



CAREY OLSEN

## Jersey corporate and finance update Q2 2024

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### Jersey implementation of Pillar Two

As part of its commitment to adhering to international standards, Jersey has updated its position on the implementation of Pillar Two. Draft legislation is due to be published in the summer of 2024.

By way of background, in October 2021, the OECD agreed on a two-pillar solution to reform the international tax framework to address challenges related to the digitalisation of the economy. The Model Rules aim to ensure that large multinational groups pay a minimum effective tax rate of at least 15% on profits in every jurisdiction in which they operate, to be achieved by allowing countries to impose top-up taxes in situations where a multinational group is taxed below the minimum rate. In May 2023, Jersey announced its intention to implement a Pillar Two Income Inclusion Rule and a Domestic Minimum Tax from 2025, and Jersey has now confirmed that it intends to achieve its 2023 commitment by introducing these to sit alongside Jersey's existing corporate income tax regime. Jersey has confirmed that it will not be enacting an Undertaxed Profits Rule at this time. The Jersey Government has said the

legislation will address certain unintended double taxation challenges that Pillar Two implementation would create for some taxpayers, and that it will operate independently of the existing Jersey tax regime, thereby reducing the need for top-up calculations and maintaining administrative simplicity.

For more details see our Carey Olsen briefing [here](#).

### Response to consultation on sustainable finance

In June 2024, the Jersey Government published its response to the consultation in Q2 2024 on designing a policy and regulatory framework for sustainable finance in Jersey. It is now preparing an action plan which will provide details of the Sustainable Finance Policy Framework with the aim of publishing further details in Q4 2024.

By way of background, the purpose of the consultation was to gather views on the desired level of intervention and the actions that Government and the JFSC should take to support industry's ambitions in four main policy areas: corporate sustainability disclosures, risk and governance considerations, anti-greenwashing and labelling, and the use of strategic enablers. The resulting policy approach is intended to be a balanced combination of sustainable finance actions and policies that protect and promote Jersey as an international financial centre, help meet the UN Sustainable Development Goals by 2030, and help the global transition to carbon net zero by 2050 through the implementation of the Paris Agreement.

For the full response, see [here](#).

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## Proposed amendments to the Trusts (Jersey) Law 1984 (the “Trusts Law”)

The Jersey Government has published a consultation on its proposed amendments to the Trusts Law, which closes on 16 August 2024. The Trusts Law is particularly relevant in Jersey finance transactions given the success of the Jersey Private Unit Trust (“JPOT”) as an investment holding vehicle for UK real estate, and can also be applicable to security trusts. There are five areas for consultation, with the proposed changes having mainly arisen out of case law.

From a financing perspective, the proposed change to expressly deal with the priority of claims between a former and current trustee and a secured lender will be of note. This issue was considered by the Jersey courts in the context of an insolvent trust in the series of cases commonly known as *Re Z* or the *Z Trust* cases. A key outcome was the Privy Council holding that a former trustee’s indemnity conferred a proprietary interest in trust assets that gave rise to an equitable lien against those assets which continued after the transfer of trust assets to a successor trustee; and that such claim should rank *pari passu*. Those lending to trustees will naturally expect security granted over trust assets to provide priority over all unsecured creditors in insolvency and for their security to rank ahead of a trustee’s lien. In practice, it is now ‘market’ to insert express contractual provisions to that effect in the finance documents. However, to provide greater certainty, it is proposed that the legislation expressly states that such security ranks ahead of such lien.

The remaining areas deal with ability of the beneficiaries to terminate or vary the trust (updating in light of a recent Guernsey case to expressly reflect the prevailing view that where there is a right to add beneficiaries not all beneficiaries can be ascertained and therefore beneficiaries cannot call for the termination of the trust), preventing a sole trustee from resigning without appointing a successor, exploring the concept of data trusts (building on the work of the Law Commission of England and Wales as to whether to introduce a new category of personal property to cover unstructured data or pure information) and other, minor, amendments.

For the full consultation, see [here](#).

## Amendments to the Jersey Private Funds regime

The Jersey Private Funds regime has been enormously successful with over 700 JPFs created since 2017. In July 2024, the JFSC issued updates to the Jersey Private Fund Guide. The material updates include clarifications on investor eligibility and governance, confirmation that a co-investment scheme may form part of the carry and/or incentive arrangement without counting towards the number of investors, and confirmation of schemes that fall outside the JPF regime, including where there are employee/family connections between investors.

For more details on Jersey Private Funds, see our Carey Olsen briefing [here](#).

## Information from the Jersey Registry

It is now free to download publicly available documents relating to companies, other Jersey entities and business names from the Jersey Registry, for which there was previously a nominal fee (certified copies remain available for a fee). The move should help reduce disbursements on transactions. The types of documents and information available remain unchanged, and Carey Olsen is happy to advise with respect to any registration requirements.



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