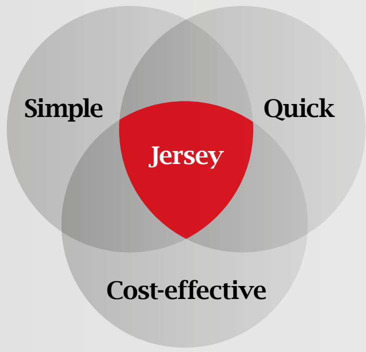
JFA JERSEY FUNDS ASSOCIATION

Jersey Finance
Delivering Insight ▪ Driving Innovation

Jersey
A Compelling Fund Domicile for Alternative Funds

There are compelling reasons to use Jersey fund structures as opposed to those found in onshore EU jurisdictions such as Luxembourg. Locating funds in Jersey is likely to be more suitable for many funds because of the lower costs, ease and speed of establishment. This is especially true for funds marketing to three or fewer EU member states, which statistics show make up 97% of fund managers*, as Jersey largely negates the need for a costly and potentially onerous AIFMD marketing passport.



Jersey for flexibility on the application of AIFMD

Jersey

Jersey offers tried and tested marketing access to the EU market using EU national private placement regimes (NPPRs) and can combine this with entirely AIFMD-free marketing to investors outside the EU.

Jersey is a successful global hub for attracting capital from the key private equity and venture capital investors markets: North America, UK, Asia, the Gulf Region, Switzerland and the EU.

Jersey can offer cost-effective marketing into NPPR-friendly markets within the EU, allowing funds to avoid the burden of full AIFMD compliance and therefore proportionate exposure to the cost of EU money. This brings advantages such as reduced operational and reporting requirements (removing the additional costs associated with AIFMD depositary, capitalisation, risk management, reporting etc) and can result in lower running costs and higher investor returns in a VAT-free jurisdiction.

Jersey is ESMA-approved already for future AIFMD passporting, when made available, if required and desirable. The AIFMD review agreement reached in July 2023, recognised that the Directive was generally fit for purpose and third country changes are not expected to have an impact on Jersey.

392 **Jersey based funds are marketing successfully to EU investors**

(Source: JFSC, 31 March 2022)

Luxembourg

Structuring through Luxembourg requires full AIFMD compliance. This adds a significant additional operational burden and cost, regardless of investor location. The whole fund structure is locked into ongoing exposure to continuing EU-driven changes.

As an EU country, Luxembourg AIFMs and AIFs have access to the passport but this remains subject to national variances in any event. While access to the passport may initially seem compelling, figures from The European Commission* show only three percent of AIFMs are registered to market in more than three EU countries. Additionally, Preqin's recent Global Alternatives Report showed that Switzerland and the UK - notably two non-EU countries – and the Netherlands together represent two-thirds of fundraising.

The cost of an AIFMD passport structure is significantly higher than a structure marketing under the national private placement regimes.

With an agreement reached on the AIFMD review in July 2023, there are changes to the delegation model, creating a different regulatory environment for the UK-Luxembourg fund structuring model. Once an EU structure is chosen, the application of all relevant current and future EU Directives to the structure must be accepted and managers may be at risk of having to relocate significant parts of their businesses to an EU country.

*(Source: European Commission, 2018)

Jersey for a co-operative jurisdiction with impressive international credentials

Jersey is endorsed as a top international finance centre by:

- IMF
- OECD
- EU
- MONEYVAL

Jersey for tax certainty and strong adherence to international standards on anti-money laundering

Jersey

Jersey offers a highly certain and transparent tax neutral regime, with no VAT or CGT.

Jersey's government is strongly committed to compliance with international standards and Jersey fully complies with the AIFMD review proposals for non-EU AIFMs to market EU or non-EU AIFs through NPPRs under Art 42 of the AIFMD:

- Jersey is recognized by the EU as a co-operative jurisdiction for tax purposes
- Jersey has signed a qualifying agreement on the exchange of information in tax matters with EU Member States
- Jersey is not identified as a high-risk country according to the latest European laws against money laundering
- As part of its international commitments, Jersey has introduced economic substance requirements for relevant entities.

Luxembourg

In Luxembourg, vehicles are operating in a taxable environment, with complexity and risk required to achieve low tax rates which translates into higher advisory costs and less operational flexibility.

Luxembourg offers wider tax treaty access, but treaty use without substance (i.e. economic activity taking place in the jurisdiction) is coming under increased scrutiny in light of BEPS, the OECD and the AIFMD review.

In addition, the new DTA between the UK and Lux was ratified by Luxembourg in July 2023 and by the UK in November 2022. Changes to the provisions dealing with capital gains will expose Luxembourg resident investors in UK real estate to UK tax in some cases. The treaty is expected to come into force from April 2024.

Jersey for speed to market

Jersey

The potential absence of any lengthy and complicated AIFMD-related AIFM licensing process in Jersey is a significant advantage. Jersey offers flexible fund structuring with a faster authorisation process than Luxembourg and it is quicker to take products to market; authorisations are granted in days for smaller and more lightly regulated structures and in weeks (not months) for closely regulated structures. The introduction of the fast-track Jersey Private Fund guide as a regulatory codification for funds with fewer than 50 investors has been a real success (introduced in 2017, there are now more than 645 JPFs as of June 2023 and its requirements on managers cannot easily be replicated onshore.

Jersey's regulator has embraced digital innovation, and Private Fund applications are made online through their authorisations tool for an efficient process.

Luxembourg

The AIFMD model creates inevitable AIFM and AIF regulatory applications within a tightly restricted operational model. Regulatory delays are common when using Luxembourg alternative structures, with applications taking a number of months.

Although some managers have used "hosted" AIFM solutions to increase speed to market, this approach creates risk exposure to other client strategies and recent ESMA scrutiny of AIFMD delegation limitations and AIFMD modifications creates significant uncertainty around the sustainability of this model.

For more information, please visit jerseyfinance.je to view our Jersey's Transparency Timeline.