



An overview of the regulation of virtual assets in the Jersey

www.charltonsquantum.com

Contents

1. Virtual asset laws and regulations in Jersey	3
What is considered a virtual asset in Jersey?	3
What are the relevant laws and regulations?	3
Who do such laws and regulations apply to?	4
Who are the relevant regulatory authorities in relation to virtual assets in Jersey?	4
What are the penalties for breaches of virtual asset laws and regulations in Jersey?	5
2. Regulation of virtual assets and offerings of virtual assets in Jersey	5
Are virtual assets classified as 'securities' or other regulated financial instruments in Jersey?	5
Are stablecoins and NFTs regulated in Jersey?	5
Are decentralised finance (DeFi) activities (e.g. lending virtual assets) regulated in Jersey?	6
Are there any restrictions on issuing or publicly offering virtual assets in Jersey?	6
Are there any exemptions to the restrictions on issuing or publicly offering of virtual assets in Jersey?	7
3. Regulation of VASPs in Jersey	7
Are VASPs operating in Jersey subject to regulation?	7
Are VASPs providing virtual asset services from offshore to persons in Jersey subject to regulation in Jersey?	8
What are the main ongoing requirements for VASPs regulated in Jersey?	9
What are the main restrictions on VASPs in Jersey?	10
What are the main information that VASPs have to make available to its customers?	10
What market misconduct legislation/regulations apply to virtual assets?	10
4. Regulation of other crypto-related activities in Jersey	11
Are managers of crypto funds regulated in Jersey?	11
Are distributors of virtual asset funds regulated in Jersey?	11
Are there requirements for intermediaries seeking to provide trading in virtual assets for clients or advise clients on virtual assets in Jersey?	11
5. Other relevant regulatory information	12
Are there any upcoming regulatory developments in respect of crypto-related activity in Jersey?	12
Has there been any notable events in Jersey that has prompted regulatory change recently?	12
6. Pending litigation and judgments related to virtual assets in Jersey (if any)	12
7. Government outlook on virtual assets and crypto-related activities in Jersey	12
8. Advantages of setting up a VASP in Jersey	13

1. Virtual asset laws and regulations in Jersey

Jersey became one of the first global jurisdictions to regulate virtual currency exchanges in 2016. In 2017, following the boom in initial coin offerings, the regulator, the Jersey Financial Services Commission (**JFSC**), issued Initial Coin Offerings (**ICO**) Guidance, which welcomes token launches with a governance structure, while considering consumer protection and anti-money laundering measures.

As of now, Jersey has a comprehensive regulatory framework for virtual assets. Any business operating in the virtual currency sphere in Jersey is required to adhere to the anti-money laundering (**AML**) and countering financing of terrorism (**CFT**) laws. This includes registering with the JFSC and complying with its [AML/CFT Handbook](#). Moreover, Jersey has also introduced a new class of permit for virtual currency exchanges, which allows them to operate under the supervision of the JFSC. This permit ensures that virtual currency exchanges meet strict AML/CFT requirements and maintain appropriate safeguards to protect their clients' assets.

Businesses in Jersey's virtual assets sphere must have appropriately skilled staff, including a Money Laundering Reporting Officer (**MLRO**) and Deputy MLRO, along with compliance and oversight personnel.

In May 2023, Jersey welcomed the ETP program for digital asset manager Valour, followed by the first digital assets investment business license for digital assets trading firm Elwood in July 2023.

What is considered a virtual asset in Jersey?

The JFSC has published a guidance note titled "ICOs, Virtual Currencies and Related Services". In this document, the JFSC defines a virtual currency as "a digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account or a store of value but does not have legal tender status in any jurisdiction."

Furthermore, the JFSC uses the term "virtual asset" to encompass a broader range of digital assets, including virtual currencies, utility tokens, security tokens, and other forms of digital assets.

However, the JFSC has clarified that not all uses of distributed ledger technology (**DLT**) will involve virtual assets. For example, the use of DLT for record-keeping purposes may not involve the creation or transfer of a virtual asset.

The JFSC assesses each case on its own merits and considers various factors, including the specific features of the digital asset and the way it is used, to determine whether it falls within the regulatory framework for virtual assets.

What are the relevant laws and regulations?

In Jersey, the regulation of virtual assets is incorporated within the island's existing financial services legislation and its Anti-Money Laundering (**AML**)/Combatting Financial Crime/Countering Proliferation Financing (**CPF**) regime. However, Jersey has chosen not to introduce crypto-specific legislation.

The following laws and regulations are relevant to virtual assets in Jersey:

- i. [Financial Services \(Jersey\) Law 1998](#): This law regulates financial services activities in Jersey and requires businesses carrying out certain activities to obtain a registration or license from the JFSC. In 2016, the JFSC clarified that virtual currency exchanges fall under this law, and thus, they must be registered as money service businesses.
- ii. [Proceeds of Crime \(Jersey\) Law 1999](#): The primary objective of this law is to prevent and detect money laundering and the financing of terrorism. It imposes obligations on businesses dealing with virtual assets, such as customer due diligence, record-keeping, and reporting suspicious transactions to the Jersey Financial Crimes Unit (**JFCU**).
- iii. [Virtual Currency Exchange Regulations](#): In 2016, the JFSC introduced specific regulations for virtual currency exchanges operating in Jersey. These regulations require exchanges to comply with AML/CFT measures, maintain adequate systems and controls, and have appropriate governance arrangements in place.

- iv. **Initial Coin Offerings (ICOs) Guidance Note:** In 2017, the JFSC issued a guidance note on ICOs, clarifying the regulatory treatment of token sales in Jersey. The note emphasises that the JFSC will assess each ICO on a case-by-case basis and that, depending on the nature of the tokens issued, an ICO may fall under existing financial services regulations.
- v. **Amendments to the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008:** In 2020, Jersey amended this law to include virtual asset service providers (**VASPs**) as a supervised sector, bringing them under the purview of the JFSC. This amendment requires VASPs to comply with AML/CFT obligations and register with the JFSC.
- vi. **Sound Business Practice Policy:** The purpose is to protect Jersey's reputation as a financial services jurisdiction. The JFSC considers any involvement by a Jersey-based company in token issuances, crypto exchanges, and provision of services related to cryptocurrencies as a "sensitive activity" subject to greater scrutiny from the JFSC.

Who do such laws and regulations apply to?

The laws and regulations regarding virtual asset service providers apply to natural or legal persons or arrangements that conduct one or more of the following activities or operations on behalf of another natural or legal person or arrangement:

- i. exchange between virtual assets and fiat currencies;
- ii. exchange between one or more forms of virtual assets;
- iii. transfer of virtual assets;
- iv. safekeeping or administration of virtual assets or instruments enabling control over virtual assets; and
- v. participation in and provision of financial services related to an issuer's offer and or sale of a virtual asset.

Additionally, VASPs operating in or from within Jersey are required to register with the Jersey Financial Services Commission for anti-money laundering, countering the financing of terrorism, and countering proliferation financing purposes.

Who are the relevant regulatory authorities in relation to virtual assets in Jersey?

In Jersey, the relevant regulatory authority for virtual assets is the Jersey Financial Services Commission. The JFSC is responsible for the supervision, regulation, and development of the financial services industry in Jersey, including the regulation of virtual assets.

The JFSC's role includes:

- i. **Setting out regulatory policies and guidelines:** The JFSC publishes guidance notes and other documents to provide clarity on how virtual assets are regulated in Jersey. This includes issuing guidance and permits for virtual currency exchanges.
- ii. **Registration and permits:** Businesses operating in the virtual assets sphere in Jersey are required to register with the JFSC and obtain any necessary licenses or permits. This includes the new class of permit for virtual currency exchanges.
- iii. **Supervision and enforcement:** The JFSC supervises regulated entities to ensure compliance with Jersey's AML/CFT laws, as well as other regulatory requirements. The JFSC also has the power to take enforcement action against entities that breach these requirements.
- iv. **Setting standards for compliance and oversight:** The JFSC sets standards for compliance and oversight within the virtual assets industry. This includes requiring businesses to have appropriately skilled and experienced individuals, such as a designated **MLRO and Deputy MLRO**, as well as individuals responsible for compliance and oversight.

International cooperation: The JFSC works with other regulatory authorities and international bodies to share information and promote cooperation in the regulation of virtual assets.

What are the penalties for breaches of virtual asset laws and regulations in Jersey?

Breaches of virtual asset laws and regulations in Jersey can result in various penalties, depending on the nature and severity of the violation. Some potential penalties, derived from the relevant legislations, include:

- i. **Financial penalties:** The JFSC has the power to impose financial penalties on businesses or individuals found to be in breach of the relevant laws and regulations, as given in the Financial Services Commission (Jersey) Law 1998 (Article 16) and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (Article 19). The amount of the penalty will depend on the circumstances of the case, but it can be substantial.
- ii. **Criminal prosecution:** In some cases, breaches of virtual asset laws and regulations may constitute criminal offenses, leading to prosecution under the Proceeds of Crime (Jersey) Law 1999 (Articles 43-45). Convictions can result in fines, imprisonment, or both. For example, failure to comply with AML/CFT obligations can lead to criminal sanctions.
- iii. **Regulatory sanctions:** The JFSC may also impose regulatory sanctions on businesses or individuals found to be in breach of the relevant laws and regulations, as outlined in the Financial Services Commission (Jersey) Law 1998 (Articles 15-18). These sanctions can include public censure, restrictions on business activities, or suspension or revocation of licenses or registrations.

2. Regulation of virtual assets and offerings of virtual assets in Jersey

Are virtual assets classified as 'securities' or other regulated financial instruments in Jersey?

In Jersey, virtual assets are not automatically considered 'securities' or other regulated financial instruments. The JFSC looks at each virtual asset on a case-by-case basis to determine if it falls under existing regulatory frameworks, such as the Financial Services (Jersey) Law 1998 and the Collective Investment Funds (Jersey) Law 1988, as given in the JFSC Guidance Note on Initial Coin Offerings, Virtual Currencies and Related Services, and the JFSC Statement on Virtual Currencies.

The JFSC considers various factors to assess the nature and function of a virtual asset, such as its purpose, structure, underlying technology, rights and obligations attached to it, and the way it is used and traded.

Based on this assessment, a virtual asset may be classified as a security or another type of regulated financial instrument if it meets the relevant criteria. For instance, a virtual asset may be considered a security if it represents an ownership interest in a company, a debt instrument, or a derivative. Similarly, a virtual asset may be considered a collective investment fund if it pools investor funds for the purpose of collective investment and meets certain other criteria, as explained in the JFSC Guidance Note on Initial Coin Offerings, Virtual Currencies and Related Services.

However, it's important to note that cryptocurrencies, in and of themselves, are not considered to be 'investments' under the Financial Services (Jersey) Law 1998, according to the JFSC Statement on Virtual Currencies. Therefore, provisions relating to investment exchanges do not apply to cryptocurrency businesses in Jersey, and such businesses are not required to apply for an investment business license.

Despite this, businesses operating in the virtual assets sphere in Jersey are required to comply with Jersey's AML/CFT laws, as well as other regulatory requirements. This includes obtaining any necessary permits or licenses from the JFSC and complying with ongoing regulatory obligations, as stated in the JFSC Guidance Note on Initial Coin Offerings, Virtual Currencies and Related Services.

Are stablecoins and NFTs regulated in Jersey?

In Jersey, the regulation of stablecoins and non-fungible tokens (**NFTs**) depends on their specific characteristics and the purposes for which they are used. The JFSC takes a technology-neutral and principles-based approach to regulation, focusing on the underlying activities and risks associated with these digital assets.

Stablecoins: Stablecoins are digital assets designed to maintain a stable value by pegging their value to a reserve asset, such as a fiat currency, commodity, or another cryptocurrency. The JFSC assesses stablecoins on a case-by-case basis to determine whether they fall under existing financial services regulations.

If a stablecoin is considered a security or a collective investment fund under Jersey law, it will be subject to the relevant regulatory framework, such as the [Collective Investment Funds \(Jersey\) Law 1988](#) or the Financial Services (Jersey) Law 1998. Issuers, custodians, and service providers may need to obtain the appropriate licenses or registrations from the JFSC.

In addition, stablecoin issuers and service providers must comply with Jersey's AML/CFT regulations, as explained in the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

Non-Fungible Tokens (NFTs): NFTs are unique digital assets that represent ownership or proof of authenticity of an item or piece of content, such as art, collectibles, or in-game items. As with stablecoins, the JFSC assesses NFTs on a case-by-case basis to determine whether they fall under existing financial services regulations.

If an NFT is considered a security or a collective investment fund under Jersey law, it will be subject to the relevant regulatory framework, such as the Collective Investment Funds (Jersey) Law 1988 or the Financial Services (Jersey) Law 1998. Issuers, custodians, and service providers may need to obtain the appropriate licenses or registrations from the JFSC.

However, many NFTs may not fall under existing financial services regulations if they do not exhibit characteristics of securities or collective investment funds. In such cases, they may not be subject to specific regulation beyond general consumer protection and AML/CFT requirements.

Are decentralised finance (DeFi) activities (e.g. lending virtual assets) regulated in Jersey?

The regulatory landscape surrounding DeFi activities in Jersey is currently evolving, with the JFSC adopting a risk-based approach to regulating virtual assets, including DeFi. This approach focuses on regulating activities that pose a higher risk while allowing for innovation in lower-risk areas.

The existing regulatory framework in Jersey primarily applies to traditional financial services. DeFi activities that fall under the definition of these services, such as operating a virtual asset exchange, providing custody services, or offering payment services, would likely need to be registered with the JFSC. These activities may be subject to regulation under the Financial Services (Jersey) Law 1998, unless an exemption applies.

There are currently no specific regulations in Jersey that directly target DeFi lending or other DeFi activities. However, the JFSC may consider these activities under existing frameworks, depending on the specific nature of the service. The JFSC assesses DeFi activities on a case-by-case basis to determine whether they are subject to regulation.

For example, if a DeFi lending platform involves the offering of financial services, such as deposits, loans, or investment advice, it may be subject to the Financial Services (Jersey) Law 1998. In such cases, the platform's operators may need to obtain the appropriate licenses or registrations from the JFSC.

Furthermore, DeFi activities involving virtual assets may be subject to Jersey's AML/CFT regulations. The Proceeds of Crime (Jersey) Law 1999 and the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#) require businesses and individuals engaged in certain activities, including virtual asset service providers, to comply with AML/CFT obligations.

Are there any restrictions on issuing or publicly offering virtual assets in Jersey?

In Jersey, there are various regulations and restrictions surrounding the issuing and public offering of virtual assets. While most ICOs are not directly regulated by the JFSC, issuers of ICOs must take certain steps to remain compliant with the guidance note ([The application process for issuers of ICO](#)) and other regulations, for instance:

- i. Incorporation as a Jersey company: According to the JFSC, issuers of ICOs need to be incorporated as a Jersey company and administered through a trust and company service provider (**TCSP**) licensed by the JFSC.

- ii. COBO Consent: Any issuer of an ICO must obtain a COBO (Control of Borrowing) consent under the statutory instrument governing the raising of capital, which allows the JFSC to place certain conditions on the issuer.
- iii. Compliance with Sound Business Practice Policy: ICO issuers must comply with the JFSC's Sound Business Practice policy. The JFSC places greater emphasis on the management of AML/CFT risks in the token issuance process.
- iv. AML/CFT Requirements: The issuer must apply relevant AML/CFT requirements to ICO purchasers or sellers and appoint and maintain a TCSP.
- v. Jersey resident director: The issuer must appoint and maintain a Jersey resident director, an officer of the TCSP appointed by the issuer, who is a natural person and also a principal person of that business pursuant to the Financial Services (Jersey) Law 1998.
- vi. Ongoing audit requirement: The issuer must be subject to an ongoing audit requirement.
- vii. Risk mitigation measures: The issuer must have procedures and processes in place to mitigate and manage the risk of retail investors investing inappropriately in the ICO and ensure retail investors understand the risks involved.
- viii. Information Memorandum: The issuer must prepare and submit to the JFSC an Information Memorandum (which may be in the form of a White Paper) which complies with certain content requirements required of a prospectus issued by a company under the [Companies \(Jersey\) Law 1991](#).
- ix. Review and update requirements: The JFSC reviews and updates the guidance and JFSC ICO issuer requirements periodically where appropriate.
- x. Restrictions on marketing material: The issuer is prohibited from directly or indirectly stating or implying that the issuer, or the coins or tokens issued by the issuer, are regulated by the JFSC. The issuer must also ensure that any written marketing material is clear, fair, and not misleading.

Are there any exemptions to the restrictions on issuing or publicly offering of virtual assets in Jersey?

There are two main exemptions available for issuers to offer virtual assets:

- i. Professional client's exemption: This exemption applies when the offer is limited to "professional clients" or high net worth clients, as defined by the [JFSC Conduct of Business Code](#). Issuers can offer virtual assets to a more sophisticated clientele with fewer regulatory requirements under this exemption.
- ii. Limited offer exemption: This exemption is available if the offer is limited to fewer than 50 clients in Jersey over a 12-month period, and those clients are not professional clients or high net worth individuals. This exemption allows for smaller-scale offerings to non-professional clients without triggering the full set of regulatory requirements.

However, the JFSC closely regulates virtual asset offers to retail clients who are not professional clients or high net worth individuals. Retail client offers must comply with all the regulatory requirements prescribed by the JFSC, which may include obtaining necessary approvals, preparing a prospectus, and adhering to investor protection measures.

Regardless of any exemptions, issuers and service providers must still comply with Jersey's AML/CFT regulations. These regulations are explained in the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, and they apply to all virtual asset activities.

3. Regulation of VASPs in Jersey

Are VASPs operating in Jersey subject to regulation?

VASPs operating in Jersey are subject to regulation to ensure compliance with AML/CFT requirements. The JFSC takes a proactive approach to regulating virtual assets and VASP activities.

In 2020, Jersey amended the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 to include VASPs as a supervised sector under the JFSC's remit. This amendment brought VASPs within the scope of Jersey's AML/CFT regulatory framework, requiring them to comply with the same obligations as other financial service providers.

VASPs operating in Jersey must register with the JFSC and adhere to the AML/CFT obligations set out in the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. These obligations include conducting customer due diligence, monitoring transactions, reporting suspicious activities, and maintaining adequate records.

If a VASP carries out activities in or from within Jersey, they are required to register with the JFSC, which will be treated as a new application.

In addition to AML/CFT requirements, VASPs may also be subject to other regulatory requirements depending on the specific services they offer. For example, if a VASP operates a virtual asset exchange or provides custody services, it may need to be registered with the JFSC under the Financial Services (Jersey) Law 1998.

Are VASPs providing virtual asset services from offshore to persons in Jersey subject to regulation in Jersey?

Yes, VASPs providing services from offshore to persons in Jersey are considered as 'carrying out activities in or from within Jersey' and are therefore subject to regulation in Jersey. Therefore, they need to register with the JFSC for AML/CFT and countering proliferation financing purposes.

However, each case is assessed individually, and the specific circumstances will determine whether a VASP providing services from offshore to persons in Jersey will be subject to regulation. The JFSC takes a risk-based approach to regulating virtual assets and VASPs, focusing on the substance of the activities rather than their location.

What are the main requirements for obtaining licensing / registration as a VASP in Jersey?

Businesses seeking to obtain licensing or registration as a VASP in Jersey must comply with specific requirements under the Financial Services (Jersey) Law and other relevant regulations. These requirements include:

- i. **Application:** Submit a completed application form to the JFSC, providing detailed information about the VASP, its beneficial owners, directors, and key personnel. The application should also include a comprehensive business plan outlining the nature of the virtual asset services to be provided and the target market.
- ii. **Categorisation:** The JFSC's Guidance Note on Virtual Currencies, ICOs and Related Services states that the business must fall within certain categories of the Financial Services (Jersey) Law and conduct specific activities for or on behalf of other persons. These activities must be carried out from or within Jersey 'by way of business' to be subject to Jersey's AML/CFT/CPF regime.
- iii. **'By Way of Business' Test:** As per the JFSC's Guidance Note on Virtual Currencies, ICOs and Related Services, the business must publicly offer to conduct VASP activities for other persons to meet this test. This involves demonstrating that the services are provided commercially, regularly, and with a view to profit.
- iv. **Money Laundering Compliance Officer (MLCO) and Money Laundering Reporting Officer (MLRO):** The JFSC's AML/CFT Handbook for Financial Services Businesses mandates that the business must appoint an MLCO and an MLRO to oversee and manage its AML/CFT efforts.
- v. **AML/CFT Compliance:** VASPs must demonstrate compliance with Jersey's AML/CFT requirements. This includes implementing robust AML/CFT policies and procedures, conducting customer due diligence, monitoring transactions, and reporting suspicious activities to the JFCU.
- vi. **Policies and Procedures:** In accordance with the Money Laundering (Jersey) Order 2008 and the JFSC's AML/CFT Handbook for Financial Services Businesses, the business must maintain comprehensive policies and procedures to prevent and detect money laundering in respect of their VASP activities.

- vii. **Fitness and Propriety:** The JFSC assesses the fitness and propriety of the VASP's beneficial owners, directors, and key personnel. This assessment includes evaluating their integrity, competence, and financial soundness. Applicants may need to provide police clearance certificates, professional references, and financial statements as part of this process.
- viii. **Risk Management:** VASPs are required to establish and maintain effective risk management systems and controls to identify, assess, and manage potential risks associated with their virtual asset services. This includes implementing appropriate information security measures to protect client data and assets.
- ix. **Corporate Governance:** VASPs must have a sound corporate governance structure in place, with clear lines of responsibility and accountability. This includes appointing a minimum of two Jersey-resident directors and maintaining a registered office in Jersey.
- x. **Capital Adequacy:** VASPs must maintain sufficient financial resources to cover their operational costs and potential liabilities. The JFSC may require VASPs to hold a minimum level of regulatory capital, depending on the nature and scale of their activities.
- xi. **Insurance:** VASPs may be required to maintain adequate insurance coverage to protect against potential risks and liabilities, such as professional indemnity and cyber insurance.
- xii. **Audit and Reporting:** VASPs must appoint an external auditor to conduct annual audits of their financial statements and AML/CFT compliance. They are also required to submit regular reports to the JFSC, including financial statements, compliance reports, and any significant changes to their business or operations.
- xiii. **Ongoing Compliance:** VASPs must comply with all relevant laws, regulations, and regulatory guidelines issued by the JFSC. This includes adhering to any specific conditions or restrictions imposed on their registration or license.

The licensing fees for VASPs in Jersey for operating a virtual assets business involve an Application Fee of approximately £1,000.00 and a Registration Fee that varies based on factors like the type of virtual asset services provided, the nature, size, and complexity of the services. The Registration Fee can range between £1,000 and £15,000.

What are the main ongoing requirements for VASPs regulated in Jersey?

According to the JFSC, guidance notes, and regulatory framework, VASPs regulated in Jersey must adhere to several ongoing requirements to maintain their registration. These main ongoing requirements include:

- i. **Compliance with AML/CFT regulations:** VASPs must continually adhere to Jersey's AML/CFT regulations, as outlined in the Proceeds of Crime (Jersey) Law 1999 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. This includes conducting customer due diligence, monitoring transactions, and reporting suspicious activities.
- ii. **Maintenance of effective risk management systems:** The JFSC requires VASPs to maintain risk management systems and controls to identify, assess, and manage potential risks associated with their virtual asset services.
- iii. **Regular reporting:** VASPs must submit regular reports to the JFSC, detailing their activities, financial performance, and compliance with relevant regulations. This may include annual reports, financial statements, and other specific reports requested by the JFSC.
- iv. **Maintaining adequate records:** VASPs are required to keep accurate and up-to-date records of their clients, transactions, and internal policies and procedures, in accordance with Jersey's regulatory requirements.
- v. **Ongoing collaboration with the JFSC:** Regulated VASPs must maintain open lines of communication with the JFSC and promptly inform the commission of any significant changes to their business, such as changes in ownership, key personnel, or the nature of their services.
- vi. **Annual audit:** VASPs are required to undergo an annual audit by an independent auditor to assess their compliance with AML/CFT regulations and other relevant requirements.

What are the main restrictions on VASPs in Jersey?

Jersey does not impose any specific restrictions on VASPs as such. However, VASPs fall under the purview of the Financial Services (Jersey) Law along with other financial service providers. This means that they may need to adhere to certain requirements, which can include licensing and regulatory approvals for certain types of businesses, such as investment businesses.

Furthermore, the main restrictions on VASPs in Jersey include:

- i. **Registration requirement:** VASPs must be registered with the JFSC and obtain approval before offering their services in or from Jersey. This ensures that they are subject to the regulatory oversight and AML/CFT regime.
- ii. **Scope of services:** VASPs may be restricted in the types of virtual asset services they can offer, depending on their registration and approval from the JFSC. For example, a VASP may be authorised to provide virtual asset exchange services but not custody services.
- iii. **AML/CFT compliance:** VASPs are restricted from engaging in activities that do not comply with Jersey's AML/CFT regulations. They must implement AML/CFT policies and procedures, conduct customer due diligence, monitor transactions, and report suspicious activities.
- iv. **Customer restrictions:** VASPs may be subject to restrictions on the types of clients they can serve, depending on their registration and approval from the JFSC. For instance, they may be restricted from offering services to retail clients who are not professional clients or high net worth individuals, as these clients would need to comply with all the regulatory requirements prescribed by the JFSC.
- v. **Risk management:** VASPs must implement and maintain effective risk management systems and controls to identify, assess, and manage potential risks associated with their virtual asset services. This may restrict them from engaging in activities that pose an unacceptable level of risk.
- vi. **Regulatory compliance:** VASPs are required to comply with all relevant laws, regulations, and regulatory guidelines issued by the JFSC. This includes adhering to any specific conditions or restrictions imposed on their registration or license.

What are the main information that VASPs have to make available to its customers?

VASPs operating in Jersey are required to provide certain information to their customers to ensure transparency and promote informed decision-making. According to the JFSC's Guidance Note on Virtual Currencies, ICOs and Related Services, VASPs must provide customers with information about the risks associated with virtual assets and the services they offer, including the potential for financial loss, market volatility, and operational risks.

The JFSC's Data Protection Guidance suggests that VASPs should provide customers with a clear and concise privacy policy that explains how their personal information will be collected, used, stored, and protected in accordance with [Jersey's data protection laws](#).

As per the JFSC's AML/CFT Handbook for Financial Services Businesses, VASPs must inform customers about their AML/CFT policies and procedures, including customer due diligence requirements and the obligation to report suspicious activities.

The JFSC's Conduct of Business Code also states that VASPs should provide customers with a clear and accessible complaint handling procedure, including information on how to submit a complaint and the timeframes for resolution.

Lastly, the JFSC's Conduct of Business Code requires VASPs to disclose any actual or potential conflicts of interest that may arise in the course of providing their services and have policies and procedures in place to manage and mitigate these conflicts.

What market misconduct legislation/regulations apply to virtual assets?

Market misconduct legislation and regulations that apply to virtual assets in Jersey can be derived from various sources, as there is no specific legislation targeted solely at virtual assets. Instead, the existing regulatory framework is applied to virtual assets in a technology-neutral manner. Some key pieces of legislation and regulations that may apply to virtual assets include:

- i. Financial Services (Jersey) Law 1998: Any person carrying on a financial service business in or from within Jersey must be registered with the JFSC. Depending on the nature of the virtual asset activities, they may fall under the scope of this law, and the relevant market misconduct provisions would apply.
- ii. Proceeds of Crime (Jersey) Law 1999: This law establishes Jersey's AML/CFT regime. VASPs are considered financial service providers and must comply with AML/CFT obligations, which can help prevent market misconduct related to money laundering and terrorist financing.
- iii. Insider Dealing and Market Abuse Provisions: Part 3A of Financial Services (Jersey) Law 1998 law prohibits insider dealing and market manipulation in relation to qualifying investments. These provisions closely follow the [UK's Criminal Justice Act 1993](#) and [Financial Services and Markets Act 2000](#). While virtual assets may not be explicitly mentioned, these provisions could potentially apply to virtual assets if they are considered qualifying investments. The JFSC has the power to investigate and take enforcement action against market misconduct related to insider dealing and market manipulation under this law.
- iv. Common law and other applicable legislation: In addition to specific regulations, general principles of Jersey law, such as those related to fraud, misrepresentation, and breach of trust, may apply to virtual assets and help address market misconduct in the virtual asset space.

4. Regulation of other crypto-related activities in Jersey

Are managers of crypto funds regulated in Jersey?

In 2016, the JFSC published guidance notes on virtual currencies, which clarified that virtual currency exchanges and other virtual currency businesses operating in Jersey may be subject to regulatory requirements under the AML/CFT regime. However, the guidance notes did not specifically address the regulation of crypto fund managers.

In 2018, the JFSC issued a consultation paper on proposals to enhance Jersey's regulatory framework for virtual currency exchange businesses. The said paper also touched upon the regulation of crypto fund managers, proposing that they be subject to the same regulatory requirements as traditional fund managers.

In 2019, the JFSC published a revised version of its Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism, which included guidance on the application of AML/CFT requirements to virtual currency businesses, including crypto fund managers.

As of now, crypto fund managers operating in Jersey are required to obtain a fund services business license and comply with AML/CFT requirements. They are also subject to ongoing supervision by the JFSC.

Are distributors of virtual asset funds regulated in Jersey?

In Jersey, the regulation of virtual asset fund distributors falls under the jurisdiction of the JFSC. These distributors are mandated to obtain a fund services business license and adhere to AML/CFT requirements. Supervision by the JFSC is continuous to ensure ongoing compliance. Moreover, the JFSC has issued comprehensive guidance explaining the regulatory framework for the marketing and distribution of virtual asset funds within Jersey. This guidance describes the regulatory obligations for distributors, providing clarity and direction. The details on regulatory requirements for virtual asset fund distributors in Jersey can be found in the JFSC's guidance notes, revised Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism, and guidance on the marketing and distribution of virtual asset funds.

Are there requirements for intermediaries seeking to provide trading in virtual assets for clients or advise clients on virtual assets in Jersey?

Yes, there are requirements for intermediaries seeking to provide trading in virtual assets for clients or advise clients on virtual assets in Jersey.

According to the JFSC's guidance notes on virtual currencies, any intermediary that is carrying on a virtual currency exchange business in or from Jersey is required to comply with the AML/CFT regime. This includes obtaining a registration or a permit from the JFSC, depending on the nature and scale of the business.

In addition, intermediaries that provide investment advice on virtual assets may be subject to regulation under Jersey's financial services regulatory framework. The JFSC has issued guidance notes on the regulation of investment business, which sets out the regulatory requirements for intermediaries that provide investment advice or manage investments for clients.

Intermediaries that provide trading in virtual assets for clients may also be subject to regulation under Jersey's financial services regulatory framework. The JFSC has issued guidance on the regulation of investment business, which sets out the regulatory requirements for intermediaries that deal in investments as principal or agent.

5. Other relevant regulatory information

Are there any upcoming regulatory developments in respect of crypto-related activity in Jersey?

Jersey's current framework treats most crypto activities as "sensitive activities" under the Sound Business Practice Policy. There might be future developments to provide more specific regulations for different types of crypto businesses.

Jersey also plans to make legislative changes to strengthen their anti-money laundering and counter-terrorism financing regime.

Has there been any notable events in Jersey that has prompted regulatory change recently?

Yes, there have been recent events in Jersey's virtual assets industry which have led to regulatory changes. The FTX crash in November 2022 and lawsuits against some of the world's largest crypto exchanges, like Binance and Coinbase, impacted the global virtual assets industry negatively. Despite this, Jersey remains a crypto-friendly jurisdiction.

There has been an increase in digital asset exchange trade products in Jersey in 2023, and in May 2023, the digital assets manager **Valour launched an ETP program** in Jersey. In July 2023, the **JFSC approved the first digital assets investment business license for trading firm, Elwood**. These events have contributed to regulatory changes in Jersey, such as the introduction of the VASP regime in Jersey's anti-money laundering framework to cover virtual asset service providers. Jersey implemented the FATF's VASP Guidelines in early 2023, bringing VASPs under its AML/CFT framework. We can expect Jersey to continue refining its AML/CFT regulations to address evolving risks in the crypto space.

6. Pending litigation and judgments related to virtual assets in Jersey (if any)

There are currently no pending litigations or judgments in Jersey.

7. Government outlook on virtual assets and crypto-related activities in Jersey

Jersey has chosen not to introduce crypto-specific legislation and instead incorporates the regulation of virtual assets within the existing financial services legislation and AML/CFT/CPF regime. This demonstrates the government's commitment to creating a regulatory framework that is both comprehensive and can adapt to new technologies without creating an unnecessary regulatory burden on businesses.

Jersey became one of the first global jurisdictions to regulate virtual currency exchanges in 2016, and in 2017, the JFSC issued ICO Guidance that welcomes token launches with a governance structure while considering consumer protection and anti-money laundering measures.

Any business operating in the virtual currency sphere in Jersey is required to adhere to the AML/CFT laws which include registering with the JFSC and complying with its AML/CFT Handbook.

Despite this, the regulatory landscape surrounding DeFi activities in Jersey is evolving, with the JFSC adopting a risk-based approach to regulating virtual assets, including DeFi. This approach focuses on regulating activities that pose a higher risk while allowing for innovation in lower-risk areas. It is also worth noting that in May 2023, Jersey welcomed the ETP program for digital asset manager Valour, followed by the first digital assets investment business license for digital assets trading firm Elwood in July 2023.

8. Advantages of setting up a VASP in Jersey

Setting up a VASP in Jersey offers several advantages due to its well-established financial sector, regulatory framework, and business-friendly environment. Here are some key advantages:

- i. **Clear regulatory framework:** Jersey has a clear and comprehensive regulatory framework for VASPs, which provides businesses with a high degree of certainty and clarity regarding their obligations and responsibilities. This helps to create a stable and secure environment for VASPs to operate.
- ii. **Reputation:** Jersey is known for its strong reputation as a well-regulated international finance center, with a focus on transparency, compliance, and adherence to international standards. This can enhance the credibility of VASPs operating from Jersey and help them build trust with clients and partners.
- iii. **Access to a skilled workforce:** Jersey's finance industry has a deep pool of skilled professionals with expertise in areas such as compliance, risk management, and financial technology. This can make it easier for VASPs to find and hire the talent they need to grow and succeed.
- iv. **Business-friendly environment:** Jersey offers a business-friendly environment, with a competitive tax regime, modern infrastructure, and a responsive government. This can help VASPs to minimise their operational costs and focus on growing their businesses.
- v. **Proximity to major markets:** Jersey's location between the UK and Europe provides VASPs with easy access to major financial markets, enabling them to serve clients across multiple jurisdictions and tap into new growth opportunities.
- vi. **Strong focus on AML/CFT compliance:** Jersey's AML/CFT regime can help VASPs to demonstrate their commitment to compliance and build trust with clients, partners, and regulators.

Disclaimer

This guide is intended solely for informational and educational purposes. The contents of this guide shall not be interpreted nor construed as legal, tax, investment, financial, or other professional advice. Nothing within this guide constitutes a solicitation, recommendation, endorsement.

We take no responsibility or liability for the information and data provided herein, nor do we have any duty to review, verify, or investigate the completeness, accuracy, sufficiency, integrity, reliability, or timeliness of such information. We make no representations or warranties regarding its accuracy, completeness, or usefulness.

Any reliance you place on this information is strictly at your own risk. We disclaim all liability arising from any reliance placed on these materials by you or any other visitor to this guide. Under no circumstances shall we be liable for any loss or damage incurred as a result of using this guide or relying on the information provided.

Your use of this guide and reliance on any information it contains is governed by this disclaimer and our terms of use.

**CHARLTONS
QUANTUM**



Hong Kong Office

Dominion Centre 12th Floor
43-59 Queen's Road East
Hong Kong

enquiries@charltonslaw.com
www.charltonsqquantum.com
www.charltonslaw.com
Tel: + (852) 2905 7888
Fax: + (852) 2854 9596