Jersey Private Fund Guide

The purpose of this Guide is to set out the eligibility criteria for a Jersey Private Fund (**JPF**) which requires a consent to be issued pursuant to the Control of Borrowing (Jersey) Order 1958 (**COBO**). A JPF which satisfies the eligibility criteria set out in this Guide may be established and issued with a relevant consent pursuant to COBO using the streamlined authorisation process, as described in this Guide.

A. Basic definition

A JPF is a private investment fund involving the pooling of capital raised for the fund and which operates on the principle of risk spreading.

A JPF may be established in Jersey or in a country or territory outside of Jersey which requires a relevant consent[1] to be issued and in which the number of offers[2] of units for subscription, sale or exchange shall not exceed 50 and the number of investors shall not exceed 50, with each investor being a person:

1. who is a "**professional investor**" (within the meaning of paragraph 1. of Annex A of this Guide);
2. who makes a minimum initial investment in or commitment to the JPF of not less than two hundred and fifty thousand pounds sterling (or the equivalent of that amount in another currency) either through an initial offering of units in the JPF or by subsequent acquisition;
3. to whom paragraph 3. of Annex A of this Guide applies; or
4. to whom paragraph 5. of Annex A of this Guide applies,

(for the purposes of this Guide, persons meeting the eligibility criteria set out in any of paragraphs 2., 3. or 4. above shall each be an "**eligible investor**" and, together, "**eligible investors**").

A JPF shall not be a collective investment fund (**CIF**) within the meaning of the Collective Investment Funds (Jersey) Law 1988, as amended (**CIF Law**). On this basis, any offer for subscription, sale or exchange of units of a JPF must be addressed exclusively to a "restricted circle of persons"[3] so as to ensure that the offer does not in any way constitute an "offer to the public" within the meaning of Article 3 of the CIF Law.

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[1] For the purposes of this Guide, a "relevant consent" means:

a. in the case of a body corporate, the consent of the JFSC under Articles 1, 2, 3 or 4 of COBO;
b. in the case of a unit trust, the consent of the JFSC under Article 9 of COBO;
c. in the case of a limited partnership, the consent of the JFSC under Article 10 of COBO; or
d. in the case of a limited liability partnership, the consent of the JFSC under Article 11 of COBO.

[2] "*offer*" means an "*offer that is capable of acceptance*" and is not intended to capture pre-marketing material.

[3] An offer is made to a "restricted circle of persons", where:

a. the offer is addressed to an identifiable category of persons to whom it is directly communicated by the offeror or the offeror's appointed agent;
b. the members of that category are the only persons who may accept the offer and they are in possession of sufficient information to be able to make a reasonable evaluation of the offer;
c. the number of persons in Jersey or elsewhere to whom the offer is so communicated does not exceed 50; and
d. the units which are the subject of the offer are not to be listed on any stock exchange within one year of the offer being made.

B. Scope

It is not intended that holding companies or joint venture arrangements will fall within the definition of a JPF or be treated by the JFSC as a JPF for the purpose of this Guide. Equally, a special purpose/securitisation investment scheme issuing "securities" (as defined in the Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000 (**Restriction Order**)) and which has either (i) received a relevant consent from Registry and which meets all of the other requirements of Article 2 of the Restriction Order; or (ii) does not require a consent to be issued under COBO in respect of those securities, will not be treated by the JFSC as a JPF for the purpose of this Guide.

Furthermore, provided that the criteria and relevant definitions outlined in Annex B of this Guide are met, arrangements between persons who are connected to each other by way of a "family connection" or incentive arrangements between persons who are connected to each other by way of an "employment connection" will not be treated by the JFSC as a JPF for the purpose of this Guide.

The service providers to a JPF may rely on the Financial Services (Investment Business (Restricted Investment Business - Exemption)) (Jersey) Order 2001 and/or the Financial Services (Trust Company Business (Exemptions No.5)) (Jersey) Order 2001, subject to the terms of such Orders (together, the **PIRs Orders**).

C. Structure

A JPF established in Jersey shall take the form of a company incorporated under the laws of Jersey (including a protected cell company, an incorporated cell company or any cell thereof) or a partnership (including limited partnerships (**LP**), limited liability partnerships (**LLP**)[4], separate limited partnerships (**SLP**), or incorporated limited partnerships (**ILP**)), or a unit trust constituted under the laws of Jersey.

A JPF established in a country or territory outside of Jersey shall be incorporated or constituted, as applicable, in such equivalent form as is permitted under the laws of such country or territory.

If a JPF is established as a company incorporated under the laws of Jersey or in another country or territory, there is no requirement under this Guide for it to appoint Jersey resident directors to its board.

If a JPF is established as one or more limited partnerships (including LPs, LLPs, SLPs, or ILPs) either under the laws of Jersey or another country or territory, there is no requirement under this Guide for it to have a general partner or, in the case of an LLP, a managing partner that is a Jersey company or Jersey resident directors appointed to the board of that company.

If a JPF is established as a unit trust, there is no requirement under this Guide for it to have a trustee that is a Jersey company or Jersey resident directors appointed to the board of that trustee.

Whilst there is no explicit requirement for the mind and management of a JPF (including a non-domiciled JPF) to be in Jersey, the JFSC would ordinarily expect, in the majority of cases, for one or more Jersey resident directors to be appointed to the board of a JPF's governing body.

A JPF is not required to appoint an auditor but may do so.

[4] Government is due to amend the PIRs Orders to extend to LLPs.

D. Eligibility criteria

1. A JPF must meet the basic definition of a JPF set out under part A. of this Guide and must meet the requirements of part C. of this Guide.

2. A JPF may be open or closed-ended provided that the 50 or Fewer Test (within the meaning of part F. of this Guide) is met.

3. A JPF must not be listed (including a technical listing).

4. No retail investors[5] are permitted to invest (directly or indirectly) in a JPF (except in the circumstances where paragraphs 3. or 5. of Annex A of this Guide apply).

5. Only professional investors (within the meaning of paragraph 1. of Annex A of this Guide) or eligible investors (within the meaning of paragraphs 2, 3 or 4 of part A. of this Guide) who have acknowledged in writing receipt and acceptance of an investment warning and disclosure statement in substantially the same form as the investment warning set out under part E. of this Guide may invest in a JPF.

6. A JPF must appoint a Jersey designated service provider (**DSP**) (as defined and more specifically whose role is described under part G. of this Guide).

7. Where a JPF is also an alternative investment fund (**AIF**) (within the meaning of Regulation 3 of the Alternative Investment Funds (Jersey) Regulations 2012 (**AIF Regulations**)), Jersey's AIFMD legislation and code of practice for AIFs and AIF services business will apply.

8. The activity of a JPF is subject to the JFSC's sound business practice policy, as amended from time to time.

9. The DSP and, to the extent applicable, the governing body of the JPF are required to comply with all relevant provisions of the Money Laundering (Jersey) Order 2008 (**MLO**) and, for the avoidance of doubt, a JPF is a specified Schedule 2 business for the purposes of the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.[6]

Provided the criteria set out in paragraphs 1. to 9. of this part D. are met:

i. A JPF is not required to comply with the Code of Practice for Certified Funds.

ii. Personal questionnaires are not required for any director, beneficial owner/controller, money-laundering reporting officer, money-laundering compliance officer or service provider to the JPF other than the DSP, through the DSP's FSJL requirements.

iii. The promoter of a JPF does not need the prior approval of the JFSC.

iv. A JPF is not required to have a private placement memorandum or an offer document, but may do so, provided that such document contains all of the material information which investors

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[5] A "retail investor" means any investor that is not: (i) a "professional investor" (as defined under paragraph 1. of Annex A of this Guide); (ii) an investor that makes an acquisition in accordance with paragraph 3. of Annex A of this Guide; or (iii) an investor that makes the minimum initial investment in or commitment to the JPF as prescribed under part A. of this Guide.

[6] Cross reference Article 13(10) of the MLO.

and their professional advisers (if any) would reasonably require, and would reasonably expect to find and to have brought fairly to their attention for the purpose of making an informed judgement about:

a. the merits of purchasing units in the JPF; and

b. the nature and levels of the risks accepted by making such a purchase.

The private placement memorandum or offer document will also need to contain the following statement: *"[The directors of the company have] [the general partner/managing partner or trustee (as the case may be) has] 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 facts or of opinion. The [directors accept] [the general partner/managing partner or trustee (as the case may be) accepts] responsibility accordingly."*

v. The JFSC's policy on outsourcing will not apply to the JPF but does apply to the DSP.

E. Investment warning and disclosure statement

The investment warning referred to under paragraph 5. of part D. of this Guide shall be in substantially the following terms:

1. *"[The Fund] has been established in Jersey as a Jersey Private Fund. It is only suitable for those who fall within the definition of 'professional investor' or 'eligible investor' as such terms are defined in the Jersey Private Fund Guide published by the Jersey Financial Services Commission (JFSC). Requirements which may be deemed necessary for the protection of retail or non-professional/eligible investors, do not apply to the [Fund]. By acknowledging this statement you are expressly agreeing that you fall within the definition of a 'professional investor' or an 'eligible investor' and accept the reduced regulatory requirements on [the Fund] accordingly.*

2. *If you are acquiring an interest in [the Fund], directly or indirectly, for or on behalf of a retail investor, the JFSC expects you to be satisfied that the investment is suitable for the relevant underlying retail investor and that the relevant underlying retail investor is able to bear the economic consequences of investment in [the Fund], including the possibility of the loss of their entire investment.*

3. *You are wholly responsible for ensuring that all aspects of [the Fund] are acceptable to you. Investment in a Jersey Private Fund 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 [the Fund] and the potential risks inherent in [the Fund] you should not invest in [the Fund]. The investor or his duly authorised agent must acknowledge in writing that he has received and accepted this investment warning. By signing the acknowledgement it is accepted that an investment in the Fund may involve special risks that could lead to a loss of all such investment."*

The disclosure statement referred to under paragraph 5. of part D. of this Guide shall be in the following terms:

1. *"The JFSC has given, and has not withdrawn, its consent under Article [●] of the Control of Borrowing (Jersey) Order 1958 to the issue of interests in this Fund."*

2. *"It must be distinctly understood that, in giving this consent, the JFSC does not take any responsibility for the financial soundness of this Fund or for the correctness of any statements made, or opinions expressed, with regard to it."*

3. *"The JFSC is protected by the Control of Borrowing (Jersey) Law 1947, as amended, against liability arising from the discharge of its functions under that Law."*

F. Test for number of offers/investors

In determining the 50 or fewer offers and professional and/or eligible investors test[7] (**50 or Fewer Test**) set out in the JPF definition under part A. of this Guide, the following rules shall generally apply:

1. A transfer of units/shares/interests in a JPF from one investor to another shall not be permitted if it means that the number of investors in the relevant JPF exceeds 50 at any one time.

2. A top up of investment by one or more of the investors in a JPF shall be treated as part of the original offer to the relevant investor(s).

3. A split (transfer) of part of a holding of units/shares/interests by an investor to another investor in a JPF which would result in there being more than 50 investors at any one time in the relevant JPF shall not be permitted.

4. Where a person acquires a unit/share/interest in a JPF with no rights attaching to it other than management and/or control rights (i.e. no share in the profits of the relevant JPF), that person shall not be counted as an investor.

5. A carried interest vehicle which is established for the sole purpose of sharing in the profits of a JPF or any other vehicle promoted or advised by the promoter of the JPF shall not be counted as an investor. This is on the basis that generally, the principal purpose of a carry vehicle is to incentivise the relevant fund's management and/or advisory team. Each participant of the carried interest vehicle must be a "professional" or an "eligible" investor as such terms are defined in this Guide.

6. A general partner of a JPF which is established as a form of limited partnership shall not be counted as an investor but shall be counted as an investor where that general partner commits capital to the limited partnership for the purposes of co-investment in that limited partnership. The same position shall apply to general partners of separate limited partnerships, general partners of incorporated limited partnerships and managing partners of limited liability partnerships.

7. In accordance with paragraph 5. of Annex A of this Guide, a professional investor may acquire an interest in a JPF directly for or on behalf of one or more retail investors. In this scenario, the professional investor will be counted as one investor in the relevant JPF and it will not be necessary to look through to the number of underlying investors for the purpose of the 50 or Fewer Test. By subscribing for or acquiring an interest in a JPF, the holder of such interest or person acquiring such interest shall have represented to the relevant JPF that such holder or

[7] For the avoidance of doubt, the rules provided for under the 50 or Fewer Test will apply equally (with the substitution of 15 for 50) where in relation to a JPF there are only to be 15 or fewer offers/investors.

such acquirer is a professional investor. The board of directors, general partner/managing partner or trustee (as the case may be) of the relevant JPF shall be entitled to rely upon such representation for these purposes. [8]

8. The requirements of this Guide shall not be satisfied if a JPF has, without the consent of the JFSC, associated with it any ancillary scheme or arrangement (for the purposes of this paragraph, a "**Feeder Fund**") whose sole or exclusive purpose is to invest in the relevant JPF and the Feeder Fund has any investors who are not professional or eligible investors.

9. Where there is a Feeder Fund which is not the type described in the above paragraph 8., through which professional or eligible investors invest, each professional or eligible investor in that Feeder Fund shall be counted for the purposes of the 50 or Fewer Test however the Feeder Fund itself shall not.

10. On a case by case basis the JFSC may, in exceptional circumstances, deem it appropriate to permit a derogation from the above general rules. Any such application for derogation(s) will not be dealt with on an expedited basis.

G. Designated service provider (DSP)

1. A JPF must appoint a DSP, as referred to under paragraph 6 of part D. of this Guide, and there shall be no change in the DSP without the prior approval of an officer of the JFSC.

2. The DSP must be registered by the JFSC under the Financial Services (Jersey) Law 1998 (**FSJL**) to carry on one or more of class V (Administrator), class U (Manager), class X (Investment Manager) or class ZG (Trustee) of Fund Services Business (**FSB**).

3. Where however, in relation to a JPF there are to be 15 or fewer offers and professional and/or eligible investors (a 'very private' JPF), the duly appointed DSP does not have to be an FSB registered under the FSJL for class V, U, X or ZG and may instead be registered by the JFSC to carry on any class of FSB, Trust Company Business (**TCB**) and/or Investment Business within the meaning of the FSJL.[9]

4. The DSP must be an existing Jersey full substance entity.[10]

5. The duties and responsibilities of the DSP do not replace the duties and responsibilities of the governing body of the relevant JPF for all aspects of the JPF (including marketing and capital raising).

6. Specifically, the DSP must assume responsibility for the following duties in relation to the relevant JPF:

    i. making all reasonable enquiry, to ensure that the JPF meets all of the eligibility criteria referred to under part D. of this Guide both on its establishment and, on a continuing basis;

    ii. ensuring that all necessary due diligence on the JPF and its promoter is carried out and ensuring that the promoter of the JPF has put in place appropriate measures to ensure

[8] A JPF relying on paragraph 7. of part F. of this Guide should have due regard to paragraph 2. of the investment warning and disclosure statement set out in part E. of this Guide.
[9] Please refer to the Financial Services (Financial Service Business) (Jersey) Order 2009.
[10] A DSP must not be a "managed entity" for FSB purposes.

that all service providers to the JPF are fit and proper and can fulfil the tasks in a responsible, professional and suitable manner;

iii. ensuring that all documents relating to its due diligence enquiries will be readily retrievable in Jersey and, if kept otherwise than in legible form, will be maintained by it so as to be readable at a computer terminal in Jersey so that they may be produced in legible form without delay;

iv. ensuring compliance with all necessary Jersey AML/CFT requirements applicable to the JPF;

v. completing and submitting a JPF application form (**JPF Form**) to the JFSC for authorisation of the JPF declaring in its capacity as DSP to the JPF and having made all reasonable enquiry, that the information provided in the JPF Form "is complete, true and accurate" to the best of the DSP's knowledge and belief;

vi. completing and submitting a JPF notice of change or event (**JPF Notice of Change or Event**) to notify the JFSC as soon as reasonably practicable, and for the avoidance of doubt within 28 calendar days', in the event of any:

a. material change in relation to the *JPF* which would impact the accuracy of the information provided to the *Commission* in the *JPF Form* (including the termination of the *JPF* (under any circumstances) or any change to the *JPF*'s Jersey service provider(s) other than the *DSP* (on the basis that there shall be no change in the *DSP* without the prior approval of an officer of the *Commission*));[11]

b. non-compliance with the *JPF*'s Jersey *AML/CFT* obligations (noting that the requirement for reporting/notice to be given in such circumstances may be a statutory requirement pursuant to other laws and regulations);

c. material/unresolved complaint(s) made in relation to the JPF; or

d. qualified audit of the JPF's annual accounts and financial statements (where the JPF has appointed an auditor).[12]

vii. completing and submitting a JPF annual compliance return (**JPF Return**) with the JFSC in each relevant year.

7. The DSP is required to comply with all relevant provisions of the MLO and FSJL and, the JFSC may consider and take account of such conduct when assessing the 'fit and proper' status of the DSP for the purposes of its FSJL licence.

[11] It should be noted that it is not necessary to obtain JFSC consent prior to any material change taking place where such change is in accordance with this Guide.

[12] Except in the circumstances when adopting modified GAAP.

H. JPF Form, JPF Notice of Change or Event and JPF Return[13]

The DSP is required, on application, to provide the JFSC with the information requested in the JPF Form. In the event of a change of DSP, the JFSC's Authorisation Team will require the incoming *DSP* to provide it with a written declaration in substantially the same form as the original declaration received from the outgoing DSP in the JPF Form.

It should be noted that every relevant consent issued by the JFSC under COBO is issued on the basis of the information provided to the DSP in the JPF Form. Any material change in relation to the JPF which occurs prior to the launch of the JPF, and which would impact the accuracy of the information provided to the JFSC in the JPF Form, should be brought to the attention of the JFSC as soon as possible.

The DSP is required, on an ongoing basis, to notify the JFSC as soon as reasonably practicable, and for the avoidance of doubt within 28 calendar days', in the event of any of the circumstances provided for in the JPF Notice of Change or Event.

The DSP is also required, by 31 July in each relevant year, to provide the JFSC with the information requested in the JPF Return for the period up to 30 June of that year.

I. Timescale and cost

A 48 hour stream-lined authorisation process will apply to all JPFs which meet all of the eligibility criteria for a JPF set out in detail under part D. of this Guide. The relevant consent will be granted in 48 hours in relation to a JPF provided that the JFSC's Authorisation Team receives the fully completed JPF Form and the corresponding application fee in the amount prescribed in the JFSC's notice of fees payable by or in relation to COBO (**COBO Fees Notice**), as amended from time to time.

For the avoidance of doubt, the 48 hour JPF timescale and fee is separate from the timescale and fee attaching to any application to the Jersey Companies Registry for the incorporation/registration of a Jersey company or partnership. Similarly, where a JPF is also an AIF, the application timescale and fee attaching to the relevant AIFMD Form(s) shall be separate from the 48 hour JPF timescale and fee.

An annual fee (in the amount prescribed in the JFSC's COBO Fees Notice) is also payable to the JFSC in each relevant year.

J. Transitional provisions and conversion

This Guide is not intended to have retroactive effect. Accordingly, this Guide does not apply to any Jersey private fund (very private fund (**VPF**), private placement fund (**PPF**) or COBO only fund) which has been issued with a relevant consent prior to the introduction of this Guide.

Whilst the establishment of any new VPF, PPF or COBO only fund is no longer permitted following the introduction of this Guide, existing VPFs, PPFs and COBO only funds may continue in operation until the end of their natural life or, alternatively, they (through their duly appointed DSP) may apply to the

[13] Following the introduction of the JFSC's Jersey Private Fund online authorisations tool, applications, notifications and submissions of Annual Returns made after 31 August 2018 will only be accepted online and submissions in paper format will cease to be accepted. In order to access the online authorisations tool, individuals authorised to use the tool on behalf of a DSP will need to contact the JFSC's Authorisation Team in order to receive log-in details to a portal account.

JFSC to convert into a JPF by completing and submitting a JPF Form with the corresponding application fee in the amount prescribed in the JFSC's COBO Fees Notice.

Should an existing VPF, PPF or COBO only fund wish to convert into a JPF and be subject to the requirements of this Guide, it must meet all of the eligibility criteria for a JPF set out under part D. of this Guide. Specifically, for the purpose of the 50 or Fewer Test referred to under part F. of this Guide, any offer made and any investor admitted during the life of the converting fund will be counted[14].

Given the basic definition of a JPF and the eligibility criteria for a JPF provided for under part A. and part D. of this Guide, the JFSC would not ordinarily expect an existing CIF which has been granted a CIF certificate pursuant to the CIF Law to make an application to the JFSC to convert to a JPF.

K. JFSC powers

The JFSC will have appropriate authorisation, supervision, enforcement and co-operation powers in relation to JPFs, subject to changes to the Control of Borrowing (Jersey) Law 1947 and COBO.

Each DSP will be regulated by the JFSC for one or more types of financial service business (within the meaning of the FSJL) and will be subject to the JFSC's standard supervision process.

[14] A converting fund must ensure that any subsequent offer, when taken together with any previous offer, is addressed to persons capable of falling within the "restricted circle of persons" to whom the original offer was addressed so as to ensure that the offer, as a whole, does not in any way constitute an "offer to the public" within the meaning of Article 3 of the CIF Law.

Annex A

Definition of a "Professional Investor"

1. A "**professional investor**" is:

   a. a natural or legal person, partnership, trust, or other unincorporated association whose ordinary business or professional activity includes, or it is reasonable to expect that it includes, acquiring, underwriting, managing, holding or disposing of investments whether as principal or agent, or the giving of advice on investments (except in the circumstance where paragraph 5 of this Annex A applies);

   b. an individual who has a net worth, or joint net worth with that person's spouse or civil partner, greater than one million United States dollars (or the equivalent of that amount in another currency) excluding that person's:

      i. principal place of residence; and

      ii. any rights under a contract of insurance;

   c. a body corporate, partnership, trust, or other unincorporated association which has assets available for investment of not less than one million United States dollars (or the equivalent of that amount in another currency);

   d. a person who is authorised to carry on fund services business, trust company business or investment business within the meaning of the Financial Services (Jersey) Law 1998, as amended, or a person who is authorised in another jurisdiction to carry on materially equivalent services by way of business to or in connection with a Jersey Private Fund (JPF) (a "**Relevant Service Provider**") and any Associate thereof or a co-investment entity in which a Relevant Service Provider or Associate thereof is participating in relation to a JPF;

   e. a person who is a senior employee, director, partner, expert consultant or shareholder of or to a Relevant Service Provider or an Associate thereof, who acquires an interest in a JPF as part of his remuneration or as an incentive, benefit or reward for acting in such a role;

   f. a person who is a senior employee, director, partner or expert consultant of or to a person referred to in sub-paragraph 1.a. above;

   g. a carried interest scheme or arrangement established in relation to a JPF;

   h. a family trust settled by or for the benefit of one or more persons referred to in sub-paragraphs 1.e. or 1.f. above or their spouses, civil partners or dependants;

   i. a trustee of an employment benefit or executive incentive arrangement/scheme established for the benefit of one or more persons referred to in sub-paragraphs 1.e. or 1.f. above or their spouses, civil partners or dependants;

   j. a government, local authority, public authority or supra-national body in Jersey or elsewhere;

   k. a body corporate, partnership, trust, or other unincorporated association of which, every member, partner or beneficiary is a 'professional investor' (within the meaning of this paragraph 1.);

   l. a 'professional client' within the meaning of Annex II to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments; or

m. where an application is made to the Jersey Financial Services Commission (**JFSC**), such other natural or legal persons as the JFSC may deem appropriate on a case by case basis.

2. For the purposes of this Annex A:

   a. "**Associate**" means:

      i. in relation to a legal person, any legal person which is a subsidiary or a holding body of that legal person 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 legal person and any legal person which is directly or indirectly controlled by any such individual, partnership or other unincorporated association, or firm; and

      ii. in relation to an individual, partnership or other unincorporated association, means any legal person directly or indirectly controlled by that individual, partnership or other unincorporated association.

   b. "**holding body**" and "**subsidiary**" shall have the meanings set out in the Companies (Jersey) Law 1991, as amended.

3. The acquisition of:

   a. non-participating units in a JPF that is structured as a corporate vehicle (such as non-redeemable founders' or management shares);

   b. founder or nominal interests in a JPF that is structured as a limited partnership; or

   c. any founder or nominal interests equivalent to those referred to in subparagraphs 3.a. and 3.b. above, in a JPF that is structured as a unit trust,

   which are created or issued to facilitate:

      i. the formation and structuring of the relevant JPF;

      ii. to exercise voting and/or management rights in respect of the relevant JPF; or

      iii. to give entitlement to performance related fees or dividends as part of remuneration arrangements for management or advisory entities to the relevant JPF or their personnel; or

   d. the transfer of any interest in a JPF where the transfer has been involuntarily, such as on the death or bankruptcy of a registered holder, in the absence of provision in the constitutive documents, to the personal representatives or trustee in bankruptcy,

   shall be permissible notwithstanding that the person acquiring the same does not fall within paragraphs 1. or 5. or does not make the minimum investment in or commitment to the relevant JPF as prescribed in the Jersey Private Fund Guide (JPF Guide). However, in the case of sub-paragraph 3.d. above, it is expected that paragraph 1. of this Annex A will apply on a transfer to a new beneficial owner once the administration is complete or that the new beneficial owner will make the minimum investment in or commitment to the relevant JPF as prescribed in the JPF Guide.

4. Professional investors, investors who make an acquisition in accordance with paragraph 3. of this Annex A, and those investors that make the minimum initial investment in or commitment to a JPF as prescribed in the JPF Guide are deemed to be able to evaluate the financial risks of a JPF and to bear the economic consequences of investment in a JPF, including the possibility of the loss of their entire investment.

5. Any discretionary investment manager acquiring an interest in a JPF, directly or indirectly, for or on behalf of one or more persons who are not professional investors must be satisfied that such

investment is suitable for the underlying investor, and that the underlying investors are able to bear the economic consequences of investment in the relevant JPF, including the possibility of the loss of their entire investment.

Annex B

JFSC treatment of family office and employee incentive arrangements for the purpose of this Guide.

In the case of an arrangement between persons who are connected to each other by way of a family connection or incentive arrangements between persons who are connected to each other by way of an employment connection, for so long as such arrangement satisfies the criteria and relevant definitions outlined below, the JPF Guide will not apply to it.

Criteria for “employment connection” and “family connection”

The arrangement:

1. may or may not meet the basic definition of a JPF under part A. of the JPF Guide but does not meet the definition of a collective investment fund under Article 3 of the CIF Law; and
2. has its administration carried out by a person that is registered by the JFSC to carry on Trust Company Business and/or Fund Services Business within the meaning of the Financial Services (Jersey) Law 1998, as amended but who is not a managed entity; and
3. is disclosed in the application to the JFSC for a relevant consent to be issued pursuant to COBO (e.g. the C2A Form).

Definitions[15] of “employment connection” and “family connection”

“**employment connection**” means a connection that exists between persons by reason of each being an eligible employee of the same employer.

“**eligible employee**” means:

a. an individual that is a senior employee, partner or director of an employer or of a company in the same group as the employer; or
b. a trust, foundation, company, partnership or other scheme or arrangement established for the sole benefit of an individual referred to in paragraph a. of this definition or such an individual and his/her dependants.

“**family connection**” means:

a. a connection that exists between two persons (respectively the “first person” and the “second person”) by reason that the first person is:
    i. the wife, husband or civil partner of the second person,
    ii. a relative (as defined below) of the second person,
    iii. the wife, husband or civil partner of a relative of the second person,
    iv. the wife, husband or civil partner of the second person’s wife, husband or civil partner, or
b. a connection that exists between two persons (either or both of which is a family vehicle) by reason that at least one beneficiary of the family vehicle has a family connection described in paragraph a. with:

[15] These definitions are aligned with the policy set out in the Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014.

i. at least one other natural person who is a participant in the arrangement, or

ii. at least one beneficiary of another family vehicle that is a participant in the arrangement.

“**family vehicle**” means a trust, foundation, company, partnership or other scheme or arrangement established for the benefit (directly) of:

a. a natural person; or

b. two or more natural persons, who are all connected to each other by virtue of a family connection described in paragraph a. of that defined expression.

“**relative**” means brother, sister, aunt, uncle, nephew, niece, lineal ancestor or lineal descendant, for which purpose:

a. any relationship of the half blood shall be treated as a relationship of the whole blood and the step child or adopted child of a person as his or her child; and

b. an illegitimate child shall be treated as the legitimate child of his or her mother and reputed father.