

Guide to Section II of risk based supervision data: Accountants

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General guidance

Scope

In 2018, we collected supervisory risk data from reporting entities for the first time. This exercise was repeated in 2019, 2020 and 2021. As advised on 3 December 2021ⁱ, we are collecting the same data in 2022 with respect to 2021.

This guidance document relates to Section II of the 2022 risk based supervision data collection which requires the provision of activity based data from Reporting Entities registered to carry on accountancy services.

Accountancy services is a financial services business activity as set out in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, specifically paragraph 2 of Part B of Schedule 2 (see below).

2 Accountants

- (1) *The business of providing any of the following –*
- a) external accountancy services;*
 - b) advice about the tax affairs of another person;*
 - c) audit services; or*
 - d) insolvency services.*

Note:

The AML/CFT Handbook for the Accountancy Sector clarifies at section 1.5.1 (paragraph 52) that “accountancy services” includes any service provided under a contract for services (i.e. not a contract of employment) which pertains to the recording, review, analysis, calculation or reporting of financial information. This includes those reporting entities that only undertake bookkeeping.

Excel workbook

The Excel workbook for a reporting entity carrying on accountancy services comprises 5 spreadsheets, as follows:

- › BA - Compliance Data
- › BB - Client Data
- › BC - Beneficial Ownership
- › BD - Use and application of concessions granted by the MLOii
- › BE - Country List

Spreadsheet BE is an input sheet for the responses to questions BA8, BC1, BC2, BD4 and BD7.

Clients

Accountants should provide data in respect of their clients.

A client is a person to whom the accountant provides the services set out in the scope above.

“External accountancy services” means accountancy services provided to third parties and excludes services provided by accountants employed by public authorities or by undertakings which do not by way of business provide accountancy services to third parties.

“Audit services” are audit services provided by way of business pursuant to any function under any enactment.

“Insolvency services” are services provided by a person if, by way of business, that person accepts appointment as –

- › a liquidator under Chapter 4 of Part 21 of the Companies (Jersey) Law 1991,
- › an insolvency manager appointed under Part 5 of the Limited Liability Partnerships (Jersey) Law 2018 as that Law has effect in its application to insolvent limited liability partnerships pursuant to the Limited Liability Partnerships (Insolvent Partnerships) (Jersey) Regulations 2018, or
- › as agent of an official functionary appointed in the case of a *remise des biens, cession, or desastre*.

Data reporting period

Generally, data should be provided for the period 1/1/2021 to 31/12/2021.

There are a few data items where the data should be provided as at the end of the reporting period (31/12/2021 or closest business day).

Data Submission

Whilst we will be collecting the same data as it did in previous years, accountants 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 30 April 2022**.

Each accountant will be submitting a completed Excel Workbook for Section II through myJFSC and each accountant has a designated individual who is the myJFSC contact, which, in the vast majority of cases, is the money laundering compliance officer.

Notwithstanding that the myJFSC contact has responsibility for submitting the data, the board, or equivalent, of the accountant should have oversight of the content of the submission made on their behalf.

For many this will be the fifth time the data return has been completed therefore we expect accountants to be in a very good position to report their 2021 data and that only on a very exceptional basis will responses need to be derived by extrapolation or estimates supported by specific criteria.

Where an accountant needs to extrapolate or estimate its data as system changes are being implemented, the comments section at the bottom of the relevant spreadsheet should highlight which data elements have been impacted, the extent they have been impacted and when the relevant system changes will take effect.

Where the accountant feels it necessary to provide additional data to enable us to understand the response, this information should also be included in the comments section at the bottom of each relevant spreadsheet.

With the exception of spreadsheet *BE-Accts-Country list*, all parts of each question should be answered. Consequently, insert a “0” where relevant.

Integrity checking your submission

Before submitting your data we suggest that you undertake the following integrity checks:

- › Sum of BA1(a) to (c) needs to agree to the sum of BB1(i) to (viii).
- › BA1(a) should equal sum of BB3(i) to (viii).
- › No response in BB2 should exceed BB1, in any given column.
- › BB3 to BB11 cannot be individually greater than BB2, in any column.
- › BB11 should not exceed BB9 or BB10 in any given column.
- › BB11 should not exceed BB4.
- › BD10(a) should equal the sum of BD10(b) to (f).

Section BA – Accountants compliance data

Overview

This section collects data on:

- › client risk ratings;
- › business which has been declined, terminated or withdrawn due to customer due diligence or other financial crime concerns;
- › referred business (the extent to which clients are obtained on the basis of referrals from other businesses); and
- › cash and client account transactions (the extent to which cash and client accounts are used).

Risk rating

BA1 Number of clients in each category of risk (as defined by the Reporting Entity) as at the end of the data reporting period
(a) Higher; (b) Standard; (c) Lower

BA2 Do the Reporting Entity's risk ratings as specified above include factors other than money laundering and the financing of terrorism? (Yes; No) If yes, provide details at BA13(a)

Question **BA1** 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 Accountants AML/CFT Handbook).

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 accountant 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.

If an accountant includes other factors e.g. commercial risk, in its risk rating of clients and the ML/TF risk element cannot be reported separately, report the combined risk rating.

If a combined rating is reported select "yes" when responding to **BA2**.

Provide an answer for every element of BA1.

For example an accountant with zero higher risk, 4 medium risk and 6 lower risk clients and who only considers money laundering and terrorist financing when risk rating a client, should complete the fields as follows:

BA1(a) - Higher	0
BA1(b) - Medium	4
BA1(c) - Lower	6
BA2	Choose "No" from the dropdown

Note the sum of BA1(a) to (c) should equal the sum of BB1(i) to (viii).

BA3 If the Reporting Entity risk rates the 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 Reporting Entity) as at the end of the data reporting period
(a) Higher; (b) Standard; (c) Lower

BA4 Do the Reporting Entity's risk ratings as specified above include factors other than money laundering and the financing of terrorism? (Yes; No; N/A) If yes, provide details at BA13(b)

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

If an accountant does risk rate the beneficial owners and controllers of their clients, question **BA3** should be answered.

If an accountant does not risk rate the beneficial owners and controllers of their clients, insert a "0" in cells **BA3(a)-(c)** and select "N/A" from the drop down menu at **BA4**.

Declined, terminated and withdrawn business

BA5 Number of applications from prospective clients to either (i) establish a client relationship, or (ii) carry out a one-off transaction, declined due to CDD issues or other financial crime concerns, during the data reporting period

BA6 Number of client relationships terminated, due to CDD issues or other financial crime concerns, during the data reporting period

In line with Section 2.4.1 of the Accountants AML/CFT Handbook (paragraph 47), questions BA5 and BA6 request data about:

- › the number of **prospective client relationships or one-off transactions that have been declined (BA5); and**
- › **client relationships that have been terminated** due to CDD issues or other financial crime concerns (**BA6**).
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 accountant's risk appetite); and
 - › there is suspicion of ML/TF.

This question applies also to cases where:

- › an application to form a client relationship or carry out a one-off transaction is handled by a third party, e.g. a law firm, and where there is no direct contact with the prospective client; and
- › an application to form a client 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).

Do not leave fields blank, insert a "0" in BA5 and BA6 if no prospective clients have been declined or clients terminated.

BA7 Number of applications from prospective clients who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)

Question **BA7** collects data on client applications withdrawn solely or partly on the basis of CDD requested.

It is recognised that this data may not be recorded by an accountant. If this is the case respond with "0". Do not leave the field blank.

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

Referred business

Questions BA8, BA9 and BA10 request data about those **persons who referred clients** to an accountant **on a regular basis** during the data reporting period.

Where business is referred to an accountant but neither a one-off transaction nor client relationship result this is not considered referred business for the purpose of responding to BA8, BA9 and BA10.

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

Additionally, if an accountant 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 accountant is part of a group/company that has a Guernsey company/branch then referrals from the Guernsey operation should be reported.

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

- › a third party or group entity that acts as an obliged person under Articles 16 or 16A of the Money Laundering Order (data on these persons is collected through spreadsheet BD (Use of MLO concessions)); or
- › a client acting on behalf of one or more third parties (data on these persons is collected through spreadsheet BC (3rd party and beneficial ownership)); or
- › a person who refers clients on a basis that cannot be considered regular. The meaning of regular will vary by accountant and will depend on a number of factors such as the size of their current client base and the amount of referred business.

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

BA8 Number of persons who referred clients to the Reporting Entity during the data reporting period, analysed by country

Question **BA8** requires the number of persons who referred clients to be analysed by country, using spreadsheet BE.

Note:

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

BA9 Number of persons who referred clients to the Reporting Entity during the data reporting period, which carry on the following activities: (a) Lawyers; (b) Accountants; and (c) Other,

Question **BA9** requires analysis of the number recorded at BA8

Where an accountant responds that the majority of the persons that are referring clients fall in "Other" (BA9(c)) provide further details at BA13 (General comments on section BA). This may include referrals from existing clients or referrals from another group company or a trust company business.

If an accountant considers that it does not have any **persons that refer business** then insert "0" into each of BA9(a), BA9(b) and BA9(c).

BA10 Number of relationships with persons who referred clients to the Reporting Entity during the data reporting period that were terminated due to CDD issues, or other financial crime concerns

Question **BA10** requires an accountant 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 accountant are impractical or excessive.

If no terminations have occurred, insert a "0" in response to BA10.

Cash and client account transactions

**BA11 Number and value of cash transactions (i.e. notes and coins) for clients during the data reporting period (receipt or payment) in any jurisdiction
((a) Number; (b) Value in GBP)**

Question **BA11** requests data about the **number (BA11(a)) and value (BA11(b)) of cash transactions (using notes and coins)** conducted for clients.

This question is intended to determine the extent to which physical cash is still used in the accountancy sector. **For the avoidance of doubt, this does not include bank transfers, cheques or any form of virtual currency transactions.**

Whilst we recognise that the use of cash is minimal in the Jersey-based accountancy 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.

If no cash transactions occurred during the data reporting period, insert "0" at both BA11(a) and BA11(b).

**BA12 Number and value of transactions through client account for clients during the data reporting period (receipt or payment)
((a) Number; (b) Value in GBP)**

This question is intended to determine the extent to which client accounts are used in the accountancy sector.

Whilst we understand that the use of accountants' client accounts is likely to be minimal, it is important that we collect information on the volume of transactions passing through client accounts, given that client accounts can be vulnerable to use by criminals.

Where a transaction took place in a currency other than GBP (e.g. Euros) convert the transaction value to GBP using the most appropriate exchange rate.

If no transactions passed through a client account during the data reporting period, insert "0" at both BA12(a) and BA12(b).

General Comments

BA13 Provide any explanations or context comments below

Freetext boxes are provided at **BA13** to provide comments, explanations or context comments in relation to the other responses in section BA-Accountants compliance data.

Where an accountant responds that the majority of the persons that are referring clients fall in "Other" (BA9(c)) provide at BA13(c) further details in respect of those persons reported as "Other". This may include referrals from existing clients or referrals from another group company or a trust company business.

Section BB – Accountants client data

Client data overview

This section collects data about:

- › an accountant’s clients which exhibit higher ML/TF risk characteristics; and
- › the accountant’s activities.

Section BB collects 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:

- › Individuals that are Jersey resident;
- › Individuals that are not Jersey residents;
- › Trusts with a Jersey trustee;
- › Trusts with a non-Jersey trustee;
- › Jersey companies;
- › Non-Jersey companies;
- › Other – Jersey; and
- › Other – non-Jersey.

“Other” includes a client that is any of the following:

- › Foundations
- › Limited Partnerships
- › Limited Liability Partnerships
- › Separate Limited Partnerships
- › Incorporated Limited Partnerships.

Client analysis

BB1 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

Question **BB1** requests the total number of clients as at 31 December 2021 analysed by client type.

Note that the response provided to question BB1 provides the base for responding to all other Section BB questions.

For example, given a response to question BB1 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 BB questions:

Client type	Number of clients
Individuals – Jersey resident	10
Individuals - non-Jersey resident	2
Trusts with Jersey trustee	1

Client type	Number of clients
Trusts with non-Jersey trustee	0
Jersey Companies	1
Non-Jersey Companies	0
Other - Jersey	0
Other – non-Jersey	1

Where an accountant has no clients of a particular type insert “0”.

Note the sum of BB1(i) to (viii) should equal the sum of BA1(a) to (c).

Enhanced CDD measures

Information regarding enhanced CDD measures can be found in Section 7 of the Accountants AML/CFT Handbook.

In addition to an accountant 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:

- › is, or some other prescribed person is, a politically exposed person (**PEP**) (section 7.6)
- › has a “relevant connection” to an “enhanced risk state” (section 7.5)
- › is a company with nominee shareholders or issues bearer shares (section 7.10)
- › is a personal asset holding vehicle (section 7.9)
- › is, or some other person is, not physically present for identification purpose (section 7.4)
- › is non-resident (not a Jersey resident) (section 7.7)

Under Article 15(1)(a) of the MLO, if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the relevant person and the relevant person is not resident in the customer’s country of residence or in the same country as the country from which, or from within which, the customer is carrying on business, a relevant person must apply enhanced customer due diligence measures on a risk-sensitive basis.

BB2 Number where enhanced CDD measures have been applied:

(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

Using the response to question BB1 as the base for responding, question **BB2** requires data about the number of clients to which enhanced customer due diligence (**CDD**) measures have been applied.

For example, if 3 of the 10 clients that are reported as “Individuals – Jersey” have been subject to enhanced CDD measures then respond “3”.

Enhanced due diligence data in your workbooks **should be provided in line with the requirements of the MLO**. If enhanced due diligence is undertaken as standard on non-Jersey customers then all customers where standard CDD checks are applied should be reported as having been subject to enhanced due diligence. The data needs to accurately reflect the application of enhanced due diligence as defined in the MLO. If there is a significant difference between the number of customers

who have enhanced due diligence applied to them and the number of non- Jersey-based customers, then be ready to explain the difference.

If an accountant has no clients which have been subject to enhanced CDD measures then insert “0” in each blue box.

BB3 Number that present higher risk of ML/TF:

(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

Where an accountant 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 question BB3 cannot be greater than the response to question BB2.

There are circumstances where enhanced CDD measures must be applied but the accountant may not consider the client presents a higher risk, therefore the response to BB3 may be lower than the response to BB2. For example, a Jersey resident purchasing a property through an asset holding vehicle.

If an accountant has no clients which present a higher risk do not leave a cell blank, insert “0” in each blue box.

The total of this row should be the same as the answer to question BA1(a).

BB4 Number that are, or who are connected with, a PEP:

(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

Using the response to question BB2 as the base for responding, question **BB4** requires the number of clients to which enhanced CDD measures have been applied due to a PEP connection.

- a) On 12 June 2019 the Money Laundering Order was amended (see Article 15A of the Money Laundering Order and Section 7.6.1 of the Accountants AML/CFT Handbook). From this date, enhanced CDD measures became mandatory for the following: 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

individuals falling within a), b) or c) that are:

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

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.

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

If an accountant has no clients who are a PEP, or who are connected with a PEP, do not leave a cell blank, insert “0” in each blue box.

BB5 Number that have a relevant connection^{iv} to an enhanced risk state:

(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

Using the response to question BB2 as the base for responding, question **BB5** requires the number of clients to which enhanced CDD measures have been applied because the client has a connection to an enhanced risk state.

Appendix D1 of the Accountants AML/CFT Handbook provides a list of the countries and territories that are considered an enhanced risk state^v. As at 16 December 2021 the following were listed:

- › Iran; and
- › The Democratic People's Republic of Korea (North Korea).

Section 7.5 of the Accountants AML/CFT Handbook provides further guidance, including an example of what may constitute a relevant connection.

For example: a client's source of funds is, or derives from:

- › assets held in either Iran or North Korea by the client or any person on behalf of a client; or
- › income arising in Iran or North Korea.

In either scenario the accountant should take reasonable measures to find out the source of wealth of the client.

If an accountant has no clients with a relevant connection to an enhanced risk state, do not leave a cell blank, insert "0" in each blue box.

**BB6 Number that have one or more nominee shareholders:
(v) Jersey Companies; and (vi) Non-Jersey Companies**

**BB7 Number of non-Jersey companies that have issued bearer shares or warrants:
(vi) Non-Jersey Companies**

Using the response to question BB2 as the base for responding, questions BB6 and BB7 require information on:

- › the number of clients which are companies (Jersey or non-Jersey) which have one or more nominee shareholders (**BB6**); and
- › the number of clients which are non-Jersey companies that have issued bearer shares or warrants (**BB7**).

Section 7.10 of the Accountants 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**:

- › 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
- › the bearer shares are traded on an approved stock exchange; or
- › 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 accountant of any transfer or change in ownership.

If an accountant has no clients which are companies (Jersey or non-Jersey) that have one or more nominee shareholders, do not leave either cell blank, insert "0" in each blue box.

If an accountant has no clients which are non-Jersey companies that have issued bearer shares or warrants, do not leave the cell blank, insert "0" in the blue box.

BB8 Number that are personal asset holding vehicles:
(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

Using the response to question BB2 as the base for responding, question **BB8** requests data regarding personal asset holding vehicles which are described at paragraph 64 of section 7.9 of the Accountants AML/CFT Handbook as being a legal person or legal arrangement established by individuals for the specific purpose of holding assets for investment.

The personal asset holding vehicle:

- › may be the client of the accountant (for example a company which holds property as an investment) OR
- › 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.

If an accountant has no clients which are either personal asset holding vehicles or who act on behalf of a personal asset holding vehicle, do not leave the cells blank, insert “0” in the blue boxes.

BB9 Number of individuals who have not been met:
(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident

BB10 Number where one or more beneficial owners/controllers of clients, or other persons who must be identified under Article 3 of the Money Laundering Order, were not physically present for identification purposes
(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

BB11 In relation to BB9 and BB10, number of clients who are, or who are connected to, a PEP
(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

Using the response to question BB2 as the base for responding, questions **BB9** to **BB11** request data about whether a client, and the beneficial owners and controllers of clients, have been physically present for identification purposes.

An individual may be considered to have been physically present for the purpose of questions BB9 and BB10 where they have been met and seen:

- › by the accountant (physically or through video conferencing facilities);
- › by a suitable certifier in line with section 4.3.4 of the Accountants AML/CFT Handbook; or
- › by a company in the same group as the accountant where that company is regulated and supervised for AML/CFT purposes (the meeting can be physical or through video conferencing facilities).

Where either the client or the beneficial owner/controller of the client has not been physically present **and** they are a PEP then question **BB11** needs to record the number of such persons.

If, an accountant considers that all clients and beneficial owners/controllers were physically present for identification purposes do not leave the cells blank, insert “0” in each blue box.

Other client characteristics

BB12 Number that are regulated/supervised for AML/CFT purposes
(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 (v) Other – non-Jersey

Using the response to question BB1 as the base for responding, question **BB12** collects data on clients that are Regulated and Supervised for AML/CFT purposes.

“Regulated and Supervised for AML/CFT purposes” specifically means:

- › subject to AML/CFT requirements; **and**
- › supervised for compliance with those requirements by us or an overseas regulatory authority discharging a similar function in respect of AML/CFT.

For example:

- › If the client of an accountant 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.
- › If the client of an accountant is a sole trader, who is Regulated and Supervised for AML/CFT purposes by us, then they should be reported here.
- › If the client of an accountant is a company acting as a trustee and is Regulated and Supervised for AML/CFT purposes, then they should be reported here.

If an accountant does not have any clients which are Regulated and Supervised for AML/CFT purposes do not leave the cells blank, insert “0” in each blue box.

BB13 Number that are non-profit organizations

(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

Using the response to question BB1 as the base for responding, question **BB13** requests data about clients of an accountant that are a non-profit organization (**NPO**). In Jersey an NPO is defined in Article 1 of the Non-Profit Organization (Jersey) Law 2008 as being an organisation that:

- › 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**
- › raises or disburses funds in pursuance of those purposes.

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.

If an accountant does not have any clients that are an NPO do not leave the cells blank, insert a “0” in the blue boxes.

Accountancy services

BB14 Number of clients to whom services are provided

(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

Question **BB14** requests data about the services provided by an accountant to its clients. The objective is to analyse the response provided at BB1 into the number of clients to which each type of accountancy service is provided:

- › accountancy (question BB14(a));
- › tax advice (question BB14(b));
- › audit (question BB14(c)); and

- › insolvency (question BB14(d)).

Note:

The AML/CFT Handbook for the Accountancy Sector, clarifies at section 1.5.2 (paragraph 57) that the meaning of “advice” in relation to tax can be widely interpreted and we take the view that the provision of tax compliance services comes within the meaning of tax advice.

Where an accountant provides more than one service to the same client each service should be counted. It is understood that this will result in some double counting of clients.

For example, Mr Brown receives both an accountancy service and tax advice from the same accountant, then Mr Brown should be reflected at both BB14(a) and BB14(b).

It is recognised that different risks are associated with different services and different clients therefore this section gathers data to enable us to gain a better understanding of an accountant’s risk profile.

Do not leave a cell blank, insert a “0” into all relevant blue boxes.

Section BC – Beneficial ownership

General

Where CDD exemptions from applying identification measures under Article 18 of the Money Laundering Order has been utilised and no data is held, an accountant is not expected to gather information for the purpose of completing questions BC1 and BC2.

Data in respect of using Article 18 is to be reported in response to question BD10 (Further exemptions from applying identification requirements (Article 18 of the MLO)).

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

BC1 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 31 December 2021

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 Accountants AML/CFT Handbook provides further guidance.

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^{vi}. In line with guidance provided in the Accountants AML/CFT Handbook, the following will be considered to be the beneficial owner or controller of a company.

- › 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.

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.

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).

Question **BC1** requests an accountant provide by country (using spreadsheet *BE-Accts-Country list*) the total number of clients who are individuals and beneficial owners or controllers of clients that are not individuals.

Unlike other questions, there is no need to insert a response in each cell of spreadsheet *BE-Accts-Country list*.

For example, an accountant may look as follows:

Client type	Number of clients	Principal country of residence
Individuals – Jersey resident	10	Jersey
Individuals - non-Jersey resident	2	UK Guernsey
Trusts with Jersey trustee	1	UK

Client type	Number of clients	Principal country of residence
Trusts with non-Jersey trustee	0	
Jersey Companies (4 shareholders each with 25% share capital)	1	Jersey (2) UK Germany
Non-Jersey Companies	0	
Other - Jersey	0	
Other – non-Jersey	1	Switzerland

Spreadsheet *BE-Accts-Country list* would therefore have the following entries in the column for question BC1:

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
		BC1
276	Germany	1
831	Guernsey	1
832	Jersey	12
756	Switzerland	1
826	UK	3

Note:

Each individual should only be reported once.

The following are examples where an individual may have more than one relationship with an accountant 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.

Client acting on behalf of a third party

BC2 Number and principal country of residence of third parties on whose behalf a client is acting

Question **BC2** collects data on the **principal country of residence of third parties** on whose behalf a client acts.

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 accountant 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).

In these cases the accountant 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 Accountants AML/CFT Handbook. For ease guidance has been provided below:

- › 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).

In a case where a third party is a trust (other than a collective investment fund), data should be provided on:

- › the settlor^{vii};
- › 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).

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).

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 (section 14 specifically addresses Funds and Fund Services Business)).

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

General

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) and **Part 3A** (CDD exemptions).

The following table provides guidance on the period to be covered by each question:

Question	Data period	Date(s)
Client identification and verification		
BD1	At end of reporting period	31/12/2021 or closest business day
BD2	During the reporting period	1/1/2021 – 31/12/2021
Reliance on obliged persons (Article 16 of the MLO)		
BD3	During the reporting period	1/1/2021 – 31/12/2021
BD4	At end of reporting period	31/12/2021 or closest business day
BD5	At end of reporting period	31/12/2021 or closest business day
BD6	During the reporting period	1/1/2021 – 31/12/2021
Exemptions from applying third party identification requirements (Articles 17B-D of the MLO)		
BD7	At end of reporting period	31/12/2021 or closest business day
BD8	During the reporting period	1/1/2021 – 31/12/2021
BD9	At end of reporting period	31/12/2021 or closest business day
Further exemptions from applying identification requirements (Article 18 of the MLO)		
BD10	During the reporting period	1/1/2021 – 31/12/2021

Client identification and verification

BD1 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

Article 13(2) of the Money Laundering Order provides for the timing of identification measures for the existing clients of an accountant at the time the Money Laundering Order came into force – 4 February 2008.

Article 13(2) sets out very particular circumstances which enabled an accountant to delay verification of a client's identity – section 4.7 of the Accountants AML/CFT Handbook provides further guidance.

An accountant should have finalised the position of its existing clients by 31 December 2014, unless a later date has been agreed by us (paragraphs 209 and 210 of section 4.7.2 of the Accountants Handbook). Consequently, it is expected that most accountants will report "0" in respect of **BD1**.

BD2 Number of clients where delayed verification in line with Article 13(4) of the MLO was applied during the data reporting period

In accordance with Article 13(4) of the Money Laundering Order an accountant is permitted to delay verifying the identity of client where (finding out the identity of the client must not be delayed):

It is necessary not to interrupt the normal course of business;

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

evidence of identity is obtained as soon as reasonably practicable.

Question **BD2** collects data about the **number of clients where delayed verification** in line with Article 13(4) of the Money Laundering Order has been applied.

If an accountant has not delayed the verification of any clients identity during the data reporting period, respond with "0".

Reliance on obliged persons (Article 16 of the MLO)

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 Accountants AML/CFT Handbook, are met. In practice, this has the effect of:

- › limiting the number of obliged persons that can be relied upon; and
- › requiring the basis for placing reliance to be recorded in writing.

BD3 Number of clients where reliance has been placed on obliged persons during the data reporting period

BD4 Number of obliged persons on which reliance was placed, by country, as at the end of the data reporting period

BD5 Number of obliged person(s) carrying on financial services business or equivalent business, relied upon as at the end of the data reporting period
(i) financial services business (ii) equivalent business
(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; (i) accountant; or (j) other

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

- › Question **BD3** requests the **number of clients where reliance has been placed** on obliged persons during the data reporting period (insert "0" if no reliance has been placed);

- › Question **BD4** requests the **country of the obliged person** on whom reliance is being placed (responses should be provided on spreadsheet *BE-Accts-Country list*, nil responses are not required); and
- › Question **BD5** requests the number of obliged persons split by the type of business that is carried on, at the end of the reporting period (insert “0” if no obliged persons are used). Where **BD5(i)(j)** or **BD5(ii)(j)** (other) is selected provide further information at **BD11**.

BD6 Number of obliged persons relied upon, who failed to provide information and evidence on demand and without delay, during the data reporting period

Where an accountant relies on an obliged person, the Money Laundering Order (Article 16(8)) requires that an accountant test, in such manner and at such intervals as they consider appropriate:

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

Question **BD6** requires an accountant to report the number of obliged persons that failed to provide information and evidence on demand and without delay.

Do not leave a cell blank, insert “0” if no obliged persons are used or obliged persons did provide information and evidence when requested.

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

In line with Articles 17B-D of the Money Laundering Order, an accountant may be exempt from applying identification measures in relation to a third party when the client is:

- › regulated and supervised by us for AML/CFT purposes;
- › a person who carries on equivalent business (refer to Section 1.7 of the Accountants AML/CFT Handbook); or
- › a person who is wholly-owned by a person listed above and meets certain conditions.

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:

- › limiting the number of clients to which exemptions from identification measures can be applied; and
- › requiring the basis for applying exemptions from identification measures to be recorded in writing.

BD7 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

Question **BD7** 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 *BE-Accts-Country list*, nil responses are not required.

BD8 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

Where an accountant applies exemptions from identification measures, the Money Laundering Order (Article 17D(3)) requires that an accountant must, in the manner, and as often as it considers appropriate, in all the circumstances, conduct tests in order to establish whether the relevant client -

- › has appropriate policies and procedures in place to apply the identification measures;
- › obtains information in relation to the third party;

keeps the information or evidence of identity in relation to the third party; and

provides that information or evidence without delay if requested to do so specifically whether the client may be prevented, by a law, from providing the information or evidence..

Question **BD8** requires an accountant to report the number of clients that failed to provide information and evidence on demand and without delay.

Do not leave the cell blank, insert “0” if no exemptions from identification measures are applied or clients did provide information and evidence when requested.

BD9 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

Question **BD9** requests data on the type of business that is carried on by clients where exemptions from identification measures have been applied. Insert “0” in the blue boxes if no exemptions from identification measures are applied.

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

BD10 (a) Number of clients to whom further exemptions from CDD measures 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**

Article 18 of the Money Laundering Order sets out a number of very specific circumstances where an accountant may be able to apply exemptions from CDD measures. See sections 7.12 and 7.15 of the Accountants AML/CFT Handbook for further guidance.

If an accountant 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 **BD10(a)**.

If exemptions from CDD identification measures have not been applied do not leave the cells blank, insert a “0” in response to **BD10(a)-(f)**.

If exemptions from CDD identification measures have been applied, BD10(b) to (f) provide the five circumstances which are relevant for an accountant. The total of BD10(b) to (f) should equal the number in cell BD10(a).

Do not leave any cells blank, insert a "0" where applicable.

General comments on responses provided above

BD11 Provide any explanations or context comments below

A freetext box is provided at **BD11** for comments, explanations or context comments in relation to the responses provided in section BD-Accts-Use of MLO Concessions.

This section should be used where BD5(i)(j) or BD5(ii)(j) (other) is selected.

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- ⁱ Industry update: [2021 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 Accountants AML/CFT Handbook (paragraph 47) explains that an accountant may demonstrate that it checks that systems and controls are operating effectively where the Board 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} What it means to have a relevant connection with an enhanced risk state is described in Article 15(2)(b)
 - ^v "enhanced risk state" is the countries and territories in relation to which the FATF has called for the application of enhanced CDD
 - ^{vi} 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 accountant is most likely to deal with legal persons that are companies therefore the text has been amended accordingly.
 - ^{vii} Excluding a settlor of a trust who is deceased in line with paragraph 74 of section 4.4 of the Accountants AML/CFT Handbook.