

Guide to Section II of risk based supervision data: Money Service Business

Table of Contents

1	General guidance	4
1.1	Scope	4
1.2	Excel workbook	4
1.3	Customers	4
1.4	Data reporting period.....	4
1.5	Data Submission	5
1.6	Integrity checking your submission	5
2	Section GA – MSB compliance data	6
2.1	Overview	6
2.2	Risk Rating.....	6
2.3	Declined, terminated and withdrawn business.....	7
2.4	Referred business.....	7
2.5	Cash transactions (excluding bureau de change and cheque cashing transactions).....	9
2.6	Transaction monitoring	9
2.7	General Comments	10
3	Section GB – MSB customer data.....	11
3.1	Customer data overview	11
3.2	Customer analysis	11
3.3	Enhanced CDD measures	12
3.4	Other customer characteristics.....	15
3.5	MSB services	16
4	Section GC – Beneficial ownership.....	17
4.1	General.....	17
4.2	Customers who are individuals and beneficial owners or controllers of customers that are not individuals	17
4.3	Customer acting on behalf of a third party	18
5	Section GD – Use and application of concessions granted by the Money Laundering Order	20
5.1	General.....	20
5.2	Customer identification and verification.....	21
5.3	Reliance on obliged persons (Article 16 of the MLO) and persons in the same financial group (Article 16A of the MLO).....	21
5.4	Exemption from applying third party identification requirements (Articles 17B-D of the MLO)	23
5.5	Further exemptions from applying identification requirements (Article 18 of the MLO).....	24

1 General guidance

1.1 Scope

- 1.1.1 In 2018 the JFSC collected supervisory risk data for Reporting Entities for the first time. This exercise was repeated in 2019 and, as advised on 30 October 2019ⁱ, the JFSC is collecting the same data in 2020.
- 1.1.2 This guidance document relates to Section II of the 2020 risk based supervision data collection which requires the provision of activity based data from Reporting Entities registered to carry on money service business (**MSB**).
- 1.1.3 MSB is a financial service business as defined in Article 2(9) of the Financial Services (Jersey) Law 1998:
- A person carries on money service business if the person carries on the business of any of the following –*
- (a) a bureau de change;*
 - (b) providing cheque cashing services;*
 - (c) transmitting or receiving funds by wire or other electronic means;*
 - (d) engaging in money transmission services*

1.2 Excel workbook

- 1.2.1 The Excel workbook for a reporting entity carrying on MSB comprises 5 spreadsheets, as follows:
- (a) GA - Compliance Data
 - (b) GB - Customer Data
 - (c) GC - Beneficial Ownership
 - (d) GD - Use and application of concessions granted by the MLOⁱⁱ
 - (e) GE - Country List
- 1.2.2 Spreadsheet GE is an input sheet for the responses to questions GA6, GB18, GC1, GC2, GD4, GD5 and GB8.

1.3 Customers

- 1.3.1 The spreadsheets require MSBs to provide data in respect of their customers.
- 1.3.2 A customer is a person to whom the MSB provides any of the services as described in 1.1.3 above.

1.4 Data reporting period

- 1.4.1 Generally, data should be provided for the period 1/1/2019 to 31/12/2019.
- 1.4.2 There are a few data items where the data should be provided as at the end of the reporting period (31/12/2019 or closest business day).

1.5 Data Submission

- 1.5.1 Whilst the JFSC will be collecting the same data as it did in 2019, MSBs are still recommended to consider the data request as soon as possible. It may take some time to gather the data requested and the deadline for submission is **17:00 on 31 March 2020**.
- 1.5.2 Each MSB will be submitting a completed Excel Workbook for Section II through the JFSC Portal, and each MSB has a designated individual who is the JFSC Portal contact, which, in the vast majority of cases, is the compliance officer.
- 1.5.3 Notwithstanding that the JFSC Portal contact has responsibility for submitting the data, the board, or equivalent, of the MSB should have oversight of the content of the submission made on their behalf.
- 1.5.4 Having completed the data return twice the JFSC expects MSBs to be in a better position to report their 2019 data and that only on an exceptional basis will responses be derived by extrapolation or estimates supported by specific criteria.
- 1.5.5 The JFSC continues to acknowledge that system changes take time to implement. Where a MSB needs to extrapolate or estimate its data, as system changes are still being implemented, the comments section at the bottom of the relevant spreadsheet should highlight which data elements have been extrapolated / estimated and when the relevant system changes will take effect.
- 1.5.6 Where the MSB feels it necessary to provide additional data to enable the JFSC to understand the response, this information should also be included in the comments section at the bottom of each relevant spreadsheet.
- 1.5.7 With the exception of spreadsheet *GE-MSB-Country list*, all parts of each question should be answered. Consequently, please insert a "0" where relevant.

1.6 Integrity checking your submission

- 1.6.1 Before submitting your data the JFSC suggests that the integrity checks highlighted in paragraphs 1.6.2 to 1.6.8 should be completed.
- 1.6.2 Sum of GA1(a) to (c) needs to agree to the sum of GB1(i) to (iii).
- 1.6.3 GA1(a) should equal sum of GB3(i) to (iii).
- 1.6.4 No response in GB2 should exceed GB1, in any given column.
- 1.6.5 GB3 to GB11 cannot be individually greater than GB2, in any column.
- 1.6.6 GB11 should not exceed GB9 or GB10 in any given column.
- 1.6.7 GB11 should not exceed GB4.
- 1.6.8 GD11(a) should equal the sum of GD11(b) to (f).

2 Section GA – MSB compliance data

2.1 Overview

2.1.1 This section collects data on:

- (a) customer risk ratings;
- (b) business which has been declined, terminated or withdrawn due to customer due diligence or other financial crime concerns;
- (c) referred business (the extent to which customers are obtained on the basis of referrals from other businesses) and
- (d) cash transactions (the extent to which cash is used).

2.2 Risk Rating

GA1 Number of customers in each category of risk (as defined by the MSB) during the data reporting period

GA2 Do the MSB's risk ratings include factors other than money laundering and the financing of terrorism? (Yes ; No) If yes, please provide details at G13(a)

2.2.1 Question **GA1** requests data about the number of customers that have been assessed as presenting (a) higher, (b) standard or (c) lower ML/TF risk (on the basis of factors set out in section 3.3.4 of the AML/CFT Handbook for Regulated Financial Services Business (the **AML/CFT Handbook**)).

2.2.2 Where use is made of a more precise risk scoring scale, it will be necessary to determine which categories in that scale approximate to higherⁱⁱⁱ, standard or lower risk. For example, if a MSB measures risk on a score of 1 to 10, it may consider anything between 1 and 3 to present a lower risk, 4 to 7 to present a standard risk, and 8 to 10 to present a higher risk.

2.2.3 If a MSB includes other factors e.g. commercial risk, in its risk rating of customers and the ML/TF risk element cannot be reported separately, please report the combined risk rating.

2.2.4 If a combined rating is reported please select “yes” when responding to **GA2**.

2.2.5 Please provide an answer for every element of GA1.
For example a MSB with zero higher risk, 4 medium risk and 6 lower risk customers and who only considers money laundering and terrorist financing when risk rating a customer, should complete the fields as follows:

GA1(a) - Higher	0
GA1(b) - Medium	4
GA1(c) - Lower	6
GA2	Choose “No” from the dropdown

2.2.6 Please note the sum of GA1(a) to (c) should equal the sum of GB1(i) to (iii).

2.3 Declined, terminated and withdrawn business

GA3 Number of applications from prospective customers to either (i) establish a customer relationship, or (ii) carry out a one-off transaction, declined due to CDD issues or other financial crime concerns, during the data reporting period

GA4 Number of customer relationships terminated, due to CDD issues or other financial crime concerns, during the data reporting period

2.3.1 In line with Section 2.4.1 of the AML/CFT Handbook (paragraph 32), questions GA3 and GA4 request data about:

- (a) the number of prospective customer relationships or one-off transactions that have been declined (GA3); and
- (b) customer relationships that have been terminated due to CDD issues or other financial crime concerns (**GA4**).
This will include cases where:

- › it has not been possible to complete identification measures (before or during a customer relationship) under the Money Laundering Order, including establishing the source of funds;
- › the ML/TF risk has been assessed as being too high (and so outside the MSB's risk appetite); and
- › there is suspicion of ML/TF.

2.3.2 This question applies also to cases where:

- (a) an application to form a customer relationship or carry out a one-off transaction is handled by a third party, e.g. a lawyer, and where there is no direct contact with the prospective customer; and
- (b) an application to form a customer relationship or carry out a one-off transaction has not yet been formally submitted, e.g. where CDD is applied at the time that business is being solicited (where this data is recorded).

2.3.3 Please do not leave fields blank, insert a "0" in GA3 and GA4 if no prospective customers have been declined or customers terminated.

GA5 Number of applications from prospective customers who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)

2.3.4 Question **GA5** collects data on customer applications withdrawn solely or partly on the basis of CDD requested.

2.3.5 It is recognised that this data may not be recorded by a MSB. If this is the case please respond with "0". Do not leave the field blank.

2.3.6 This question also applies to cases where an application to form a business relationship or carry out a one-off transaction is handled by a third party, e.g. a lawyer, and where there is no direct contact with the prospective customer.

2.4 Referred business

2.4.1 Questions GA6, GA7 and GA8 request data about those persons who referred customers to a MSB on a regular basis during the data reporting period.

2.4.2 Where business is referred to a MSB but neither a one-off transaction nor customer relationship result this is not considered referred business for the purpose of responding to GA6, GA7 and GA8.

- 2.4.3 Persons who refer customers to a MSB may be third parties such as lawyers, accountants and trust company businesses.
- 2.4.4 Additionally, if a MSB is part of a group, any referrals from group companies or other branches of the same company should be included here.
For example, if a Jersey MSB is part of a group/company that has a Guernsey company/branch then referrals from the Guernsey operation should be reported.
- 2.4.5 The following should not be reported as persons who refer customers:
- (a) a third party or group entity that acts as an obliged person under Articles 16 or 16A of the Money Laundering Order (data on these persons is collected through spreadsheet GD (Use of MLO concessions)); or
 - (b) a customer acting on behalf of one or more third parties (data on these persons is collected through spreadsheet GC (3rd party and beneficial ownership)); or
 - (c) a person who refers customers on a basis that cannot be considered regular. The meaning of regular will vary by MSB and will depend on a number of factors such as the size of their current customer base and the amount of referred business.
- 2.4.6 Note: A person may be classified as having referred business even if a MSB does not pay that person a fee for the referrals.

GA6 Number of persons who referred customers to the MSB during the data reporting period, analysed by country

- 2.4.7 Question **GA6** requires the number of persons who referred customers to be analysed by country, using spreadsheet GE.
- 2.4.8 Please note:
- (a) the countries are listed on spreadsheet GE alphabetically; and
 - (b) only positive responses are required i.e. there is no need to insert "0" against every country.

GA7 Number of persons who referred customers to the MSB during the data reporting period, which carry on the following activities

- 2.4.9 Question **GA7** requires analysis of the number recorded at GA6 between those that are:
- (a) Lawyers;
 - (b) Accountants; and
 - (c) Other, which includes any referrals from another group company or a trust company business.
- 2.4.10 Where a MSB responds that the majority of the persons that are referring customers fall in "Other" (GA7(c)) please provide further details at GA13 (general comments on section GA). This may include referrals from existing customers.
- 2.4.11 If a MSB considers that it does not have any persons that refer business then please insert "0" into each of GA7(a), GA7(b) and GA7(c).

GA8 Number of relationships with persons who referred customers to the MSB during the data reporting period that were terminated due to CDD issues, or other financial crime concerns

- 2.4.12 Question **GA8** requires a MSB to record the number of times, during the data reporting period, that a relationship between them and a person who referred

customers has been terminated, by either party, because of a CDD issue or other financial crime concern.

For example, in a case where the person referring customers considers that CDD measures applied by the MSB are impractical or excessive.

2.4.13 If no terminations have occurred, please insert a "0" in response to GA8.

2.5 Cash transactions (excluding bureau de change and cheque cashing transactions)

GA9 Number and value of cash transactions (i.e. notes and coins) for customers during the data reporting period (receipt or payment) in any jurisdiction

- 2.5.1 Question **GA9** requests data about the number (GA9(a)) and value (GA9(b)) of cash transactions (using **notes and coins**) conducted for customers.
- 2.5.2 Bureau de change and cheque cashing transactions are excluded from this question as data relating to these areas is being collected in spreadsheet GB (GB14 - GB18 for bureau de change, and GB19 – GB20 for cheque cashing business).
- 2.5.3 This question is intended to determine the extent to which physical cash is used in the money transmission sector. **For the avoidance of doubt, this does not include bank transfers, cheques or any form of virtual currency transactions.**
- 2.5.4 Whilst we recognise that the use of cash may be minimal in the Jersey-based money transmission sector, it is important that this assumption is validated as cash transactions are a key risk indicator for money laundering and the financing of terrorism.
- 2.5.5 If no cash transactions occurred during the data reporting period, please insert "0" at both GA9(a) and GA9(b).

2.6 Transaction monitoring

GA10 What is the timing of the ongoing monitoring of transactions during a customer relationship?

(Real-time ; Post-event ; Both ; N/A)

GA11 Are monitoring procedures automatic or manual?

(Automated ; Manual ; Both ; N/A)

GA12 What rules are applied to the transaction monitoring procedures?

(Generic ; Tailored ; Both ; N/A)

- 2.6.1 Questions GA10, GA11 and GA12 ask about transaction monitoring procedures.
- 2.6.2 In line with paragraph 16 of section 6.2.1 of the AML/CFT Handbook, where a relevant person's customer base is homogeneous, and where the products and services provided to customers result in uniform patterns of transactions or activity, it will be more straightforward to establish parameters to identify usual transactions and unusual activity. However, where each customer is unique, and where the product or service provided is bespoke, a relevant person will need to tailor monitoring systems to the nature of its business and facilitate the application of additional judgement and experience to the recognition of unusual transactions and activity.
- 2.6.3 Please answer all questions.

2.7 General Comments

GA13 Please provide any explanations or context comments below

- 2.7.1 A free text box is provided at **GA13(b)** to provide general comments, explanations or context comments in relation to the other responses in section GA-Money Service Business compliance data.
- 2.7.2 Where a MSB responds that the majority of the persons that are referring customers fall in “Other” (GA7(c)) please provide further details at GA13(b) in respect of those persons reported as “Other”. This may include referrals from existing customers.

3 Section GB – MSB customer data

3.1 Customer data overview

- 3.1.1 This section collects data about:
- (a) a MSB's customers which exhibit higher ML/TF risk characteristics; and
 - (b) the MSB's activities.
- 3.1.2 Section GB collects data by type of customer in order to establish whether any particular customer type exhibits higher risk factors than others. Responses need to be provided in the following customer types:
- (a) Individuals that are Jersey resident;
 - (b) Individuals that are not Jersey residents; and
 - (c) Other.
- 3.1.3 "Other" includes a customer that is any of the following:
- (a) Companies
 - (b) Foundations
 - (c) Trusts
 - (d) Limited Partnerships
 - (e) Limited Liability Partnerships
 - (f) Separate Limited Partnerships
 - (g) Incorporated Limited Partnerships

3.2 Customer analysis

GB1(a) Number of customers that are:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Other

- 3.2.1 Question **GB1(a)** requests the total number of customers for 2019 analysed by customer type as listed in 3.1.2 and further explained in 3.1.3.
- 3.2.2 Please note that the response provided to question GB1 provides the base for responding to all other Section GB questions.
- 3.2.3 For example, given a response to question GB1 as set out in the table below then the number of customers is the maximum number that can appear in the relevant column for all other Section GB questions:

Customer type	Number of customers
Individuals – Jersey resident	10
Individuals - non-Jersey resident	2
Other	1

- 3.2.4 Where a MSB has no customers of a particular type please insert "0".
- 3.2.5 Please note the sum of GB1(i) to (iii) should equal the sum of GA1(a) to (c).

3.3 Enhanced CDD measures

- 3.3.1 Information regarding enhanced CDD measures can be found in Section 7 of the AML/CFT Handbook.
- 3.3.2 In addition to a MSB deciding that a customer presents a higher risk of money laundering or financing terrorism, there are some circumstances where enhanced CDD measures are required by Articles 15, 15A and 15B of the Money Laundering Order. Such as where the customer:
- (a) is, or some other prescribed person is, a politically exposed person (**PEP**) (section 7.6)
 - (b) has a “relevant connection” to an “enhanced risk state” (section 7.5)
 - (c) is a company with nominee shareholders or issues bearer shares (section 7.10)
 - (d) is a personal asset holding vehicle (section 7.9)
 - (e) is, or some other person is, not physically present for identification purpose (section 7.4)
 - (f) is non-resident (not a Jersey resident) (section 7.7)
 - (g) has a correspondent banking or similar relationship (Section 7.11)

GB2 Number where enhanced CDD measures have been applied:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) other

- 3.3.3 Using the response to question GB1 as the base for responding, question **GB2** requires data about the number of customers to which enhanced customer due diligence (**CDD**) measures have been applied during 2019.
- 3.3.4 For example, using the example laid out in 3.2.3, if 3 of the 10 customers that are reported as “individuals – Jersey” have been subject to enhanced CDD measures then respond “3”.
- 3.3.5 If a MSB has no customers which have been subject to enhanced CDD measures then insert “0” in each orange box.

GB3 Number that present higher risk of ML/TF:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Other

- 3.3.6 Where a MSB has determined that a customer presents a higher risk of money laundering or financing terrorism, enhanced CDD measures must be applied, therefore the response to question GB3 cannot be greater than the response to question GB2.
- 3.3.7 There are circumstances where enhanced CDD measures must be applied but the MSB may not consider the customer presents a higher risk, therefore the response to GB3 may be lower than the response to GB2. For example, a Jersey resident owns an asset holding vehicle which holds bank balances.
- 3.3.8 If a MSB has no customers which present a higher risk please do not leave a cell blank, please insert “0” in each orange box.
- 3.3.9 The total of this row should be the same as the answer to question GA1(a).

GB4 Number that are, or who are connected with, a PEP:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Other

- 3.3.10 Using the response to question GB2 as the base for responding, question **GB4** requires the number of customers to which enhanced CDD measures have been applied due to a PEP connection.

- 3.3.11 On 12 June 2019 the Money Laundering Order was amended (see Article 15A(3) of the Money Laundering Order and Section 7.6.1 of the AML/CFT Handbook). From this date, enhanced CDD measures became mandatory for the following:
- (a) a domestic politically exposed person only where a high-risk business relationships or high-risk one-off transactions is involved (**domestic PEP**);
 - (b) a foreign politically exposed person (**foreign PEP**);
 - (c) a prominent person;
 - (d) individuals falling within (a), (b) or (c) that are:
 - › beneficial owners or controllers of a customer entity;
 - › a third party for whom the customer entity acts AND the third parties beneficial owners or controllers ;
 - › purporting to act on behalf of the customer entity.
- 3.3.12 When considering whether a customer is connected with a domestic PEP or foreign PEP it must be remembered that the definition of a PEP includes close associates and immediate family members of any individual. Close associate and immediate family member are both defined in Article 15A(3) of the Money Laundering Order.
- 3.3.13 The information to be considered when deciding if a person is a close associate of a domestic PEP or foreign PEP is limited to information in the possession of the MSB or information that is publicly known (Article 15A(4) of the Money Laundering Order).
- 3.3.14 If a MSB has no customers who are a PEP, or who are connected with a PEP, please do not leave a cell blank, please insert "0" in each orange box.

GB5 Number that have a relevant connection to an enhanced risk state:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Other

- 3.3.15 Using the response to question GB2 as the base for responding, question **GB5** requires the number of customers to which enhanced CDD measures have been applied because the customer has a connection to an enhanced risk state.
- 3.3.16 Appendix D1 of the AML/CFT Handbook provides a list of the countries and territories that are considered an enhanced risk state. As at 20 December 2019 the following were listed:
- (a) Iran; and
 - (b) The Democratic People's Republic of Korea (North Korea).
- 3.3.17 Section 7.5 of the AML/CFT Handbook provides further guidance, including an example of what may constitute a relevant connection.
- 3.3.18 For example: a customer's source of funds is, or derives from:
- (a) assets held in either Iran or North Korea by the customer or any person on behalf of a customer; or
 - (b) income arising in Iran or North Korea.
- In either scenario the MSB should take reasonable measures to find out the source of wealth of the customer.
- 3.3.19 If a MSB has no customers with a relevant connection to an enhanced risk state, please do not leave a cell blank, please insert "0" in each orange box.

GB6 Number that have one or more nominee shareholders
GB7 Number of non-Jersey companies that have issued bearer shares or warrants

- 3.3.20 Using the response to question GB2(iii) as the base for responding, questions GB6 and GB7 require information on:
- (a) the number of customers which are companies which have one or more nominee shareholders (**GB6**); and
 - (b) the number of customers which are non-Jersey companies that have issued bearer shares or warrants (**GB7**).
- 3.3.21 Section 7.10 of the AML/CFT Handbook explains that, where one or more of the following circumstances apply, the company should not be considered to have issued bearer shares:
- (a) the bearer shares are issued by a company in a country or territory that has fully enacted appropriate legislation to require bearer shares to be registered in a public registry and the bearer shares are so registered; or
 - (b) the bearer shares are traded on an approved stock exchange; or
 - (c) all issued bearer shares are held in the custody of the customer or trusted external party along with an undertaking from that trusted external party or customer to inform the relevant person of any transfer or change in ownership.
- 3.3.22 If a MSB has no customers which are companies that have one or more nominee shareholders, please do not leave either cell blank, please insert "0" in each orange box.
- 3.3.23 If a MSB has no customers which are non-Jersey companies that have issued bearer shares or warrants, please do not leave the cell blank, please insert "0" in the orange box.

GB8 Number that are personal asset holding vehicles

- 3.3.24 Using the response to question GB2(iii) as the base for responding, question **GB8** requests data regarding personal asset holding vehicles which are described at paragraph 64 of section 7.9 of the AML/CFT Handbook as being a legal person or legal arrangement established by individuals for the specific purpose of holding assets for investment.
- 3.3.25 The personal asset holding vehicle:
- (a) may be the customer of the MSB (for example a company which holds bank balances as an investment) OR
 - (b) may be the third party for whom a customer is acting. For example, the customer may be a trustee acting for a trust which is a personal asset holding vehicle.
- 3.3.26 If a MSB has no customers which are either personal asset holding vehicles or who act on behalf of a personal asset holding vehicle, please do not leave the cells blank, please insert "0" in the orange boxes.

GB9 Number of individuals who have not been met:
(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident
GB10 Number where one or more beneficial owners/controllers of customers, or other persons who must be identified under Article 3 of the Money Laundering Order, were not physically present for identification purposes

GB11 In relation to GB9 and GB10, number of customers who are, or who are connected to, a PEP

- 3.3.27 Using the response to question GB2 as the base for responding, questions **GB9** to **GB11** request data about whether a customer, and the beneficial owners and controllers of customers, have been physically present for identification purposes.
- 3.3.28 An individual may be considered to have been physically present for the purpose of questions GB9 and GB10 where they have been met and seen:
- (a) by the MSB (physically or through video conferencing facilities);
 - (b) by a suitable certifier in line with section 4.3.3 of the AML/CFT Handbook; or
 - (c) by a company in the same group as the MSB where that company is regulated and supervised for AML/CFT purposes (the meeting can be physical or through video conferencing facilities).
- 3.3.29 Where either the customer or the beneficial owner/controller of the customer has not been physically present **and** they are a PEP then question **GB11** needs to record the number of such persons.
- 3.3.30 If, having taken account of paragraph 3.3.2, a MSB considers that all customers and beneficial owners/controllers were physically present for identification purposes please do not leave the cells blank, please insert "0" in each orange box.

3.4 Other customer characteristics

GB12 Number that are regulated/supervised for AML/CFT purposes

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Other

- 3.4.1 Using the response to question GB1 as the base for responding, question **GB12** collects data on customers that are Regulated and Supervised for AML/CFT purposes.
- 3.4.2 "Regulated and Supervised for AML/CFT purposes" specifically means:
- (a) subject to AML/CFT requirements; **and**
 - (b) supervised for compliance with those requirements by the JFSC or an overseas regulatory authority discharging a similar function in respect of AML/CFT.
- 3.4.3 For example:
- (a) If the customer of a MSB is a trust company then they should be reported here. However, if the customer is a subsidiary company of the trust company which is not conducting a regulated and supervised activity, this should not be reported.
 - (b) If the customer of a MSB is a sole trader, who is Regulated and Supervised for AML/CFT purposes by the JFSC, then they should be reported here.
 - (c) If the customer of a MSB is a company acting as a trustee and is Regulated and Supervised for AML/CFT purposes, then they should be reported here.
- 3.4.4 If a MSB does not have any customers which are Regulated and Supervised for AML/CFT purposes please do not leave the cells blank, please insert "0" in each orange box.

GB13 Number that are non-profit organizations

- 3.4.5 Using the response to question GB1(iii) as the base for responding, question **GB13** requests data about customers of a MSB that are a non-profit organization (**NPO**). In Jersey an NPO is defined in Article 1 of the Non-Profit Organizations (Jersey) Law 2008 as being an organisation that:
- (a) Is established solely or primarily for charitable, religious, cultural, educational, social, or fraternal purposes with the intention of benefiting the public or a section of the public; **and**
 - (b) raises or disburses funds in pursuance of those purposes.
- 3.4.6 Please note: in Jersey an NPO and a charity are not the same. The definition of a charity is set out in the Charities (Jersey) Law 2014 and not all NPOs are charities.
- 3.4.7 If a MSB does not have any customers that are an NPO please do not leave the cell blank, please insert a "0" in the orange box.

3.5 MSB services

- 3.5.1 Questions **GB14 - GB18** request information about a MSB's Bureau de Change business.
- 3.5.2 Please note for GB18, data is only required for countries that use currencies other than Sterling, Euros and US Dollars.
- 3.5.3 Questions **GB19** and **GB20** request information about a MSB's cheque cashing business.
- 3.5.4 If a MSB does not provide either of these services, please insert "0" in the orange cells.
- 3.5.5 Where a MSB provides money transmission services, data on the jurisdiction of fund flows will be collected separately.

4 Section GC – Beneficial ownership

4.1 General

- 4.1.1 Where the CDD exemptions from applying identification measures under Article 18 of the Money Laundering Order have been utilised and no data is held, a MSB is not expected to gather information for the purpose of completing questions GC1 and GC2.
- 4.1.2 Data in respect of using Article 18 is to be reported in response to question GD10 (Further exemptions from applying identification requirements (Article 18 of the MLO)).

4.2 Customers who are individuals and beneficial owners or controllers of customers that are not individuals

GC1 Number and principal country of residence of: (i) individuals who are customers; and (ii) individuals who are the beneficial owner or controller of a customer that is not an individual

- 4.2.1 The principal country of residence of an individual who is a customer, or the beneficial owners and controllers of customers who are not individuals, is recognised as a key factor in determining the riskiness of a customer – section 3 of the AML/CFT Handbook provides further guidance.
- 4.2.2 The term “beneficial ownership and control” is defined in Article 2 of the Money Laundering Order. It refers to the individuals who ultimately own or control a customer that is a legal person^{iv}. In line with guidance provided in the AML/CFT Handbook, the following will be considered to be the beneficial owner or controller of a company.
 - (a) Each individual with a material controlling ownership interest in the capital of the company (through direct or indirect holdings of interests (shares) or voting rights) or who exerts control through other ownership means.
 - (b) To the extent that there is doubt as to whether the individuals exercising control through ownership are beneficial owners, or where no individual exerts control through ownership, any other individual exercising control of the company through other means.
 - (c) Where no individual is otherwise identified, individuals who exercise control of the company through positions held (who have and exercise strategic decision-taking powers or have and exercise executive control through senior management positions - directors).
- 4.2.3 Question **GC1** requests a MSB provide by country (using spreadsheet *GE-MSB-Country list*) the total number of customers who are individuals and beneficial owners or controllers of customers that are not individuals, as at 31 December 2019.
- 4.2.4 Unlike other questions, there is no need to insert a response in each cell of spreadsheet *GE-MSB-Country list*.
- 4.2.5 For example, using the data at 3.2.3, a MSB may look as follows:

Customer type	Number of customers	Principal country of residence

Customer type	Number of customers	Principal country of residence
Individuals – Jersey resident	10	Jersey
Individuals - non-Jersey resident	2	UK Guernsey
Other	1	Switzerland

Spreadsheet *GE-MSB-Country list* would therefore have the following entries in the column for question GC1:

ISO Code	Country	Number and principal country of residence of: (i) individuals who are customers; and (ii) individuals who are the beneficial owners or controllers of a customer that is not an individual
		GC1
831	Guernsey	1
832	Jersey	10
756	Switzerland	1
826	UK	1

4.2.6 Please Note:

Each individual should only be reported once.

The following are examples where an individual may have more than one relationship with a MSB but should only be reported once:

- (a) they are the beneficial owner or controller of more than one company; or
- (b) they are the beneficial owner or controller of a company and are also a customer in their own right

4.3 Customer acting on behalf of a third party

GC2 Number and principal country of residence of third parties on whose behalf a customer is acting

- 4.3.1 Question **GC2** collects data on the principal country of residence of third parties on whose behalf a customer acts.
- 4.3.2 For example, a legal arrangement cannot form a business relationship or carry out a one-off transaction itself. It is the trustee(s) of the trust or general partner(s) of the limited partnership who will enter into a business relationship or carry out the one-off transaction with a MSB on behalf of the legal arrangement and who will be considered to be the customer(s). In line with Article 3 of the Money Laundering Order, the trust or limited partnership will be considered to be the third party on whose behalf the trustee(s) or general partner(s) act(s).
- 4.3.3 In these cases the MSB should have identified the persons for whom the customer is acting in line with Article 3(2) of the Money Laundering Order and the guidance provided in section 4 of the AML/CFT Handbook. For ease guidance has been provided below:

- (a) In a case where the third party is a legal person (e.g. a company), data should be provided on the individuals who are beneficial owner or controller of that legal person (Article 3(2)(b)(ii) of the Money Laundering Order).
- (b) In a case where a third party is a trust (other than a collective investment fund), data should be provided on:
 - › the settlor;
 - › the protector;
 - › beneficiaries with a vested right;
 - › other beneficiaries and persons who are the object of a power that have been identified as presenting a higher risk; and
 - › any other person who exercises ultimate effective control over the trust (Article 3(7) of the Money Laundering Order).
- (c) In a case where a third party is a limited partnership (other than a collective investment fund), data should be provided on the limited partners (Article 3(7) of the Money Laundering Order).
- (d) In a case where a third party is a collective investment fund, data should be provided on any beneficial owners and controllers, i.e. individuals exercising control of the collective investment fund through ownership means, other means or through the position that they hold (see section 14.3.2 of the AML/CFT Handbook (Funds and Fund Services Business)).

5 Section GD – Use and application of concessions granted by the Money Laundering Order

5.1 General

- 5.1.1 This section collects data about the application of concessions set out in the Money Laundering Order that can be used in the circumstances prescribed in **Articles 13** (customer identification and verification), **16** (reliance on obliged persons), **16A** (persons in same financial group) and **Part 3A** (CDD exemptions).
- 5.1.2 On 12 June 2019, Articles 17 and 18 of the Money Laundering Order were replaced however, the policy behind the Articles was substantially unchanged. Therefore, whilst the text in this guidance document reflects Articles 17, 17B, 17C, 17D and 18 as at 20 December 2019, questions should be answered for the whole of 2019.
- 5.1.3 The following table provides guidance on the period to be covered by each question:

Question	Data period	Date(s)
Customer identification and verification		
GD1	At end of reporting period	31/12/2019 or closest business day
GD2	During the reporting period	1/1/2019 – 31/12/2019
Reliance on obliged persons and persons in the same financial group (Articles 16 and 16A of the MLO)		
GD3	During the reporting period	1/1/2019 – 31/12/2019
GD4	At end of reporting period	31/12/2019 or closest business day
GD5	At end of reporting period	31/12/2019 or closest business day
GD6	At end of reporting period	31/12/2019 or closest business day
GD7	During the reporting period	1/1/2019 – 31/12/2019
Exemption from applying third party identification requirements (Articles 17B-D of the MLO)		
GD8	At end of reporting period	31/12/2019 or closest business day
GD9	During the reporting period	1/1/2019 – 31/12/2019
GD10	At end of reporting period	31/12/2019 or closest business day

Further exemptions from applying identification requirements (Article 18 of the MLO)

GD11	During the reporting period	1/1/2019 – 31/12/2019
------	-----------------------------	-----------------------

5.2 Customer identification and verification

GD1 Number of customers, as at the end of the data reporting period, where identity has not yet been verified as the relationship started before February 2008 and Article 13(2) of the MLO is being relied upon

- 5.2.1 Article 13(2) of the Money Laundering Order provides for the timing of identification measures for the existing customers of a MSB at the time the Money Laundering Order came into force – 4 February 2008.
- 5.2.2 Article 13(2) sets out very particular circumstances which enabled a MSB to delay verification of a customer's identity – section 4.7.2 of the AML/CFT Handbook provides further guidance.
- 5.2.3 A MSB should have finalised the position of its existing customers by 31 December 2014, unless a later date has been agreed by the JFSC (paragraphs 208 and 209 of section 4.7.2 of the AML/CFT Handbook). Consequently, it is expected that most MSBs will report "0" in respect of **GD1**.

GD2 Number of customers where delayed verification in line with Article 13(4) of the MLO was applied during the data reporting period

- 5.2.4 In accordance with Article 13(4) of the Money Laundering Order a MSB is permitted to delay verifying the identity of customer where (finding out the identity of the customer must not be delayed):
 - (a) it is necessary not to interrupt the normal course of business;
 - (b) there is little risk of money laundering or financing of terrorism occurring as a result of obtaining evidence of identity after establishing the relationship; and
 - (c) evidence of identity is obtained as soon as reasonably practicable.
- 5.2.5 Question **GD2** collects data about the number of customers where delayed verification in line with Article 13(4) of the Money Laundering Order has been applied.
- 5.2.6 If a MSB has not delayed the verification of any customer's identity during the data reporting period, please respond with "0".

5.3 Reliance on obliged persons (Article 16 of the MLO) and persons in the same financial group (Article 16A of the MLO)

- 5.3.1 In line with Article 16 of the Money Laundering Order, reliance may be placed on an obliged person only where the six conditions, explained in section 5.1 of the AML/CFT Handbook, are met. In practice, this has the effect of:
 - (a) limiting the number of obliged persons that can be relied upon; and
 - (b) requiring the basis for placing reliance to be recorded in writing.
- 5.3.2 The effect of Article 16A of the Money Laundering Order is to extend the application of Article 16 to a person who is a member of the same financial group as the relevant person (a group person), who could not otherwise be relied on.

5.3.3 The six conditions and provisions for testing apply to a group person in the same way as an obliged person.

GD3 Number of customers where reliance has been placed on obliged persons during the data reporting period

GD4 Number of obliged persons on which reliance was placed, by country, as at the end of the data reporting period

GD5 Number of persons in the same financial group on which reliance (Article 16A of the MLO) was placed, by country, as at the end of the data reporting period

GD6 Number of obliged person(s) and persons in the same financial group carrying on financial services business or equivalent business, relied upon as at the end of the data reporting period

5.3.4 It is important to understand the extent to which a MSB makes use of these concessions and information regarding the obliged person, consequently:

- (a) Question **GD3** requests the number of customers where reliance has been placed on obliged persons during the data reporting period (please insert "0" if no reliance has been placed);
- (b) Question **GD4** requests the country of the obliged person on whom reliance is being placed (responses should be provided on spreadsheet *GE-MSB-Country list*, nil responses are not required);
- (c) Question **GD4** requests the country of the person in the same financial group on whom reliance is being placed (responses should be provided on spreadsheet *GE-MSB-Country list*, nil responses are not required); and
- (d) Question **GD6** requests the number of obliged persons and persons in the same financial group split by the type of business that is carried on, at the end of the reporting period (please insert "0" if no obliged persons are used).

GD7 Number of obliged persons and persons in the same financial group relied upon, who failed to provide information and evidence on demand and without delay, during the data reporting period

5.3.5 Where a MSB relies on an obliged person or person in the same financial group, the Money Laundering Order (Article 16(5)) requires that a MSB test, in such manner and at such intervals as they consider appropriate:

- (a) whether or not the obliged person has appropriate policies and procedures in place to apply the identification measures;
- (b) keeps the evidence of identity; and
- (c) will provide that evidence without delay if requested to do so.

5.3.6 In light of 5.3.5(c), question **GD7** requires a MSB to report the number of obliged persons and persons in the same financial group that failed to provide information and evidence on demand and without delay.

5.3.7 Please do not leave a cell blank, insert "0" if no obliged persons, or persons in the same financial group, are used or obliged persons (or persons in the same financial group) did provide information and evidence when requested.

5.4 Exemption from applying third party identification requirements (Articles 17B-D of the MLO)

- 5.4.1 In line with Articles 17B-D of the Money Laundering Order, a MSB may be exempt from applying identification requirements in relation to a third party when the customer entity is:
- (a) regulated and supervised by the JFSC for AML/CFT purposes;
 - (b) a person who carries on equivalent business (refer to Section 1.7 of the AML/CFT Handbook); or
 - (c) a person who is wholly-owned by a person listed above and meets certain conditions.
- 5.4.2 The application of exemptions from identification measures is also always subject to one or more conditions (depending on the particular case). In practice, these provisions have the effect of:
- (a) limiting the number of customers to which exemptions from identification measures can be applied; and
 - (b) requiring the basis for applying exemptions from identification measures to be recorded in writing.

GD8 Number of customers, by country, where exemptions from identification measures have been applied to third parties for whom those customers act as at the end of the data reporting period

- 5.4.3 Question **GD8** requests data on the number of customers where exemptions from identification measures have been applied at the end of the reporting period, analysed by the country in which the customer is regulated and supervised for AML/CFT purposes. Responses should be provided on spreadsheet *GE-MSB-Country list*, nil responses are not required.

GD9 Number of customers who failed to provide information and evidence on demand and without delay during the data reporting period, where CDD exemptions have been applied in accordance with Articles 17B-D of the MLO

- 5.4.4 Where a MSB applies exemptions from third party identification requirements, the Money Laundering Order (Article 17D(3)) requires a MSB to establish, as often as it considers appropriate, whether the relevant customer -
- (a) has appropriate policies and procedures in place to apply the identification measures;
 - (b) obtains information in relation to the third party;
 - (c) keeps the information or evidence in relation to the third party; and
 - (d) provides the information or evidence without delay if requested to do so.
- 5.4.5 In light of 5.4.4(d), question **GD9** requires a MSB to report the number of customers that failed to provide information or evidence on demand and without delay.
- 5.4.6 Please do not leave the cell blank, insert "0" if no exemptions from identification measures are applied or customers did provide information and evidence when requested.

GD10 Number of customers, where Articles 17B-D has been applied, who are carrying on financial services business, equivalent business or owned by a person carrying on financial services business or equivalent business as at the end of the data reporting period (a) deposit taker; (b) investment business; (c) fund services business; (d) permit or certificate holder under the CIF Law; (e) unregulated fund or non-public fund; (f) permit holder under the Insurance Law

5.4.7 Question **GD10** requests data on the type of business that is carried on by the customers where the exemptions from third party identification measures have been applied. Please insert “0” in the orange boxes if no exemptions are applied.

5.5 Further exemptions from applying identification requirements (Article 18 of the MLO)

GD11 (a) Number of customers to whom further CDD exemptions (Article 18 of the MLO) have been applied during the data reporting period

Of the above, number of customers to whom the exemptions have been applied:

(b) Article 18(2) - pension, superannuation, employee benefit, share option or similar schemes

(c) Article 18(1) - insurance policies

(d) Article 18(4) - public authorities, companies listed on an IOSCO-compliant market or regulated market

(e) Article 18(3) - regulated businesses or equivalent

(f) Article 18(5) - employees of regulated businesses or equivalent

5.5.1 Article 18 of the Money Laundering Order sets out a number of very specific circumstances where a MSB may be able to apply CDD exemptions. See sections 7.13 - 7.16 of the AML/CFT Handbook for further guidance.

5.5.2 If a MSB has applied CDD exemptions to any customers during the data reporting period the number of customers should be reported in response to **GD10(a)**.

5.5.3 If CDD exemptions have not been applied please do not leave the cells blank, insert a “0” in response to **GD10 (a)-(f)**.

5.5.4 If CDD exemptions have been applied, GD10(b) to (f) provide the five circumstances which are relevant for a MSB. The total of GD10(b) to (f) should equal the number in cell GD10(a).

5.5.5 Please do not leave any cells blank, insert a “0” where applicable.

ⁱ Industry update: [2019 and 2020 Supervisory Risk Data Collection Exercise](#)

ⁱⁱ The Money Laundering (Jersey) Order 2008 is referred to as both the Money Laundering Order and the MLO in the supervisory risk data collection exercise.

ⁱⁱⁱ Section 2.4.1 of the AML/CFT Handbook (paragraph 32) explains that a relevant person may demonstrate that it checks that systems and controls are operating effectively where senior management periodically considers the effect of those systems and controls in light of the number and percentage of customers that have been assessed as presenting a higher risk.

^{iv} No individual is to be treated as a beneficial owner of a body corporate the securities of which are listed on a regulated market. For the purpose of this section it is assumed that a MSB is most likely to deal with legal persons that are companies therefore the text has been amended accordingly.

^v Excluding a settlor of a trust who is deceased in line with paragraph 72 of section 4.4 of the AML/CFT Handbook.