Revisions AML/CFT Handbooks: CP No. 3 2020

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Today’s presentation

- Background
- AML/CFT Handbook amendments
- Questions
Background

- JFCSG gap analysis of Jersey’s AML/CFT regime
- May 2020: Consultation Paper No. 3 2020 - Enhance AML/CFT Handbooks to implement 2012 FATF Recommendations:
  - Business risk assessments
  - Customer due diligence
  - Reliance on third parties
  - Equivalent countries and territories
  - Merging the AML/CFT Handbooks
- July 2020: Invited feedback to JFL and JFSC
- March 2021: Feedback paper and draft amendments published
- 31 May 2021: Amendments will become effective.
Amendment: Business risk assessments

Code of Practice: Section 2.3

2.3.1 Business Risk Assessment

AML/CFT Codes of Practice

17. A relevant person must maintain appropriate policies and procedures to enable it, when requested by the JFSC, to make available to that authority a copy of its business risk assessment.
Amendment: Customer due diligence (CDD)

Guidance: Finding out *identity*.

Sections...
4.4.3 Legal arrangement (Limited Partnership)
4.5.1 Legal Person (Company)
4.5.5 Legal Person (Partnership)
Amendment: Customer due diligence (CDD)

4.5.1 Finding Out Identity – Legal Person that is a Company

Guidance Notes

123. A relevant person may demonstrate that it has found out the identity of a company which is a customer under Article 3(2)(a) of the Money Laundering Order where it collects all of the following:
   › Name of company.
   › Any trading names.
   › Date and country of incorporation/registration.
   › Official identification number.
   › Registered office address.
   › Mailing address (if different).
   › Principal place of business/operations (if different).
   › Names of all persons having a senior management position.\(^1\)

124. A relevant person may demonstrate that it has found out the identity of a person who is the customer’s beneficial owner or controller under Article 3(2)(c)(iii) of the Money Laundering Order where it finds out the identity of persons holding a material controlling ownership interest in the capital of the company (through direct or indirect holdings of interests or voting rights) or who exert control through other ownership interests, e.g. shareholders’ agreements, power to appoint senior management, or through holding convertible stock or any outstanding debt that is convertible into voting rights.

\(^1\) Individuals having a senior management position means those who have and exercise strategic decision-taking powers or who have and exercise executive control.
Amendment: Customer due diligence (CDD)

Guidance: Obtaining *evidence* of identity.

Sections...
4.4.2 Legal arrangement (Trust)
4.4.4 Legal arrangement (Limited Partnership)
4.5.2 Legal Person (Company)
4.5.4 Legal Person (Foundation)
4.5.6 Legal Person (Partnership)
Amendment: Reliance on third parties

Guidance: Section 5.1 - Access to evidence of identity:

A relevant person will have demonstrated that an obliged person is providing evidence of identity without delay if it is provided within two working days.

If it is provided later than five working days, it is not provided without delay.

If it is provided between two and five working days, the entity must be able to show why this constitutes provision without delay based on the nature of its client base. In order to demonstrate the reasons for the delay the relevant person is expected to provide detail of the reasons as to what led to the delay, how many days evidence remained outstanding, how many times a delay has occurred previously across the relevant person’s practice, as well as the decision-makers’ considerations.
Amendment: Reliance on third parties

Guidance: Section 5.1.1 - Assessment of risk

Additional bullet points have been added to include assessment of country or territory risk.

Guidance Notes

46. Immediately before relying upon an *obliged person*, a *relevant person* may demonstrate that it has had regard for the higher risk of *money laundering* and the *financing of terrorism*, and risk that an *obliged person* will fail to provide the *relevant person* with evidence of identity without delay if requested to do so where it considers the following factors:

- The stature and regulatory track record of the *obliged person*.

- The risks posed by the country or territory in which the *obliged person* is based. Factors to consider include those found at Section 3.3.4.1.
Amendment: Equivalent countries and territories

- Appendix B has been removed
- Process remains unchanged, i.e. each *relevant person* must continue to conduct its own assessment
- Additional information sources have been added under Sections 1.7.2; 1.7.3/1.8.2; 1.8.3 to assist with determining equivalence.
Amendment: Merging the AML/CFT Handbooks

- Consolidation of the four AML/CFT Handbooks will occur at a future date.