Good things always come in threes

Richard Le Lard, senior associate at Bedell Cristin, presents a round-up of recent regulatory developments

As a funds lawyer working in a time where the global trend is towards increased complexity, it is a pleasure to report on the Jersey funds industry. The themes are simple and well maintained. This will be achieved through a requirement for a Jersey-regulated ‘Designated Service Provider’ to be appointed to all JFPs. This follows the trend of focusing regulation on the service provider, rather than the product.

Regulated funds and fund services providers are not exempted from the heightened guidance measures. The fund provider will be required to the JFSC and, by way of the offer document or an investor notification to eligible fund’s investors, and provided that certain other conditions are not

A fund is a customer of an AML-regulated professional – a fund service provider, and the general applicability of AML/CFT obligations to all fund and fund operators in a way that has not been clearly communicated before.

New funds section of the AML/CFT handbook

All funds (fund operators involved in regulated and non-regulated) in Jersey are subject to the anti-money laundering and the financing of terrorism requirements (AML/CFT) requirements set out in a Handbook issued by the JFSC.

The second good news story for the Jersey fund industry is that at the end of last year, the new section of that Handbook dedicated to funds and fund operators.

Typically, the introduction of additional AML/CFT materials is met with particular enthusiasm by those whose ordinary business is managing, holding or advising on investments, as well as persons who can meet certain asset or investment thresholds (each as making an investment of at least £250,000).

A JFP can be established as any type of Jersey fund and fund operators in a way that has not been clearly communicated before.

There are no investment or borrowing restrictions.

Offering documents are permitted but not required.

A JFP is not required to have Jersey directors, a Jersey general partner of Jersey trustees.

There is no audit requirement.

Holding companies, special purpose and securitisation schemes and vehicles with a relevant family or employment connection are expressly out of scope.

Funds of the very private fund, private placement fund or COIB-only fund will be glad to hear that they will be permitted to continue in operation until the end of their natural life or, alternatively, on application to the JFSC, may convert into a JFP.

We expect that conversion to a JFP will be particularly attractive to those very private funds who are close to their limit of no more than 15 investors, or to private placement funds that are close to their limit of no more than 40 investors and wish to take advantage of the rules set out in the JFP guide that disregard bona fide carried interest vehicles and general partners (where they are not committed capital).