

# **Guide to Section II of risk based supervision data: FSBs<sup>i</sup> with respect to Public Funds**

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# 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 2019<sup>ii</sup>, 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 data in respect of Public Funds.
- 1.1.3 A Public Fund is a Financial Services Business as specified in Schedule 2, Part A, paragraph 3 of the Proceeds of Crime (Jersey) Law 1999 (**POC**) and is subject to the requirements of the Money Laundering (Jersey) Order 2008 (**MLO**).
- 1.1.4 Data should be provided on the Public Fund where the Public Fund meets the definition of “Collective Investment Fund” as set out in Article 3 of the Collective Investment Funds (Jersey) Law 1988, as amended. Public Funds are all Jersey Public Funds (Certified, Recognized and Unregulated) and Non-Jersey Public Funds that are managed and controlled from Jersey. For the purposes of collating the list of Non-Jersey Public Funds only those that have FSBs providing the following services have been listed:
  - (a) Manager;
  - (b) Investment Manager;
  - (c) General Partner; and
  - (d) Trustee.
- 1.1.5 Public Funds that are relevant persons are required to have an MLCO and an MLRO under the MLO.
- 1.1.6 The Public Fund as a relevant person should have obtained Customer Due Diligence (**CDD**) on all its investors (its customers), their beneficial owners and controllers, and on any third parties upon whose behalf the investor acts and the beneficial owners and controllers of those third parties.
- 1.1.7 The JFSC is required to supervise the Public Funds compliance with AML/CFT requirements under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (**SBL**).

## 1.2 Data collected

- 1.2.1 Funds are largely excluded from the Section 1 data collection exercise, however as the JFSC is required to supervise Public Funds the JFSC requires data so that it can continue to risk profile the Public Funds /FSBs.
- 1.2.2 Consequently, data is again being requested on the customers (investors) of the Public Funds.

## 1.3 Excel workbook

- 1.3.1 The Excel workbook that the Fund Services Business (FSB) completes in relation to each of the Public Funds that it acts for (using one line for each Public Fund) comprises 11 spreadsheets, as follows:
  - (a) ZA1: Fund Compliance Data

- (b) ZA2: Asset Compliance Data
- (c) ZA3: Investor Data
- (d) ZA4: Beneficial Owners, Controllers and Third Party Data
- (e) ZA5: Fund Concessions Data

Countries for specific questions

- (f) ZA3(a) Countries of Investors
- (g) ZA3(g) Countries of PEPs
- (h) ZA4(a) Countries of Beneficial Owners and Controllers of Investors
- (i) ZA4(b) Countries of Third Parties on whose behalf the investor acts

For information

- (j) ZA6: Freetext Explanations
- (k) List of Questions

- 1.3.2 The JFSC recognises that printing each spreadsheet to determine the data requirements is not possible due to the construct of the document, therefore the last spreadsheet in the Excel workbook contains a list of the questions for printing.
- 1.3.3 Some of the questions are only being asked of the Non-Jersey Public Funds as we already hold the data on Jersey Public Funds.

## 1.4 Public Fund customers of the FSB

- 1.4.1 Historically the JFSC has had data available in relation to Jersey Public Funds, in particular via the application process, filing of personal questionnaires and quarterly statistics returns. The JFSC records the name of every key person of the Jersey Public Funds. To collate the list of Jersey Public Funds per FSB, the JFSC has identified the MLCO for each fund and linked them to the relevant FSB (note where the FSB is a managed entity, the MoME has been allocated the Jersey Public Fund).
- 1.4.2 In some cases where an MLCO is employed by a group, the fund listed for which the FSB is to provide data for may not be a fund that the FSB acts for directly. This is because in some cases we have collated the list of funds by reference to the MLCO. In some scenarios the MLCO acts on behalf of more than one group member. In these circumstances we ask that the FSB who has been sent the Excel workbook provide the responses liaising with the other FSB group member and indicates in Section ZA6 the name of the Public Fund and that the answers have been provided after liaison with the named FSB group member.
- 1.4.3 In relation to Non-Jersey Public Funds, information is held via the application process and the quarterly statistics, but no personal questionnaires are filed for the key persons. Therefore in collating the list of Non-Jersey Public Funds, the JFSC has done this by the service provided by a particular FSB. In this case the services of Manager, Investment Manager, General Partner and Trustee have been used.
- 1.4.4 The JFSC expects the FSB providing services to the Public Funds to have conducted a customer risk assessment on the Public Fund. The JFSC would expect the FSB as a minimum to be able to complete sections ZA1 and ZA2.
- 1.4.5 If the FSB:
  - (a) provides the MLCO of the Public Fund; and/or
  - (b) is delegated the responsibility to collate CDD on the Public Funds investors,

the JFSC would expect the FSB to be able to complete the whole of the Public Funds workbook.

- 1.4.6 If there is another Jersey FSB that provides the services listed in 1.4.5 then please contact the JFSC **by no later than 30 January 2020** providing alternative contact details for this FSB. Each Public Fund has only been listed once in a workbook for one FSB therefore, unless the JFSC is told that there is another Jersey FSB who should be providing the information requested, then the FSB who has the Public Fund named in its workbook will need to provide the information.
- 1.4.7 If there is no other Jersey FSB (or no alternative contact is provided by 30 January 2020) then the JFSC requests the FSB to liaise with each of the Public Funds it acts for to provide the information in the Public Funds workbook. In the event that the FSB is not able to provide any part of the data requested in relation to the Public Fund, then an explanation will need to be provided.
- 1.4.8 This data collection for ZA3 to ZA5 is on the customers of the Public Fund i.e. its investors and their beneficial owners and controllers, and third parties for whom the investors in the Public Fund act.

## 1.5 Data reporting period

- 1.5.1 The Section II data reporting period is 1/1/2019 to 31/12/2019.
- 1.5.2 Generally, the data should be provided as at the end of the reporting period (31/12/2019 or closest business day) unless otherwise specified.

## 1.6 Data submission

- 1.6.1 Whilst the JFSC will be collecting the same data as it did in 2019, FSBs 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**.
- 1.6.2 Each FSB will receive an email sent to their JFSC Portal contact indicating that there are documents available for download through the JFSC portal.
- 1.6.3 The JFSC Portal contact will be able to download the Public Funds Excel workbook which will be populated with the names of the Public Funds that the JFSC's records show the FSB provides services to.
- 1.6.4 Once the Public Funds Excel workbook has been downloaded from the website it can be forwarded to the relevant persons within the FSB for completion. However, please note that only one consolidated completed Public Funds Excel workbook per FSB should be submitted through the JFSC Portal by the JFSC Portal contact.
- 1.6.5 Notwithstanding who has responsibility for submitting the data, the governing body of the FSB and the governing body of the Public Fund should have oversight of the content of the submission made on their behalf.
- 1.6.6 With the exception of spreadsheet ZA6- *Freetext Explanations*, all parts of each question should be answered. Consequently, where there is a nil return, insert a "0" where relevant, in each row.
- 1.6.7 Where responses to any questions require further explanation please provide this on the spreadsheet ZA6- *Freetext Explanations*.
- 1.6.8 No answers are expected for Public Funds that are in liquidation, liquidated, terminating or terminated or where the FSB has ceased to act (subject to 1.4.6 and

1.4.7 above). However, for the purposes of the questionnaire, please use *ZA6: Freetext explanations* – identifying the Public Fund and providing an explanation in relation to the relevant fund of why no answers are being provided i.e. terminated / liquidated / ceased to act.

## 1.7 Integrity checking your submission

1.7.1 For each Public Fund, the following should all add to the same total number, as the questions analyse the total number of investors:

- (a) Type of investors: sum of ZA3(b)(i) to (iii)
- (c) By risk category: sum of ZA3(c)(i)(i) to (iii)
- (d) Split between retail and institutional/professional: ZA3(d)(i) + (ii).

## 1.8 Key terms

CDD	Customer due Diligence
FSB	Fund Services Business <sup>iii</sup>
MLO/Money Laundering Order	Money Laundering (Jersey) Order 2008
MLCO	Money Laundering Compliance Officer
MLRO	Money Laundering Reporting Officer
NDF	Non-Domiciled Fund (Non-Jersey Public Fund)
POC	Proceeds of Crime (Jersey) Law 1999
SBL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008

## 2 ZA1: Fund Compliance Data

### 2.1 Guidance table

Question Number	Guidance on Question
<b>Section ZA1–Fund Compliance Data</b>	
<b>ZA1(a)</b>	<p><b>Name of Fund:</b></p> <p>Auto-populated with each Public Fund name as it appears on the JFSC systems - lists each Public Fund that the FSB is required to provide information for.</p> <p>Please answer using the relevant line for each named Public Fund.</p>
<b>ZA1(b)</b>	<p><b>Principal Jurisdiction of Promoter / Instigator of the Fund:</b></p> <p><b>Select one country from dropdown provided</b></p> <p>This question is seeking the principal jurisdiction of the entity that is the driving force behind the fund. This might be the Investment Manager, Distributor or one key individual etc. Factors that may indicate an entity is the Promoter / Instigator may include:</p> <ol style="list-style-type: none"> <li>1. The name of the fund is linked to the entity.</li> <li>2. If the entity had withdrawn from the initial proposal, the fund would not have gone ahead (unlike an administrator that can be replaced).</li> <li>3. The majority of investors are being put into the fund by the entity.</li> <li>4. The entity is responsible for the instructions to set up the fund.</li> <li>5. The fund is the “brainchild” of the entity.</li> <li>6. The entity is providing the initial directors to the Public Fund’s governing body.</li> <li>7. The entity owns the management shares/otherwise has control of the governing body of the fund.</li> <li>8. The entity is financing the initial set up of the fund (which it may or may not get back).</li> <li>9. The entity has devised the investment advice, investment policy and investment strategy of the fund.</li> <li>10. The entity gets a performance fee rather than a fixed fee.</li> </ol> <p>Further guidance is available in the JFSC Promoters Policy<sup>iv</sup> and the Code of Practice for Certified Funds<sup>v</sup>.</p>
<b>ZA1(c)</b>	<p><b>Is the Promoter/Instigator of the Fund regulated/ supervised for AML/CFT purposes?</b></p> <p><b>Select yes or no from dropdown provided</b></p> <p>Indicate whether the Promoter/Instigator of the Fund is regulated and supervised for AML/CFT purposes in Jersey or elsewhere.</p> <p>Regulated and supervised for AML/CFT purposes means:</p>

Question Number	Guidance on Question
<b>Section ZA1–Fund Compliance Data</b>	
	<p>a) subject to AML/CFT requirements; and</p> <p>b) supervised for compliance with those requirements by the JFSC or an overseas regulatory authority discharging a similar function in respect of AML/CFT.</p> <p>For example: is the Promoter/Instigator of the fund a “relevant person” regulated for AML/CFT under the MLO, such as a regulated investment business?</p>
<b>ZA1(d)(i)</b>	<p><b>Is the Fund listed?</b></p> <p><b>Select yes or no from dropdown provided</b></p> <p>Indicate whether the Public Fund is listed on an exchange.</p>
<b>ZA1(d)(ii)</b>	<p><b>If the answer to ZA1(d)(i) is Yes, on what exchange(s) is the Fund listed?</b></p> <p><b>Select the Exchange from the dropdown provided</b></p> <p>There is an option to pick up to four Exchanges. In the event that the Exchange the Public Fund is listed on does not appear on this list please provide details of the Exchange on the <i>ZA6 Freetext Explanations</i> page.</p>
<b>ZA1(e)</b>	<p><b>Does the fund accept cash (coins and notes)?</b></p> <p><b>Select yes or no from the drop down</b></p> <p>This question is intended to determine the extent to which physical cash is still used in the funds sector. This does not include bank transfers, cheques or any form of virtual currency transactions.</p> <p><b>Whilst we recognise that the use of cash is minimal in the Jersey-based funds 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.</b></p>
<b>ZA1(f)(i)</b>	<p><b>Non -Jersey Public Funds need to answer this question. Jersey Public Funds do not.</b></p> <p><b>Name of the Fund's current MLRO:</b></p> <p>Provide the name of the Public Fund's current MLRO. A Public Fund that is a relevant person is required under the MLO to have an MLRO. The JFSC does not hold in its records the name of the Public Fund's MLRO.</p>



Question Number	Guidance on Question
<b>Section ZA1–Fund Compliance Data</b>	
<b>ZA1(f)(ii)</b>	<p><b>Non -Jersey Public Funds need to answer this question. Jersey Public Funds do not.</b></p> <p><b>Email address of the Fund's current MLRO:</b></p> <p>Provide the email address of the Public Fund’s current MLRO.</p>
<b>ZA1(g)(i)</b>	<p><b>Non -Jersey Public Funds need to answer this question. Jersey Public Funds do not.</b></p> <p><b>Name of the Fund's current MLCO:</b></p> <p>Provide the name of the Public Fund’s current MLCO. A Public Fund that is a relevant person is required under the MLO to have an MLCO. The JFSC does not hold in its records the name of the Public Fund’s MLCO.</p>
<b>ZA1(g)(ii)</b>	<p><b>Non -Jersey Public Funds need to answer this question. Jersey Public Funds do not.</b></p> <p><b>Email address of the Fund's current MLCO:</b></p> <p>Provide the email address of the Public Fund’s current MLCO.</p>

## 3 ZA2: Asset Compliance Data

### 3.1 Guidance table

Question Number	Guidance on Question
<b>Section ZA2–Asset Compliance Data</b>	
<b>ZA1(a)</b>	<p><b>Name of Fund:</b></p> <p>Auto-populated with each Public Fund name as it appears on the JFSC systems - lists each Public Fund that the FSB is required to provide information for.</p> <p>Please answer using the relevant line for each named Public Fund.</p>
<b>ZA2(a)</b>	<p><b>If the Investment Policy Code is E10, S06 or S07, please explain, in 5 words or less, the investment policy / asset class of the Fund. (The list of Codes are the same as those required in the “CIF/UCF application form for a Jersey fund”.)</b></p> <p>These 3 codes are non-specific therefore please provide a brief 5 word description of what the Fund invests in.</p> <p>e.g. Art, Fintech etc.</p>

## 4 ZA3: Investor Data

### 4.1 Guidance table

Question Number	Guidance on Question												
<b>Section ZA3-Investor Data</b>													
<b>ZA1(a)</b>	<p><b>Name of Fund:</b></p> <p>Auto-populated with each Public Fund name as it appears on the JFSC systems - lists each Public Fund that the FSB is required to provide information for.</p> <p>Please answer using the relevant line for each named Public Fund.</p>												
<b>ZA3(a)</b>	<p><b>Total number of investors and their principal country of residence, as at the end of the reporting period.</b></p> <p><b>Answer this question on Country Tab ZA3(a)</b></p> <p>Each of the Public Funds are listed vertically in column A and there is a choice of countries listed horizontally. Input the number of investors in each country per fund. If there are none leave the entry as "0".</p> <table border="1"> <thead> <tr> <th>Type of Investor</th><th>Guide on Country</th></tr> </thead> <tbody> <tr> <td>Individual</td><td>Country of principal residence</td></tr> <tr> <td>Company</td><td>Country of incorporation</td></tr> <tr> <td>Limited Partnership</td><td>Country of registration/establishment</td></tr> <tr> <td>Foundation</td><td>Country of incorporation</td></tr> <tr> <td>Trust</td><td>Country of incorporation of Trustee</td></tr> </tbody> </table>	Type of Investor	Guide on Country	Individual	Country of principal residence	Company	Country of incorporation	Limited Partnership	Country of registration/establishment	Foundation	Country of incorporation	Trust	Country of incorporation of Trustee
Type of Investor	Guide on Country												
Individual	Country of principal residence												
Company	Country of incorporation												
Limited Partnership	Country of registration/establishment												
Foundation	Country of incorporation												
Trust	Country of incorporation of Trustee												
<b>ZA3(b)</b>	<p><b>Number of type of investors: (i) Individual; (ii) Legal Person; (iii) Legal Arrangement.</b></p> <p>Insert the number of each of these types of investors.</p> <p>A legal person will be a company, incorporated limited partnership, incorporated cells etc.</p> <p>A legal arrangement will be a limited partnership, trust etc.</p> <p>If the investor is a non Jersey entity pick the designation (ii) or (iii) that matches it best. If this is not possible explain the nature of the entity and provide its principal country in <i>ZA6 Freetext Explanations</i>.</p>												

Question Number	Guidance on Question
<b>Section ZA3-Investor Data</b>	
ZA3(c)(i)	<p><b>Number of investors in each category of risk (as defined by the fund) as at the end of the reporting period: (i) Lower; (ii) Standard; (iii) Higher.</b></p> <p>Question <b>ZA3(c)(i)</b> requests data about the <u>number of investors that have been assessed as presenting a higher, standard or lower ML/TF risk</u> (on the basis of factors set out in sections 3.3.4 and 14.2.3 of the AML/CFT Handbook).</p> <p>Where use is made of a more precise risk scoring scale, it will be necessary to determine which categories in that scale approximate to higher<sup>vi</sup>, standard or lower risk. For example, if a Public Fund 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.</p> <p>If a Public Fund includes other factors in its customer risk rating of its investors e.g. commercial risk and the ML/TF risk element cannot be reported separately, please report the combined risk rating.</p>
ZA3(c)(ii)	<p><b>Do the Funds risk ratings of its investors include factors other than money laundering and the financing of terrorism?</b></p> <p><b>Select yes or no from dropdown provided</b></p> <p>Please indicate whether the risk rating is only related to money laundering and the financing of terrorism. The Public Fund may take into consideration other factors such as investor eligibility risk.</p> <p>Yes- other factors No –if only AML/CFT factors</p>
ZA3(d)	<p><b>Number of investors that are: (i) retail; (ii) institutional/professional.</b></p> <p>Insert the number of each of these types of investors.</p>
ZA3(e)	<p><b>Number of investors regulated and supervised for AML/CFT.</b></p> <p>Indicate how many investors in the Public Fund are regulated and supervised for AML/CFT purposes in Jersey or elsewhere.</p> <p>Regulated and supervised for AML/CFT purposes means:</p> <ul style="list-style-type: none"> <li>a) subject to AML/CFT requirements; and</li> <li>b) supervised for compliance with those requirements by the JFSC or an overseas regulatory authority discharging a similar function in respect of AML/CFT.</li> </ul>

Question Number	Guidance on Question
<b>Section ZA3-Investor Data</b>	
	<p>For example, an individual living and working in Jersey is unlikely to be regulated for AML/CFT unless they are a relevant person such as: (i) a lawyer/accountant (a financial services business as described in Schedule 2, Part B of the POC); or (ii) a Class G director (a holder of a Trust Company Business class of financial service business issued under the Financial Services (Jersey) Law 1998).</p>
<b>ZA3(f)</b>	<p><b>Number of investors and their beneficial owners and controllers where enhanced CDD measures have been applied:</b></p> <p>This question is designed to get a general feel for the extent to which enhanced CDD is obtained in relation to investors.</p> <p>This question requires the total number of investors and their beneficial owners and controllers who have had enhanced CDD measures applied during 2019 for any of the specific reasons listed in Section 7 of the AML/CFT Handbook or as a result of the application of an entity CDD policy.</p> <p>In addition to a Public Fund deciding that an investor presents a higher risk of money laundering or financing terrorism, there are some circumstances, set out in Articles 15 and 15A of the Money Laundering Order, where enhanced CDD measures are required. <b>See also section 7 of the AML/CFT Handbook which details scenarios where enhanced CDD must be applied.</b></p> <p>The following scenarios are considered most relevant for a Public Fund:</p> <ul style="list-style-type: none"> <li>a) the investor is, or some other prescribed person is, a politically exposed person (PEP) (section 7.6)</li> <li>b) the investor has a “relevant connection” to an “enhanced risk state” (section 7.5)</li> <li>c) the investor is a company with nominee shareholders or issues bearer shares (section 7.10)</li> <li>d) the investor is a personal asset holding vehicle (section 7.9)</li> <li>e) the investor, or one or more beneficial owners/controllers of the investor, is not physically present for identification purpose (section 7.4) or</li> <li>f) the investor is a non-Jersey resident (section 7.7)</li> </ul> <p>For example – <b>every individual investor in a Public Fund who is not a Jersey resident individual will need to have enhanced CDD applied to them.</b></p> <p>Where the investor is not an individual but for example a company or a limited partnership, then not only the jurisdiction of the company/limited partnership will need to be considered, but so will its beneficial owners and controllers.</p> <p>For example: if you have a Jersey company which is controlled by its board of 3 directors, 2 are Jersey resident and 1 is UK resident, then enhanced CDD will be applied to that 1 UK resident director, so the Jersey company/limited</p>

Question Number	Guidance on Question
<b>Section ZA3-Investor Data</b>	
	<p>partnership will need to be reported as 1 investor who has had enhanced CDD applied.</p> <p>Questions ZA3(g) to ZA3(i) request data on 3 particular reasons for enhanced CDD being applied.</p>
<b>ZA3(g)</b>	<p><b>Total number and jurisdiction of PEPs who are, or are connected with investors (including via beneficial owners and controllers).</b></p> <p><b>Answer this question on Country Tab ZA3(g)</b></p> <p>Each of the Public Funds are listed vertically in column A and there is a choice of countries listed horizontally. Input the number of Politically Exposed Persons (<b>PEPs</b>) in each country per fund. If there are none leave the entry as "0".</p> <p>This question requires the number of investors to which enhanced CDD measures have been applied due to a PEP connection.</p> <p>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:</p> <ul style="list-style-type: none"> <li>a) a domestic politically exposed person only where a high-risk business relationship or high-risk one-off transaction is involved (<b>domestic PEP</b>);</li> <li>b) a foreign politically exposed person (<b>foreign PEP</b>);</li> <li>c) a prominent person;</li> <li>d) individuals falling within (a), (b) or (c) that are: <ul style="list-style-type: none"> <li>› beneficial owners or controllers of an investor;</li> <li>› a third party for whom the investor acts AND the third parties beneficial owners or controllers ;</li> <li>› purporting to act on behalf of the investor.</li> </ul> </li> </ul> <p>When considering whether an investor 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.</p> <p>The information to be considered when deciding if an investor is a close associate of a domestic PEP or foreign PEP is limited to information in the possession of the Public Fund or information that is publicly known (Article 15A(4) of the Money Laundering Order).</p> <p>PEPs should be reported under the country (or countries) which give rise to their PEP status. For example, in a case where an individual is entrusted with</p>

Question Number	Guidance on Question
<b>Section ZA3-Investor Data</b>	
	a public function in country A and the close family member of that foreign PEP resides in country B, both PEPs should be reported under country A.
<b>ZA3(h)</b>	<p><b>Number of investors that have a relevant connection to an enhanced risk state (including via beneficial owners and controllers).</b></p> <p>Using the response to question <b>ZA3(f)</b> as a base for responding, this question <b>ZA3(h)</b> requires the number of investors (including via beneficial owners and controllers) to which enhanced CDD measures have been applied because of a connection to an enhanced risk state. As at 31 December 2019 the following were listed:</p> <ul style="list-style-type: none"> <li>a) Iran and</li> <li>b) The Democratic People's Republic of Korea (North Korea).</li> </ul> <p>Section 7.5 of the AML/CFT Handbook provides further guidance, including an example of what may constitute a relevant connection.</p> <p>For example: an investor's source of funds is, or derives from:</p> <ul style="list-style-type: none"> <li>a) assets held in either Iran or North Korea by the investor or any person on behalf of an investor; or</li> <li>b) income arising in Iran or North Korea.</li> </ul>
<b>ZA3(i)</b>	<p><b>% of investors that are individuals that have not been met.</b></p> <p><b>Select 0-20, 21-40, 41-60, 61-80, 81-100 from the drop down</b></p> <p>An investor may be considered to have been met for the purposes of this question where they have been met and seen by (physically or through video conferencing facilities):</p> <ul style="list-style-type: none"> <li>a) any member of the board of the governing body of the Public Fund,</li> <li>b) by an employee or director of any one of the fund service providers acting for the Public Fund (provided it is regulated and supervised for AML/CFT purposes),</li> <li>c) by an employee or director of a company in the same group as the Public Fund, the governing body of the Public Fund or the fund service providers acting for the Public Fund (provided they are regulated and supervised for AML/CFT purposes).</li> </ul>
<b>ZA3(j)</b>	<p><b>How are investor relationships monitored?</b></p> <p><b>Select from dropdown provided</b></p> <ul style="list-style-type: none"> <li>Trigger events</li> <li>Scheduled reviews</li> </ul>

Question Number	Guidance on Question
<b>Section ZA3-Investor Data</b>	
	<p>Electronic screening</p> <p>All of the above</p> <p>Other</p> <p>Transaction monitoring may arise in an administrative context such as spot checks by compliance (scheduled or triggered by transactions) or as part of a transaction where checks are undertaken as to whether a transaction matches a profile of expected activity.</p> <p><b>Trigger events</b> – such as payments in and distributions to the investor, change of address, change of bank account, deviation from investor profile and expected transactions etc.</p> <p><b>Scheduled review</b>- a periodic review based on the risk rating of the investor, with higher risk investor scheduled reviews taking place more frequently than lower risk investors.</p> <p><b>Electronic screening</b> – for PEPS, Sanctions and/or intelligence such as judgements or news alerts.</p> <p><b>Other/All of the above</b> - Please use <b>Other</b> in the event that additional types of monitoring are undertaken and explain what is done in <b>ZA6</b>. Also choose <b>Other</b> if not <b>All of the above</b> is done but more than one. Please explain in <b>ZA6</b> what is done.</p> <p>In the event that investor relationships are not monitored please choose <b>Other</b> and explain why investor relationships are not monitored in <b>ZA6</b>.</p>



## 5 ZA4: Beneficial Owner, Controller and Third Party Data

### 5.1 Guidance table

Question Number	Guidance on Question
<b>Section ZA4–Beneficial Owner, Controller and Third Party Data</b>	
<b>ZA1(a)</b>	<p><b>Name of Fund:</b></p> <p>Auto-populated with each Public Fund name as it appears on the JFSC systems - lists each Public Fund that the FSB is required to provide information for.</p> <p>Please answer using the relevant line for each named Public Fund.</p>
<b>ZA4(a)</b>	<p><b>Total number and principal country of residence of individuals who are the beneficial owner or controller of an investor that is not an individual, as at the end of the reporting period.</b></p> <p><b>Answer this question on Country Tab ZA4(a)</b></p> <p>Each of the Public Funds are listed vertically in column A and there is a choice of countries listed horizontally. Input the number of beneficial owners and controllers of each investor, by <u>principal country of residence</u> per Public Fund. If there are none leave the entry as “0”.</p> <p>The <u>principal country of residence</u> of the beneficial owners and controllers of investors who are not individuals, is recognised as a key factor in determining the riskiness of an investor– section 3 of the AML/CFT Handbook provides further guidance.</p> <p>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 an investor that is a legal person<sup>vii</sup>. 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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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).</li> </ol>

Question Number	Guidance on Question
<b>Section ZA4–Beneficial Owner, Controller and Third Party Data</b>	
<b>ZA4(b)</b>	<p><b>Total number and principal country of residence of third parties on whose behalf an investor is acting, as at the end of the reporting period.</b></p> <p><b>Answer this question on Country Tab ZA4(b)</b></p> <p>Each of the Public Funds are listed vertically in column A and there is a choice of countries listed horizontally. Input the number of third parties for whom investors are acting for by <u>principal country of residence</u> per fund. If there are none leave the entry as “0”.</p> <p>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 Public Fund on behalf of the legal arrangement and who will be considered to be the investor(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).</p> <p>In these cases the Public Fund should have identified the persons for whom the investor 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:</p> <ul style="list-style-type: none"> <li>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 owners or controllers of that legal person (Article 3(2)(b)(ii) of the Money Laundering Order).</li> <li>b) In a case where a third party is a trust (other than a collective investment fund), data should be provided on: <ul style="list-style-type: none"> <li>› the settlor<sup>viii</sup>;</li> <li>› the protector;</li> <li>› beneficiaries with a vested right;</li> <li>› other beneficiaries and persons who are the object of a power that have been identified as presenting a higher risk; and</li> <li>› any other person who exercises ultimate effective control over the trust (Article 3(7) of the Money Laundering Order).</li> </ul> </li> <li>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).</li> </ul> <p>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)).</p>

## 6 ZA5: Concessions Data

### 6.1 General

- 6.1.1 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** (client identification and verification), **16** (reliance on obliged persons), **16A** (persons in the same financial group) and **Part 3A** (CDD exemptions).
- 6.1.2 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 31 December 2019 questions should be answered for the whole of 2019.
- 6.1.3 The following table provides guidance on the period to be covered by each question:

Question	Data period	Date(s)
<b>Global Concessions</b>		
ZA5(a)	During the reporting period	1/1/2019 – 31/12/2019
<b>Client identification and verification (Article 13)</b>		
ZA5(b)	At end of reporting period	31/12/2019 or closest business day
ZA5(c)	During the reporting period	1/1/2019 – 31/12/2019
<b>Reliance on obliged persons (Article 16 and 16A of the MLO)</b>		
ZA5(d)(i)	At end of reporting period	31/12/2019 or closest business day
ZA5(d)(ii)	At end of reporting period	31/12/2019 or closest business day
<b>Exemptions from applying third party identification requirements (Articles 17B-D of the MLO)</b>		
ZA5(d)(iii)	At end of reporting period	31/12/2019 or closest business day
ZA5(d)(iv)	At end of reporting period	31/12/2019 or closest business day
ZA5(d)(v)	At end of reporting period	31/12/2019 or closest business day
ZA5(d)(vi)	At end of reporting period	31/12/2019 or closest business day
<b>Further exemptions from applying identification requirements (Article 18 of the MLO)</b>		
ZA5(d)(v)	During the reporting period	1/1/2019 – 31/12/2019
ZA5(d)(vi)	During the reporting period	1/1/2019 – 31/12/2019
ZA5(d)(vii)	During the reporting period	1/1/2019 – 31/12/2019

ZA5(d)(viii)	During the reporting period	1/1/2019 – 31/12/2019
ZA5(d)(ix)	During the reporting period	1/1/2019 – 31/12/2019

## 6.2 Guidance table

Question Number	Guidance on Question
<b>Section ZA5–Concessions Data</b>	
<b>ZA1(a)</b>	<p><b>Name of Fund:</b></p> <p>Auto-populated with each Public Fund name as it appears on the JFSC systems - lists each Public Fund that the FSB is required to provide information for.</p> <p>Please answer using the relevant line for each named Public Fund.</p>
<b>ZA5(a)</b>	<p><b>Total number of individuals/entities to whom concessions have been applied who are investors or connected to investors in the Public Funds (including via beneficial owners and controllers or as third parties for whom the investor acts).</b></p> <p>The JFSC is seeking to understand the frequency of the use of concessions. Consequently, this question is designed to elicit the total number of concessions applied to investors by the Public Fund. It is acknowledged that more than one concession may be utilised for the same investor.</p> <p>The response to this question should equal the sum of ZA5(d)(i) to (ix).</p>
<b>ZA5(b)</b>	<p><b>Number of investors, 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.</b></p> <p>Article 13(2) of the Money Laundering Order provides for the timing of identification measures for the existing investors of a Public Fund at the time the Money Laundering Order came into force – 4 February 2008.</p> <p>Article 13(2) sets out very particular circumstances which enabled a Public Fund to delay verification of an investor’s identity – section 4.7.3 of the AML/CFT Handbook provides further guidance.</p> <p>A Public Fund should have finalised the position of its existing investors by 31 December 2014, unless a later date has been agreed by the JFSC (paragraphs 208 and 209 of section 4.7.3 of the AML/CFT Handbook). Consequently, it is expected that most Public Funds will report “0” in respect of <b>ZA5(b)</b>.</p>
<b>ZA5(c)</b>	<p><b>Number of investors where delayed verification in line with Article 13(4) of the MLO was applied.</b></p>

Question Number	Guidance on Question						
<b>Section ZA5–Concessions Data</b>							
	<p>In accordance with Article 13(4) of the Money Laundering Order a Public Fund is permitted to delay verifying the identity of an investor where (finding out the identity of the investor must not be delayed):</p> <ul style="list-style-type: none"> <li>a) it is necessary not to interrupt the normal course of business;</li> <li>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</li> <li>c) evidence of identity is obtained as soon as reasonably practicable.</li> </ul> <p>Question <b>ZA5(c)</b> collects data about the <u>number of investors where delayed verification</u> in line with Article 13(4) of the Money Laundering Order has been applied.</p> <p>If a Public Fund has not delayed the verification of any investors identity during the data reporting period, please respond with “0”.</p>						
<b>ZA5(d)</b>	<p><b>In relation to the answer to ZA5(d) please indicate the numbers of individuals / entities to whom each of the concessions apply:</b></p> <table border="1" data-bbox="469 1061 1388 1301"> <tr> <td><b>Reliance</b></td><td><b>Articles 16 and 16A</b></td></tr> <tr> <td><b>Exemptions from applying third party identification requirements</b></td><td><b>Articles 17B-D</b></td></tr> <tr> <td><b>Other CDD exemptions</b></td><td><b>Article 18</b></td></tr> </table> <p>This question is designed to analyse the number of types of concessions applied to investors, their beneficial owners and controllers and third parties for whom the investor acts during the CDD process.</p> <p><b>Reliance – Article 16</b></p> <p>In line with Article 16 of the Money Laundering Order, <u>reliance</u> 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:</p> <ul style="list-style-type: none"> <li>a) limiting the number of obliged persons that can be relied upon; and</li> <li>b) requiring the basis for placing reliance to be recorded in writing.</li> </ul> <p>In line with Article 16A of the Money Laundering Order, <u>reliance</u> may be placed on an obliged person that is part of the same financial group only where the six conditions, explained in section 5.2 of the AML/CFT Handbook, are met. The effect of this is similar to Article 16.</p> <p>This question is not seeking the number of entities upon which reliance is placed it is seeking <b>the number of investors</b> where reliance has been used in the CDD process. This might be where reliance is used in relation to the investor or any beneficial owners or controllers of the investor. For example</p>	<b>Reliance</b>	<b>Articles 16 and 16A</b>	<b>Exemptions from applying third party identification requirements</b>	<b>Articles 17B-D</b>	<b>Other CDD exemptions</b>	<b>Article 18</b>
<b>Reliance</b>	<b>Articles 16 and 16A</b>						
<b>Exemptions from applying third party identification requirements</b>	<b>Articles 17B-D</b>						
<b>Other CDD exemptions</b>	<b>Article 18</b>						

Question Number	Guidance on Question
<b>Section ZA5–Concessions Data</b>	
	<p>if reliance is used in relation to both the investor and its 4 beneficial owners and controllers, then this would count as 1 investor.</p> <p><b>Exemptions from applying third party identification requirements- Articles 17B-D</b></p> <p>In line with Articles 17B-D of the Money Laundering Order, a Public Fund may apply <u>CDD exemptions</u> and not find out the identity of a third party on whose behalf a customer acts or obtain evidence of identity. The application of the exemption is dependent upon the status of the customer and in some circumstances the Public Fund.</p> <p>The Public Fund may apply <u>exemptions from applying third party identification requirement</u> in 4 circumstances if the Public Fund has reasonable grounds for believing that its investor is:</p> <ul style="list-style-type: none"> <li>a) regulated and supervised by the JFSC for AML/CFT purposes;</li> <li>b) a person who carries on equivalent business (refer to Section 1.7 of the AML/CFT Handbook); or</li> <li>c) a person who is wholly-owned by a person listed above and meets certain conditions.</li> </ul> <p>The application of exemptions from third party identification measures is also always subject to one or more conditions (depending on the particular case). In practice, these provisions have the effect of:</p> <ul style="list-style-type: none"> <li>a) limiting the number of investors to which exemptions can be applied; and</li> <li>b) requiring the basis for applying exemptions to be recorded in writing.</li> </ul> <p>The four circumstances are:</p> <ul style="list-style-type: none"> <li>a) Article 17B(1): customer/or parent of customer is a JFSC regulated (or equivalent business) deposit-taker, fund, insurer, investment business or fund services business</li> <li>b) Articles 17C(1)(a) and 17C(1)(b): customer is or carries on business in respect of an Unregulated Fund or non-public fund (or equivalent business)</li> <li>c) Article 17C(1)(c)(i): where the relevant person is a deposit-taker and investor is a TCB (or equivalent business)</li> <li>d) Article 17C(1)(d): where the relevant person is a deposit-taker and investor is a lawyer (or equivalent business)</li> </ul> <p>This question is seeking <b>the number of investors</b> where third parties who it acts for have not been identified pursuant to Articles 17B-D. For example 1 regulated bank (the investor) acts on behalf of 10 clients. The number of investors to whom this concession relates is 1 and should be reported as 1.</p> <p><b>Further CDD exemptions – Article 18</b></p>

Question Number	Guidance on Question
Section ZA5–Concessions Data	
	<p>Article 18 of the Money Laundering Order sets out a number of very specific circumstances where a Public Fund may be able to apply further CDD exemptions to its investors. See sections 7.13 - 7.16 of the AML/CFT Handbook for further guidance. Not all of these CDD exemptions have the same effect. Investors to whom CDD exemptions have been applied could include:</p> <ul style="list-style-type: none"> <li>a) Article 18(2) – pension, superannuation, employee benefit, share option or similar scheme</li> <li>b) Article 18(1) – insurance policies</li> <li>c) Article 18(4) – public authorities, companies listed on an IOSCO-compliant market or regulated market</li> <li>d) Article 8(3) – regulated businesses or equivalent</li> <li>e) Article 18(5)– employees of regulated businesses or equivalent</li> </ul> <p>This question is seeking <b>the number of investors</b> to whom CDD exemptions have been applied pursuant to Article 18.</p>

## 7 ZA6: Freetext Explanations

### 7.1 Guidance table

Question Number	Guidance on Question
Section ZA6: Freetext Explanations	
ZA6	<p>If any explanation of an answer to a question in <b>ZA1</b> to <b>ZA5</b> is required then use this page.</p> <p>Identify the Public Fund and the question number when providing the explanation.</p> <p>Examples of matters which may be included here:</p> <ol style="list-style-type: none"> <li>Where a Public Fund is in liquidation, has been liquidated, is terminating or has terminated or where the FSB has ceased to act (subject to 1.4.6 and 1.4.7 above) responses are not required for each question but please identify here the Public Fund and an explanation as to their status i.e. terminated/liquidated/FSB ceased to act.</li> <li>Where the answer to ZA3(j), is <b>Other</b> and further explanation is needed such as to why an investor relationship is not monitored or another type of monitoring is used.</li> </ol>

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- <sup>i</sup> For Recognized Fund Functionaries please read the reference to FSB as if it were a reference to a Recognized Fund Functionary.
  - <sup>ii</sup> Industry update: [2019 and 2020 Supervisory Risk Data Collection Exercise](#)
  - <sup>iii</sup> For Recognized Fund Functionaries please read the reference to FSB as if it were a reference to a Recognized Fund Functionary.
  - <sup>iv</sup> Promoter Policy available at: <https://www.jerseyfsc.org/industry/guidance-and-policy/promoter-policy/>
  - <sup>v</sup> Code of Practice for Certified Funds available at: <https://www.jerseyfsc.org/industry/codes-of-practice/certified-funds-code-of-practice/>
  - <sup>vi</sup> Section 2.4.1 of the AML/CFT Handbook (paragraph 32) explains that a fund 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 investors that have been assessed as presenting a higher risk.
  - <sup>vii</sup> 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 fund is most likely to deal with legal persons that are companies therefore the text has been amended accordingly.
  - <sup>viii</sup> Excluding a settlor of a trust who is deceased in line with paragraph 72 of section 4.4 of the AML/CFT Handbook.