



Jersey Financial
Services Commission

Guidance note

Suitability of advice under the Code of Practice for Investment Business

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Glossary

Defined terms are indicated throughout this document as follows:

| Abbreviation | Full name |
|-------------------|---|
| FCA | Financial Conduct Authority (UK) |
| FSJL | Financial Services (Jersey) Law 1998 |
| IB Code | Code of Practice for Investment Business |
| 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 |

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1 Introduction

- 1.1 The suitability of investment advice is a core element of client protection and market integrity. This Guidance Note sets out the JFSC's expectations for registered persons when assessing and evidencing the suitability of advice. It is designed to support compliance with the IB Code and promote consistent standards that protect clients and maintain confidence in Jersey's investment business sector.

2 Code requirements

- 2.1 The paragraphs below reproduce the IB Code's suitability requirements (paragraphs 2.6 to 2.10) for ease of reference. These extracts are included to provide context and do not replace the IB Code.
- 2.2 Principle 2 of the IB Code states:
A registered person must have the highest regard for the interests of its clients.
- 2.3 A registered person must have conducted due diligence and assessed all of the relevant features of the products and/or providers in terms of suitability for its clients, before these can be recommended or invested in.
- 2.4 Where a registered person is responsible for providing advice or exercising discretion for its clients, it must be able to demonstrate in writing that the advice or exercise of discretion is suitable for that client having regard to:
- › the facts disclosed by that client
 - › the terms of any agreement with that client
 - › the risk tolerance, the willingness and ability to bear losses of that client
 - › any other relevant facts about the client of which the registered person is, or reasonably should be, aware
- 2.5 Where a registered person is responsible for providing advice, it must:
- › make available to its client, in a comprehensible and timely manner, appropriate information so as to allow the client to make an informed investment decision
 - › explain to its client, in writing, details regarding relevant risk warnings
 - › explain to its client, in writing, which products and services are covered by an investor compensation scheme, including the nature and extent of the scheme, and any which are not
 - › if providing advice comprising of regulated and unregulated services, explain to its client, in writing, which elements of the advice are regulated and which are unregulated
 - › explain to its client, in writing, details regarding the cost breakdown as required by paragraph 4.6 of the Code
 - › disclose to its client details of any cooling-off periods that may be a feature of investment products recommended
- 2.6 A registered person must ensure that adequate procedures are implemented to ensure that the investment services that it provides are regularly reviewed at appropriate intervals.
- 2.7 On an annual basis, a registered person must review the due diligence and suitability criteria of the products and their investment service providers, in relation to the investment services

provided to its clients. When taking on multiple clients from an existing service provider, this review must be undertaken within one year of the date of the transfer.

- 2.8 These requirements apply regardless of whether the advice or suitability assessment is delivered through digital channels or automated systems. The client should be clearly informed of the automated nature of advice.

3 Suitability Letters

- 3.1 The JFSC expects a registered person to tailor a Suitability Letter to each individual client and for the content of the letter to be written using clear, jargon-free language.
- 3.2 In assessing suitability, the registered person should obtain and record sufficient information to support the recommendation, including (where relevant) the client's investment knowledge and experience, capacity for loss, current and foreseeable expenditure commitments, and any indicators of vulnerability.
- 3.3 A Suitability Letter should explain clearly to the client how, and why, any recommendations are suitable for them, having regard to the client's personal and financial circumstances (including willingness and ability to bear losses), their investment objectives, risk tolerance and time horizon (including any period for which they may be willing to accept restricted access to their money).
- 3.4 A Suitability Letter that fulfils the above requirements should not only result in the client being better informed about the appropriateness of an adviser's recommendations for their needs, but should also give the client an opportunity to identify any areas where they may wish to seek further clarification prior to the investment transaction taking place.
- 3.5 The following non exhaustive list sets out items that should be included in a Suitability Letter where applicable to the client's circumstances:
1. the reasons for each recommendation, including explicit references to how these relate to the client's objectives, risk tolerance and willingness and ability to bear losses
 2. any applicable cooling-off period, including how and when the client can exercise it
 3. an explanation of each product that is being recommended, together with an outline of the main consequences (and any disadvantages) of each recommendation, i.e. a balanced view
 4. any alternative products or providers that were considered by the adviser prior to the final recommendation being made, and why such products were not deemed suitable
 5. all associated fees and charges including commissions (and relevant breakdown as per paragraph 4.6 of the IB Code) and any potential penalties associated with the investments recommended
 6. details with regards to the client's access to the money that is to be invested, together with details of any free switches that may be available
 7. details of what remuneration the registered person may receive in respect of the recommended transaction
 8. a conclusion as to why the investment is suitable for the client and their circumstances;
 9. reference to any other financial needs that were identified from the fact-finding process, and whether advice is being provided on these
 10. whether, in accepting advice or services provided by a registered person, the client has recourse to any form of investor compensation scheme which the client can turn to in the event of a claim against a registered person relating to advice or services provided
 11. information as to the provisions of any such investor compensation scheme

12. clarification as to whether the advice or services provided by a registered person fall within the regulatory framework
 13. whether the registered person will be undertaking any periodic reviews of the product or service that is being recommended and, if so, the frequency at which the client can expect these to occur
- 3.6 Where the recommendation includes an investment marked as sustainable or ESG-aligned, the sustainability letter should include a description of the fund's stated environmental, social or governance objectives and strategy, or confirm if such information is not available.

4 Timing and form of Suitability Letters

- 4.1 A registered person should provide a Suitability Letter at the time the advice is given, or as soon as practicable afterwards. Where the registered person controls whether the client can proceed, the letter should be provided before the client acts on the recommendation.
- 4.1.1 The Suitability Letter should be complete enough to allow the client to understand:
- › what is being recommended
 - › why it is suitable for them, having regard to their objectives, risk tolerance, and willingness and ability to bear losses
 - › the key costs, risks, disadvantages, access restrictions, and any relevant rights (including cooling-off rights), as applicable
- 4.1.2 Where all material terms are known and fixed at the point advice is given, a single Suitability Letter should be issued in line with paragraph 3.6.1. In addition to the matters in paragraph 3.6.2, it should clearly set out the final charges and fees, any penalties, any access restrictions, and the regulatory status of the advice (including whether any investor compensation arrangements apply).
- 4.2 Where the recommendation depends on one or more material terms that are not yet confirmed, the registered person should use a two-stage approach:
1. an initial Suitability Letter based on the information available at the time; followed by
 2. a final Suitability Letter promptly once the outstanding terms are confirmed
- 4.2.1 Material terms may be unconfirmed for a range of reasons. This includes underwriting (for example, where the premium or policy conditions may change), but also other dependencies such as provider acceptance, final allocation terms, or confirmation of charges.
- 4.2.2 The initial Suitability Letter should:
- › summarise the recommendation and explain why it appears suitable on the information currently available, having regard to the client's objectives, risk tolerance, and willingness and ability to bear losses
 - › identify each material item that is not yet confirmed and explain, for each item, how different outcomes could affect suitability, costs, access to funds, and key risks
 - › state whether the recommendation is conditional on those items and what the registered person will do if the confirmed terms differ materially (including whether the advice may change)

- › set out what further information will be provided and when the client should expect the final Suitability Letter
- › highlight any applicable cooling-off rights and any dependencies that apply at this stage

4.2.3 The final Suitability Letter should:

- › confirm the final terms, including premiums (where relevant), fees and charges, access restrictions, and any penalties
- › confirm whether, in light of the confirmed terms, the recommendation remains suitable, or set out revised advice and the reasons for it
- › explain any material differences from the initial Suitability Letter and the reasons for those differences
- › confirm the regulatory status of the advice and any applicable investor compensation arrangements
- › state whether periodic reviews will be undertaken and, if so, the expected frequency

5 Suitability of advice

- 5.1 All registered persons licensed to give investment advice (holders of Class C or D investment business registration) should be able to evidence why the advice that has been given to a client is suitable.
- 5.2 Registered persons should identify an advisory process which is both compliant with the IB Code requirements, and appropriate to the business being undertaken.
- 5.3 Suitability assessments should take appropriate account of any client vulnerability. See the separate the Guidance Note: [The provision of investment services to vulnerable persons under the Code of Practice for Investment Business](#).
- 5.4 The following scenarios are designed to provide examples of the JFSC's expectations with regards Suitability of Advice:
- 5.5 Scenario 1: inexperienced retail client

Client profile

Mrs A is a pensioner who has £200,000 to invest following the sale of her house. She has little knowledge or experience of investments.

Suitability position

Mrs A is an inexperienced retail client. The registered person should carefully assess and record Mrs A's risk tolerance, time horizon, liquidity needs, and her willingness and ability to bear losses. In many cases, a client in Mrs A's position would be unlikely to have a high willingness or ability to bear losses. The registered person should also consider whether any characteristics of vulnerability are present and apply appropriate safeguards where relevant.

Type of service

Personal recommendation (advice) in relation to an investment transaction.

What the registered person should evidence

The registered person should be able to show, in clear language, why each recommendation is suitable for Mrs A, including how it meets her objectives and how the risks, access restrictions, costs, and disadvantages have been explained and understood.

Documents to issue to the client

The JFSC would typically expect the following documents (or similar) to be provided to the client:

- › A suitability letter provided before any transaction takes place (and, where appropriate, acknowledged by the client). This should explain why the recommendation is suitable by reference to the client's objectives, risk tolerance, and willingness and ability to bear losses. It should set out key risks, disadvantages, any access restrictions, and whether any element is regulated or unregulated, and covered or not covered by a compensation scheme. It should also address any purported guarantees and their limitations (including counterparty risk).
- › The charging structure (which should already have been disclosed) with a full "no surprises" breakdown of all costs
- › Key product information from the provider (for example key features documentation), forwarded promptly on receipt.
- › Any illustration or proposal documentation, highlighting charges and any penalties for early surrender.
- › Confirmation of the investment transaction sent promptly after each transaction. "Promptly" means no later than one business day following the transaction or within any period specified by the client.
- › Periodic reporting on performance against relevant benchmarks, where this forms part of the service agreed with the client.

Records to retain

The client file should include a completed fact-find, recorded risk tolerance and willingness and ability to bear losses, notes of discussions and risk warnings provided, product and provider due diligence, cost disclosures, and a record of any additional safeguards applied where vulnerability is relevant.

Ongoing review and communications

Where periodic reviews are part of the service, the frequency and scope should be agreed with the client and recorded.

5.6 Scenario 2: experienced client receiving ongoing advice

Client profile

Mr B is a successful businessman who maintains an ongoing advisory relationship with a stockbroker and regularly discusses additions or changes to a portfolio.

Suitability position

Mr B may have greater investment knowledge and experience than an average retail client. This should be evidenced at onboarding and kept under review. The registered person should still assess and record Mr B's objectives, risk tolerance, time horizon, liquidity needs, and willingness and ability to bear losses. Experience does not remove the need to evidence suitability, but it may affect the level of explanation needed for basic concepts and the form in which suitability is recorded.

Type of service

Ongoing advice relationship, with recommendations made periodically. Recommendations may range from incremental changes to material changes in strategy or risk.

What the registered person should evidence

For each recommendation, the registered person should be able to evidence why it is suitable by reference to the information held on file. Where the recommendation is incremental and consistent with the agreed strategy, a concise suitability record may be sufficient. Where the recommendation involves a material change in risk, liquidity, time horizon, or product complexity, the explanation and documentation should be correspondingly fuller.

Documents to issue to the client

At the outset of the relationship, key documentation should be issued, including:

- › an initial suitability letter (or equivalent) setting out the basis on which advice will be provided; and
- › a service level agreement describing how the relationship will be managed, including review arrangements.

Where additional investment advice has been provided, the JFSC would typically expect (as applicable) the following documents (or similar) to be issued:

- › Confirmation of each investment transaction (for example contract note) sent promptly after each transaction. “Promptly” means no later than one business day following the transaction or within such period as has been agreed with the client. Where applicable, the confirmation should state that the transaction was undertaken on an advisory basis.
- › Where product features, costs, penalties, or access restrictions are relevant to the recommendation, the client should be provided with the appropriate product information and relevant disclosures.

Records to retain

The registered person should retain a contemporaneous record of the interaction (meeting note or call note) that captures:

- › the recommendation and the reasons for it;
- › how it aligns to the client’s objectives, risk tolerance, and willingness and ability to bear losses;
- › key risks and disadvantages discussed; and
- › any material alternatives considered and why they were not recommended.

The file should also include the underlying suitability information gathered at onboarding and any subsequent updates, together with relevant due diligence and costs disclosures.

Ongoing review and communications

Where periodic reviews are part of the service, the frequency and scope should be agreed with the client, recorded, and delivered in line with that agreement.