



Jersey Financial
Services Commission

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 position¹directors.
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.



Questions?

