<i>A registered person</i> must maintain, and be able to demonstrate the existence of, adequate financial resources and adequate insurance.		<i>A registered person</i> must maintain, and be able to demonstrate the existence of, adequate capital resources.	<i>A registered person</i> must maintain, and be able to demonstrate the existence of, adequate financial resources and adequate insurance.
6	A permit holder must deal with the JFSC in an open and co-operative manner.	A Fund must deal with the JFSC and other authorities in Jersey in an open and co-operative manner;	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> is expected to deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.	<i>A registered person</i> must deal with the JFSC in an open and co-operative manner.
7	A permit holder must not make statements that	A Fund must not make statements that	<i>A registered person</i> must not make	<i>A registered person</i> must not make	<i>A registered person</i> must not make	<i>A registered person</i> must not make		<i>A registered person</i> must not make	<i>A registered person</i> must not make

<i>Insurance Code</i>	<i>Certified Funds Code</i>	<i>FSB Code</i>	<i>GIMB Code</i>	<i>IB Code</i>	<i>TCB Code</i>	<i>MSB Code</i>	<i>Banking Code</i>	<i>Aligned Codes</i>
are misleading, false or deceptive	are misleading, false or deceptive; and	statements that are misleading, false or deceptive.	statements that are misleading, false or deceptive.	statements that are misleading, false or deceptive.	statements that are misleading, false or deceptive.		statements that are misleading, false or deceptive.	statements that are misleading, false or deceptive.
8	A Fund must at all times comply and be operated in accordance with any applicable Guide.	A <i>registered person</i> must, where relevant, comply with the applicable sections of the Code of Practice for Alternative Investment Funds and AIF Services Business						A <i>registered person</i> must, where relevant, at all times comply and operate a Fund in accordance with any applicable Guide.
9	A Fund must comply, where relevant, with the applicable sections of the Code of Practice for Alternative Investment Funds and AIF Services Business.							A <i>registered person</i> must, where relevant, comply with the applicable sections of the Code of Practice for Alternative Investment Funds and AIF Services Business