

In force Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 Regulation

Insights - 11/01/2021

On 6 January 2021 the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 (the **DPI Law**) came into effect, together with the Financial Services (Disclosure and Provision of Information) (Jersey) Order (the **DPI Order**) and the Financial Services (Disclosure and Provision of Information) (Jersey) Regulations (the **DPI Regulations**).

The DPI Law affects Jersey companies, foundations, incorporated limited partnerships, limited liability companies, limited liability partnerships and separate limited partnerships (both existing and new). The DPI Law introduces a revised statutory framework for reporting information on beneficial owners and controllers to the Jersey Financial Services Commission (**JFSC**). The most important change being the introduction of the concept of 'Significant Persons' for these entities with certain reportable information being made publicly available for the first time.

Importantly, the DPI Law enabled the States of Jersey to make secondary legislation which determines the reported information that will be made available for public inspection. For more information on the DPI Law and the background to its introduction, please see our briefing: [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 20](#)

This briefing is intended to provide an overview of the secondary legislation introduced under the **DPI Law**, namely the DPI Order and DPI Regulations and an update on the filing deadlines now the new legislation is in effect.

The DPI Order (adopted by the States of Jersey on 23 December 2020) details the information required to be reported to the JFSC about Beneficial Owners and Significant Persons of entities to ensure transparency and compliance with international standards. Whilst for most entities reporting details of Beneficial Owners to the JFSC has been mandatory for some time, it is a new requirement in respect of foundations.

The DPI Regulations (adopted by the States of Jersey on 18 November 2020) detail the information on Significant Persons that shall appear on the public register and also sets out the application process for preventing information about a Significant Person from being available for public inspection.

In relation to each entity type the Significant Person will be:

- company: a director or secretary of the company;
- foundation: a member of the council of the foundation;
- incorporated limited partnership or separate limited partnership: general partner;
- limited liability partnership: a limited partner participating in the management of the partnership;
- limited liability company: a manager of the LLC.

The following information relating to individuals who are Significant Persons which is reportable to the JFSC will be made public:

- name;
- month and year of the person's date of birth;
- address for correspondence;
- nationality;
- occupation.

If the entity's Significant Person is an entity, then the type of entity, registered name, number, date of incorporation and registered office address will be available publicly, and additionally, if the Significant Person is a foreign entity then the jurisdiction in which that Significant Person entity is incorporated.

Limited partnerships are not defined as entities in the DPI Law and, as such, are not subject to it. The obligation to provide and update beneficial ownership and controller information for limited partnerships will continue as part of the Control of Borrowing (Jersey) Order 1958 (**COBO**) regime and existing COBO consents for limited partnerships will remain unchanged.

Each entity will be required to provide an annual confirmation statement verifying that the Beneficial Owners and Significant Persons remain the same, updating where necessary. This will replace the annual return for companies and will be subject to a fee. In order to accommodate the filing of reportable information under the DPI Law the JFSC has launched a new online Registry portal together with certain guidance which has now been made available by the JFSC.

Also under the DPI Law, each entity has to nominate a person who is resident in Jersey, a 'Nominated Person', who will provide the information and act as interface with the JFSC. This may vary from entity to entity but can include a trust company regulated by the JFSC, a Significant Person from the entity who is resident in Jersey or a lawyer or accountant.

Notably, there are deadlines to meet these reporting requirements in April and June this year. Foundations have until 6 April 2021 to file abridged regulations. All entities must appoint their Nominated Person by 6 April 2021 and have until 30 June 2021 to file the annual confirmation statement (being a recent extension from the original deadline of 30 April 2021).

From 2022 that deadline will revert to between January 1st and end of February each year.

The JFSC guidance provides that Significant Person information will not be made available on the public register before 1 October 2021.

There is a dispensation process pursuant to the DPI Regulations by which the Nominated Person can apply to prevent information about a Significant Person from being made publicly available. The dispensation aims to protect a Significant Person (or a person who lives with them) at risk of violence, intimidation, or physical or mental harm as a result of the information being published; or where there is a serious risk of damage or threat to property; or if the information relates to an individual who lacks capacity to manage their own affairs. Other applications may also be considered in exceptional circumstances.

One final point to mention relates to the new requirement under the DPI Law for existing foundations to provide abridged regulations when completing their first annual confirmation statement and also on the incorporation of a new foundation.

'Abridged regulations' are those parts of the regulations of a foundation comprising the information required to be included in the regulations under Articles 12 and 14 of the Foundations (Jersey) Law 2009 (the **Foundations Law**), but, importantly, not including any information from which a person can or may be identified.

In summary, Article 12 of the Foundations Law sets out what the regulations of the foundation must include in respect of the establishment and functions of the council, the appointment and retirement of its qualified member and council members, council functions and decision making (including whether such functions or decisions must be exercised in conjunction with or with the approval of another person or can be delegated). Article 14 of the Foundations Law sets out what the regulations must include in respect of the guardian, including the identity of the initial guardian of the foundation and provision for the retirement, appointment and remuneration of guardians.

The JFSC guidance states that any information that can or may identify a person does not have to be included in the abridged regulations. It does not suggest how to go about doing this but

advises to exclude only what is necessary to protect the identity of the individual and to ensure that the abridged regulations still make sense. It therefore seems that redaction may be the appropriate approach to take when excluding personal information from the regulations of an existing foundation. New foundations can be drafted so that personal information is included in schedules separate to the regulations.

In light of the April and June deadlines, we recommend that entities affected by the DPI Law should consider the impact of these changes and to start preparing the additional reportable information.

Should you have any questions, please reach out to your usual Ogier contact or any member of our team included here.

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