



Jersey Financial
Services Commission

Guide to Section II of risk based supervision data: Investment business

Issued: 20 December 2019

Table of Contents

1	General guidance	4
1.1	Scope	4
1.2	Excel workbook	5
1.3	Clients.....	5
1.4	Data reporting period.....	6
1.5	Data Submission	6
1.6	Integrity checking your submission.....	6
2	Section N – Investment business compliance data.....	9
2.1	Overview	9
2.2	Risk Rating.....	9
2.3	Declined, terminated and withdrawn business.....	10
2.4	Referred business.....	11
2.5	Cash transactions	13
2.6	Client assets	13
2.7	Transaction monitoring.....	13
2.8	General Comments	14
3	Sections OA to OD – IB client data	15
3.1	Client data overview	15
3.2	Client data	16
3.3	Enhanced CDD measures	17
3.4	Other client characteristics	25
4	Section P – Beneficial ownership	29
4.1	General.....	29
4.2	Clients who are individuals and beneficial owners or controllers of clients that are not individuals.....	29
4.3	Client acting on behalf of a third party	31
5	Section Q – Use and application of concessions granted by the Money Laundering Order	33
5.1	General.....	33
5.2	Client identification and verification	34
5.3	Reliance on obliged persons and persons in the same financial group (Articles 16 and 16A of the MLO)	34
5.4	Exemption from applying third party identification requirements (Articles 17B-D of the MLO)	36
5.5	Further exemptions from applying identification requirements (Article 18 of the MLO).....	37

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 2019¹, 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 investment business, except those registered to carry on Class E investment business (see 1.1.4 below).
- 1.1.3 Investment business is a financial services business activity as set out in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, specifically paragraph 4 of Part A of Schedule 2. Investment business is defined in Article 2(2) of the Financial Services (Jersey) Law 1998 (FS(J)L) as follows:
- (2) A person carries on investment business if the person –*
- (a) deals in investments, that is, the person buys, sells, subscribes for or underwrites investments, either as principal or as agent;*
 - (b) undertakes discretionary investment management, that is, the person decides as agent to buy, sell, subscribe for or underwrite investments on behalf of a principal;*
 - (c) gives investment advice, that is, the person gives to persons in their capacity as investors or potential investors advice on the merits of –*
 - (i) the purchase, sale, subscription for or underwriting of a particular investment, or*
 - (ii) the exercise of a right conferred by an investment to acquire, dispose of, underwrite or convert the investment.*
- 1.1.4 The Schedule to the Financial Services (Financial Service Business) (Jersey) Order 2009 (Financial Service Business Order) specifies 5 classes of investment business

Class	Description	FS(J)L Article
A	<i>Dealing in investments.</i>	2(2)(a)
B	<i>Managing investments.</i>	2(2)(b)
C	<i>Giving investment advice when not prevented from holding client assets by virtue of a condition of registration.</i>	2(2)(c)
D	<i>Giving investment advice when prevented from holding client assets by virtue of a condition of registration.</i>	2(2)(c)
E	<i>Investment business carried on only with respect to funds that would be funds within the meaning of the Collective Investment Funds (Jersey) Law 1988 but for the fact that they do not, and do not intend to, acquire capital by means of an offer to the</i>	

Class	Description	FS(J)L Article
	<i>public of units for subscription, sale or exchange, as described in that Law.</i>	

- 1.1.5 Please note that acting as an investment manager or investment adviser to a public fund is regulated as fund services business under Classes X and Y of the Financial Service Business Order respectively. Data in respect of investment manager and investment adviser classes of fund services business will be collected as part of Section II risk based supervision data: Fund Services Business and should not be reported here.

1.2 Excel workbook

- 1.2.1 The Excel workbook for a reporting entity carrying on investment business comprises 8 spreadsheets, as follows:
- (a) N – IB Compliance Data
 - (b) OA – IB Client data Class A
 - (c) OB – IB Client data Class B
 - (d) OC – IB Client data Class C
 - (e) OD – IB Client data Class D
 - (f) P – IB - Beneficial Ownership
 - (g) Q – IB Use and application of concessions granted by the MLOⁱⁱ
 - (h) R – IB Country List
- 1.2.2 Spreadsheet R is an input sheet for the responses to questions N8(i) to (iv), P1, P2, Q4, Q5 and Q8.

1.3 Clients

- 1.3.1 An investment business is required to complete the spreadsheets in respect of their clients.
- 1.3.2 A client is a person with whom the investment business transacts or has transacted business which falls within the definition set out in 1.1.3 above.
- 1.3.3 It is understood that an investment business may transact more than one type of investment business with a client. There are instances where the client should be reflected in all relevant spreadsheets. The JFSC acknowledges that this will result in an element of client double counting.
- 1.3.4 For example, where Class A (dealing) services are provided as an ancillary service to Class B (managing) or Class C (advisory) services, the whole of this client/portfolio should be recorded under the column relating to the primary services, namely Class B or Class C.
- 1.3.5 In contrast, if a client has separate dealing and managed and/or advisory portfolios, these should be recorded separately
- 1.3.6 An example where a client should be reported twice:
Mr X may transact the following investment business with investment business Y:
- (a) Investment business Y may already be managing a portfolio of investments for Mr X on a managed basis (Class B); and

- (b) Mr X seeks investment advice in relation to a GBP 50,000 which he has acquired as a redundancy payment (Class C).

In this case the Investment business would have one client but would need to report client data on both spreadsheet OB and OC.

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, investment businesses 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 investment business will be submitting a completed Excel Workbook for Section II through the JFSC Portal, and each investment business 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 investment business 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 investment businesses 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 an investment business 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 investment business 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 An investment business should complete all parts of each question on the relevant spreadsheets, with the exception of spreadsheet *R-IB-Country list* where it is not necessary to insert a "0" against each country.

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 1.6.5 should be completed.
- 1.6.2 N1 analyses an investment business's client base into the risk ratings applied, split by class of investment business. The class of business totals in N1 should therefore agree to the analysis of the total number of clients by client type (OA1, OB1, OC1 and OD1):

- (a) **Class A:** sum of N1(a)(i) to N1(c)(i) should equal the sum of OA1(a)(i) to (viii)
 - (b) **Class B:** sum of N1(a)(ii) to N1(c)(ii) should equal the sum of OB1(a)(i) to (viii)
 - (c) **Class C:** sum of N1(a)(iii) to N1(c)(iii) should equal the sum of OC1(a)(i) to (viii)
 - (d) **Class D:** sum of N1(a)(iv) to N1(c)(iv) should equal the sum of OD1(a)(i) to (viii)
- 1.6.3 N1(a) records those clients of an investment business that have been rated as presenting a higher risk, split by class of investment business. Consequently, the analysis of the total number of higher risk clients by client type (OA3(a), OB3(a), OC3(a) and OD3(a)) should agree to N1(a):
- (a) **Class A:** sum of OA3(a)(i) to (viii) should equal N1(a)(i)
 - (b) **Class B:** sum of OB3(a)(i) to (viii) should equal N1(a)(ii)
 - (c) **Class C:** sum of OC3(a)(i) to (viii) should equal N1(a)(iii)
 - (d) **Class D:** sum of OD3(a)(i) to (viii) should equal N1(a)(iv)
- 1.6.4 Within the Client data spreadsheets there is an analysis of the application of enhanced CDD measures by number and value, the following checks can be applied to this data:
- (a) **Class A:** the number or value, in:
 - › OA2 should not exceed that in OA1
 - › OA3 to OA11 should not exceed that in OA2
 - › OA11 should not exceed OA9 or OA10
 - › OA11 should not exceed OA4
 in any given column.
 - (b) **Class B:** the number or value, in:
 - › OB2 should not exceed that in OB1
 - › OB3 to OB11 should not exceed that in OB2
 - › OB11 should not exceed OB9 or OB10
 - › OB11 should not exceed OB4
 in any given column.
 - (c) **Class C:** the number or value, in:
 - › OC2 should not exceed that in OC1
 - › OC3 to OC11 should not exceed that in OC2
 - › OC11 should not exceed OC9 or OC10
 - › OC11 should not exceed OC4
 in any given column.
 - (d) **Class D:** the responses, in:
 - › OD2 should not exceed that in OD1(a)
 - › OD3 to OD11 should not exceed that in OD2
 - › OD11 should not exceed OD9 or OD10
 - › OA11 should not exceed OD4
 in any given column.

- 1.6.5 With respect to exemptions from CDD identification measures, Q11(a) provides the total number of clients to which these have been applied, this number is then analysed into the cases therefore Q11(a) should equal the sum of Q11(b) to (f).

2 Section N – Investment business compliance data

2.1 Overview

- 2.1.1 This section collects data on:
- (a) client 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 clients are obtained on the basis of referrals from other businesses)
 - (d) cash transactions (the extent to which cash is used)
 - (e) client assets under management; and
 - (f) transaction monitoring
- 2.1.2 The responses to the following data requests should be provided by class of business: N1; N3; N5; N6; N7; and N11.

2.2 Risk Rating

N1 Number of clients in each category of risk (as defined by the investment business) as at the end of the data reporting period

N2 Do the investment business's risk ratings include factors other than money laundering and the financing of terrorism? (Yes ; No) If Yes, please provide details at N16(a)

- 2.2.1 Question **N1** requests data about the number of clients 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).
- 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 an investment business 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 an investment business includes other factors e.g. commercial risk, in its risk rating of clients 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 **N2** and provide details at **N16(a)** (free text box) of the other factors included.
- 2.2.5 Please provide an answer for every element of N1.
For example an investment business which carries on Class A, B and C investment business and who includes factors other than money laundering and the financing of terrorism when risk rating a client, may have a response as follows:

	(i) Class A	(ii) Class B	(iii) Class C	(iv) Class D
N1(a) – Higher	0	2	5	0
N1(b) – Medium	4	15	25	0
N1(c) – Lower	6	10	54	0
N2	Choose “No” from the dropdown			

2.2.6 N1 analyses an investment business’s client base into the risk ratings applied, split by class of investment business. The class of business totals in N1 should therefore agree to the analysis of the total number of clients by client type (OA1, OB1, OC1 and OD1):

- (a) **Class A:** sum of N1(a)(i) to N1(c)(i) should equal the sum of OA1(a)(i) to (viii)
- (b) **Class B:** sum of N1(a)(ii) to N1(c)(ii) should equal the sum of OB1(a)(i) to (viii)
- (c) **Class C:** sum of N1(a)(iii) to N1(c)(iii) should equal the sum of OC1(a)(i) to (viii)
- (d) **Class D:** sum of N1(a)(iv) to N1(c)(iv) should equal the sum of OD1(a)(i) to (viii)

N3 If the investment business risk rates any beneficial owners/controllers of clients, or other persons who must be identified under Article 3 of the MLO, the number in each category of risk (as defined by the investment business) as at the end of the data reporting period

N4 Do the investment business’s risk ratings include factors other than money laundering and the financing of terrorism? (Yes ; No ; N/A) If Yes, please provide details at N16(b)

2.2.7 It is not a requirement of the MLO or AML/CFT Handbook for an investment business to risk rate the beneficial owners and controllers of their clients. However, the JFSC would like to understand the extent to which this happens in practice.

2.2.8 If an investment business does risk rate any beneficial owners and controllers of their clients, question **N3** and **N4** should be answered. The guidance in 2.2.2 and 2.2.3 should be followed where appropriate.

2.2.9 It is understood that an investment business may risk rate some but not all beneficial owners and controllers of their investment business clients, in this case please respond with respect to those that are risk rated.

2.2.10 If an investment business does not risk rate any beneficial owners and controllers of their clients, please insert a “0” in all cells **N3(a)-(c)** and select “N/A” from the drop down menu at **N4**.

2.3 Declined, terminated and withdrawn business

N5 Number of applications from prospective clients to either (i) establish a business relationship, or (ii) carry out a one-off transaction, declined due to CDD issues or other financial crime concerns, during the data reporting period

N6 Number of business 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 N5 and N6 request data about:

- (a) the number of prospective business relationships or one-off transactions that have been declined (N5); and
- (b) business relationships that have been terminated due to CDD issues or other financial crime concerns (N6).

This will include cases where:

- › it has not been possible to complete identification measures (before or during a client 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 investment business'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 business relationship or carry out a one-off transaction is handled by a third party, e.g. a trust company business, and where there is no direct contact with the prospective client; and
- (b) an application to form a business 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 all cells relating to N5 and N6 if no prospective clients have been declined or clients terminated.

N7 **Number of applications from prospective clients who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)**

2.3.4 Question **N7** collects data on client 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 an investment business. 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. trust company business, and where there is no direct contact with the prospective client.

2.4 Referred business

2.4.1 Questions N8, N9 and N10 request data about those persons who referred clients to an investment business on a regular basis during the data reporting period.

2.4.2 Where business is referred to an investment business but neither a one-off transaction nor client relationship result this is not considered referred business for the purpose of responding to N8, N9 and N10.

2.4.3 Persons who refer clients to an investment business may be third parties such as lawyers, accountants and trust company businesses.

2.4.4 Additionally, if an investment business 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 investment business is part of a group/company that has a Guernsey company/branch then referrals from the Guernsey operation should be reported subject to 2.4.5.

2.4.5 The following should not be reported as persons who refer clients:

- (a) a third party or group entity that acts as an obliged person (Article 16 of the Money Laundering order) or a person in the same financial group where reliance has been placed (Article 16A of the Money Laundering Order) (data on these persons is collected through spreadsheet Q (Use of MLO concessions)); or
- (b) a client acting on behalf of one or more third parties (data on these persons is collected through spreadsheet P (3rd party and beneficial ownership)); or
- (c) a person who refers clients on a basis that cannot be considered regular. The meaning of regular will vary by investment business and will depend on a number of factors such as the size of their current client base and the amount of referred business.

2.4.6 Note: A person may be classified as having referred business even if an investment business does not pay that person a fee for the referrals.

N8 Number of persons who referred clients to the investment business, during the data reporting period, which carry on the following activities

2.4.7 Question **N8** requires analysis of the number of persons between those that are:

- (a) Lawyers;
- (b) Accountants;
- (c) TCBs; and
- (d) Other, which includes any referrals from another group company that is not a trust company business.

2.4.8 Where an investment business responds that the majority of the persons that are referring clients fall in "Other" (N8(d)) please provide further details at N16(c) (general comments on section N). This may include referrals from existing clients.

2.4.9 If an investment business considers that it does not have any persons that refer business then please insert "0" into each of N8(a), N8(b), N8(c) and N8(d).

N9 Number of persons who referred clients to the investment business, during the data reporting period, analysed by country

2.4.10 Question **N9** requires the number of persons who referred clients to be analysed by country, using spreadsheet *R-IB Country List*.

2.4.11 Please note:

- (a) the countries are listed on spreadsheet R alphabetically; and
- (b) only positive responses are required i.e. there is no need to insert "0" against every country.

N10 Number of relationships with persons who referred clients to the investment business during the data reporting period that were terminated due to CDD issues, or other financial crime concerns

2.4.12 Question **N10** requires an investment business to record the number of times, during the data reporting period, that a relationship between them and a person who referred clients 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 clients considers that CDD measures applied by the investment business are impractical or excessive.

2.4.13 If no terminations have occurred, please insert a "0" in response to N10.

2.5 Cash transactions

N11 Number and value of cash transactions (i.e. notes and coins) for clients of the investment business during the data reporting period (receipt or payment) in any jurisdiction

- 2.5.1 Question **N11** requests data about the number (N11(a)(i) to (iv)) and value (N11(b)(i) to (iv)) of cash transactions (using **notes and coins**) conducted for clients.
- 2.5.2 This question is intended to determine the extent to which physical cash is still used in the investment business sector. **For the avoidance of doubt, this does not include bank transfers, cheques or any form of virtual currency transactions.**
- 2.5.3 Whilst we recognise that the use of cash is minimal in the Jersey-based investment business 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.
- 2.5.4 If no cash transactions occurred during the data reporting period, please insert “0” at all cells for both N11(a) and N11(b).

2.6 Client assets

N12 Total overall estimate of client assets (in GBP) under administration, held in custody, managed or advised

- 2.6.1 For the purpose of responding to this data request “client assets” carries the meaning provided in Article 1 of the FS(J)L, namely:
*property belonging to a client, including money, investments and insurance policies; and
any fund asset.*
- 2.6.2 Note fund asset in this context refers to an investment held by the investment business client which meets the definition of units in a collective investment fund provided in paragraph 5 of Schedule 1 to the FS(J)L. **See paragraph 1.1.5 for information regarding an investment business client that is a public fund.**

2.7 Transaction monitoring

- 2.7.1 Whilst it is understood that some transactions with an investment business may be “one-off” other clients will have an ongoing relationship with an investment business.
- 2.7.2 Where an ongoing relationship is established transaction monitoring must be undertaken (Article 13 of the MLO).

N13 What is the timing of the ongoing monitoring of transactions during a business relationship? (Real-time ; Post-event ; Both ; N/A)

N14 Are monitoring procedures automatic or manual? (Automated ; Manual ; Both ; N/A)

N15 What rules are applied to the transaction monitoring procedures? (Generic ; Tailored ; Both ; N/A)

- 2.7.3 Questions **N13**, **N14** and **N15** need only be answered in respect of clients with an ongoing relationship.

- 2.7.4 Where an investment business firm has no ongoing client relationships please respond to each of N13, N14 and N15 with “N/A”.

2.8 General Comments

N16 Please provide any explanations or context comments below

- 2.8.1 A freetext box is provided at **N16(c)** to provide general comments, explanations or context comments in relation to the other responses in section N-Investment business compliance data.
- 2.8.2 If an investment business selects “yes” when responding to **N2** details of the other factors included in the combined risk rating should be provided at N16(a).
- 2.8.3 Where an investment business responds that the majority of the persons that are referring clients fall in “Other” (N8(c)) please provide at N16(c) further details in respect of those persons reported as “Other”. This may include referrals from existing clients.

3 Sections OA to OD – IB client data

3.1 Client data overview

- 3.1.1 The JFSC recognises that an investment business may be registered to undertake one of more of investment business Class A, B or C OR an investment business may be registered to carry on Class D activity.
- 3.1.2 To gain a better understanding of the size and shape of the investment business industry and consequently the money laundering/financing of terrorism risks that may be present, the JFSC is collecting client data by class of business and within those classes by type of client.
- 3.1.3 Consequently, there are 4 client data spreadsheets:
 - (a) OA – IB Client data Class A
 - (b) OB – IB Client data Class B
 - (c) OC – IB Client data Class C
 - (d) OD – IB Client data Class D
- 3.1.4 **NOTE: spreadsheet OD cannot be completed in conjunction with spreadsheets OA to OC but an investment business may need to complete one or more of spreadsheets OA to OC.**
- 3.1.5 Sections OA to OD collect data by type of client in order to establish whether any particular client type exhibits higher risk factors than others. Responses need to be provided in the following client types:
 - (a) Individuals that are Jersey resident;
 - (b) Individuals that are not Jersey residents;
 - (c) Trusts with a Jersey trustee;
 - (d) Trusts with a non-Jersey trustee;
 - (e) Jersey companies;
 - (f) Non-Jersey companies;
 - (g) Other – Jersey; and
 - (h) Other – non-Jersey.
- 3.1.6 “Other” includes a client that is any of the following:
 - (a) Foundations
 - (b) Limited Partnerships
 - (c) Limited Liability Partnerships
 - (d) Separate Limited Partnerships
 - (e) Incorporated Limited Partnerships
- 3.1.7 Sections OA to OD collect data about:
 - (a) an investment business’s clients which exhibit higher ML/TF risk characteristics; and
 - (b) some specific client characteristics.

- 3.1.8 When completing sections OA to OD, data should be provided separately for:
- (a) incorporated cell companies - because they have a legal personality that is separate to the cell company; and
 - (b) protected cell companies – because each cell may have different characteristics to other protected cells.
- 3.1.9 Where a client is a trustee (an individual or legal person), the data relating to that client should be entered in the relevant ‘Trusts’ column (Jersey trustee or non-Jersey trustee) and not in the columns for individuals and companies.
- 3.1.10 Note:
- (a) Where a trust has both Jersey and non-Jersey trustees the data in respect of the value of deals and assets should reflect the structure of the trustees e.g. value of assets is £600,000 and there are 3 trustees of which 2 are Jersey Trustees and 1 is a UK trustee. The value of assets would be reported as £400,000 Trust with Jersey trustee and £200,000 Trust with Non-Jersey trustee.
 - (b) Where deals are undertaken and assets held jointly by individuals the same principal applies, unless there is an agreement detailing the % holding of each individual e.g. a Jersey resident individual and a non-Jersey resident individual hold shares together with a written agreement that the shares are owned 60% by the Jersey resident individual and 40% by the Non-Jersey resident individual. In this case the £600,000 would be reported as £360,000 Individuals-Jersey resident and £240,000 Individuals-Non-Jersey resident.
- 3.1.11 All data should be provided as at 31 December 2019 or the closest business day.

3.2 Client data

OA1(a), OB1(a), OC1(a) and OD1(a)

Number of clients that are:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.2.1 **OA1(a), OB1(a), OC1(a) and OD1(a)** request the total number of clients as at 31 December 2019 analysed by client type as listed in 3.1.4 and further explained in 3.1.6.
- 3.2.2 Please note that responses provided to **OA1** to **OD1** provide the base for responding to all other data requests in sections OA to OD.
- 3.2.3 For example, given a response to OA1(a) as set out in the table below then the number of clients is the maximum number that can appear in the relevant column for all other section OA questions:

Ref	Client type	Number of clients
OA1(a)(i)	Individuals – Jersey resident	100
OA1(a)(ii)	Individuals - non-Jersey resident	20
OA1(a)(iii)	Trusts with Jersey trustee	11
OA1(a)(iv)	Trusts with non-Jersey trustee	0

Ref	Client type	Number of clients
OA1(a)(v)	Jersey Companies	25
OA1(a)(vi)	Non-Jersey Companies	15
OA1(a)(vii)	Other - Jersey	0
OA1(a)(viii)	Other – non-Jersey	1

- 3.2.4 Where an investment business has no clients of a particular type please insert “0”.
- 3.2.5 N1 analyses an investment business’s client base into the risk ratings applied, split by class of investment business. The class of business totals in N1 should therefore agree to the analysis of the total number of clients by client type (OA1, OB1, OC1 and OD1):
- (a) **Class A:** sum of N1(a)(i) to N1(c)(i) should equal the sum of OA1(a)(i) to (viii)
 - (b) **Class B:** sum of N1(a)(ii) to N1(c)(ii) should equal the sum of OB1(a)(i) to (viii)
 - (c) **Class C:** sum of N1(a)(iii) to N1(c)(iii) should equal the sum of OC1(a)(i) to (viii)
 - (d) **Class D:** sum of N1(a)(iv) to N1(c)(iv) should equal the sum of OD1(a)(i) to (viii)

OA1(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA1(c) Value of assets in custody relating to the above clients (in GBP)

OB1(b), OC1(b) and OD1(b)

Value of the above in GBP:

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.2.6 **OA1(b), OA1(c), OB1(b), OC1(b) and OD1(b)** request data in respect of the value of clients, which should be reported as follows:
- (a) OA1(b) (Class A) – the settlement value of all deals undertaken **during** 2019 for the clients reported as at 31 December 2019 (purchases and sales should be aggregated not netted). For example, if, an investment business deals investment purchases with a settlement value of GBP 25 million and investment sales with a settlement value of GBP 30 million, then the value of that client is GBP 55 million.
 - (b) OA1(c) (Class A) – value of assets held in custody. **Also, see paragraph 1.1.5 for information regarding an investment business client that is a public fund.**
 - (c) OB1(b) (Class B) – the quarterly assets under management figure provided to the JFSC (split into client types).
 - (d) OC1(b) (Class C) –the assets under advice value (split into client types).
 - (e) OD1(b) (Class D) –the assets under advice value (split into client types).

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 an investment business deciding that a client presents a higher risk of money laundering or financing terrorism, there are some circumstances where enhanced CDD measures are required by Articles 15 and 15A of the Money Laundering Order. Such as where the client:
- (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) the client is provided with private banking services (Section 7.8) or
 - (g) the client is non-resident (not a Jersey resident) (section 7.7).
- 3.3.3 With respect to 3.3.2(g), where an investment business’s client is a non Jersey legal person this will require the application of enhanced CDD measures.
- 3.3.4 Additionally, there are scenarios where enhanced CDD is applied in relation to individuals connected to customers that are not individuals, such as directors who are its beneficial owners and controllers.
For example, where a company has 3 individuals as directors, 2 Jersey resident directors and 1 non-Jersey resident director, an investment business will have applied enhanced CDD to the 1 non-Jersey resident director therefore the company should be counted as 1 in relation to the number of public funds that have had enhanced CDD measures applied and reported at OA2(a), OB2(a), OC2(a) and OD2.

OA2(a), OB2(a), OC2(a) and OD2

Number where enhanced CDD measures have been applied:

OA2(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA2(c) Value of assets in custody relating to the above clients (in GBP)

OB2(b) and OC2(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.3.5 The question is designed to get a general feel for the extent to which enhanced CDD is used.
- 3.3.6 Using the response to question OA1(a), OB1(a), OC1(a) and OD1(a) respectively as the base for responding, question **OA2(a), OB2(a), OC2(a)** and **OD2** requests data about the number of clients to which enhanced customer due diligence (**CDD**) measures have been applied as at 31 December 2019.
- 3.3.7 For example, using the example laid out in 3.2.3, if 18 of the 100 clients that are reported as “individuals – Jersey” have been subject to enhanced CDD measures then respond “18”.

- 3.3.8 Using the response to question OA1(b), OB1(b) and OC1(b) respectively as the base for responding, question **OA2(b)**, **OA2(c)**, **OB2(b)** and **OC2(b)** requests data about the value of clients to which enhanced CDD measures have been applied.
- 3.3.9 For each relevant spreadsheet (OA to OD), if an investment business has no clients which have been subject to enhanced CDD measures please do not leave a cell blank, please insert "0" in each orange box.

OA3(a), OB3(a), OC3(a) and OD3

Number that present higher risk of ML/TF:

OA3(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA3(c) Value of assets in custody relating to the above clients (in GBP)

OB3(b) and OC3(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.3.10 Where an investment business firm has determined that a client presents a higher risk of money laundering or financing terrorism, enhanced CDD measures must be applied, therefore the response to questions OA3(a), OB3(a), OC3(a) and OD3 cannot be greater than the response to question OA2(a), OB2(a), OC2(a) and OD2 respectively.
- 3.3.11 There are circumstances where enhanced CDD measures must be applied but the investment business may not consider the client presents a higher risk, therefore the response to OA3(a), OB3(a), OC3(a) and OD3 may be lower than the response to OA2(a), OB2(a), OC2(a) and OD2. For example, a Jersey resident transacting through an asset holding vehicle or benefiting from services that are considered private banking.
- 3.3.12 For each relevant spreadsheet (OA to OD), if an investment business has no clients which present a higher risk please do not leave a cell blank, please insert "0" in each orange box.
- 3.3.13 N1(a) records those clients of an investment business that have been rated as presenting a higher risk, split by class of investment business. Consequently, the analysis of the total number of higher risk clients by client type (OA3(a), OB3(a), OC3(a) and OD3(a)) should agree to N1(a):
- (a) sum of OA3(a)(i) to (viii) should equal N1(a)(i)
 - (b) sum of OB3(a)(i) to (viii) should equal N1(a)(ii)
 - (c) sum of OC3(a)(i) to (viii) should equal N1(a)(iii)
 - (d) sum of OD3(a)(i) to (viii) should equal N1(a)(iv)
- 3.3.14 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA3(b)**, **OA3(c)**, **OB3(b)** and **OC3(b)** requests data about the value of clients which have been determined to present a higher risk of money laundering or financing terrorism.

OA4(a), OB4(a), OC4(a) and OD4

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

OA4(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA4(c) Value of assets in custody relating to the above clients (in GBP)

OB4(b) and OC4(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.15 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, question **OA4(a), OB4(a), OC4(a)** and **OD4** requires the number of clients to which enhanced CDD measures have been applied due to a PEP connection.

3.3.16 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 client;
 - › a third party for whom the client acts AND the third parties beneficial owners or controllers ;
 - › purporting to act on behalf of the client.

3.3.17 When considering whether a client 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.

3.3.18 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 investment business or information that is publicly known (Article 15A(4) of the Money Laundering Order).

3.3.19 For each relevant spreadsheet (OA to OD), if an investment business has no clients 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.

3.3.20 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA4(b), OA4(c), OB4(b)** and **OC4(b)** requests data about the value of clients who are a PEP, or who are connected with a PEP.

OA5(a), OB5(a), OC5(a) and OD5

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

OA5(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA5(c) Value of assets in custody relating to the above clients (in GBP)

OB5(b) and OC5(b)

Value of the above in GBP FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.3.21 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, question **OA5(a), OB5(a), OC5(a)** and **OD5** requires the number of clients to which enhanced CDD measures have been applied because the client has a connection to an enhanced risk state.
- 3.3.22 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).
- 3.3.23 Section 7.5 of the AML/CFT Handbook provides further guidance, including an example of what may constitute a relevant connection.
- 3.3.24 For example: a client's source of funds is, or derives from:
- (a) assets held in either Iran or North Korea by the client or any person on behalf of a client; or
 - (b) income arising in Iran or North Korea.
- In either scenario the investment business should take reasonable measures to find out the source of wealth of the client.
- 3.3.25 For each relevant spreadsheet (OA to OD), if an investment business has no clients with a relevant connection to an enhanced risk state, please do not leave a cell blank, please insert "0" in each orange box.
- 3.3.26 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA5(b), OA5(c), OB5(b)** and **OC5(b)** requests data about the value of clients who have a connection to an enhanced risk state.

OA6(a), OB6(a), OC6(a) and OD6

Number that have one or more nominee shareholders that are not provided by the investment business (or a member of their group):

OA6(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA6(c) Value of assets in custody relating to the above clients (in GBP)

OB6(b) and OC6(b)

Value of the above in GBP FOR

(v) Jersey Companies; and (vi) Non-Jersey Companies

- 3.3.27 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, question OA6(a), OB6(a), OC6(a) and OD6 requires information on the number of clients which are companies (Jersey or non-Jersey) which have one or more nominee shareholders.

- 3.3.28 If the investment business, or another company in the same financial group, provides the nominee shareholders to the investment business's client then that client should not be reported here. The rationale being that the client is not higher risk as the additional measures recommended as guidance in the AML/CFT Handbook (paragraph 71 of Section 7.10) cannot be applied as they include using external data sources to collect information on the fitness and propriety of the nominee (such as its regulated status and reputation) and the particular country risk – this information is already known.
- 3.3.29 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA6(b)**, **OA6(c)**, **OB6(b)** and **OC6(b)** requests data about the value of clients who have one or more nominee shareholders.
- 3.3.30 For each relevant spreadsheet (OA to OD), if an investment business has no clients which are companies (Jersey or non-Jersey) that have one or more nominee shareholders, please do not leave either cell blank, please insert "0" in each orange box.

OA7(a), OB7(a), OC7(a) and OD7

Number of non-Jersey companies that have issued bearer shares or warrants:

OA7(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA7(c) Value of assets in custody relating to the above clients (in GBP)

OB7(b) and OC7(b)

Value of the above in GBP

FOR

(vi) Non-Jersey Companies

- 3.3.31 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, questions OA7(a), OB7(a), OC7(a) and OD7 require information on: the number of clients which are non-Jersey companies that have issued bearer shares or warrants.
- 3.3.32 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 client or trusted external party along with an undertaking from that trusted external party or client to inform the investment business of any transfer or change in ownership.
- 3.3.33 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA7(b)**, **OA7(c)**, **OB7(b)** and **OC7(b)** requests data about the value of clients who have issued bearer shares or warrants.
- 3.3.34 For each relevant spreadsheet (OA to OD), if an investment business has no clients 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.

OA8(a), OB8(a), OC8(a) and OD8

Number that are personal asset holding vehicles:

OA8(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA8(c) Value of assets in custody relating to the above clients (in GBP)

OB8(b) and OC8(b)

Value of the above in GBP

FOR

(iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.35 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, question **OA8(a), OB8(a), OC8(a)** and **OD8** 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.

3.3.36 The personal asset holding vehicle:

- (a) may be the client of the investment business (for example a company which holds property as an investment) OR
- (b) may be the third party for whom a client is acting. For example, the client may be a trustee acting for a trust which is a personal asset holding vehicle.

3.3.37 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA8(b), OA8(c), OB8(b)** and **OC8(b)** requests data about the value of clients that are personal asset holding vehicles.

3.3.38 For each relevant spreadsheet (OA to OD), if an investment business has no clients 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.

OA9(a), OB9(a), OC9(a) and OD9

Number of individuals who have not been met:

OA9(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA9(c) Value of assets in custody relating to the above clients (in GBP)

OB9(b) and OC9(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident

OA10(a), OB10(a), OC10(a) and OD10

Number where one or more beneficial owners/controllers of clients, or other persons who must be identified under Article 3 of the MLO, were not physically present for identification purposes

OA10(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA10(c) Value of assets in custody relating to the above clients (in GBP)

OB10(b) and OC10(b)

Value of the above in GBP

FOR

(iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

OA11(a), OB11(a), OC11(a) and OD11

In relation to OA9(a), OB9(a), OC9(a) and OD9 and OA10(a), OB10(a), OC10(a) and OD10, number of clients who are, or who are connected to, a PEP

OA11(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA11(c) Value of assets in custody relating to the above clients (in GBP)

OB11(b) and OC11(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.3.39 Using the response to question OA2(a), OB2(a), OC2(a) and OD2 as the base for responding, questions **OA9 to OD11**, **OB9 to OB11**, **OC9 to OC11** and **OD9 to OD11** request data about the number and value of clients, and the beneficial owners and controllers of clients, that have not been physically present for identification purposes.
- 3.3.40 An individual may be considered to have been physically present for the purpose of questions OA9(a), OB9(a), OC9(a), OD9, OA10(a), OB10(a), OC10(a) and OD10 where they have been met and seen:
 - (a) by the investment business (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 investment business where that company is regulated and supervised for AML/CFT purposes (the meeting can be physical or through video conferencing facilities).
- 3.3.41 The period of time that has elapsed since an individual was last met is not important, nor whether an individual was met at the time of “on-boarding” the client.
- 3.3.42 In a case where an investment business takes on a client through the transfer of a book of clients from another business (in line with Section 3.5 of the AML/CFT Handbook), then the investment business may consider that the client has been met if that other business provides evidence that the client had been physically present for identification purposes.
- 3.3.43 Where either the client or the beneficial owner/controller of the client has not been physically present **and** they are a PEP then questions **OA11(a)**, **OB11(a)**, **OC11(a)** and **OD11** should record the number of such persons. **OA11(b)**, **OA11(c)**, **OB11(b)** and **OC11(b)** should be completed with the value of such persons.
- 3.3.44 For each relevant spreadsheet (OA to OD), if, having taken account of paragraph 3.3.2, an investment business considers that all clients and beneficial owners/controllers were physically present for identification purposes please do not leave the cells blank, please insert “0” in each orange box.

OA12(a), OB12(a), OC12(a) and OD12

Number with client assets higher than GBP 5 million

OA12(b) Value of assets in custody relating to the above clients (in GBP)

OB12(b) and OC12(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.3.45 GBP 5 million is being used in this data gathering exercise as a marker for identifying high net worth clients. Section 7.8 of the AML/CFT Handbook (paragraph 59) identifies that in particular circumstances the provision of investment services to high net worth clients may present a higher risk of money laundering or financing of terrorism.
- 3.3.46 Using the response to question OA1(a), OB1(a), OC1(a) and OD1 as the base for responding, questions **OA12(a)**, **OB12(a)**, **OC12(a)** and **OD12** request data about the number of clients for which an investment business has client assets greater than GBP 5 million. **OA12(b)**, **OB12(b)** and **OC12(b)** request data about the value associated with these clients

3.4 Other client characteristics

OA13(a), OB13(a), OC13(a) and OD13

Number that are regulated/supervised for AML/CFT purposes

OA13(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA13(c) Value of assets in custody relating to the above clients (in GBP)

OB13(b) and OC13(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.4.1 Using the response to question OA1(a), OB1(a), OC1(a) and OD1 as the base for responding, question **OA13(a)**, **OB13(a)**, **OC13(a)** and **OD13** collects data on the number of clients that are Regulated and Supervised for AML/CFT purposes. **OA13(b)**, **OA13(c)**, **OB13(b)** and **OC13(b)** should be completed with the value of such persons.
- 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 client of an investment business is a bank then they should be reported here. However, if the client is a subsidiary company of the bank which is not conducting a regulated and supervised activity, this should not be reported.

- (b) If the client of an investment business 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 client of an investment business 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 For each relevant spreadsheet (OA to OD), if an investment business does not have any clients which are Regulated and Supervised for AML/CFT purposes please do not leave the cells blank, please insert "0" in each orange box.

OA14(a), OB14(a), OC14(a) and OD14

Number that are non-profit organizations

OA14(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA14(c) Value of assets in custody relating to the above clients (in GBP)

OB14(b) and OC14(b)

Value of the above in GBP

FOR

(iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.4.5 Using the response to question OA1(a), OB1(a), OC1(a) and OD1 as the base for responding, questions **OA14(a)**, **OB14(a)**, **OC14(a)** and **OD14** request data about the number of clients of an investment business 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 For each relevant spreadsheet (OA to OD), if an investment business not have any clients that are an NPO please do not leave the cells blank, please insert a "0" in the orange boxes.

3.4.8 Using the response to question OA2(b), OB2(b) and OC2(b) respectively as the base for responding, question **OA14(b)**, **OA14(c)**, **OB14(b)** and **OC14(b)** request data about the value of clients that are NPOs.

OA15(a), OB15(a), OC15(a) and OD15

Number that are retail clients

OA15(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA15(c) Value of assets in custody relating to the above clients (in GBP)

OB15(b) and OC15(b)

Value of the above in GBP

FOR

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

trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

OA16(a), OB16(a), OC16(a) and OD16

Number that are professional clients

OA16(b) Value of deals, during 2019, relating to the above clients (in GBP)

OA16(c) Value of assets in custody relating to the above clients (in GBP)

OB16(b) and OC16(b)

Value of the above in GBP

FOR

(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

- 3.4.9 Within the investment business sector clients are considered to be either professional or retail. The Code of Practice for Investment Business (**IB Code**), issued by the JFSC, contains definitions of both a retail client and professional client (for ease these have been replicated at 3.4.13).
- 3.4.10 Guidance in the AML/CFT Handbook (paragraph 48 of Section 3.3.4) includes the following: *In the case of Jersey residents seeking to establish retail relationships, and in the absence of any information to indicate otherwise, such customers may be considered to present a lower risk.*
- 3.4.11 Questions **OA15(a), OB15(a), OC15(a), OD15** (retail) and **OA16(a), OB16(a), OC16(a), OD16** (professional) require an investment business to split the total number of clients reported at OA1(a), OB1(a), OC1(a) and OD1 into retail and professional.
- 3.4.12 Similarly, the values reported at OA2(b), OB2(b) and OC2(b) should be split and reported at **OA15(b), OA15(c), OB15(b), OC15(b)** (retail) **OA16(b), OA16(c), OB16(b) and OC16(b)** (professional) respectively.
- 3.4.13 Retail client and professional client definitions from the glossary to the IB Code.

Retail Client	means a client that is not a <i>Professional Client</i> .
Professional Client	means a client that is a <i>per se Professional Client</i> or an <i>Elective Professional Client</i> .
per se Professional client	means either a <i>Large Undertaking</i> or <i>Professional Investor</i> .
Large Undertaking	means a client in relation to which at least two of the following three criteria are satisfied: <ul style="list-style-type: none"> › balance sheet total assets of not less than £13,000,000; › net turnover of “£26,000,000 or greater; or › net assets of £1,300,000 or greater.
Professional Investor	means, <ul style="list-style-type: none"> › a government, local authority, public authority or supra-national body (wherever established); or

- › a person, partnership, unincorporated association or body corporate whose ordinary business or professional activity includes or it is reasonable to expect that it includes acquiring, underwriting, managing, holding or disposing of investments whether as principal or agent or the giving of advice on investments.

Elective
Professional Client means a Retail Client who has requested to be, and been reclassified by the registered person, in accordance with paragraph 3.8 [of the IB Code], as a Professional Client.

4 Section P – Beneficial ownership

4.1 General

- 4.1.1 Where exemptions from applying CDD identification measures under Article 18 of the Money Laundering Order have been utilised and no data is held, an investment business is not expected to gather information for the purpose of completing questions P1 and P2.
- 4.1.2 Data in respect of using Article 18 is to be reported in response to question Q11 (Further exemptions from applying identification requirements (Article 18 of the MLO)).

4.2 Clients who are individuals and beneficial owners or controllers of clients that are not individuals

P1 Number and principal country of residence of:
(i) individuals who are clients; and (ii) individuals who are the beneficial owner or controller of a client that is not an individual, as at the end of the data reporting period

- 4.2.1 The principal country of residence of an individual who is a client, or the beneficial owners and controllers of clients who are not individuals, is recognised as a key factor in determining the riskiness of a client – 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 **P1** requests an investment business to provide by country (using spreadsheet *R-IB-Country list*) the total number of clients who are individuals and beneficial owners or controllers of clients that are not individuals.
- 4.2.4 Unlike other questions, there is no need to insert a response in each cell of spreadsheet *R-IB-Country list*.
- 4.2.5 For example, using the data at 3.2.3, an investment business may look as follows:

Client type	Number of clients	Principal country of residence

Client type	Number of clients	Principal country of residence
Individuals – Jersey resident	100	Jersey
Individuals - non-Jersey resident	20	Guernsey (4) Spain (4) UK (12)
Trusts with Jersey trustee (one trust has co-trustees)	11	Jersey (11) UK (1)
Trusts with non-Jersey trustee (trust has co-trustees)	1	Jersey (1) UK (1)
Jersey Companies	25	France (2) Germany (3) Guernsey (12) Jersey (18) Spain (9) UK (7)
Non-Jersey Companies	15	Poland (7) Spain (4) UK (25)
Other - Jersey	0	
Other – non-Jersey	1	Switzerland

Spreadsheet *R-IB-Country list* would therefore have the following entries in the column for question P1:

ISO Code	Country	Number and principal country of residence of: (i) individuals who are clients; and (ii) individuals who are the beneficial owners or controllers of a client that is not an individual
		P1
250	France	2
276	Germany	3
616	Poland	7
724	Spain	13
756	Switzerland	1

ISO Code	Country	Number and principal country of residence of: (i) individuals who are clients; and (ii) individuals who are the beneficial owners or controllers of a client that is not an individual
826	UK	46
831	Guernsey	16
832	Jersey	130

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 an investment business 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 client in their own right

4.3 Client acting on behalf of a third party

P2 Number and principal country of residence of third parties on whose behalf a client is acting

- 4.3.1 Question **P2** collects data on the principal country of residence of third parties on whose behalf a client 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 an investment business on behalf of the legal arrangement and who will be considered to be the client(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 investment business should have identified the persons for whom the client 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 Regulated Financial Services Business AML/CFT Handbook (Funds and Fund Services Business)).

5 Section Q – 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** (client identification and verification), **16** (reliance on obliged persons), **16A** (persons in the same financial group), and **Part 3A** (CDD exemptions).
- 5.1.1 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.
- 5.1.2 The following table provides guidance on the period to be covered by each question:

Question	Data period	Date(s)
Client identification and verification		
Q1	At end of reporting period	31/12/2019 or closest business day
Q2	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)		
Q3	During the reporting period	1/1/2019 – 31/12/2019
Q4	At end of reporting period	31/12/2019 or closest business day
Q5	At end of reporting period	31/12/2019 or closest business day
Q6	At end of reporting period	31/12/2019 or closest business day
Q7	During the reporting period	1/1/2019 – 31/12/2019
Exemptions from applying third party identification requirements (Articles 17B-D of the MLO)		
Q8	At end of reporting period	31/12/2019 or closest business day
Q9	During the reporting period	1/1/2019 – 31/12/2019
Q10	At end of reporting period	31/12/2019 or closest business day

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

Q11	During the reporting period	1/1/2019 – 31/12/2019
-----	-----------------------------	-----------------------

5.2 Client identification and verification

Q1 Number of clients, 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 clients of an investment business 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 an investment business to delay verification of a client's identity – Section 4.7.2 of the AML/CFT Handbook provides further guidance.
- 5.2.3 An investment business should have finalised the position of its existing clients 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 investment businesses will report "0" in respect of **Q1**.

Q2 Number of clients 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 an investment business is permitted to delay verifying the identity of client where (finding out the identity of the client 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 **Q2** collects data about the number of clients where delayed verification in line with Article 13(4) of the Money Laundering Order has been applied.
- 5.2.6 If an investment business has not delayed the verification of any client's identity during the data reporting period, please respond with "0".

5.3 Reliance on obliged persons and persons in the same financial group (Articles 16 and 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 Article 16A(2) of the Money laundering Order defines who is to be considered a member of the same financial group:
- (2) a person is a member of the same financial group as another person if there is, in relation to the group, a parent company or other legal person that exercises*

control over every member of that group for the purposes of applying group supervision under –

- (a) the core principles for effective banking supervision published by the Basel Committee on Banking Supervision (ISBN 92-9131-164-4);*
- (b) the Objectives and Principles of Securities Regulation issued by the International Organisation of Securities Commissions; or*
- (c) the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors.*

Q3 Number of clients where reliance has been placed on obliged persons and persons in the same financial group, during the data reporting period

- (a) Obligated persons**
- (b) Same financial group**

Q4 Number of obliged persons on which reliance (Article 16 of the MLO) was placed, by country, as at the end of the data reporting period

Q5 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

Q6 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

5.3.3 It is important for the JFSC to understand the extent to which an investment business makes use of these concessions and collect information regarding the obliged person, consequently:

- (a) Question **Q3** requests the number of clients where reliance has been placed on obliged persons and persons in the same financial group during the data reporting period (please insert "0" if no reliance has been placed);
- (b) Question **Q4** requests the country of the obliged person on whom reliance is being placed (responses should be provided on spreadsheet *R-IB-Country list*, nil responses are not required);
- (c) Question **Q5** requests the country of the person in the same financial group on whom reliance is being placed (responses should be provided on spreadsheet *R-IB-Country list*, nil responses are not required); and
- (d) Question **Q6** 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 reliance is placed).

Q7 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

5.3.4 Where an investment business places reliance, the Money Laundering Order (Article 16(5)) requires that investment business test, in such manner and at such intervals as they consider appropriate:

- (a) whether or not the obliged person, or person in the same financial group, 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.

5.3.5 In light of 5.3.4(c), question **Q7** requires an investment business firm 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.

5.3.6 Please do not leave a cell blank, insert "0" if no reliance is placed or obliged persons 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, an investment business may apply exemptions from applying third party identification measures in three cases where it has reasonable grounds for believing that its client 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 clients 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.

Q8 Number of clients, by country, where exemptions from identification measures have been applied to third parties for whom those clients act as at the end of the data reporting period

5.4.3 Question **Q8** requests data on the number of clients where exemptions from identification measures have been applied at the end of the reporting period, analysed by the country in which the client is regulated and supervised for AML/CFT purposes. Responses should be provided on spreadsheet *R-IB-Country list*, nil responses are not required.

Q9 Number of clients who failed to provide information and evidence on demand and without delay during the data reporting period, where exemptions from identification measures have been applied in accordance with Articles 17B-D of the MLO

5.4.4 Where an investment business applies exemptions from identification measures, the Money Laundering Order (Article 17D(3)) requires an investment business to establish, as often as it considers appropriate, whether the relevant client -

- (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 **Q9** requires an investment business to report the number of clients 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 third party identification measures are applied or clients did provide information and evidence when requested.

Q10 **Number of clients, where Articles 17B-D have 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) trust company business; (e) permit or certificate holder under the CIF Law; (f) unregulated fund or non-public fund; (g) permit holder under the Insurance Law; (h) lawyer

- 5.4.7 Question **Q10** requests data on the type of business that is carried on by clients where exemptions from applying third party identification measures have been applied. Please insert “0” in the orange boxes if no exemptions from identification measures are applied.

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

Q11 **(a) Number of clients to whom further CDD exemptions (Article 18 of the MLO) have been applied during the data reporting period**
Of the above, number of clients to whom the exemptions have been applied:
(b) Article 18(2) – pension, superannuation, employee benefit, share option or similar scheme
(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 an investment business 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 an investment business has applied exemptions from CDD identification measures to any clients during the data reporting period the number of clients should be reported in response to **Q11(a)**.
- 5.5.3 If exemptions from CDD identification measures have not been applied please do not leave the cells blank, insert a “0” in response to **Q11(a)-(f)**.
- 5.5.4 If exemptions from CDD identification measures have been applied, Q11(b) to (f) provide the five circumstances which are relevant for an investment business. The total of Q11(b) to (f) should equal the number in cell Q11(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 an investment business 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 clients 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 an investment business is quite 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.