Jersey Financial Services Commission

15 *AMLSPS* AND THEIR CUSTOMERS

15.1 Overview of section

1. This section applies only to *supervised persons who* are eligible to appoint *an AMLSP* in accordance with the Notice issued under Article 9A(4) of the *Money Laundering Order* (**Article 9A(4) Notice**).

2. An individual or organisation which is a *supervised person* may itself fulfil its own *AML/CFT/CPF obligations.* Alternatively, it may engage the services of an *AMLSP* and/or outsource within its group or to a third party (an outsourcing services provider) to assist it in meeting certain *AML/CFT/CPF obligations*.

3. The use of an *AMLSP* will not be subject *JFSC*'s Outsourcing Policy. The use of any other party, whether within the same group of the *supervised person* or not, is outsourcing and will be subject to the *JFSC*'s Outsourcing Policy. Section 15 of *this Handbook* will not apply to such outsourcing arrangements.

4. The provision of *MLRO/MLCO* roles to a *supervised person* may be undertaken by an *AMLSP*. It cannot however be outsourced within the *AMLSPs* wider group or to a third party.

5. Where a *supervised person* engages the services of an *AMLSP*, they shall be an *AMLSP Direct Customer*.

6. This section outlines the statutory provisions concerning the *AMLSP*. It also sets out the *AML/CFT/CPF Codes of Practice* and provides guidance on the obligations of an *AMLSP* and how an *AMLSP* might assist an *AMLSP Direct Customer* in fulfilling its *AML/CFT/CPF obligations*.

7. It is expected that the *AMLSP Direct Customer* will use the *AMLSP* to enable it to meet most of its *AML/CFT/CPF obligations*.

8. The *AMLSP Direct Customer* bears the ultimate responsibility for the activities undertaken in its name. This will include the requirement to determine that the *AMLSP* has in place satisfactory *systems and controls* (including *policies and procedures*), and that those *systems and controls* (including *policies and procedures*) are kept up to date to reflect changes in requirements.

9. For the purposes of fitness and propriety checks of key persons, as outlined in Section 10.6, individuals appointed by the AMLSP to the roles of MLCO and MLRO shall be referred to collectively as key persons.

15.2 *AMLSPs*

15.2.1 *AMLSP* systems and controls

AML/CFT/CPF Codes of Practice

[COP127] An *AMLSP* must include consideration of its *AMLSP services* within:

- its *BRA*;
- its formal strategy to counter *money laundering*, the *financing of terrorism*, or the financing of proliferation (*AML/CFT/CPF* strategy); and

- its systems and controls (including policies and procedures).

[COP128] An *AMLSP* must consider *AMLSP Indirect Customers* as if they were its own *customer*s when providing *AMLSP services*.

[COP129] Considering the conclusions of the *BRA* and *AML/CFT/CPF* strategy as they relate to the *AMLSP services,* the *AMLSP* must:

- organise and control its affairs in a way that effectively mitigates the risks that it has identified, including areas that are complex; and
- be able to demonstrate the existence of adequate and effective systems and controls (including policies and procedures) to counter *money laundering*, the *financing of terrorism*, or the financing of proliferation.

[COP130] An *AMLSP* must assess possible *money laundering, terrorist financing,* or *proliferation financing* risk associated with sub-outsourced functions, record its assessment, and monitor any risk on an ongoing basis.

Guidance notes

10. An *AMLSP* may demonstrate consideration of its *AMLSP services* within its *BRA*, *AML/CFT/CPF* strategy, and *systems and controls* (including *policies and procedures*) by clearly documenting the *AMLSP services* that it provides for its *AMLSP Direct Customers* and determining whether there are any differences arising from the provision of *AMLSP services* for its *AMLSP Direct Customers* by comparison to the *AML/CFT/CPF* activities that the *AMLSP* performs for its other *customers*.

11. For example, if there is clear documentation showing that the *AMLSP services* provided for *AMLSP Direct Customers* feature the same activities in respect of *AMLSP Indirect Customers* that the *AMLSP* performs for its other *customer*s then this may be taken to indicate that the *AMLSP* has considered its *AMLSP services* within its *BRA*, *AML/CFT/CPF* strategy and *systems and controls* (including *policies and procedures*).

12. Where the activities of an *AMLSP Direct Customer* are similar in nature to an *AMLSP's* other *customer*s extending the *AMLSP's BRA, AML/CFT/CPF* strategy and *systems and controls* (including *policies and procedures*) to include activities performed for *AMLSP Direct Customers* in respect of *AMLSP Indirect Customers* may be a natural extension.

13. Careful consideration of the following differences, and clear documentation of the measures taken to address these differences, may be taken to demonstrate that the *AMLSP* has properly considered *AMLSP Direct Customers*, and *AMLSP Indirect Customers*, in its *BRA, AML/CFT/CPF* strategy and *systems and controls* (including *policies and procedures*).

- Where the activities or operations of *AMLSP Direct Customers* are not similar in nature to an *AMLSP's* own activities or operations; or
- Where *AMLSP Indirect Customers* are not similar in nature to the other *customers* of an *AMLSP*.

14. An *AMLSP* may demonstrate consideration of *AMLSP Indirect Customers* as if they were its own *customers* by demonstrating the application of its *BRA, AML/CFT/CPF* strategy, and *systems and controls* (including *policies and procedures*) as amended for any differences in the nature of its *AMLSP Direct Customers*, and *AMLSP Indirect Customers* to its other *customers*.

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15.2.2 *AMLSP* responsibilities

Statutory requirements (paraphrased wording)

15. *Article 9A(1) of the Money Laundering Order provides that a relevant person may appoint an AMLSP to appoint a MLCO and a MLRO and to comply with any other requirement of the relevant person under the Money Laundering Order.*

AML/CFT/CPF Codes of Practice

[COP131] The *AMLSP* must appoint an *employee* or *employees* to carry out the roles of *AMLSP Direct Customer MLCO* and *AMLSP Direct Customer MLRO* to each *AMLSP Direct Customer.* There can be no outsourcing of these roles by the *AMLSP*.

[COP132] The *AMLSP* must conduct relevant fitness and propriety checks including criminal records checks for existing and newly appointed key persons as expected in Section 10.6 on an ongoing basis on the AMLSPs appointed key persons.

[COP133] The *AMLSP* must make the appointment from a list of persons to whom the *JFSC* has provided its "no objection" in accordance with the Article 9A(4) Notice to such individuals being appointed as *AMLSP Direct Customer MLCOs* and *AMLSP Direct Customer MLROs,* and also notifying the *JFSC* of the removal of anyone from the list.

[COP134] The *AMLSP* need not supply the *JFSC* with updates on individual appointments into the roles for particular *AMLSP Direct Customers* but, must supply up to date information to the *JFSC* on request.

[COP135] The *AMLSP* must be able to demonstrate that it is providing services such that it has sufficient oversight and access to relevant information to appropriately manage the risks of providing the *AMLSP services* and to enable the *AMLSP Direct Customer MLCO* and the *AMLSP Direct Customer MLRO*, provided by the *AMLSP*, to fulfil their roles for the *AMLSP Direct Customer*.

[COP136] An *AMLSP* must provide sufficient information to satisfy an *AMLSP Direct Customer* that the *AMLSP* is fulfilling the *AML/CFT/CPF obligations* on an ongoing basis in accordance with the written agreement for services with the *AMLSP Direct Customer*.

[COP137] An *AMLSP* must demonstrate to its *AMLSP Direct Customer* how knowledge, suspicion, or reasonable grounds for knowledge or suspicion of *money laundering*, *terrorist financing*, or *proliferation financing* activity will be reported to the *AMLSP Direct Customer MLRO* (or their *Deputy*).

[COP138] An *AMLSP* must notify the *JFSC* and its *AMLSP Direct Customer,* immediately in writing of any material failures to comply with the requirements of the *Money Laundering Order* or the *AML/CFT/CPF Handbook* in respect of the *AMLSP services* it provides.

[COP139] An *AMLSP* must consider the effect that sub-outsourcing of activities that it performs as an *AMLSP* has on *money laundering*, *terrorist financing*, and *proliferation financing* risk, in particular where an *AMLSP Direct Customer MLCO* or *AMLSP Direct Customer MLRO* is provided with additional support from other parties, whether from within group or externally.

Guidance notes

16. The guidance in sections 2.3 and 2.4 of *this Handbook* will support *AMLSPs* in their approach to their general responsibilities.

17. Where it is deemed appropriate, considering the size and complexity of the *AMLSP Direct Customer*, the *JFSC* anticipates the same *Employee* could hold both *AMLSP Direct Customer MLCO* and *MLRO* roles.

18. Evidence to support compliance with the *AML/CFT/CPF Codes of Practice* at section 15.2.2 of *this Handbook* is likely to include:

- Documented consideration of AMLSP services, AMLSP Direct Customers, and AMLSP Indirect Customers within an AMLSP's BRA, AML/CFT/CPF strategy and systems and controls (including policies and procedures);
- A written agreement for services between an AMLSP and its AMLSP Direct Customer regarding the provision of AMLSP services; and
- Consideration of AMLSP services in the AMLSP's board minutes (or equivalent if the AMLSP is not a company).

15.2.3 *AMLSP Direct Customer MLCO*

Statutory requirements (paraphrased wording)

19. *Article 9A(2) of the Money Laundering Order provides that an AMLSP must fulfil the obligations of an AMLSP Direct Customer by appointing an Employee as MLCO.*

AML/CFT/CPF Codes of Practice

[COP140] An AMLSP must appoint an individual as AMLSP Direct Customer MLCO for an AMLSP Direct Customer that:

- is employed by the *AMLSP* or an enterprise in the same *financial group* as the *AMLSP*;
- is based in Jersey;
- has sufficient experience and skills.

[COP141] An *AMLSP* must ensure that the *AMLSP Direct Customer*'s MLCO:

- has appropriate independence, in particular from *customer*-facing, business development and *systems and controls* development roles;
- reports regularly and directly to the *MLCO* of the *AMLSP* (where they are not the same person) and has a sufficient level of authority within the *AMLSP* so that the *MLCO* of the *AMLSP* reacts to and acts upon reports made by the *AMLSP Direct Customer MLCO*;
- is able to raise issues directly with the *Governing body* of the *AMLSP Direct Customer*;
- has sufficient resources, including sufficient time and (if appropriate) a *Deputy AMLSP Direct Customer MLCO* and compliance support staff;
- is fully aware of their, the *AMLSP*'s, and the *AMLSP Direct Customer*'s *AML/CFT/CPF* obligations;
- formally acknowledges their appointment as *AMLSP Direct Customer MLCO* for each *AMLSP Direct Customer* to which they are appointed; and

- has sufficient access to information, oversight, and knowledge of the *AMLSP Direct Customer's* and the *AMLSP Indirect Customer's* activities on a continuing basis to fulfil the *MLCO* role.
- has undergone and will continue to confirm their fitness and propriety through criminal records checks conducted by the AMLSP on an ongoing basis.

[COP142] The *AMLSP Direct Customer MLCO*, the *AMLSP* and the *Governing body* of the *AMLSP Direct Customer* must ensure any proposed *AMLSP Direct Customer MLCO* has sufficient skills and experience to fulfil the role of *AMLSP Direct Customer MLCO* of the specific *AMLSP Direct Customer* to which they will be appointed.

[COP143] If the position of an *AMLSP Direct Customer*'s *MLCO* is expected to fall vacant, to comply with the statutory requirement to have an individual appointed to the office of *MLCO* at all times, an *AMLSP* must take action to appoint another appropriate member of senior management to the position on a temporary basis.

Guidance notes

20. Section 2.6 of *this Handbook* provides further information about the role of the *MLCO*.

21. An *AMLSP*'s *MLCO* may also be appointed as an *AMLSP Direct Customer MLCO*.

22. The appointment of an *AMLSP*'s *MLCO* as *AMLSP Direct Customer MLCO* is likely to be appropriate where the activities or operations of *AMLSP Direct Customer*s are similar in nature to an *AMLSP*'s other *customer*s, and where *AMLSP Indirect Customer*s are similar in nature to the other *customer*s of an *AMLSP*. In such circumstances, there is likely to be little difference between the *AMLSP*'s *BRA*, *AML/CFT/CPF* strategy and *systems and controls* (including *policies and procedures*) in respect of both the *AMLSP*'s own *AML/CFT/CPF* activities and the *AMLSP services* provided to its *AMLSP Direct Customer*s.

Statutory requirements (paraphrased wording)

23. *Article 9A(2) of the Money Laundering Order provides that an AMLSP must fulfil the obligations of an AMLSP Direct Customer by appointing an Employee as MLRO.*

AML/CFT/CPF Codes of Practice

[COP144] An AMLSP must appoint an individual as AMLSP Direct Customer MLRO for an AMLSP Direct Customer that:

- is employed by the *AMLSP* or an enterprise in the same *financial group* as the *AMLSP*;
- is based in Jersey;
- has sufficient experience and skills.

[COP145] An AMLSP must ensure that the AMLSP Direct Customer MLRO:

- has appropriate independence, in particular from *customer*-facing and business development roles;
- has a sufficient level of authority within the *AMLSP*;

- has sufficient resources, including sufficient time, and (if appropriate) is supported by *Deputy AMLSP Direct Customer MLROs*;
- is able to raise issues directly with the *Governing body* of the *AMLSP Direct Customer*;
- is fully aware of their, the *AMLSP*'s and the *AMLSP Direct Customer*'s *AML/CFT/CPF* obligations;
- formally acknowledges their appointment as *AMLSP Direct Customer MLRO* for each *AMLSP Direct Customer* to which they are appointed; and
- has sufficient access to information, oversight and knowledge of the *AMLSP Direct Customer's* activities and *AMLSP Indirect Customers* on a continuing basis to fulfil the *MLRO* role.
- has undergone criminal records checks and will continue to demonstrate their fitness and propriety through such checks conducted by the AMLSP on an ongoing basis.

[COP146] Where an *AMLSP* has appointed one or more Deputy *AMLSP Direct Customer MLRO*s the requirements set out above for the *AMLSP Direct Customer MLRO* must also be applied to any Deputy *AMLSP Direct Customer MLRO*s, save for the requirement to carry out criminal records checks.

[COP147] Where an *AMLSP* has appointed one or more Deputy *AMLSP Direct Customer MLRO*s, it must ensure that the *AMLSP Direct Customer MLRO*:

- keeps a record of all Deputy *AMLSP Direct Customer MLRO*s;
- provides support to, and routinely monitors the performance of, each Deputy *AMLSP Direct Customer MLRO*;
- considers and determines that SARs are being handled in an appropriate and consistent manner.

[COP148] The *AMLSP Direct Customer MLRO*, the *AMLSP* and the *Governing body* of the *AMLSP Direct Customer* must ensure any proposed *AMLSP Direct Customer MLRO* has sufficient skills and experience to fulfil the role of *AMLSP Direct Customer MLRO* of the specific *AMLSP Direct Customer* to which they will be appointed.

[COP149] If the position of *AMLSP Direct Customer MLRO* is expected to fall vacant, to comply with the *statutory requirement* to have an individual appointed to the office of *MLRO* at all times, an *AMLSP* must take action to appoint another appropriate member of senior management to the position on a temporary basis.

Guidance notes

24. Section 2.7 of *this Handbook* provides further information about the role of the *MLRO*.

25. An *AMLSP's MLRO* (or Deputies, as appropriate) may also be appointed as an *AMLSP Direct Customer MLRO.*

26. The appointment of an *AMLSP's MLRO* (or *Deputies,* as appropriate) as *AMLSP Direct Customer MLRO* is likely to be appropriate where the activities or operations of *AMLSP Direct Customers* are similar in nature to an *AMLSP's* other *customers*, and where *AMLSP Indirect Customers* are similar in nature to the other *customer*s of an *AMLSP*. In such circumstances, there is likely to be little difference between the *AMLSP's BRA*, *AML/CFT/CPF* strategy and *systems and controls* (including *policies and procedures)* in respect of both the *AMLSP's* own *AML/CFT/CPF* activities and the *AMLSP services* provided to its *AMLSP Direct Customers*.

27. To keep up with its obligations to have AMLSP appointed key persons that are fit and proper, an AMLSP may rely on the guidance provided to supervised persons in Section 10.6. which include that the AMLSP should be able to collect, the basic DBS checks (or foreign equivalent) on an ongoing basis using a risk-based approach.

15.3 *AMLSP Direct Customers*

15.3.1 *AMLSP* systems and controls

AML/CFT/CPF Codes of Practice

[COP150] Before engaging the services of an *AMLSP*, an *AMLSP Direct Customer* must be satisfied the *AMLSP:*

- Organises and controls its affairs in a way that effectively mitigates the risks that it has identified, including areas that are complex;
- Is able to demonstrate the existence of adequate and effective *systems and controls* (including *policies and procedures*) to counter *money laundering* and the *financing of terrorism* or *proliferation*; and
- Is able to perform the activities required to ensure the *AMLSP Direct Customer* fulfils its *AML/CFT/ CPF obligations.*

[COP151] On an ongoing basis, the *AMLSP Direct Customer* must ensure its *AML/CFT/CPF obligations* continue to be fulfilled by its *AMLSP* and must be able to demonstrate its oversight of the *AMLSP.*

Guidance notes

28. To satisfy itself an *AMLSP* and the *AMLSP Direct Customer MLRO and AMLSP Direct Customer MLCO* can perform the activities required, an *AMLSP Direct Customer* might ensure there is a written agreement in place between itself and its *AMLSP* that clearly sets out the scope of the *AMLSP services.* Such an agreement might include:

- Which *AML/CFT/CPF obligations* the *AMLSP* is responsible for fulfilling;
- How the *AMLSP services* are being fulfilled (service levels);
- Frequency and content of regular reporting b*y the AMLSP Direct Customer MLRO* and the *AMLSP Direct Customer MLCO* to the *AMLSP Direct Customer* board (or equivalent). Such reporting to be at a frequency in line with the risks assessed within the *AMLSP's BRA;*
- Actions to be taken on trigger events such as suspicions arising, or a change in the risk profile of an *AMLSP Indirect Customer*;
- Arrangements around suspicious activity reporting;
- The requirement for an *AMLSP Direct Customer* to consent to the sub-outsourcing of any of the *AMLSP services* undertaken by its *AMLSP*, if sub-outsourcing is to be permitted at all; and
- Clear acknowledgement of the *AMLSP Direct Customer's* ultimate responsibility for its own *AML/CFT/CPF obligations.*

29. The *JFSC* would expect to see, upon request, board minutes (or equivalent) of the *Governing body* of the *AMLSP Direct Customer* evidencing that it had carefully considered the appointments of its *AMLSP, AMLSP Direct Customer MLRO and AMLSP Direct Customer MLCO* prior to such appointments taking effect.

30. Demonstrating that the *AMLSP* is providing the services it has contracted to, and they are fulfilling the *AMLSP Direct Customer's AML/CFT/ CPF obligations* may be achieved through:

- the ongoing oversight of the *AMLSP Direct Customer's Governing body* of the *AMLSP services*. For example, if there is scheduled compliance reporting that this is complied with; and
- the *Governing body* of an *AMLSP Direct Customer* having participated in all relevant training provided by their *AMLSP* to its equivalent employees may support the *AMLSP Direct Customer* in demonstrating compliance with its *AML/CFT/CPF obligations*.

31. The *JFSC* would expect to see, upon request, board minutes (or equivalent) of the *Governing body* of the *AMLSP Direct Customer* evidencing the ongoing monitoring of services provided by the *AMLSP*.

15.3.2 *AMLSP Direct Customer* general responsibilities

Statutory Requirements

32. *Article 34 (2A) of the Supervisory Bodies Law provides that the registered person does not need to notify the JFSC of any changes in identity or convictions noted concerning an AMLSP appointed key person.*

AML/CFT/CPF Codes of Practice

[COP152] An *AMLSP Direct Customer* must be satisfied that knowledge, suspicion, or reasonable grounds for knowledge or suspicion of *money laundering* or *financing of terrorism* activity will be reported to the *AMLSP Direct Customer MLRO* (or *Deputy MLRO*).

[COP153] Where an AMLSP Direct Customer has AMLSP-appointed key persons, the *Direct Customer* is not required to notify the JFSC of their fitness and propriety unless:

i) specifically requested to do so by the JFSC,

ii) the notification forms part of an application for a no objection by the AMLSP, or

iii) another process beyond the scope of *Article 34* of the *Supervisory Bodies Law* requires it.

[COP154] Where an AMLSP is engaged to obtain criminal record certificates for key and principal persons, and not for the provision of key person roles, the registered person remains responsible for meeting their statutory obligations as outlined in section 10.6.

Guidance notes

33. An *AMLSP Direct Customer* could, when engaging with an *AMLSP* to assist in fulfilling its *AML/CFT/CPF obligations*, for example, use one of the methods set out in the below table, subject to appropriate risk-based modifications.

34. The *JFSC* recognises that it may not be appropriate in all cases for an *AMLSP Direct Customer* to adopt either of the two methods in totality or in part as set out below and a more bespoke approach may be required. For example, in complex high-risk scenarios.

Method 1	**Method 2**
AMLSP provides a form of *BRA, CRA*, and *policies and procedures* (in a similar form to its own) which can be adopted by the *AMLSP Direct Customer* as its own.	The *AMLSP* confirms and can demonstrate to the G*overning body* of the *AMLSP Direct Customer* that the *BRA*, *CRA*, and *policies and procedures* of the *AMLSP* address the risks associated with the *AMLSP Direct Customer's* business and *customers* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act) as appropriate. For example, the *AMLSP CRA* of the *AMLSP Direct Customer* could be used as their *BRA*. In such instances the *Governing body* of the *AMLSP Direct Customer* would not need to adopt a separate *BRA, CRA* or *policies and procedures*.
AMLSP assists the *AMLSP Direct Customer* with the application of *CDD* measures at the outset of a relationship and on an ongoing basis in accordance with the *policies and procedures* of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).	*AMLSP* assists the *AMLSP Direct Customer* with the application of *CDD* measures at the outset of a relationship and on an ongoing basis in accordance with the *AMLSP's policies and procedures* (which will have been extended to make it clear that the *AMLSP* must carry out *CDD* in relation to each *customer* of the *AMLSP Direct Customer* and each third party for whom that *customer* acts).
AMLSP assists the *AMLSP Direct Customer* with the ongoing monitoring of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).	*AMLSP* assists the *AMLSP Direct Customer* with the ongoing monitoring of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).
The *AMLSP Direct Customer MLCO* carries out the *AML* compliance monitoring programme in accordance with the *AML* compliance monitoring programme of the *AMLSP Direct Customer* (in line with section 6 of *this Handbook*).	The *AMLSP* carries out its own *AML* compliance monitoring programme which will include ongoing monitoring in line with section 6 of *this Handbook*. The *AMLSP Direct Customer MLCO,* they should have the authority to request adjustment of the monitoring based on risk.

The *AMLSP Direct Customer MLCO* provides written periodic reporting at a frequency in line with the risks assessed of the *AMLSP Direct Customer* to the G*overning body* of the *AMLSP Direct Customer*.	The *AMLSP Direct Customer MLCO* provides written periodic reporting at a frequency in line with the risks assessed of the *AMLSP Direct Customer* to the G*overning body* of the *AMLSP Direct Customer*.

15.3.3 *AMLSP Direct Customer* – reserved activities

AML/CFT/CPF Codes of Practice

[COP155] The appointment of an *AMLSP* including the *AML/CFT/CPF* services to be provided by the *AMLSP* must be approved by the Governing body of the *AMLSP Direct Customer*.

[COP156] The Governing body of an *AMLSP Direct Customer* must approve any new business relationship (and continuation thereof) or one-off transaction where there is a connection to an enhanced risk state.

[COP157] An *AMLSP Direct Customer* that undergoes mergers, continuance, takeovers, or internal reorganisations, must ensure that records remain readily accessible and retrievable for the required periods in section 10 of *this Handbook*. This extends to the rationalising of computer systems and storage arrangements.

[COP158] Record-keeping arrangements must be agreed with the JFSC where an *AMLSP Direct Customer* terminates its activities or transfers *customer*s to another person.

Guidance notes

35. Reserved activities are activities that only the *AMLSP Direct Customer* can undertake.

36. Section 10 of *this Handbook* provides additional information regarding record-keeping arrangements.

15.3.4 *AMLSP Direct Customer* is a legal arrangement

AML/CFT/CPF Codes of Practice

[COP159] Where a Schedule 2 *activity* is conducted in relation to a legal arrangement, then the legal person, which is the *Governing body* of the legal arrangement, is responsible for the *AML/CFT/CPF obligations* of the legal arrangement. This applies whether the legal person is a corporate entity or a natural person.

[COP160] In some circumstances, the legal person, which is the *Governing body* of the legal arrangement, may have its own *AML/CFT/CPF obligations* in respect of the legal arrangement as well as *AML/CFT/CPF obligations* on behalf of the legal arrangement.

[COP161] *AMLSP services* provided to an *AMLSP Direct Customer* that is a legal person acting in relation to a legal arrangement may encompass both obligations. For example, where the legal person who is the *AMLSP Direct Customer* is acting in both the capacity of:

- A fund service provider/operator/functionary to the legal arrangement (the provision of *financial services* within the Schedule 2 definition of fund and security services activities and a trustee or general partner which will also be a Schedule 2 activity); and

- *Governing body* of the legal arrangement acting on behalf of the legal arrangement (participation in securities issues within the definition of fund and security services activities).

[COP162] This is a common arrangement in the funds sector, where for example there is a limited partnership that is a fund, and the general partner acts as both service provider to the fund as well as the *Governing body* of the fund.

[COP163] An AMLSP could provide the AMLSP Direct Customer MLCO and AMLSP Direct Customer MLRO to the AMLSP Direct Customer and this appointment could relate to both the AMLSP Direct Customer:

- In its own capacity; and
- Acting in relation to the legal arrangement.

[COP164] If the *AMLSP services* are to encompass a legal arrangement in relation to which the *AMLSP Direct Customer* is acting, the written agreement for *AMLSP services* is to be provided in relation to the legal arrangement.

[COP165] However, there may be circumstances where the *AMLSP Direct Customer*, or the *AMLSP*, will want to make differing arrangements in relation to those two roles because it may not be appropriate to fulfil both functions via the *AMLSP*. This is likely to depend on the level of complexity of the arrangement.

[COP166] Circumstances where the *AMLSP* is likely to fulfil the *AML/CFT/CPF obligations* for both the legal person and where the legal person is acting in relation to a legal arrangement may be where the *AMLSP Direct Customer* is acting as the *Governing body* for one legal arrangement. For example, where the *AMLSP Direct Customer* is a *SPV* trustee, or *SPV* general partner, without *employees* other than directors.

[COP167] Some examples of circumstances where a*n AMLSP* arrangement in respect of a legal person acting for itself and a legal arrangement may not be appropriate include:

- Where the trustee or the general partner are businesses with presence in the island which have their own *employees*;
- Where the trustees or the general partner provide services to multiple legal arrangements/funds; or
- Where the complexity, frequency or risks posed by the fund require a more subjective bespoke approach.

[COP168] Section 3 of this Handbook provides additional information regarding funds and fund operators, with section 13.2.4 of this Handbook regarding risk-assessments for SPV governing bodies providing guidance regarding potential approaches to the consolidation of risk assessments for legal arrangements.