



## Guidance notes

# Benchmarking under the Code of Practice for Investment Business

## Glossary of terms

Defined terms are indicated throughout this document as follows:

Abbreviation	Full Name
IB Code	Code of Practice for Investment Business
FSJL	Financial Services (Jersey) Law 1998
JFSC	Jersey Financial Services Commission
registered person	a person who is registered by the JFSC under Article 9 of the FSJL to carry on Investment Business as defined in Article 2(2) of the FSJL

## 1 Introduction

- 1.1 The Jersey Financial Services Commission (**JFSC**) consulted with the Investment Business sector on proposed enhancements to the Investment Business Regime during the course of 2018, and issued its feedback paper on that consultation in December 2018.
- 1.2 The majority of respondents were in favour of the enhancements to the Code of Practice for Investment Business (**IB Code**), but some did request guidance from the JFSC in order to clarify its expectations in several areas.
- 1.3 As such the JFSC is producing a number of Guidance Notes in order to outline its expectations for those areas.

## 2 Scope

- 2.1 This guidance note provides additional guidance following the introduction of benchmarking into the IB Code.

## 3 Code requirements

- 3.1 Benchmarking is addressed under Principle 2 of the IB Code which states that - A registered person must have the highest regard for the interests of its clients. The requirements in respect of benchmarking are set out in paragraph 2.29 of the IB Code as follows:

Where a registered person provides advisory or discretionary services to a *client* it must report to each such *client* on the performance of its products and services against a relevant and applicable benchmark, where such benchmark exists or is reasonably available.

## 4 Guidance

- 4.1 A benchmark is a standard against which the performance of a service or product(s) provided by a registered person can be measured and compared; it forms an objective test of the effective implementation of an investment strategy.
- 4.2 Benchmarks allow investment returns and the variations in these returns to be measured and attributed, thereby making it possible to determine how effectively the client's investment service or product(s) have performed over time against the chosen relevant standard.
- 4.3 To enable the client for whom the service and/or product(s) is provided to assess the firm's performance, the benchmark selected by the registered person should be:
  - 4.3.1 Appropriate or relevant to the service or product the client holds so it is seen as consistent with the investment service or product;
  - 4.3.2 Transparent, clearly defined or identifiable and be explained using clear, jargon-free language;
  - 4.3.3 Measurable, the performance of the benchmark must be able to be calculated on a frequent basis;
  - 4.3.4 Based on the investment objectives of the client and the types of financial instruments included in the client portfolio; and

4.3.5 Documented / recorded in the client's records and provided alongside the service or product performance details.

4.4 What type(s) of benchmark should be considered?

4.4.1 The chosen relevant benchmark may be one that is existing, generic and freely available (for example, FTSE APCIMS Private Investor Indices) or it may be one that is a combination of various metrics or indices that together provides the standard by which the service or product performance can be gauged yet still remains appropriate or relevant, for example a blended benchmark of market indices.

4.4.2 A chosen relevant benchmark may be against broad market indices, for example, MSCI World Index or FTSE All Share or specific, for example AREF/IPD UK Quarterly Property Fund Index.

4.4.3 Where an appropriate or relevant benchmark is not readily available:

4.4.3.1 a rationale as to why this is the case should be discussed with the client(s) and recorded in the client file accordingly. Every attempt must be made to rectify this matter on an ongoing basis;

4.4.3.2 other options may be appropriate such as:

- › benchmarking against a peer group, or
- › a measurement that is based on the service and/or product(s) reflective and expected return over and above what would be received if the investment(s) remained in cash, in the base currency of the investment.

4.4.4 The JFSC is not recommending the use of any particular benchmark, the indices used above are merely by way of example.

4.5 Discretionary Portfolio Management Services/Products and Advisory Services/Products

4.5.1 When providing discretionary portfolio management and/or advisory services, the JFSC would expect registered persons, as a result of the introduction into the IB Code of a requirement in respect of benchmarking, to consider the following:

4.5.1.1 The establishment from the outset or commencement of the portfolio, of an appropriate method of evaluation and comparison;

4.5.1.2 The provision of ongoing benchmark information when reporting performance details to clients; and

4.5.1.3 If considering changing or amending the existing benchmark, the provision of a rationale for this which is clear and transparent as to why the change or amendment is being made.

4.6 It is acknowledged that for registered persons providing advisory product(s) or service(s) that are subject to ongoing advice, it may be difficult to provide an ongoing appropriate or relevant benchmark. In these circumstances, a rationale as to why this is the case should be discussed with the client and recorded in the client's file accordingly.

4.7 It is acknowledged that for registered persons providing advisory product(s) or service(s) the client may choose to deviate from the advice. If the benchmark can be adjusted accordingly

to reflect the deviation it should be done so. Where this cannot be achieved the original benchmark should be used.

- 4.8 A registered person may decide to outsource the provision of a benchmark(s) to a third party. Such activity would be subject to the JFSC's Outsourcing Policy and Guidance Notes and the JFSC's Outsourcing Notification process.
- 4.9 The registered person should report to the client the investment performance against the benchmark on a periodic basis, the frequency of which should permit the client to reasonably assess the performance of the investment.