



**Jersey Financial  
Services Commission**

## **Consultation on proposals regarding further enhancements to the AML/CFT Handbook**

**No. 12 2022**

Issued: October 2022

## Consultation

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **13 January 2023**. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the JFSC.

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Alternatively, Tim Hart at Jersey Finance Limited (**JFL**) is coordinating an Industry response that will incorporate any matters raised by local businesses. Comments should be submitted to JFL by **13 January 2023**.

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**It is the policy of the JFSC to make the content of all responses available for public inspection (unless specifically requested otherwise by the respondent).**

**It is the policy of JFL (unless otherwise requested or agreed) to collate all responses and share them verbatim with the JFSC on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.). This collated, anonymised response will, typically, be placed in JFL's permanent electronic archive which is currently open to all JFL members.**

## Glossary of terms

Defined terms are indicated throughout this document as follows:

|                         |   |
|-------------------------|---|
| Codes of Practice       | AML/CFT Codes of Practice set out in the Handbook   |
| Commission Law          | Financial Services Commission (Jersey) Law 1998   |
| EDD                     | Enhanced Due Diligence  |
| FATF                    | Financial Action Task Force   |
| FATF Recommendations    | The FATF Recommendations adopted in February 2012 and as amended to date  |
| FATF Immediate Outcomes | The FATF Immediate Outcomes adopted in February 2013 and as amended to date   |
| FSB Code                | Code of Practice for Fund Services Business   |
| FS(J) Law               | Financial Services (Jersey) Law 1998  |
| FTA                     | Financial Transparency Associates, an AML/CFT consulting firm   |
| The Handbook            | Handbook for the detection and prevention of money laundering and the countering of terrorist financing               |
| JFSC/we/us              | Jersey Financial Services Commission  |
| Money Laundering Order  | Money Laundering (Jersey) Order 2008  |
| PEPs                    | Politically Exposed Persons   |
| Proceeds of Crime Law   | Proceeds of Crime (Jersey) Law 1999   |
| registered person       | a person who is registered, or holds a permit or certificate, as applicable, under one or more of the regulatory laws |
| SAR                     | Suspicious Activity Report  |
| Supervised person       | Has the meaning given in Article 1 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008                    |

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 This consultation paper seeks feedback on proposals to add further guidance notes and AML/CFT Codes of Practice (Codes of Practice) to the Handbook for the detection and prevention of money laundering and the countering of terrorist financing (the Handbook).
- 1.1.2 On 31 January 2022, we published our consolidated Handbook. That document represented a merger of our four previous Handbooks and extended its scope to cover all supervised persons.
- 1.1.3 The Handbook became effective on 31 May 2022.
- 1.1.4 During 2022 we have undertaken work to prepare further changes. The objectives of this work are twofold:
  - 1.1.4.1 enhancing the Handbook's existing content to provide further clarity and guidance, and
  - 1.1.4.2 demonstrating compliance with the Financial Action Task Force (FATF) Recommendations and Immediate Outcomes.
- 1.1.5 Feedback is now sought on these proposed changes.

## 1.2 What is proposed and why?

- 1.2.1 We are proposing to add a range of new and expanded guidance notes across the Handbook. Guidance notes are non-binding and suggest how a supervised person may demonstrate compliance with Jersey legislation and AML/CFT Codes of Practice (Codes of Practice).
- 1.2.2 We are also proposing to add new Codes of Practice across five sections of the Handbook. These new Codes are replicated in the Appendix for ease of reference.
- 1.2.3 Finally, new defined terms will be added to the Handbook to account for some of the new content proposed below.
- 1.2.4 These changes have been driven by one or more of the following:
  - 1.2.4.1 Feedback received during the consultation on consolidating the Handbook, which was deemed out-of-scope for that particular consultation
  - 1.2.4.2 Feedback received from our Supervision, Examination and Authorisations teams regarding their practical experiences in using the Handbook
  - 1.2.4.3 Internal recommendations made following a review of the Handbook's content in respect of sanctions
  - 1.2.4.4 Recommendations made by Financial Transparency Advisors (FTA, an AML/CFT consulting firm) following a review of Jersey's legal framework against the FATF Recommendations and
  - 1.2.4.5 Internal recommendations made following a review of various National Risk Assessment reports published by the Government of Jersey.
- 1.2.5 In preparing these changes, we have collaborated with Industry via a closed working group comprised of volunteers from various business sectors. Early drafts were

shared in July and follow-up feedback sessions were held in August. We are grateful to those persons for taking the time to support us in this regard.

- 1.2.6 It should be noted that in September 2022 we published our follow-on consultation on [AML/CFT scope exemptions](#). The changes proposed therein will also have an impact on the requirements and guidance set out in the Handbook. We have staggered the introduction of these two consultations to make them easier for Industry to review.

### 1.3 Who would be affected?

- 1.3.1 Unless otherwise stated, the proposals in this consultation will affect all supervised persons.
- 1.3.2 Applicants to carry on financial services business will also need to take these proposals into account, as they will be required to comply with the Handbook's Codes of Practice in the event their application is successful.

### 1.4 Costs and benefits

- 1.4.1 We recognise the costs to Industry when amending the Handbooks. However, the benefits of implementing the proposals set out below are:
- 1.4.1.1 Contributing towards the Island meeting the FATF Recommendations, therefore assisting in the fight against financial crime as well as promoting the Island as a well-regulated place to do business and
- 1.4.1.2 Further guidance for Industry on how to demonstrate compliance with the Jersey regulatory framework.

## 2 Consultation

### 2.1 Basis for consultation

- 2.1.1 The JFSC has issued this consultation paper in accordance with Article 8(3) of the Commission Law, as amended, under which the JFSC "may, in connection with the carrying out of its functions ...consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate".

### 2.2 Responding to the consultation

- 2.2.1 The JFSC invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 A response form has been published alongside this consultation, available at [this link](#).
- 2.2.3 Respondents are requested to use this form when providing feedback, either directly or via JFL. For the avoidance of doubt, all responses received, in whatever fashion, will be considered, with the response form intended only to ease processing by the JFSC.
- 2.2.4 Comments should be received by the JFSC no later than **13 January 2023**.
- 2.2.5 We have set the response deadline as 13 January 2023 to account for potential office closures over the Christmas and New Year Period. However, our resource allocation means that January 2023 will be a pressure point for us in terms of capacity. If

possible, we should therefore be grateful if you would consider providing your responses earlier.

- 2.2.6 We recognise the Christmas and New Year period might be a pressure point for Industry, but earlier responses would greatly help us in delivering feedback and finalising changes for the Handbook in good time.
- 2.2.7 “Clean” and tracked-change versions of each Handbook section discussed below are available for review on our [website](#).
- 2.2.8 We will also be holding a drop-in session at the Santander Work Café during the consultation period to allow Industry to seek further clarity on any of the changes proposed. The first session is scheduled for 15 November 2022.
- 2.2.9 Each business can book a 15-minute appointment from 09:30 to 12:30. If you would like to attend the session, please contact Andrew Henson on 01534 822000 to book a slot.
- 2.2.10 Subject to demand, we may organise further sessions.

## 2.3 Next steps

- 2.3.1 Following this consultation, the JFSC will publish feedback to this Consultation Paper in January 2023. We will also publish finalised changes for the Handbook, factoring in comments received during the consultation period.
- 2.3.2 We anticipate that our feedback to the follow-on consultation on AML/CFT scope exemptions will be published later this year.
- 2.3.3 Once the proposed changes to the Handbook in respect of this consultation and the AML/CFT scope exemptions have been finalised, we will consolidate all the changes into one ‘master’ version of the Handbook. That version of the Handbook will be published as soon as possible thereafter. It is currently our intention that all changes to the Handbook related to both pieces of work will become effective in July 2023.
- 2.3.4 To assist with introduction of these changes to the Handbook, following publication of the feedback paper we will be delivering a series of webinars exploring the key changes made.

## 3 The JFSC

### 3.1 Overview

- 3.1.1 The JFSC is a statutory body corporate established under the Commission Law. It is responsible for the supervision and development of financial services provided in or from within Jersey.

## 4 Proposals

### 4.1 Section 2 – Corporate Governance

- 4.1.1 Since 2018, we have annually collected supervisory risk data from supervised persons to support our risk-based approach to supervision.
- 4.1.2 With reference to FATF Immediate Outcomes 3 and 5, FTA identified a potential gap in our regulatory framework in that there are no consequential measures for a non-response to the supervisory risk data questionnaire.

- 4.1.3 We are aware of instances where supervised persons have not completed their supervisory risk data questionnaires. The data provided in these questionnaires is very important and helps us direct our supervisory resources where they are most needed.
- 4.1.4 We have therefore drafted a new Section 2.5 regarding supervisory risk data questionnaires. This section sets out:
  - 4.1.4.1 Context on why and how supervisory risk data is collected
  - 4.1.4.2 One Code of Practice requiring supervised persons to complete and return said questionnaire and
  - 4.1.4.3 Guidance notes to support compliance with the same.

#### 4.1.5 **Question 1**

Do you consider the proposed Code of Practice and supporting guidance at Section 2.5 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

- 4.1.6 In addition to the Code of Practice proposed above, we have also added the following guidance notes. Each of these additions arose from the FTA review and are aimed at strengthening compliance with FATF IO4:
  - 4.1.6.1 Section 2.3.1 – Business risk assessment
  - 4.1.6.2 Further guidance on factors to examine when considering a corporate risk appetite. Also emphasising that it is the responsibility of the Board to ensure the risk appetite is clear and can be articulated, and to prevent the business from being client-driven.
  - 4.1.6.3 Expanded guidance on BRAs to include consideration of risk posed by new and developing technologies, such as virtual assets and E-ID.
  - 4.1.6.4 Additional guidance to emphasise that BRAs should be customised to ensure all relevant risks are considered, rather than using a ‘template’ or generic BRA.

#### 4.1.7 **Question 2**

Do you consider the proposed guidance notes at Section 2.3.1 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

## 4.2 Section 3 – Identification measures – overview

- 4.2.1 Section 3.3 currently sets out a Code of Practice requiring supervised persons to apply a risk-based approach to the identification measures set out in the Money Laundering Order.
- 4.2.2 With reference to the FATF Recommendations, FTA identified that the Jersey regulatory framework does not clearly include a requirement for supervised persons to understand the nature of their customer’s business.
- 4.2.3 In order to better demonstrate technical compliance with the FATF Recommendations, we have therefore drafted the following:
  - 4.2.3.1 Two new Codes of Practice requiring supervised persons to understand the purpose and intended nature of a business relationship/one-off



transaction, along with the nature and scope of the customer's business activities and

4.2.3.2 Guidance notes to support compliance with the same.

#### 4.2.4 **Question 3**

Do you consider the proposed Code of Practice and supporting guidance at Section 3.3 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

4.2.5 We propose to add the following guidance notes:

4.2.5.1 Section 3.3 – Risk-based approach to applying identification measures

4.2.5.2 Clarified the distinction between factual information which supervised persons simply need to collect and that which requires further analysis, when working through the Identification Measures process set out in the Money Laundering Order. This was recommended by FTA.

4.2.5.3 Section 3.3.4.1 – Factors to consider

4.2.5.4 We have expanded guidance in respect of various elements of risk which a supervised person might need to take into account when carrying out a customer risk assessment. These have been driven by recommendations made by FTA.

4.2.5.5 Country risk – explored specific risks posed where the customer has a connection to the FATF grey and black lists.

4.2.5.6 Country risk – emphasising importance of considering the wider context of issues affecting a country which may increase corruption risk

4.2.5.7 Product or Service risk – emphasising importance of not restricting considering of product/service risk to the specific services being provided by the supervised person to the customer. The supervised person's engagement with the customer might involve low-risk products/services, but the customer's wider engagements may involve higher risk products with other providers.

4.2.5.8 Customer-specific risk – explored particular corruption risks associated with sub-sector of PEPs known as "sovereign actors" e.g. persons who are senior executives of sovereign wealth funds or similar state-owned entities.

4.2.5.9 Customer-specific risk – further examples of customer business activities which may indicate higher risk.

4.2.5.10 Customer-specific risk – new guidance on what information to obtain when assessing risk posed by a life assurance policy.

4.2.5.11 Section 3.5 – Identification measures – taking on a book of business

4.2.5.12 Added guidance on further steps which should be taken when taking on customers which display higher-risk characteristics e.g. understanding the full complexity of the customer's source of wealth. This was recommended by FTA with reference to FATF Immediate Outcome 4.

#### 4.2.6 **Question 4**

Do you consider the proposed guidance notes at Sections 3.3, 3.3.4.1 and 3.5 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

### 4.3 Section 4 – Identification measures – finding out identity and obtaining evidence

- 4.3.1 Section 4 currently sets out a range of statutory requirements and Codes of Practice in respect of finding out identity and obtaining evidence for natural persons, legal persons and legal arrangements. These are supplemented by guidance notes.
- 4.3.2 With reference to the FATF Recommendations, FTA identified that the Handbook could include further guidance on how identification measures (including an assessment of risk) might be best applied where the business relationship or one-off transaction involves:
- 4.3.2.1 Introducers/Referrers
  - 4.3.2.2 Intermediaries/Nominees/Agents and
  - 4.3.2.3 Complex ownership structures
- 4.3.3 In order to address these potential gaps, we have prepared a new Section 4.9 entitled “Challenges to identification”. This section covers the areas listed above.
- 4.3.4 Each part of the proposed Section 4.9 provides explanatory diagrams to better illustrate each scenario and provide guidance on steps a supervised person may wish to consider when undertaking identification measures.

#### 4.3.5 Question 5

Do you consider the proposed guidance notes at Section 4.9 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

- 4.3.1 With reference to the FATF Recommendations, FTA also identified that the Handbook could include further guidance on how identification measures might be best applied where the business relationship or one-off transaction involves unit trusts.
- 4.3.2 To address this potential gap, we have prepared a new Section 4.4.6 providing practical guidance and good practice regarding identification measures for unit trusts.

#### 4.3.3 Question 6

Do you consider the proposed guidance notes at Section 4.4.6 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

### 4.4 Section 6 – Ongoing monitoring

- 4.4.1 The Russian invasion of Ukraine and the comprehensive package of sanctions rolled out in response have highlighted the importance of supervised persons maintaining a robust and effective approach to implementing financial sanctions.
- 4.4.2 Following an internal review, it was determined that the Handbook should outline additional requirements and provide further guidance, so supervised persons can maintain and demonstrate effective compliance with sanctions regimes.

- 4.4.3 It was also determined that such additional content would assist Jersey in demonstrating compliance with FATF Recommendations 6 and 7.
- 4.4.4 To address these points, we have added further Codes of Practice to Section 6.2.2 requiring a supervised person to:
- 4.4.4.1 undertake sanctions screening for all business relationships and one-off transactions
  - 4.4.4.2 sign up to receive our sanctions e-mail alerts and sanctions notices from the Government of Jersey and
  - 4.4.4.3 ensure their sanctions monitoring arrangements include an assessment of their sanctions controls and their compliance with the Jersey sanctions regime.
- 4.4.5 We have also added further overview text and guidance notes to Section 6.2.2 to support supervised persons in demonstrating compliance with the new Codes of Practice proposed above.

4.4.6 **Question 7**

Do you consider the proposed Code of Practice and supporting guidance at Section 6.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

- 4.4.7 To provide further support and guidance to supervised persons in respect of sanctions matters, we have also added further material to Section 6 as follows:
- 4.4.7.1 Section 6.2 – description of relevant requirements set out in the Sanctions and Asset-Freezing (Jersey) Law 2019.
  - 4.4.7.2 Section 6.2.1 – sanctions-related guidance in respect of policies and procedures to recognise notable transactions or activity.
  - 4.4.7.3 Section 6.3 – guidance on what a screening audit trail should allow supervised persons to review and assess.

4.4.8 **Question 8**

Do you consider the proposed guidance notes at Section 6.2, 6.2.1 and 6.3 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

- 4.4.9 As a result of the new Codes of Practice and guidance notes proposed above, we have added some new defined terms to the Handbook's Glossary. These are:
- 4.4.9.1 designated person
  - 4.4.9.2 financing of proliferation/proliferation financing
  - 4.4.9.3 sanctioned country or territory
  - 4.4.9.4 sanctioned person
  - 4.4.9.5 Sanctions and Asset-Freezing Law
  - 4.4.9.6 targeted financial sanctions

4.4.10 **Question 9**

Have you identified any unintended consequences of the new Glossary definitions proposed above? If so, please provide further detail in the comments section of this question.

## 4.5 Section 7 – Enhanced and simplified CDD measures

- 4.5.1 With reference to FATF Immediate Outcome 4, FTA identified that the Handbook could provide further clarity regarding:
- 4.5.1.1 the customising of EDD measures to target the specific higher risks of a business relationship or one-off transaction
  - 4.5.1.2 the establishing of source of funds and source of wealth for higher-risk customers, in relation to the underlying property settled in trusts and
  - 4.5.1.3 the specific measures which should be taken for “sovereign actors” e.g. PEPs who hold senior positions in Sovereign Wealth Funds or similar state-owned entities with access to pooled national funds
- 4.5.2 To address the above points, we have therefore added the following:
- 4.5.2.1 new guidance at Section 7.1 emphasising the importance of not applying a “one size fits all” approach to applying EDD measures. We have also added hyperlinks to paragraph 2 allowing users to jump straight to the various sub-sections covering the scenarios which require EDD, as set out in the Money Laundering Order
  - 4.5.2.2 new guidance at Section 7.3 that measures to find out a customer’s source of funds and source of wealth should also establish how they relate to the property which is or will be settled into a trust and
  - 4.5.2.3 new guidance at Section 7.6.2 detailing specific EDD measures which should be undertaken where the customer is a PEP by virtue of their position as a senior executive of a sovereign wealth fund, or is themselves a sovereign wealth fund.

### 4.5.3 Question 10

Do you consider the proposed guidance notes at Sections 7.1, 7.3 and 7.6.2 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

## 4.6 Section 8 – Reporting money laundering and terrorist financing activity

- 4.6.1 Sections 8.3.1 and 8.3.2 of the Handbook set out Codes of Practice regarding procedures a supervised person must have in place for internal and external suspicious activity reports (SARs) respectively.
- 4.6.2 Our Examinations teams identified that the internal SAR forms of some supervised persons did not include certain information which made it harder for them to judge if the internal SAR had been submitted as soon as practicable.
- 4.6.3 We have therefore added the following points to the Code of Practice at Section 8.3.1 paragraph 74:
- 4.6.3.1 internal SAR forms must include the date of submission of the internal SAR
  - 4.6.3.2 the internal SAR register must include the date the information or matter came to the employee’s attention
- 4.6.4 Our Examinations teams also identified that the external SAR registers of some supervised persons did not include the name or role of the individual making the external SAR.

- 4.6.5 We have therefore amended the Code of Practice at Section 8.3.2 paragraph 81 to include a requirement for the external SAR register to record the name and role of the individual making the external SAR.
- 4.6.6 For consistency with the terminology used in the Code of Practice at Section 8.3.1 paragraph 74, we have also amended wording in the Code of Practice at Section 8.3.2 paragraph 81 from “date of the report” to “date of the external SAR”.

4.6.7 **Question 11**

Do you consider the proposed amendments to the Codes of Practice at Sections 8.3.1 and 8.3.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

- 4.6.8 We have also made a series of minor amendments across Section 8 to provide additional clarity for existing overview text or guidance notes, as follows:
- 4.6.8.1 Section 8.2 paragraph 10, regarding the difference between the reporting requirements at Articles 34A and 34D of the Proceeds of Crime Law
  - 4.6.8.2 Section 8.2.1 paragraph 16 and Section 8.2.3.2 paragraph 66, regarding tipping-off provisions
  - 4.6.8.3 Section 8.3.2 paragraph 83 regarding the consideration of time taken to consider an internal SAR and
  - 4.6.8.4 Section 8.6 paragraph 126 regarding the statutory provisions around group disclosure by supervised persons.
- 4.6.9 As these amendments are minor in nature, they are not subject to consideration in this consultation but are flagged for your information.

## 4.7 Section 9 – Screening, awareness and training of employees

- 4.7.1 Section 9.2 of the Handbook currently sets out an Code of Practice requiring supervised persons to screen the competence and probity of certain employees.
- 4.7.2 Paragraph 12.33 of Jersey’s National Risk Assessment of Money Laundering (published September 2020, the Jersey NRA) highlights that customers trust and rely upon their independent financial advisors (IFAs). This creates a customer vulnerability where conduct requirements are not adhered to by the IFAs.
- 4.7.3 Paragraph 12.62 of the Jersey NRA identifies the integrity of entity staff as a high risk, noting that integrity is vital to an Investment Business.
- 4.7.4 We have therefore identified that there is a risk of customers who are receiving services from Investment Businesses losing money because employees of the Investment Business are involved in money laundering or a predicate offence.
- 4.7.5 We also note previous public statements we have made, where poor practice by Investment Business employees has led to customers losing money.
- 4.7.6 To help mitigate this risk, we are proposing to add two new Codes of Practice to Section 9.2 requiring supervised persons carrying on Investment Business to:
- 4.7.6.1 undertake credit checks on any customer-facing employees who solicit funds from customers and
  - 4.7.6.2 repeat the process where they become aware of any change in an employee’s circumstances which increase the risk the employee is

involved in money laundering, terrorist financing or a predicate offence of the same.

4.7.7 To assist in demonstrating compliance with the Codes of Practice proposed above, we have added the following guidance notes:

4.7.7.1 An example of a customer-facing employee who solicits funds from customers and

4.7.7.2 Exploring how credit checks should be undertaken and their results interpreted by the supervised person.

#### 4.7.8 **Question 12**

Do you consider the proposed Codes of Practice and supporting guidance notes at Section 9.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

4.7.9 One of our new Codes of Practice proposed above requires a supervised person carrying on Investment Business to repeat the credit check process where they become aware of any change in an employee's circumstances which increase the risk the employee is involved in money laundering, terrorist financing or a predicate offence of the same.

4.7.10 For the purposes of this draft, we have decided not to include any examples of changes in circumstances which might suggest an increase risk of money laundering, terrorist financing or a predicate offence. However, we understand that examples may be useful to support demonstrating compliance with the Code of Practice proposed above.

4.7.11 We therefore invite your feedback in terms of whether such examples are required, and what they might be.

#### 4.7.12 **Question 13**

Do you think that examples of changes in an employee's circumstances which increase the risk of them being involved in money laundering, terrorist financing or a predicate offence of the same should be provided in Section 9.2? If so, please provide your suggestions in the comments section of this question.

## 4.8 Section 10 – Record keeping

4.8.1 The Money Laundering Order sets out a range of legal requirements in respect of record-keeping. These are expanded upon in Section 10 of the Handbook through Codes of Practice and guidance notes.

4.8.2 With reference to the FATF Recommendations, FTA identified that the Money Laundering Order does not specifically require businesses to keep records of accounts files and business correspondence as separate, stand-alone items.

4.8.3 In order to address this gap, we have therefore added a new Code of Practice to Section 10.2 requiring supervised persons to keep accounts files and business correspondence as part of the supporting documents, data and information kept in respect of a business relationship or one-off transaction.

4.8.4 We have also added new guidance notes to assist in demonstrating compliance with the same.

#### 4.8.5 Question 14

Do you consider the proposed Code of Practice and supporting guidance at Section 10.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.

4.8.6 Section 10.2, paragraph 5 currently includes the following guidance note:

4.8.6.1 In circumstances where it would not be possible to take a copy of the evidence of identity (such as where evidence is obtained at a customer's home and photocopying facilities are not available), a record will be made of the type of document and its number, date and place of issue, so that the document may be obtained from its issuing authority if necessary.

4.8.7 As a result of internal discussions, we have concluded that the above guidance note might now be obsolete. Due to the wide use of smartphones with integrated cameras, we do not consider there would be a scenario where it would not be possible to take a copy of evidence of identity. Therefore, we propose to remove this guidance note from paragraph 5 of Section 10.2.

#### 4.8.8 Question 15

Have you identified any unintended consequences of removing the guidance note at Section 10.2 paragraph 5? If so, please provide further detail in the comments section of this question.

4.8.9 Section 10.4.4 sets out Codes of Practice in respect of record-keeping for suspicious activity reports (SARs).

4.8.10 During the closed working group discussions, it was highlighted that complex matters might have multiple continuation reports submitted, creating a risk that the SAR register could become unwieldy.

4.8.11 To address this potential issue, we have added a new guidance note setting out different approaches a supervised person may take to recording their continuation reports.

#### 4.8.12 Question 16

Do you consider the proposed guidance notes at Sections 10.4.4 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

## 4.9 Section 14 – Estate Agents and High Value Dealers

4.9.1 A number of case studies are also present throughout Section 14 of the Handbook, providing practical examples of criminality relating to the topics discussed.

4.9.2 For consistency with our “house style” we have amended certain details, such as changing case study titles along with anonymising personal and country names.

4.9.3 These amendments are not subject to consideration in this consultation but are flagged for your information. The case studies impacted by these changes are 2, 3, 4, 5, 8, 10, 11 and 13.

## 4.10 Section 15 – Lawyers

- 4.10.1 Our Authorisations team also identified that further guidance could be provided at Section 15.3.1.8 in terms of property transactions not involving a mortgage or not financed wholly through the sale of a previous property.
- 4.10.2 We have therefore expanded the guidance provided at paragraph 42 to state that, if concerns arise, supporting documents should be obtained to demonstrate that the customer is the beneficial owner of the funds being used in a property purchase.

4.10.3 **Question 17**

Do you consider the amended guidance notes at Section 15.3.1.8 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

## 4.11 Section 16 – Accountants

- 4.11.1 Our Authorisations team identified that Section 16.2.1.1 might benefit from further examples of sectors which might pose a higher risk of money laundering and terrorist financing, were the supervised person to specialise in servicing those sectors.
- 4.11.2 We have therefore added three further examples to paragraph 28 of the attached draft.

4.11.3 **Question 18**

Do you consider the amended guidance notes at Section 16.2.1.1 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.

# 5 Appendix: New Codes of Practice

## 5.1 Section 2.5

- 5.1.1 When in receipt of a Risk Questionnaire from the JFSC, a supervised person must complete and return said questionnaire by the deadline provided.

## 5.2 Section 3.3

- 5.2.1 A supervised person must understand the purpose and intended nature of a business relationship or one-off transaction.
- 5.2.2 A supervised person must understand the nature and scope of the business activities generating a customer's funds/assets.

## 5.3 Section 6.2

- 5.3.1 A supervised person must undertake sanctions screening for all business relationships and one-off transactions. This screening must include the customer, any beneficial owners and controllers and other associated parties. The screening must be carried out at the time of take-on, periodic review and when there is a trigger event, i.e. amendments made to the sanctions designations lists.
- 5.3.2 A supervised person must sign up to receive sanctions e-mail alerts from the JFSC and sanctions notices from the Government of Jersey, which are publicly available on the Jersey Gazette



- 5.3.3 A supervised person must ensure their sanctions monitoring arrangements include an assessment of the effectiveness of their sanctions controls and their compliance with the Jersey sanctions regime.

## 5.4 Section 9.2

- 5.4.1 Where a supervised person carries on Investment Business (within the meaning of the FS(J) Law) they must also undertake credit checks on any customer-facing employees who solicit funds from customers .
- 5.4.2 In respect of the employees described in paragraph 9 above, a supervised person carrying on Investment Business must repeat the screening process where they become aware of any change in an employee's circumstances which increases the risk that the employee may be involved in money laundering, the financing of terrorism or a predicate offence of the same.

## 5.5 Section 10.2

- 5.5.1 As part of the supporting documents, data and information to be kept in respect of a business relationship or one-off transaction, a supervised person must keep the following documents:
- 5.5.1.1 accounts files and
  - 5.5.1.2 business correspondence.

## 6 Summary of Questions

| Page | Question   |
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| 8    | <p>Question 1:</p> <p>Do you consider the proposed Code of Practice and supporting guidance at Section 2.5 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>      |
| 8    | <p>Question 2:</p> <p>Do you consider the proposed guidance notes at Section 2.3.1 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>                 |
| 9    | <p>Question 3:</p> <p>Do you consider the proposed Code of Practice and supporting guidance at Section 3.3 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>      |
| 9    | <p>Question 4:</p> <p>Do you consider the proposed guidance notes at Sections 3.3, 3.3.4.1 and 3.5 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p> |
| 10   | <p>Question 5:</p> <p>Do you consider the proposed guidance notes at Section 4.9 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>                   |
| 10   | <p>Question 6:</p> <p>Do you consider the proposed guidance notes at Section 4.4.6 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>                 |
| 11   | <p>Question 7:</p> <p>Do you consider the proposed Code of Practice and supporting guidance at Section 6.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>      |
| 11   | <p>Question 8:</p> <p>Do you consider the proposed guidance notes at Section 6.2, 6.2.1 and 6.3 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>    |
| 11   | <p>Question 9:</p> <p>Have you identified any unintended consequences of the new Glossary definitions proposed above? If so, please provide further detail in the comments section of this question.</p>                                 |

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| 12   | <p>Question 10:</p> <p>Do you consider the proposed guidance notes at Sections 7.1, 7.3 and 7.6.2 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>  |
| 13   | <p>Question 11:</p> <p>Do you consider the proposed amendments to the Codes of Practice at Sections 8.3.1 and 8.3.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>   |
| 14   | <p>Question 12:</p> <p>Do you consider the proposed Codes of Practice and supporting guidance notes at Section 9.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>  |
| 14   | <p>Question 13:</p> <p>Do you think that examples of changes in an employee's circumstances which increase the risk of them being involved in money laundering, terrorist financing or a predicate offence of the same should be provided in Section 9.2? If so, please provide your suggestions in the comments section of this question.</p> |
| 15   | <p>Question 14:</p> <p>Do you consider the proposed Code of Practice and supporting guidance at Section 10.2 to be appropriate and proportionate? If not, please provide further detail in the comments section of this question.</p>  |
| 15   | <p>Question 15:</p> <p>Have you identified any unintended consequences of removing the guidance note at Section 10.2 paragraph 5? If so, please provide further detail in the comments section of this question.</p>   |
| 15   | <p>Question 16:</p> <p>Do you consider the proposed guidance notes at Sections 10.4.4 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>  |
| 16   | <p>Question 17:</p> <p>Do you consider the amended guidance notes at Section 15.3.1.8 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>  |
| 16   | <p>Question 18:</p> <p>Do you consider the amended guidance notes at Section 16.2.1.1 to be adequate for the purposes of your business? If not, please provide further detail in the comments section of this question.</p>  |