Jersey Financial Services Commission

Consultation Paper No. 7 2017

Data for Risk Based Supervision

A consultation on proposals regarding the provision of data to support risk based supervision

Issued: August 2017

Consultation paper

Please note that terms in italics are defined in the Glossary of Terms.

The *JFSC* invites comments on this consultation paper. Responses may be sent directly to **David Fisher** at the *JFSC* by **8 November 2017**. 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*.

The *JFSC* contact is:

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Alternatively, **Peggy Gielen** at *Jersey Finance* is co-ordinating an Industry response that will incorporate any matters raised by local businesses. Comments should reach *Jersey Finance* by **8 November 2017**.

Responses should be sent to:

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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 *Jersey Finance* (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 *Jersey Finance's* permanent electronic archive which is currently open to all *Jersey Finance* members.

Glossary of terms

Defined terms are indicated throughout the document as follows:

Affected Business	Businesses affected by these proposals, being (1) relevant persons as defined in the *Money Laundering Order* (those that carry on financial services business in or from within Jersey, and any Jersey body corporate or other legal person registered in Jersey carrying on financial services business anywhere in the world) and (2) any person registered under the *BB(J)L*, *FS(J)L*, *CIF(J)L* or *IB(J)L* that is not a relevant person (at this time, this is limited to businesses registered to conduct General Insurance Mediation Business)
AML	Anti-money laundering
ANLA	Adjusted Net Liquid Assets
Bank	Used herein to describe a person registered under the *BB(J)L*
BB(J)L	Banking Business (Jersey) Law 1991
BIS	Bank for International Settlements, an organisation that, amongst other functions, collates and disseminates information on banking activities conducted worldwide, including data supplied by the *JFSC* on the activities of *Banks*
CDD	Customer due diligence
CDD Measures	Measures set out in Article 3 of the *Money Laundering Order*
CFT	Countering the Financing of Terrorism
CIF(J)L	Collective Investment Funds (Jersey) Law 1988
Commission Law	Financial Services Commission (Jersey) Law 1998
CUI	Customer unique identifier
Enhanced CDD Measures	Measures described in the *Money Laundering Order* at Article 15 "Enhanced customer due diligence"
Footprint	A numerical proxy for an *Affected Business's* potential to impact upon the *JFSC's* guiding principles (set out in Article 7 of the *Commission Law*).
FS(J)L	Financial Services (Jersey) Law 1998
IB(J)L	Insurance Business (Jersey) Law 1996
Jersey Finance	Jersey Finance Limited
JFSC	Jersey Financial Services Commission
Money Laundering Order	Money Laundering (Jersey) Order 2008

Jersey Financial Services Commission

NRA	National Risk Assessment
Person	Means any natural or legal person (including a body of persons corporate or unincorporated)
PEP	Politically exposed person
PII	Professional Indemnity Insurance
private trust company	Company undertaking trust company business that is exempted by the relevant provisions of the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000
Proceeds of Crime Law	Proceeds of Crime (Jersey) Law 1999
restricted data	Data that is considered to be restricted information when collected by the *JFSC* under the *Supervisory Bodies Law* and, where relevant, the *BB(J)L*, *FS(J)L*, *CIF(J)L* or *IB(J)L*
SAR	Suspicious Activity Report
Supervisory Bodies Law	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
Supervised Person	A person that is subject to supervision by the *JFSC* in accordance with the *Supervisory Bodies Law*
UUI	Underlying beneficial owner Unique Identifier

Consultation on data for risk-based supervision

Contents

1 Executive summary

1.1 Overview

1.1.1 This consultation paper seeks feedback on proposals to establish reporting requirements across all industry sectors to support the *JFSC's* risk based approach to supervision.

1.2 What is proposed and why?

1.2.1 The *JFSC* intends to capture sufficient data to support risk based supervision. In particular, it will seek data that will inform decisions on the riskiness of individual *Affected Businesses*, enabling supervisory resources to be most appropriately targeted.

1.2.2 The proposals would lead to more comprehensive and timely provision of data on the riskiness of *Affected Businesses*. This can be divided into data that informs views on:

1.2.2.1 the impact of a risk arising. This is derived from two factors: (1) the relative severity of different types of risk events and (2) the *Footprint* of each *Affected Business*, a derived score reflecting the potential significance of each *Affected Business*; and

1.2.2.2 the likelihood of risks arising, derived from considering the type and level of activity and the adequacy of controls.

1.2.3 This consultation addresses what is intended to be collected but not how it will be collected. Broadly speaking, it is intended to include risk data as part of a wider data programme, designed to streamline data collection processes thereby minimising costs.

1.2.4 A broad overview is provided herein of the proposals in two key areas. It is intended that further consultation will take place prior to implementation of these.

1.3 Who would be affected?

1.3.1 The proposals in this consultation paper have the potential to affect all *Affected Businesses* as follows:

1.3.1.1 *Banks* registered under the *BB(J)L* would face the most comprehensive reporting requirements but these build on significant existing requirements, mitigating the increase;

1.3.1.2 Certain persons registered under the *FS(J)L* and *IB(J)L* would face reporting requirements that are significant but less comprehensive; and

1.3.1.3 Other *Affected Businesses*, including those registered under the *CIF(J)L* or the *Supervisory Bodies Law*, would face the lowest reporting requirements.

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 To assist in analysing responses to the consultation paper, respondents are asked to:

2.2.2.1 prioritise comments and to indicate their relative importance; and

2.2.2.2 respond as specifically as possible and, where comments refer to costs, to quantify those costs.

2.2.3 A response form has been published alongside this consultation, available at:

2.2.3.1 https://www.jerseyfsc.org/the_commission/general_information/consultation_papers/consultation_papers.asp.

2.2.4 Respondents are requested to use this form when providing feedback, either directly or via *Jersey Finance*. 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*.

2.3 Next steps

2.3.1 Feedback will be assessed and it is intended to provide industry with a document that addresses this in due course, outlining any changes to the proposals documented herein.

2.3.2 It is anticipated that two areas (set out in **Sections 6** and **7**) will be addressed first, through the development of systems and consultation with Industry. **Section 8** establishes wider plans for the development of proposals.

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.

3.2 JFSC's functions

3.2.1 Article 5 of the *Commission Law* prescribes that the *JFSC* shall be responsible for:

3.2.1.1 the supervision and development of financial services provided in or from within Jersey;

3.2.1.2 providing the States of Jersey, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;

3.2.1.3 preparing and submitting to the Chief Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;

3.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:

› as are required or authorised by or under any enactment, or

› as the States of Jersey may, by Regulations, transfer; and

3.2.1.5 such other functions as are conferred on the *JFSC* by any other Law or enactment.

3.3 Guiding principles

3.3.1 Article 7 of the *Commission Law* sets out the *JFSC's* guiding principles which require the *JFSC* to have particular regard to:

3.3.1.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence, malpractice, or the financial unsoundness of persons carrying on the business of financial services in or from within Jersey;

3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;

3.3.1.3 the best economic interests of Jersey; and

3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

3.4 JFSC's role with respect to AML/CFT

3.4.1 With respect to the need to counter financial crime in both Jersey and elsewhere, the *JFSC* is the supervisory body that exercises supervisory functions in respect of:

3.4.1.1 regulated persons[1]; and

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[1] Term defined in Article 1 of the *Supervisory Bodies Law*.

3.4.1.2 persons carrying on specified Schedule 2 business[2].

3.4.2 The supervisory functions to be exercised by the *JFSC* are defined in Article 2 of the *Supervisory Bodies Law*, namely:

3.4.2.1 monitoring compliance by a *Supervised Person* with, inter alia:

› any requirement to which that person is subject under the *Supervisory Bodies Law*;

› any Order made under Article 37 of the *Proceeds of Crime Law*;

› any direction under Article 6 of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012; and

› any Code of Practice that applies to that person or the supervised business carried on by that person; and

3.4.2.2 carrying out the functions, powers and duties conferred under the *Supervisory Bodies Law* for the purpose of compliance by a *Supervised Person* with the requirements described in paragraph 3.4.2.1.

3.4.3 In accordance with Article 22 of the *Supervisory Bodies Law*, the *JFSC*, as the supervisory body, has prepared and issued a number of Codes of Practice.

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[2] Term defined in Article 1 of the *Supervisory Bodies Law*.

4 Overview

4.1 What the data will be used for

4.1.1 The data collected is intended to support the approach to risk-based supervision set out in the document "JFSC Risk Overview: Our approach to risk-based supervision"[3]. This describes the *JFSC's* intended methodology for external risk assessment, comprising an assessment of *Footprint* (scale and complexity), severity of events and probability (likelihood of events).

4.1.2 To develop a more objective, data based, risk assessment process, the *JFSC* requires objective data. This will inform assessment of the *Footprint* of individual *Affected Businesses* and be used over time to inform assessment of the likelihood of risk events.

4.2 Legal basis for collection

4.2.1 Data will be required to be provided both in connection with licence applications and on an ongoing basis. Provision of the former will build on the *JFSC's* established approach.

4.2.2 With respect to the latter, the *JFSC* will require the data as part of its ongoing examination of *Supervised Persons*. The *Commission Law* and the *Supervisory Bodies Law* (Article 8 in both cases) enable the *JFSC* to require data to be provided for this purpose.

4.2.3 Article 30 of the *Supervisory Bodies Law* enables the *JFSC* to specify information requirements by way of a Notice served on any *Affected Business*. The *JFSC* intends to present such a Notice to each person in connection with ongoing requirements, which will be managed electronically, via the internet. This Notice will be used to collect risk data connected with *AML* or *CFT*.

4.2.4 In the case of *Affected Businesses* registered under the *BB(J)L*, *FS(J)L* and *IB(J)L*, the Notices will also be issued under the similar relevant Articles in those laws, as information will be used to support a wider risk assessment.

4.2.5 In the case of a *private trust company*, which is an *Affected Business* but not a *Supervised Person*, all data requests would be served on the trust company that administers it.

4.2.6 The use of such Notices will make provision of data mandatory, with failure to comply resulting in an offence under the relevant law.

4.3 Scope of this paper

4.3.1 This paper only discusses new requirements and changes to requirements relating to risk assessment. Other data needs will remain and these are not addressed herein – for example, contact details will still be required for applications - but they are not relevant to risk assessment and are therefore not discussed herein.

4.3.2 Mechanisms will need to be established to collect the data electronically. A range of options are being considered, with the aim being to ease the process to the extent possible whilst retaining flexibility. This paper does not address the

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[3] https://www.jerseyfsc.org/pdf/JFSC_Approach_to_Risk-based_Supervision_2016.pdf

technology that might be used, though **Section 5** discusses some of the general issues that will need to be addressed and proposes solutions.

4.4   Registry, resolution planning and the NRA

4.4.1   This paper only addresses data collection by the *JFSC* in connection with its responsibilities for the supervision of financial services businesses. It does not address data needs relating to Companies Registry, Bank resolution planning or the *NRA*, all of which will likely generate new reporting requirements.

4.4.2   The completion of an *NRA* is a multi-agency Island project which is being overseen by the Financial Crime Strategy Group[4] and is being led by the Government of Jersey. In order to complete the *NRA*, information, including data, needs to be collected from a number of stakeholders, such as industry and a number of government agencies and departments. The *JFSC* is to play a central role in the completion of the *NRA* as it is to act as the collection agent for the *NRA* information.

4.4.3   More detail regarding industry involvement in the *NRA* and specifically the information requirements will be forthcoming in the latter part of Q3 2017.

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[4]   The members of the Financial Crime Strategy Group are:
›   Chief Minister's Department
›   Community and Constitutional Affairs Department
›   Comptroller of Income Tax
›   Jersey Financial Services Commission
›   Jersey Gambling Commission
›   Joint Financial Crimes Unit
›   Law Draftsman's Office
›   Law Officers' Department
›   Ministry of External Relations
›   States of Jersey Customs and Immigration Service
›   States of Jersey Police

5 General issues

5.1 Development of proposals

5.1.1 The *JFSC* will develop detailed proposals taking into account responses to this consultation. As part of this consultation, the *JFSC* intends to hold meetings with *Affected Businesses* that have responded and are willing to assist in this development. This is intended to ensure, to the extent practical, that final proposals address all concerns aired at this stage.

5.1.2 **Question 1: Would you be willing to take part in meetings with the *JFSC* regarding these proposals?**

5.1.3 In particular, views will be sought on how best to reduce the impact on *Affected Businesses* that present a lower risk, including how to identify them and what would be appropriate reporting in such cases.

5.1.4 **Question 2: Please state any elements of the proposal that would be onerous to implement within the timescales proposed and comment on whether an extended period for implementation would sufficiently reduce the impact.**

5.2 Operational issues

5.2.1 It is anticipated that in some cases *Affected Businesses* will not be able to provide a required figure. Generally, the intention is that the reporting system will provide a gateway for requests for deviations from requirements. The *JFSC* will consider these and provide consents where it is considered that a reasonable reason exists or agree a partial submission.

5.2.2 Requests will be considered based on the individual circumstances but generally the *JFSC* intends to adopt a more flexible approach initially and will look more favourably on requests where the deviation is limited in scope and only for a short period prior to internal systems being completed to address the issue.

5.2.3 It is also probable that from time to time errors will occur. Offences may be committed both because the terms of the Notice are not met and, possibly, because of the offences that arise in connection with the provision of false and misleading information to the *JFSC*.

5.2.4 The *JFSC* system will check data for completeness and to make sure applicable rules are followed (typically, simple rules such as numbers being provided where a numerical input is specified).This cannot be comprehensive but will assist *Affected Businesses* in avoiding simple input errors.

5.2.5 Any errors that are initially undetected but come to light at a later date will be handled according to the specific circumstances. Mitigating factors will be taken into account, such as prompt notification, own identification of errors and there being no intent to mislead.

5.3 Restricting access

5.3.1 The data supplied will constitute *restricted data* and, as such, legal restrictions will apply to its dissemination to third parties.

5.3.2 The submission process will check data against historical submissions and this is likely to reveal, indirectly, information to the submitter. *Affected Businesses* will be able to control which individuals can make submissions, in order to ensure that such information is not provided to unauthorised third parties.

6 Footprint data – initial collection and update

6.1 Approach

6.1.1 The *JFSC* will need to collect data on the *Footprint* of *Affected Businesses* prior to registration and subsequently.

6.1.2 It is intended that this will be accomplished by (1) extending the application form to address the relevant aspects and (2) requiring that this is updated regularly.

6.1.3 The data is principally intended to provide an understanding of the scale (from a risk impact perspective) of an *Affected Business*. It is intended to collect data relating to current state and projections for the end of the next calendar year.

6.1.4 It is intended to require *Affected Businesses* to update these data items annually and to enable ad-hoc updating in the event that the *Affected Business's* state became significantly at odds with the data provided (for example as the result of a business acquisition).

6.1.5 Currently, relevant data is provided in some cases (for example through business plans) but it is envisaged that in future the data collection will be structured to ensure that data can be automatically stored and retrieved to enable analysis over time and between peers.

6.1.6 In certain instances, *Affected Businesses* will also be asked to provide this information on behalf of customers that themselves conduct financial services business. In such cases, the name and the relevant data will be required on a customer by customer basis but no projections will be required.

6.1.7 These instances are:

6.1.7.1 Fund Services Businesses will be required to provide information on managed businesses and any funds serviced either by themselves or a managed business; and

6.1.7.2 Trust Company Businesses will be required to provide information on the entities they provide services to that conduct financial services business, including (but not limited to) private trust companies.

6.2 Transition

6.2.1 The intention is to transition in 2018.

6.2.2 As a first step, the new application process will go live for new applications.

6.2.3 Then, it is intended to require existing *Affected Businesses* to supply data using a modified application process to ensure all data is correct and up to date.

6.2.4 Finally, for year-end 2018, all *Affected Businesses* will be required to update data provided using the new update process.

6.3 Number of customers

6.3.1 On applying for a licence, *Affected Businesses* will be required to provide data on the number of business relationships they have (that have not been terminated as at the date of the application) and project this number for the end of the next calendar year.

6.3.2   In the case of Fund Services Businesses and Trust Company Businesses, this data will be required for the *Affected Businesses* itself and for any customers that conduct financial services business.

6.3.3   They will also be asked to provide the number of one-off transactions where *CDD Measures* were applied in the previous 12 months and are projected for the next calendar year.

6.3.4   At each following calendar year-end, they will be asked to update both the actual and projected figures.

6.3.5   **Question 3: Is data on customer numbers currently derived as part of your management of *AML/CFT* risks? Are there any aspects of the proposed collection of such data that require clarification? Is any difficulty anticipated?**

6.4   Customer value

6.4.1   All *Affected Businesses* will be required to provide data on the value of business conducted on behalf of customers, broken down by type of financial services business.

6.4.2   In the case of Fund Services Businesses and Trust Company Businesses, this data will be required for the *Affected Business* itself and for any customers that conduct financial services business.

6.4.3   For transaction based business (where no funds are managed), *Affected Businesses* will be required to use instead an amount equal to the sum of the ten largest transactions for each customer in the previous year.

6.4.4   At each following calendar year-end, they will be asked to update the figures.

6.4.5   **Question 4: Is data on customer value currently derived as part of your management of *AML/CFT* risks? Are there any aspects of the proposed collection of such data that require clarification? Is any difficulty anticipated?**

6.5   Activities, staff and turnover

6.5.1   All *Affected Businesses* will be asked to specify the types of financial services business that they carry on in Jersey and each other country in which they operate. Where they own subsidiaries, this will be required for each subsidiary.

6.5.2   In the case of Fund Services Businesses and Trust Company Businesses, this data will be required for the *Affected Business* itself and for any customers that conduct financial services business.

6.5.3   At each following calendar year-end, they will be asked to confirm that no new financial services business activities have commenced or ceased or to provide details of any changes.

6.5.4   *Affected Businesses* will be required to provide information on total staff and identify numbers responsible for carrying out each type of financial services business and, separately, compliance. At each following calendar year-end, they will be asked to update the figures.

6.5.5   *Affected Businesses* will be asked to provide projected total income from each activity for each country and each subsidiary for the next calendar year. At each following calendar year-end, they will be asked to provide actual figures for the preceding year and projections for the next calendar year.

6.5.6   The data is intended to provide an indication of the level of activity for each type of financial services business.

6.5.7   **Question 5: Would you be able to provide data on activities, staff and total income? Are there any aspects that require clarification?**

6.6   Deposit liabilities and DCS exposures (banks only)

6.6.1   On registration, *Banks* will be asked to provide data on projections for the following, broken down by country (in cases where *Banks* are subsidiaries that have overseas branches), for the end of the next calendar year:

     6.6.1.1   total deposit liabilities; and

     6.6.1.2   deposits covered by compensation schemes (total amount and amount covered by each scheme)

6.6.2   At each following calendar year-end, they will be asked to provide actual figures for the preceding year and projections for the next calendar year.

6.6.3   **Question 6: If responding on behalf of a *Bank*, would the provision of such information on deposits and DCS coverage present any difficulty?**

7 Customer data collection

7.1 Overview

7.1.1 Customer data here refers to information on an *Affected Businesses'* customers.

7.1.2 Such information is useful as an indicator of risk likelihood and impact, particularly with respect to *AML* and *CFT* risks but also, in the case of *BB(J)L*, *FS(J)L* and *IB(J)L* registered persons, conduct risk.

7.1.3 The *JFSC* has previously relied on financial accounts, limited regulatory reporting and on-site examinations to obtain information on customers.

7.1.4 The aim is to collect enough information to provide indicators of riskiness and inform supervisory knowledge of *Affected Businesses'* activities.

7.2 General approach

7.2.1 It is intended to collect information on: (1) customers and underlying beneficial owners, (2) business undertaken and (3) transactions.

7.2.2 A three stage internal process for *Affected Businesses* is envisaged:

7.2.3 *Affected Businesses* create customer registers containing information needed to meet the rules set out for reporting;

7.2.4 *Affected Businesses* extract only the relevant information into a regulatory register; and

7.2.5 That information is transmitted to the *JFSC*.

7.2.6 The extraction process would ensure that only the relevant information was provided (for example, omitting names of individuals).

7.2.7 Transmission would be via the internet, with the transmitted data then being processed within the *JFSC*, which would include limited verification.

7.3 Comprehensiveness

7.3.1 In order to be comprehensive, data will be sought on the customers of all *Affected Businesses* that are either:

7.3.1.1 registered under the *BB(J)L*, *CIF(J)L*, *FS(J)L* or *IB(J)L*;

7.3.1.2 registered under the *Supervisory Bodies Law*;

7.3.1.3 exempt from registration under the *Supervisory Bodies Law* owing to a service provided by a trust company or funds services business; or

7.3.1.4 exempt private trust companies.

7.3.2 In order to direct Notices, it will be necessary to identify a contact for this purpose. In the case of registered persons, the *JFSC* holds such information. In the case of funds, the *JFSC* will seek confirmation of the person responsible in each case, which may be the existing statistics officer, or as otherwise agreed by funds services businesses.

7.3.3 In the case of private trust companies and other financial services businesses that are exempt from registration owing to a service provided by a trust company or funds services business, the *JFSC* will seek confirmation of who is to be

responsible in each case, by asking each trust company or funds service business to identify every such *Affected Business* and a contact point for this purpose.

7.3.4   Notices will then be served on those contacts, based on the details provided.

7.4   Customers and underlying beneficial owners

7.4.1   It is proposed to require delivery of two lists of information concerning:

7.4.1.1   Customers; and

7.4.1.2   Underlying beneficial owners on which *CDD* is held.

7.4.2   For each list, it is proposed to gather data on characteristics relevant to *AML/CFT* but not any information concerning identity.

7.4.3   Specifically, it is proposed to gather in each list:

7.4.3.1   A unique identifier for each customer (the **CUI**) or underlying beneficial owner (the **UUI**) (as applicable), created for the purpose of the return;

7.4.3.2   Whether enhanced due diligence has been collected;

7.4.3.3   Whether simplified due diligence has been collected;

7.4.3.4   The legal status (individual, non-financial corporate, financial corporate, trust, banking institution, public sector entity, government);

7.4.3.5   Whether the customer or underlying beneficial owner (as applicable) is a *PEP* (as defined by the *Money Laundering Order*);

7.4.3.6   Nationality (for corporates, based on where incorporated);

7.4.3.7   Residence (for corporates, the country of operation); and

7.4.3.8   In the case of the customer information list, the *UUIs* of any relevant underlying beneficial owners linked to the customer.

7.4.4   Provision will be made for partial submissions for cases where *CDD* is incomplete (for new customers or where it is not required).

7.4.5   In the case of *Banks* only, it is proposed thereafter to require quarterly updating. In part, this has been proposed to fit with the periodicity of other reports by *Banks* to the *JFSC* but it is also taken into account that *Banks* typically have larger numbers of customers than other *Affected Businesses*. Hence keeping up to date on changes to the risk profile is more important and it is considered that this would be achievable as *Banks* are likely to be in the best position to develop fully automated reports.

7.4.6   For all other *Affected Businesses*, annual updating is proposed.

7.4.7   **Question 7: Would you be able to extract the requested information on customers by the end of 2018? If not, please outline the issues and suggest solutions.**

7.5   Business – Banking

7.5.1   In the case of *Banks*, it is intended to collect enough information to serve the *JFSC's* supervisory needs and those relating to *BIS* reporting.

7.5.2   It is intended to collect a single return quarterly that provides enough information on the assets, liabilities and off-balance sheet exposures for these purposes by reporting the amount of business relating to each customer identifier. The

combination will enable *BIS* reporting of customer related activity to be derived without any additional reporting

7.5.3   Where items do not relate to customers, information on residence will be required to enable *BIS* reporting. This approach avoids the overhead of compiling *BIS* reports in addition to data for supervisory purposes.

7.5.4   *Banks* that are multi-licenced may also face other requirements in relation to non-banking activity, which will be required to be submitted annually, as set out in **Sections 7.6** and **7.7**.

7.5.5   In the case of lenders and deposit-takers that are not registered, data will only be required annually and be limited to customer loans and deposits.

7.6   Business – Insurance Business

7.6.1   In the case of long term insurance provided by persons registered to conduct category A business under the *IB(J)L*, a breakdown of premiums received by insurance type will be required for each customer on an annual basis.

7.7   Business – Investment Business, Trust Company Business and Fund Services Business

7.7.1   For these three activities, for each customer structure (respectively, a portfolio, serviced entity or fund), a description of its activity will be required, as follows:

7.7.1.1   A list of the customer identifiers related to the structure;

7.7.1.2   The location in which the structure is resident;

7.7.1.3   Total assets in the structure;

7.7.1.4   Total liabilities of the structure;

7.7.1.5   The type of assets held; and

7.7.1.6   The location of assets.

7.7.2   The last two will not be comprehensive, only requiring information on the largest holdings.

7.8   Business – other

7.8.1   For other businesses, no disclosures relating to business levels have been identified as necessary, though this may be reviewed over time. For such businesses, risk assessment will be dependent on customer data (7.4) and transaction data (7.9) only.

7.9   Transactions

7.9.1   It is considered useful to understand the level and nature of transactions being undertaken and, in particular, those that have higher risk characteristics, as defined by the reporter.

7.9.2   Only a summary of lower risk transactions (those with no higher risk characteristics) will be required (number and sterling equivalent value, broken down by broad nature of transaction).

7.9.3   For higher risk transactions, more information will be required on type and the parties involved.

7.9.4 Three types of higher risk transactions are proposed:

7.9.4.1 transactions that relate to activity that has been the subject of a *SAR*;

7.9.4.2 transactions that the *Affected Business* considers pose a higher risk of money laundering/terrorist financing; and

7.9.4.3 transactions meeting an objective set of criteria.

7.9.5 It is intended to initially gather information on only the first two types. This information will be reviewed to ascertain if an objective set of criteria can be discerned that is relevant to all *Affected Businesses* or to groups of *Affected Businesses*.

7.9.6 For transactions falling within the first two groups, the following will be required:

7.9.6.1 Customer identifier;

7.9.6.2 Counterparty information (type, nationality, residence, whether a *PEP*);

7.9.6.3 Nature and scale of the transaction; and

7.9.6.4 Whether it relates to a *SAR* or not.

7.9.7 The *JFSC* will use the information received to further develop reporting requirements in this area. In particular, free format fields will be used initially to enable *Affected Businesses* to describe transactions but, over time, the *JFSC* will prescribe specific conventions for more common transaction types.

7.9.8 **Question 8: Would you be able to extract the proposed information on transactions by the end of 2018? If not, please outline the issues and suggest solutions.**

8   Further data collection

8.1   General approach

8.1.1   The *JFSC* intends to review all current collections of data with a view to automating receipt and storage processes.

8.1.2   Once this work and the work outlined in **Sections 6** and **7** are complete, the *JFSC* will consider whether further data is needed, particularly on key risk indicators. These are pieces of data which, either by themselves or in connection with other data held, are anticipated to be an indicator of heightened riskiness.

8.1.3   These key risk indicators would be added to annual updating requirements, supplementing those detailed in **Section 6**. Work on this will be undertaken in 2017/2018, with any new requirements not applying until the end of 2018, with at least six months' notice being provided of any new requirements (from time of notification to time of submission).

8.2   Potential key risk indicators

8.2.1   There are three areas where key risk indicators are likely to evolve, being:

   8.2.1.1   Financial Soundness: for example, regulatory ratios, such as the *ANLA* ratio applying to most businesses registered under the *FS(J)L*;

   8.2.1.2   Conduct: for example, complaints data, including the level of complaints and the results of these; and

   8.2.1.3   Financial Crime: for example, *SARs* data, such as the number and nature of *SARs* raised internally and reported externally.

8.2.2   Appendix B provides further examples of potential key risk indicators. At this time, no decisions have been taken as to which are most relevant and, indeed, other potential key risk indicators may well be considered.

8.2.3   Implementation will take into account the differing responsibilities of the *JFSC*. For example, if the above were developed, Schedule 2 *Affected Businesses* would only be asked to provide data on the last of these, given that the *JFSC* is only responsible for regulation of *AML/CFT* in their respect

8.2.4   Question 9: Would the provision of (1) financial ratios, (2) complaints data or (3) *SARs* data be problematic for any reason (not just operational reasons)? Would you anticipate that six months' notice would provide a reasonable amount of time to compile reporting on these areas?

9 Cost benefit analysis

9.1 Costs to industry

9.1.1 The direct costs are likely to be largest during the implementation phase, where *Affected Businesses* will need to develop processes and systems to enable compliant reporting of data. Thereafter, production of data should have only a modest cost.

9.1.2 Costs have been minimised, where practical, by the following:

9.1.3 *Bank* requirements have been developed taking into account *BIS* reporting requirements, with a view to dispensing with the need for a separate *BIS* submission; and

9.1.4 The overall impact has been reduced by adopting a staggered approach, focussing on the proposals set out in **Section 6** and **7**, rather than an attempt to proceed directly to collect comprehensive data.

9.2 Costs to the JFSC

9.2.1 The *JFSC* will need to substantially revise its reporting systems and the processes and systems used to analyse the data submitted, as well as train the relevant staff.

9.2.2 However, much of this work is already planned as part of the wider project looking at the *JFSC's* approach to supervision and the adoption of new systems. Combining these pieces of work will help in minimising costs.

9.2.3 For example, the work on the licence application form will be part of a wider piece of work looking at how to improve the handling of applications, so that the final solution delivers both the improved functionality described within and efficient processes.

9.3 Benefits to industry

9.3.1 Improved risk assessment will allow the *JFSC* to target supervisory efforts on the greatest risks. It will also reduce the need for ad-hoc data requests.

9.3.2 Industry benefits from improved targeting both because this is more likely to be effective in mitigating risks posed by higher risk *Affected Businesses* and reduce activity relating to lower risk *Affected Businesses*.

9.4 Benefits to the JFSC

9.4.1 The *JFSC* will also benefit from the freeing up of staff resourcing to enable more targeted supervision of higher risk *Affected Businesses*, which these proposals will support.

9.4.2 **Question 10: Are there any specific measures that should be considered that would either increase the benefits of the proposals or reduce any of the associated costs of implementation?**

10 Summary of questions

10.1 Questions

Reference	Question
5.1.2	Question 1: Would you be willing to take part in meetings with the *JFSC* regarding these proposals?
5.1.4	Question 2: Please state any elements of the proposal that would be onerous to implement within the timescales proposed and comment on whether an extended period for implementation would sufficiently reduce the impact
6.3.5	Question 3: Is data on customer numbers currently derived as part of your management of AML/CFT risks? Are there any aspects of the proposed collection of such data that require clarification?
6.4.5	Question 4: Is data on customer value currently derived as part of your management of AML/CFT risks? Are there any aspects of the proposed collection of such data that require clarification?
6.5.7	Question 5: Would you be able to provide data on activities, staff and total income? Are there any aspects that require clarification?
6.6.3	Question 6: If responding on behalf of a Bank, would the provision of such information on deposits and DCS coverage present any difficulty?
7.4.7	Question 7: Would you be able to extract the requested information on customers by the end of 2018? If not, please outline the issues and suggest solutions.
7.9.8	Question 8: Would you be able to extract the proposed information on transactions by the end of 2018? If not, please outline the issues and suggest solutions.
8.2.4	Question 9: Would the provision of (1) financial ratios, (2) complaints data or (3) *SARs* data be problematic for any reason (not just operational reasons)? Would you anticipate that six months' notice would provide a reasonable amount of time to compile reporting on these areas?
9.4.2	Question 10: Are there any specific measures that should be considered that would either increase the benefits of the proposals or reduce any of the associated costs of implementation?

Appendix A

List of representative bodies and other persons who will be sent this consultation paper:

› Association of English Solicitors Practising in Jersey

› Association of Investment Companies

› Chartered Institute for Securities & Investment – Jersey branch

› Institute of Directors – Jersey branch

› Jersey Association of Directors and Officers

› Jersey Association of Trust Companies

› Jersey Bankers' Association

› Jersey Chamber of Commerce

› Jersey Compliance Officers Association

› Jersey Estate Agents Association

› Jersey Finance Limited

› Jersey Funds Association

› Jersey International Insurance Association

› Jersey Motor Traders Association

› Jersey Society of Chartered and Certified Accountants

› Law Society of Jersey

› Personal Finance Society – Jersey branch

Appendix B

Potential key risk indicators – general:

›   Outsourced functions (Y/N)

›   Number of outsourced functions

›   Material changes to governance arrangements

›   Directors - average tenure (years)

›   Total Non-Executive Directors

›   Staff numbers

›   Number of staff subject to disciplinary action

›   Staff turnover ratio

›   Total unfilled vacancies ratio

›   Training budget per employee

›   Compliance unfilled vacancies ratio

›   Separate risk management function (Y/N)

›   Risk staff numbers

›   Internal audit function (Y/N)

›   Total audit findings outstanding (internal and external)

›   Total high risk audit findings

›   External auditor appointed (Y/N)

›   Date last change in external auditor

›   Information security officer appointed (Y/N)

›   Time since last information security audit (years)

›   Information security breach in last 12 months (Y/N)

›   Compliance related:

    ›   *JFSC* Examination in last 12 Months (Y/N)

        ›   Number of findings

        ›   Number of findings not remediated

    ›   Number of internal compliance findings in last 12 months

        ›   Number of findings not remediated

    ›   Number of breaches reported to the *JFSC*

    ›   Number of issues reported to the *Affected Business's* board

Potential key risk indicators - financial soundness:

› Operational losses:
  › Whether an operational loss incurred in last 12 months that exceeded £10,000 (Y/N);
  › Number of such operational losses in last 12 months; and
  › Total value of all operational losses in last 12 months
› Annual net profit before tax (*Affected Business* and any group it belongs to)
› Balance sheet solvency (assets minus liabilities)
› The level and nature of contingent liabilities
› The level and nature of contingent liabilities not provided for
› Matters of emphasis in financial statements (Y/N)
› Auditor "Going Concern" statement clean/not omitted or caveated
› Parent Group credit rated (Y/N)
› Parent group credit rating
› Risk Asset Ratios - lowest/current (*Banks* only)
› Parent Risk Asset Ratios – lowest/current and minima (*Banks* only)
› Lowest/current 30 day liquidity mismatch ratio (*Banks* only)
› Parent Liquidity Coverage Ratio (relevant *Banks* only)
› *ANLA* ratio - lowest ratio/current ratio (non-banks)
› Solvency – Insurer – lowest ratio/current ratio
› Material strategy changes
› Targeted cost reduction in next 12 months (%)
› Targeted revenue growth in next 12 months (%)

Potential key risk indicators – conduct

› Total *PII* notifications last 12 months
› Total *PII* claims last 12 months
› Number of litigation cases
› Number of complaints
› Percentage of complaints upheld
› Percentage of complaints referred to an ombudsman
› Percentage of ombudsman referrals upheld

Potential key risk indicator - financial crime:

› *SARs*:

    › Any *SAR* submitted in last 12 months (Y/N)?

    › Number of *SARs* submitted; and

    › Number of *SARs* raised by staff

› Number of frozen accounts

› Business Risk Assessment – Date of last board approval.

› Frequency of customer screening (Daily/Weekly/Quarterly/Other)

› Screening confirmed match ratio

› Screening scope (Sanctions only/*PEPs* and sanctions/other risk factors)

› Percentage of customers with incomplete *CDD*

› Sanctions measures - report to Chief Minister in last 12 months (Y/N)?

› Total reports to Chief Minister in last 12 months

› Number of production orders served in last 12 months:

    › Number relating to market abuse.