

National Risk Assessment

Funds sector



Jersey Financial
Services Commission

JFSC Official



Agenda

Overview of Funds sector

Working Group & Industry perspective

Sector Threats & Vulnerabilities,
including controls

Next steps



What is risk in a money laundering context?

$$\text{Risk} = \text{Threat} + \text{Vulnerability}$$

Threat

A person or group of people, object or activity with the potential to cause harm to, for example; the state, society, the economy etc.

- e.g. the governing body of fund operators and funds, and the fund investors

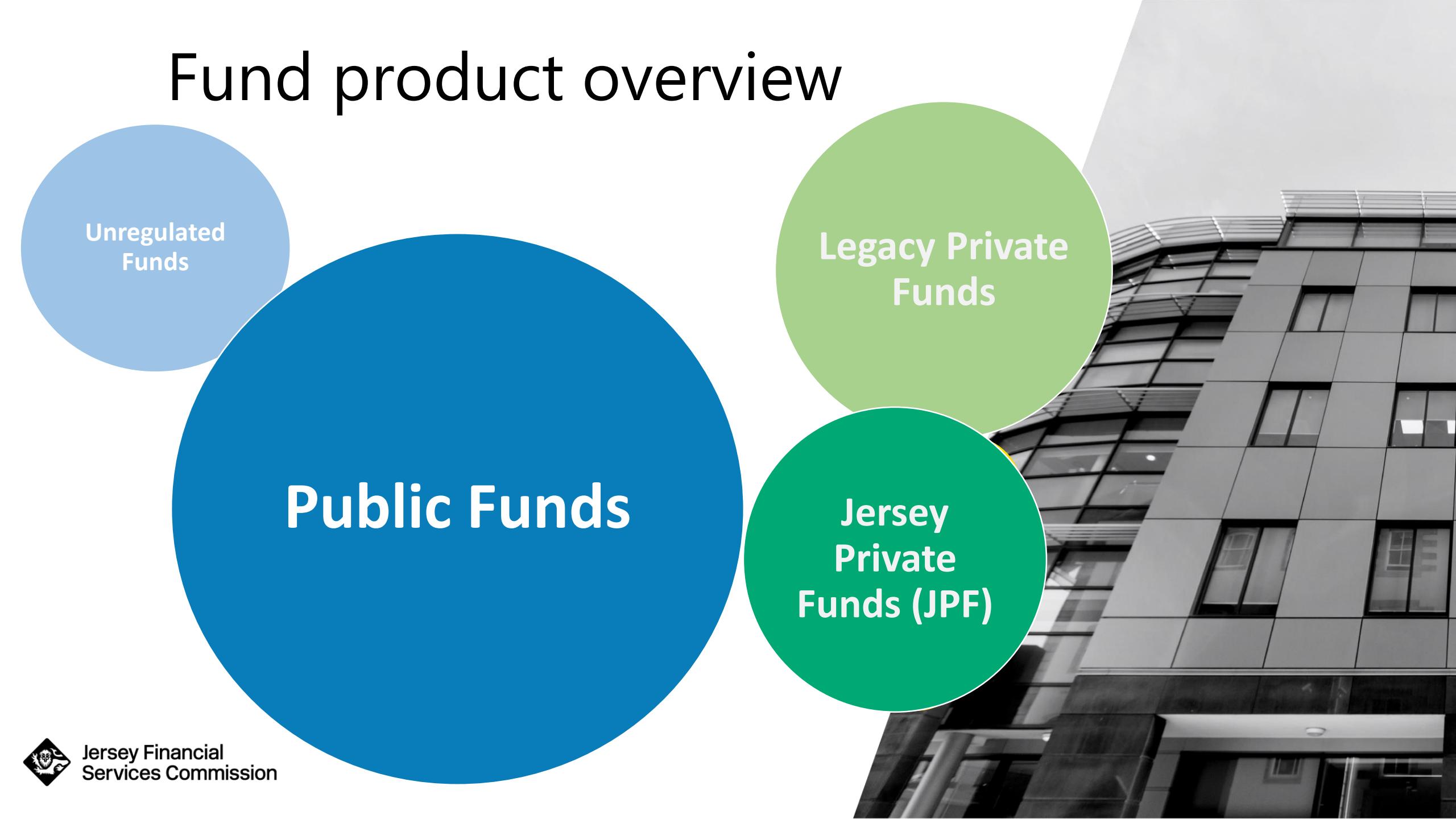
Vulnerability

Weaknesses or gaps in the defence against ML that can be exploited by the threat or that may support or facilitate its activities

- Characteristics of products and services available in the sector (inherent) e.g. complex and multi-jurisdictional nature of the fund structures
- Strength of controls applied at national and sector level (control) e.g. Designated Service Provider for JPF



Fund product overview



Unregulated Funds

Public Funds

Legacy Private Funds

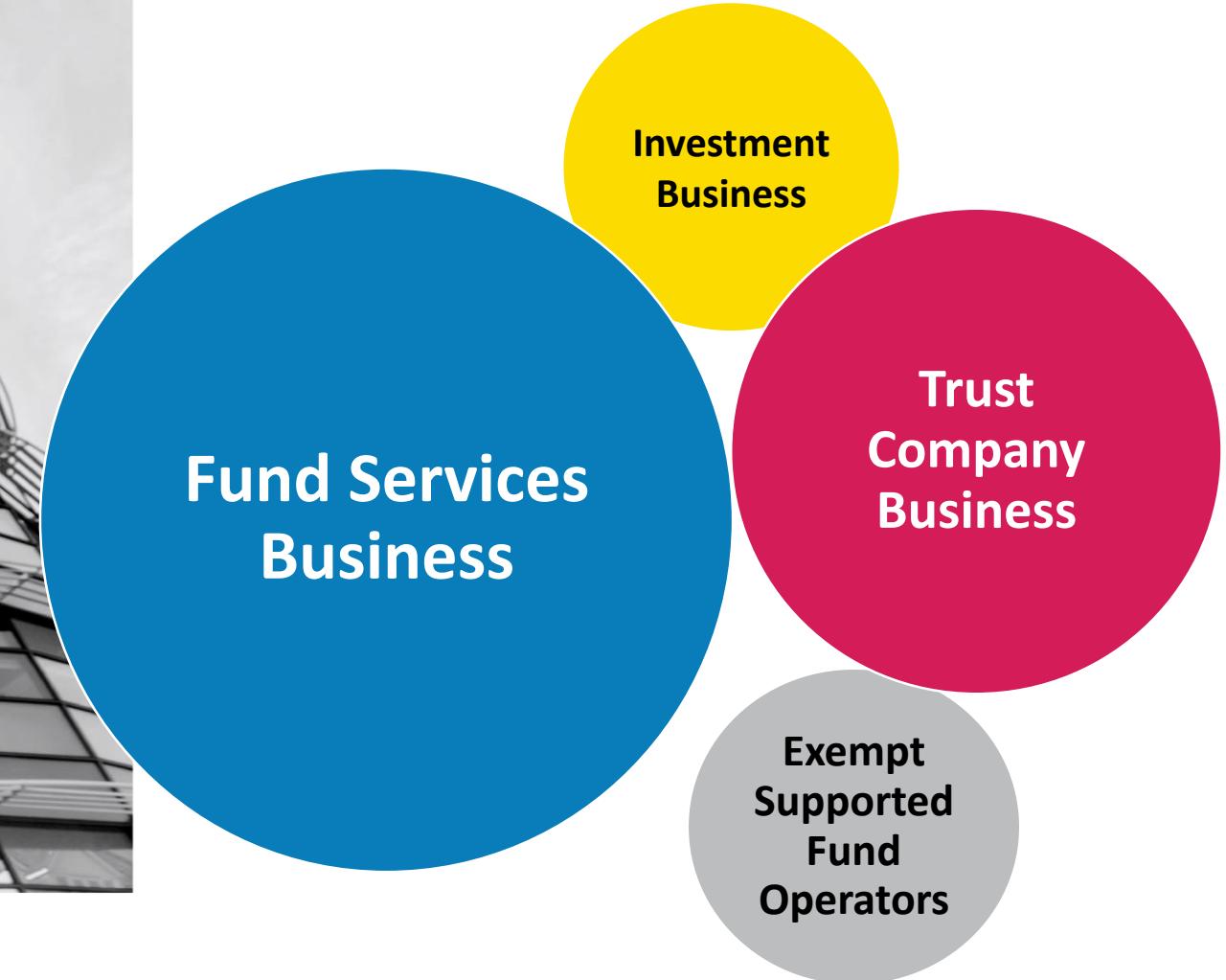
Jersey Private Funds (JPF)

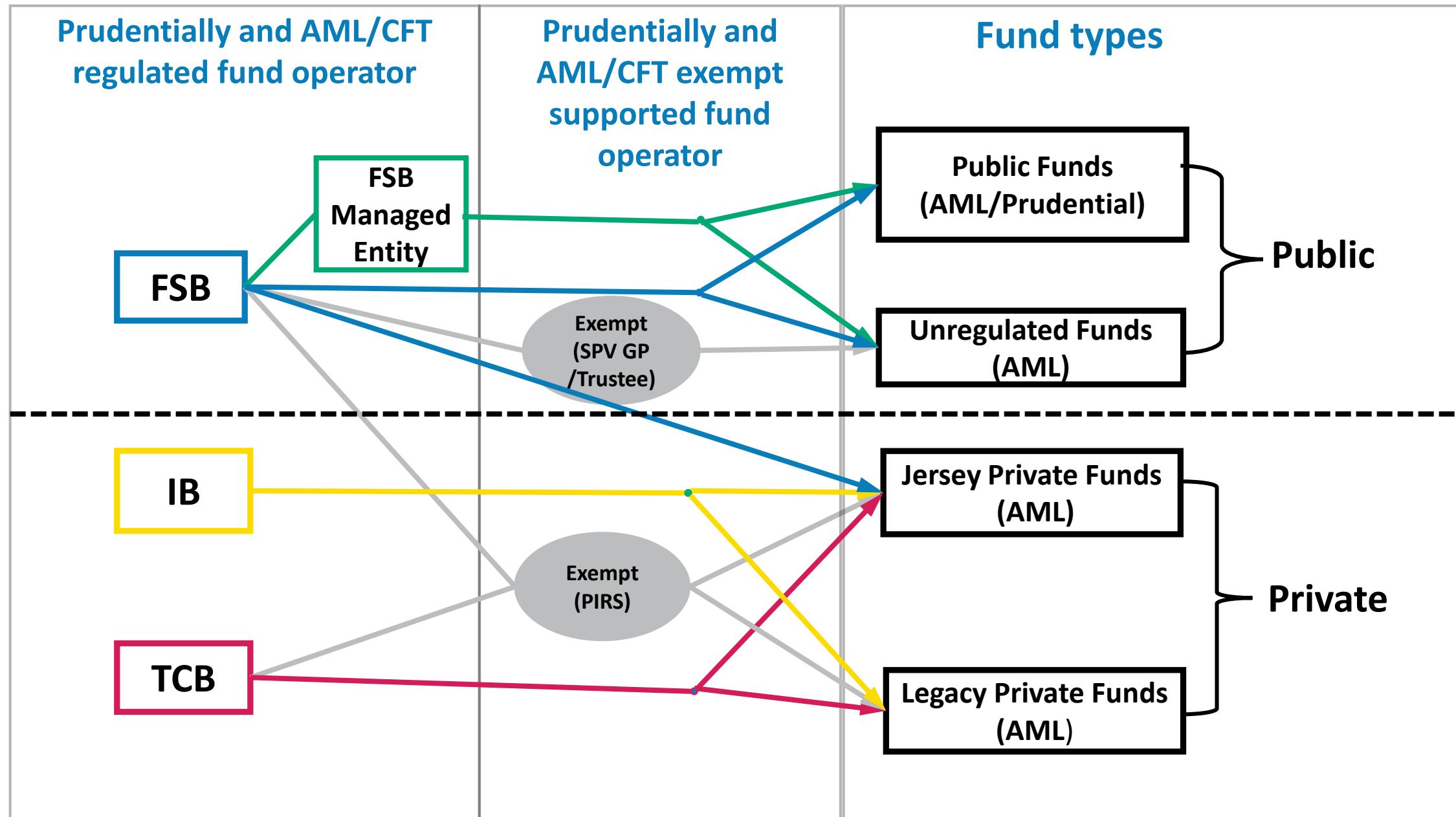


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Fund operators overview





Funds Sector – 2018 data

- £ 390,492m NAV
- 77,986 estimated investors
- 1,639 Funds
 - 760 Public Funds
 - 547 Legacy Private Funds
 - 128 Unregulated Funds
 - 204 JPFs
- 511 Public Fund Operators
- 41 JPF Designated Service Providers





Working Group

- Chaired by JFSC, Policy
 - Representatives from
 - JFCU
 - Government
 - JFSC, Supervision
 - Industry, comprising of individuals from:
 - 4 fund administrators,
 - 1 investment manager, and
 - 1 professional services firm
- All who have senior roles specialising in risk, compliance, AML and regulatory affairs



Reflections of Industry Working Group members

- Motivation
- Process to produce report
- Process for future work



Working Group activity



- Lot of work undertaken as the report incorporated
 - Analysis of data collected through the Supervisory Risk Data Collection exercise
 - JFSC published Fund statistics
 - Research
 - Homework tasks set for members of team
 - Regulatory Consultancy Firms Survey
 - Industry Survey
 - 2x World Bank Workshops [May 18 & Nov 19]
- 15 meetings: June 2018 to November 2019
- Reviewed and provided feedback on draft reports
- Liaised with World Bank staff



Legacy Private Funds Project -2017

- 3 types: CoBO Only/PPF (50) & Very private (15)
- Legacy Funds ceased to be available after April 2017
- Data
- 10 administrators servicing over 50% of Legacy Private Funds
- Survey data used for NRA
- Diminishing product – how fast?





NRA Report

- Working Group produced 100+ pages of report - subject to reviews
 - Moderated by a Jersey regulatory consultant
 - World Bank review - November 2019 workshop feedback and challenge
 - External financial crime consultant
- Resulted in 20 pages of highly summarised text



Threat

- Most likely – layering stage
- Rated as higher risk
- Flexibility is attractive to criminals
 - Asset classes
 - Cross-border complexity
 - Bespoke private funds
 - Complex structures
- International not domestic
 - Possibility of proceeds from tax evasion, fraud, corruption





Threat

- Foreign investors – across public funds, unregulated funds and JPFs
 - Nearly 160 countries represented
 - In excess of 93% of investors are resident outside Jersey
 - Approx. 47% of investors feature on the list of countries in the National Threat section
- Significant percentage of investors reported as individuals
- PEPs, more prevalent in private funds
- Further analysis needed



World Bank Tool – Vulnerability factors

- Size/value of sector slice
- Complexity of product type
- Client base profile
- Existence of investment/deposit feature
- Liquidity
- Frequency of international transactions
- Anonymous use of services
- Existence of ML typologies
- Use in market manipulation, insider trading or securities fraud
- Tracing records of transactions
- Availability of non-face to face
- Availability of product specific AML controls
- Level of cash activity



Input variable	Public Fund	Unregulated Fund	JPFs	Legacy Private Funds
Total value/size	High	Low	Low	Medium Low
Complexity & diversity of product type			High	
Client base profile			High risk	
Existence of investment/deposit feature for product type			Available & Prominent	
Liquidity of the portfolio of the product type	Medium	Medium	Low	Low
Frequency of International transactions			High	
Anonymous use of product			Available	
Existence of ML typologies			Exist	
Use in market manipulation, insider trading or securities fraud			Exist but limited	
Difficulty of tracing transaction records	Easy to trace	Difficult/time consuming	Easy to trace	Difficult/time consuming
Non face to face use of product			Available & Prominent	
Availability of product specific AML controls	Exist & Comprehensive	Exist but Limited	Exist & Comprehensive	Exist but Limited
Cash Transactions			Does not exist	

Inherent vulnerabilities summary

- Complex/ multi-jurisdictional structures
- Frequency of International Transactions - 90% of Investors non-Jersey
- Complex assets - no restrictions on the complexity of assets other than retail funds
- Non Domiciled Funds with Jersey fund operator
- Liquidity – how easily divested – noting the prevalence of closed ended funds
- Anonymous but legitimate use of SDD, reliance, listed entities, regulated feeder/pooled structures
- PEP connections highest in JPFs



World Bank Tool – control variables

- Comprehensiveness of framework
- Effectiveness of supervision
- Administrative / criminal sanctions
- Entry controls
- Integrity of staff
- AML knowledge
- Effectiveness of compliance teams
- SAR reporting and monitoring
- **Level of market pressure to meet AML standards**
- UBO information
- ID & V measures / information sources



Control variables

	Public Fund	Unregulated Fund	JPFs	Legacy Private Funds
Comprehensiveness of AML Legal Framework.	High			
Effectiveness of Supervision Procedures and Practices	Medium High	Medium Low	Medium	Medium Low
Availability and Enforcement of Administrative Sanctions	Medium	Medium Low	Medium Low	Medium Low
Availability and Enforcement of Criminal Sanctions	Medium Low			
Availability and Effectiveness of Entry Controls	Medium High			
Integrity of Staff in Securities Firms	High			
AML Knowledge of Staff in Securities Firms	Medium High			
Effectiveness of Compliance Function (Entity)	Medium High			
Effectiveness of SAR Monitoring & Reporting	Medium High			
Level of Market Pressure to Meet AML Standards	Very High			



Control Framework



- AML Framework
 - 2015 MONEYVAL technical assessment
 - AML/CFT Handbook: funds specific section - 2017
 - Introduced JPF/DSP regime - April 2017
- Complexity of the legislative framework - private funds
 - TCB/IB fund operators - knowledge of Funds AML/CFT requirements
 - Exemptions for supported fund operators



Control Framework

- Entry controls & ongoing supervisory oversight differ per fund type (table 10.5 key elements)
- Administrative and criminal sanctions
 - Issues with enforceability of Money Laundering Order; and
 - Lack of clear evidence of regulatory action being taken, does not help create a dissuasive environment





JFSC expectations of Industry

- Read and consider relevant sections of NRA
- Refresh BRA
- Consider/use data you have provided to JFSC
- Tailored staff training
- Embed a compliance culture
- Continue open engagement with Supervisors



JFSC next steps

- More of the same on engagement
- Examinations
 - Thematic 2020 - JPF
 - Feedback Reports
- Industry outreach
- Increased analysis and use of data – internal/external
- Other areas of focus
 - Risk model
 - Complex structures
 - Customer risk rating
 - Exemptions





Island next steps

- Section 6 – Recommended Actions
- Develop and articulate updated Financial Crime Strategy
- Ongoing risk assessments - dynamic (not a big bang)
 - priority driven
 - reactive to emerging threats
- Examples
 - More detailed funds risk work
 - Complex structures
 - PEPs
 - Higher risk threat jurisdictions





Questions?



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Thank you



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