

# **Guide to Section II of risk based supervision data: Fund Services Business**

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# 1 General guidance

## 1.1 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 2021<sup>1</sup>, 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 fund services business.

Fund services 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. Fund services business is defined in Article 2(10) of the Financial Services (Jersey) Law 1998 (**FS(J)L**) as follows:

A person carries on fund services business if by way of business the person is:

- (a) a manager, manager of a managed entity, administrator, registrar, investment manager or investment adviser;
- (b) a distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent or repurchase agent;
- (c) a trustee, custodian or depositary; or
- (d) a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country or territory outside Jersey,

in relation to an unclassified fund or an unregulated fund.

The Schedule to the Financial Services (Financial Service Business) (Jersey) Order 2009 (Financial Service Business Order) specifies 17 classes of fund services business (**FSB**)

<b>Class</b>	<b>Description</b>	<b>FS(J)L Article</b>
<b>U</b>	Manager.	2(10)(a)
<b>V</b>	Administrator.	2(10)(a)
<b>W</b>	Registrar.	2(10)(a)
<b>X</b>	Investment manager.	2(10)(a)
<b>Y</b>	Investment adviser.	2(10)(a)
<b>Z</b>	Distributor.	2(10)(b)
<b>ZA</b>	Subscription agent.	2(10)(b)
<b>ZB</b>	Redemption agent.	2(10)(b)
<b>ZC</b>	Premium receiving agent.	2(10)(b)
<b>ZD</b>	Policy proceeds paying agent.	2(10)(b)
<b>ZE</b>	Purchase agent.	2(10)(b)

<i><b>Class</b></i>	<i><b>Description</b></i>	<i><b>FS(J)L Article</b></i>
<b>ZF</b>	Repurchase agent.	2(10)(b)
<b>ZG</b>	Trustee.	2(10)(c)
<b>ZH</b>	Custodian.	2(10)(c)
<b>ZI</b>	Depository.	2(10)(c)
<b>ZJ</b>	Member of a partnership (except a limited partner).	2(10)(d)
<b>ZK</b>	Manager of a managed entity.	2(10)(a)

## 1.2 Excel workbook

The Excel workbook for a fund services business comprises 5 spreadsheets, as follows:

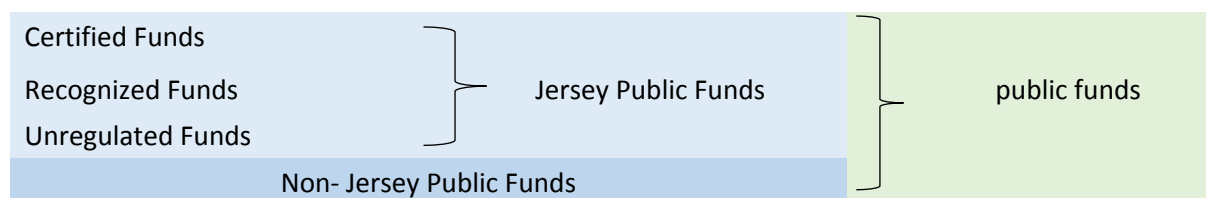
- (a) V – FSB Compliance data
- (b) W –FSB Client data
- (c) X – FSB Control data
- (d) Y– FSB Use and application of concessions granted by the MLOii
- (e) Z –FSB Country List

Spreadsheet Z is an input sheet for the responses to questions V9, Y4, Y5 and Y9.

## 1.3 Fund clients

A fund services business is required to complete the workbooks in respect of the public funds that are its clients. Separate workbooks are being generated for fund services business to provide data on the investors in funds where those investors are the clients of the funds (workbooks will be produced for public funds, unregulated funds and JPFs but will be sent to the related fund services business).

For the avoidance of doubt data should be provided on the public fund where the public fund meets the definition of “Collective Investment Fund” as set out in Article 3 of the Collective Investment Funds (Jersey) Law 1988, as amended. Within this Guidance and the workbook public funds means all Jersey Public Funds (Certified, Recognized and Unregulated) and all Non-Jersey Public Funds.



## 1.4 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).

## 1.5 Data submission

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

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

Notwithstanding that the contact has responsibility for submitting the data, the board, or equivalent, of the fund services business 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 funds services businesses 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 a fund services 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 impacted, the extent they have been impacted and when the relevant system changes will take effect.

Where the fund services business 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.

A fund services business should complete all parts of each question on the relevant spreadsheets with the exception of spreadsheet *Z-FSB-Country list* where "0" is already the default against each country.

## 1.6 Integrity checking your submission

Before submitting your data we suggest that the integrity checks highlighted below should be completed.

The following should all add to the same total number, as the question analyses the total number of public funds that the FSB acts for as at 31 December 2021:

- (a) By risk rating: V1
- (b) By structure type: W1(a)(i) to (viii)
- (c) Whether investors are controlling or not: X1 + X2.

The total for V1(a)(i) and (ii) and the total for W1(c)(i) to (viii) should be equal as they are both reflective of the number of public funds assessed as higher risk.

No response in W1(b) should exceed W1(a), in any given column.

W1(c) to W1(e) cannot be individually greater than W1(b) in any given column.

The response to W5 has to be the same or lower than the response to W4.

The response to W6 has to be the same or lower than the response to W5.

## 2 Section V – Fund Services Business compliance data

### 2.1 Overview

This section collects data on:

- (a) 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 public fund clients are obtained on the basis of referrals from other businesses)
- (d) cash transactions (the extent to which cash is received by public funds)
- (e) assets under management (AUM); and
- (f) transaction monitoring.

### 2.2 Risk rating

**V1 Number of public funds in each category of risk (as defined by the FSB) as at the end of the data reporting period (only answer in relation to public funds) (companies, limited partnerships, unit trusts etc...) who are clients of the FSB**  
(i) Jersey public funds; (ii) non-Jersey public funds  
(a) higher; (b) standard; (c) lower

**V2 Do the FSB's risk ratings include factors other than money laundering and the financing of terrorism?**  
(Yes; No) If Yes, provide details at V16(a)

Question **V1** requests data about the **number of public funds 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).

Where use is made of a more precise risk scoring scale, it will be necessary to determine which categories in that scale approximate to higher<sup>iii</sup>, standard or lower risk. For example, if an FSB 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 FSB includes other factors e.g. investor eligibility risk, in its risk rating of public funds 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 **V2**. If a combined rating is reported provide details at **V16(a)** (free text box) of the other factors included.

Provide an answer for every element of **V1**.

**V1** –when the figures given in each category of risk are added together it gives the global number of public funds that the FSB acts for.

Higher (V1(a)(i) & (ii)) + Standard (V1(b)(i) & (ii)) + Lower (V1(c)(i) & (ii)) = Total number of public funds the FSB acts for.

The following should all add to the same total number as the questions analyse the total number of public funds that the FSB acts for as at 31 December 2021:

- (a) By risk rating: V1 (see 0)
- (b) By structure type: W1(a)(i) to (viii)
- (c) Whether investors are controlling or not: X1 + X2

**V3 If the FSB risk rates the beneficial owners/controllers of funds, or other persons who must be identified under Article 3 of the MLO in relation to the public fund, the number in each category of risk (as defined by the FSB) as at the end of the data reporting period**  
**(i) Jersey public funds; (ii) non-Jersey public funds**  
**(a) higher; (b) standard; (c) lower**

**V4 Do the FSB's risk ratings include factors other than AML/CFT?**  
**(Yes; No; N/A) If yes, provide details at V16(a)**

It is not a requirement of the MLO or AML/CFT Handbook for an FSB to risk rate the beneficial owners and controllers or other persons who must be identified under Article 3 of the MLO in relation to their public funds (other persons). However, we would like to understand the extent to which this happens in practice.

If an FSB does risk rate the beneficial owners and controllers or other persons in relation to their public funds, question **V3** should be answered. The guidance above should be followed where appropriate.

If a combined rating is reported select "yes" when responding to **V4** and provide details at **V16(a)** (free text box) of the other factors included.

If an FSB does not risk rate the beneficial owners and controllers or other persons in relation to their public funds, insert a "0" in all cells **V3(a)-(c)** and select "N/A" from the drop down menu at **V4**.

## **2.3 Declined, terminated and withdrawn business**

**V5 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**  
**(i) Jersey public funds; (ii) non-Jersey public funds**

**V6 Number of business relationships terminated, due to CDD issues or other financial crime concerns, during the data reporting period**  
**(i) Jersey public funds; (ii) non-Jersey public funds**

In line with section 2.4.1 of the AML/CFT Handbook (paragraph 33), questions V5 and V6 request data about:

- (a) the number of **prospective business relationships or one-off transactions that have been declined (V5); and**
- (b) business relationships that have been **terminated** due to CDD issues or other financial crime concerns (**V6**).

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 FSB's risk appetite); and
- › there is suspicion of ML/TF.

These questions apply 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).

Do not leave fields blank, insert a “0” in all cells relating to **V5** and **V6** if no prospective clients have been declined or clients terminated.

Note that this question relates to business relationships with funds and prospective clients who are funds not fund investors.

**V7** **Number of applications from prospective clients who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)**  
**(i) Jersey public funds; (ii) non-Jersey public funds**

Question **V7** 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 FSB. 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. trust company business, and where there is no direct contact with the prospective client.

Note that this question relates to prospective clients who are funds not fund investors.

## 2.4 Referred business

Questions **V8**, **V9** and **V10** request data about those **persons who referred clients** to an FSB **on a regular basis** during the data reporting period.

Where business is referred to an FSB but the referral does not result in a business relationship this is not to be considered referred business for the purpose of responding to V8, V9 and V10.

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

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

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 Y (Use of MLO concessions)); or
- (b) a client acting on behalf of one or more third parties; or
- (c) a person who refers clients on a basis that cannot be considered regular. The meaning of regular will vary by FSB 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 clients irrespective of whether an FSB has paid that person a fee for the referred business.

**V8 Number of persons who referred clients to the FSB, during the data reporting period, which carry on the following activities  
(a) lawyer; (b) accountant; (c) other**

Question **V8** requires analysis of the number of persons who referred business to the fund services business. "Other" should include any referrals from existing clients, another group company or a trust company business.

Where an FSB responds that the majority of the persons that are referring clients fall in "Other" (V8(c)) provide further details at V16(b) (General comments on section V). This may be for example, "majority of referrals are from existing clients or trust company businesses".

If an FSB considers that it does not have any **persons that refer business** then insert "0" into each of **V8(a)**, **V8(b)** and **V8(c)**.

**V9 Number of persons who referred clients to the FSB, during the data reporting period, analysed by country**

Question **V9** requires the number of persons who referred clients to be analysed by country, using spreadsheet *Z-FSB Country List*.

Note the countries are listed on spreadsheet Z alphabetically. "0" is already the default against each country.

**V10 Number of relationships with persons who referred clients to the FSB during the data reporting period that were terminated due to CDD issues, or other financial crime concerns**

Question **V10** requires an FSB 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 FSB are impractical or excessive.

If no terminations have occurred, insert a "0" in response to **V10**.

## **2.5 Cash transactions**

**V11 Number and value of cash transactions (i.e. notes and coins) for public funds that are clients of the FSB during the data reporting period (receipt or payment) in any jurisdiction  
(i) Jersey public funds; (ii) non-Jersey public funds  
(a) number; (b) value in GBP**

Question **V11** requests data about the **number (V11(a)(i), V11(a)(ii)) and value (V11(b)(i), V11(b)(ii)) of cash transactions (using notes and coins)** conducted for public funds that are clients of the FSB.

This question is intended to determine the extent to which physical cash is still used in the FSB 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 FSB 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 all cells for both **V11(a)** and **V11(b)**.

## **2.6 Public Fund assets**

**V12 Total overall estimate of assets under management of all public funds that are the FSBs clients (in GBP)**

For the purpose of responding to this data request “assets” carries the meaning provided in Article 1 of the FS(J)L, namely, in relation to “client assets”:

*property belonging to a client, including money, investments and insurance policies; and any fund asset.*

Note fund asset in this context refers to a fund investment held by the public fund.

## 2.7 Transaction monitoring

Whilst it is understood that some transactions with an FSB may be “one-off” other clients will have an ongoing relationship with an FSB.

Where an ongoing relationship is established transaction monitoring must be undertaken (Article 13 of the MLO).

### V13 What is the timing of the ongoing monitoring of transactions during a business relationship?

(Real-time ; Post-event ; Both ; N/A)

(i) on payments to and from investors

(ii) on purchase and sale of investments by the public funds

(iii) on payments of fees and expenses of service providers to the public fund

### V14 Are monitoring procedures automatic or manual?

(Automated ; Manual ; Both ; N/A)

### V15 What rules are applied to the transaction monitoring procedures?

(Generic ; Tailored ; Both ; N/A)

Questions **V13**, **V14** and **V15** need only be answered in respect of public funds with an ongoing relationship.

Where an FSB has no ongoing public fund relationships respond to each of **V13**, **V14** and **V15** with “N/A”.

V13 has been subdivided into monitoring of three types of transactions where the transaction forms part of the services that the FSB provides to its public fund client. Transaction monitoring may arise in an administrative context such as spot checks by compliance and also includes checking whether a transaction matches a profile of expected activity.

## 2.8 General comments

### V16 Provide any explanations or context comments below

If a fund services business selects “yes” when responding to **V2** or **V4** details of the other factors included in the combined risk rating should be provided at **V16(a)**.

A free text box is provided at **V16(b)** to provide general comments, explanations or context comments in relation to the other responses in Section V-FSB Compliance data. This should include information where an FSB responds that the majority of the persons that are referring clients fall in “Other” (V8(c)) provide here details at V16(b) in respect of those persons reported as “Other”. This may be for example, “majority of referrals are from existing clients or trust company businesses”.

## 3 Section W– FSB Client data

### 3.1 Client data overview

To gain a better understanding of the size and shape of the FSB industry and consequently the money laundering/financing of terrorism risks that may be present, we are collecting client data by whether the public fund is a Jersey Public Fund or a Non-Jersey Public Fund.

Section W collects data by type of public fund in order to establish whether any particular public fund type exhibits higher risk factors than others. Responses need to be provided in the following public fund types:

- (a) Unit Trusts with a Jersey trustee;
- (b) Unit Trusts with a non-Jersey trustee;
- (c) Jersey companies;
- (d) Non-Jersey companies;
- (e) Partnerships with a Jersey general partner
- (f) Partnerships with a Non Jersey general partner
- (g) Other – Jersey; and
- (h) Other – non-Jersey.

“Other” includes a public fund that does not fit within the descriptions at (a) to (f).

When completing sections **W1(a)** to **W1(e)**, data should be provided separately for incorporated cell companies - because they have a legal personality that is separate to the cell company.

Where the governing body of public fund is a trustee/general partner (the data relating to that public fund should be entered in the relevant ‘Trusts’ or Partnership column (Jersey trustee/general partner or non-Jersey trustee/general partner) and not in the columns for companies.

Section W collects data about:

- (a) public funds that the FSB acts for which require enhanced due diligence to be applied and the reason why e.g. PEP, higher risk etc.;
- (b) compliance services provided by the FSB to public funds; and
- (c) public listed funds that the FSB acts for.

All data should be provided as at 31 December 2021 or the closest business day.

### 3.2 Fund data

**W1(a) As at 31 December 2021 number of public funds that are:**

**(i) Unit Trusts with Jersey trustee; (ii) Unit Trusts with non-Jersey trustee; (iii) Jersey companies; (iv) Non-Jersey companies; (v) Partnerships with Jersey General Partner; (vi) Partnerships with non-Jersey General Partner (vii) Other – Jersey; and (viii) Other – non-Jersey**

**W1(a)** requests the total **number** of public funds as at 31 December 2021 analysed by public fund type as listed in 3.1 above.

Note that response provided to **W1(a)** provides the base for responding to all other data requests in questions **W1(b)** to **W1(e)**.

- 3.2.1 For example, given a response to **W1(a)** as set out in the table below then the number of public funds is the maximum number that can appear in the relevant column for all other section **W1** questions:

Question number	Public fund type	Number of public funds
W1(a)(i)	Trusts with Jersey trustee	25
W1(a)(ii)	Trusts with non-Jersey trustee	5
W1(a)(iii)	Jersey Companies	10
W1(a)(iv)	Non-Jersey Companies	7
W1(a)(v)	Partnerships with Jersey GP	42
W1(a)(vi)	Partnerships with Non-Jersey GP	10
W1(a)(vii)	Other – Jersey	0
W1(a)(viii)	Other – non-Jersey	1

Where an FSB has no public funds of a particular type insert “0”.

W1(a)(i) to (viii) reflects the type of public funds and when added together it gives the global number of public funds that the FSB acts for.

The following should all add to the same total number as the questions analyse the total number of public funds that the FSB acts for as at 31 December 2021:

- (a) By risk rating: V1 (see 0)
- (b) By structure type: W1(a)(i) to (viii)
- (c) Whether investors are controlling or not: X1 + X2.

### 3.3 Enhanced CDD measures

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

In addition to an FSB deciding that a public fund 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. If the public fund:

- (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) has one or more beneficial owners/controllers of the public fund, which are not physically present for identification purpose (section 7.4)
- (f) is a non-resident client (not a Jersey resident) (section 7.7) or
- (g) is provided with private banking services (section 7.8).

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.

Where the FSBs client is a non-Jersey public fund this will require the application of enhanced CDD measures.

Additionally, there are scenarios where enhanced CDD is applied in relation to individuals connected to the public fund, such as directors who are its beneficial owners and controllers. For example, where a public fund has 3 individuals as directors, 2 Jersey resident directors and 1 non-Jersey resident director, an FSB will have applied enhanced CDD to the 1 non-Jersey resident director therefore the public fund should be counted as 1 in relation to the number of public funds that have had enhanced CDD measures applied and reported at W1(b).

**W1(b) Number where enhanced CDD measures have been applied:**

**(i) Unit Trusts with Jersey trustee; (ii) Unit Trusts with non-Jersey trustee; (iii) Jersey companies; (iv) Non-Jersey companies; (v) Partnerships with Jersey General Partner; (vi) Partnerships with non-Jersey General Partner (vii) Other – Jersey; and (viii) Other – non-Jersey**

Using the response to question **W1(a)** as the base for responding, question **W1(b)** requests data about the total **number** of public funds to which enhanced customer due diligence (CDD) measures have been applied (either for any of the specific reasons listed in Section 7 of the AML/CFT Handbook or as a result of application of an FSBs CDD policy).

This could be any aspect of the public fund e.g. a non – Jersey director who has not been met, investors who are PEPs, the public fund that has source of funds from an investor connected to a high risk state.

For example, if all of the 100 public funds that are reported have aspects that would lead to enhanced CDD being applied to any part of the public fund (or individuals connected to the public fund then all 100 would be reported in the respective column. We are trying to understand how prevalent enhanced CDD measures are.

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

If an FSB has no public funds which have been subject to enhanced CDD measures do not leave a cell blank, insert "0" in each purple box.

**W1(c) Number that present higher risk of ML/TF:**

**(i) Unit Trusts with Jersey trustee; (ii) Unit Trusts with non-Jersey trustee; (iii) Jersey companies; (iv) Non-Jersey companies; (v) Partnerships with Jersey General Partner; (vi) Partnerships with non-Jersey General Partner (vii) Other – Jersey; and (viii) Other – non-Jersey**

Where an FSB has determined that a public fund presents a higher risk of money laundering or financing terrorism, enhanced CDD measures must be applied, therefore the response to question **W1(c)** cannot be greater than the response to question **W1(b)**.

There are circumstances where enhanced CDD measures must be applied but the FSB may not consider the public fund presents a higher risk, therefore the response to **W1(b)** may be lower than the response to **W1(a)**. For example, a majority of the public funds investors reside in an appendix D2 jurisdiction where there are typologies which indicate that many of the high net worth resident's wealth derives from non-legitimate sources such as utility companies that were previously in government ownership.

If an FSB has no public funds which present a higher risk do not leave a cell blank, insert "0" in each purple box.

The total for V1(a)(i) and (ii) and the total for W1(c)(i) to (viii) should be equal as they are both reflective of the number of public funds assessed as higher risk.

**W1(d) Number that are, or who are connected with, a PEP:**

**(i) Unit Trusts with Jersey trustee; (ii) Unit Trusts with non-Jersey trustee; (iii) Jersey companies; (iv) Non-Jersey companies; (v) Partnerships with Jersey General Partner; (vi) Partnerships with non-Jersey General Partner(vii) Other – Jersey; and (viii) Other – non-Jersey**

Using the response to question **W1(b)** as the base for responding, **W1(d)** requires the **number** of public funds to which enhanced CDD measures have been applied due to a PEP connection.

On 12 June 2019 the definition of Money Laundering Order was amended (see Article 15A 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 public fund;
  - › a third party for whom the public fund acts AND the third parties beneficial owners or controllers ;
  - › purporting to act on behalf of the public fund.

When considering whether a public fund is connected with a domestic PEP or foreign PEP it must be remembered that the definition 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 public fund or information that is publicly known (Article 15A(4) of the Money Laundering Order).

If an FSB has no public funds who are connected with a PEP, do not leave a cell blank, insert "0" in each purple box.

**W1(e) Number that have a relevant connection to an enhanced risk state (Iran and North Korea):**

**(i) Unit Trusts with Jersey trustee; (ii) Unit Trusts with non-Jersey trustee; (iii) Jersey companies; (iv) Non-Jersey companies; (v) Partnerships with Jersey General Partner; (vi) Partnerships with non-Jersey General Partner(vii) Other – Jersey; and (viii) Other – non-Jersey**



Using the response to question **W1(b)** as the base for responding, question **W1(e)** requires the **number** of public funds to which enhanced CDD measures have been applied because the public fund has a connection to an enhanced risk state.

Appendix D1 of the AML/CFT Handbook provides a list of the countries and territories that are considered an enhanced risk state. As at 31 December 2021 the following were listed:

- (a) Iran and
- (b) The Democratic People's Republic of Korea (North Korea)

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

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

- (a) assets held in either Iran or North Korea by the public fund or any person on behalf of a public fund; or
- (b) income arising in Iran or North Korea.

In either scenario the FSB should take reasonable measures to find out the source of wealth of the public fund.

If an FSB has no public funds with a relevant connection to an enhanced risk state, do not leave a cell blank, insert "0" in each purple box.

### 3.4 Compliance Services

#### **W2 How many of the public funds does the FSB provide**

**(i) MLRO, (ii) MLCO and (iii) CO?**

**(a) Jersey CIF Unclassified; (b) Non-Jersey CIF Unclassified; (c) CIF Recognised; (d) CIF Unregulated**

Indicate the number of public funds to which the FSB supplies the Money Laundering Reporting officer (**MLRO**), the Money Laundering Compliance Officer (**MLCO**) and/or the Compliance Officer (**CO**) for some FSBs such as an investment advisor this question might be answered "0" as it is not a service that is provided under their class of fund services business.

#### **W3 How many of the public funds have outsourced to the FSB the collation of CDD on the public funds investors?**

Public funds often outsource the collation of CDD on their investors to an FSB, such as an administrator. Indicate the number of public funds that the FSB provides this service to.

### 3.5 Listed Funds

#### **W4 How many listed public funds does the FSB act for?**

Any public fund that has a listing on any exchange, a technical listing or otherwise should be reported in the number of public funds reported here.

#### **W5 How many listed public funds that the FSB acts for are listed on an IOSCO compliant market or regulated market?**

Not all exchanges are IOSCO compliant or regulated markets. Section 7.15 of the AML/CFT Handbook provides guidance.

Provide the number of listed public funds that are listed on an IOSCO compliant market or a regulated market.

This number will be the same or less than the answer to question **W4**.



**W6**     **Where the FSB acts for public funds that are listed on an IOSCO compliant market or regulated market, how many of those listed funds have had transactions in their units that are not undertaken on an IOSCO compliant market or a regulated market, for example an off-market transaction?**

Question **W5** requests the number of public funds that are listed on an IOSCO compliant market or regulated market. This question requests the number of those public funds which have transactions in their units that are not transacted on those exchanges e.g. an off market transaction where the shares are transferred without using brokers between individuals such as by using a stock transfer form.

### **3.6 General Comments**

**W7**     **Provide any explanations or context comments below**

A free text box is provided at **W7** to provide general comments, explanations or context comments in relation to the other responses in Section *W-FSB Client data*.

## 4 Section X – Control of Public Fund

### 4.1 General

The FSB is the relevant person and the public fund is the client. Separate workbooks are being prepared to collate information on the clients of the public fund, being their investors.

The following should all add to the same total number as the questions analyse the total number of public funds that the FSB acts for as at 31 December 2021:

- (a) By risk rating: V1 (see 0)
- (b) By structure type: W1(a)(i) to (viii)
- (c) Whether investors are controlling or not: X1 + X2.

### 4.2 Control of Public Fund

**X1 Number of public funds, as at the end of the reporting period, who are the clients of the FSB that have non-passive controlling investors who are considered to be beneficial owners and controllers of the fund?**

This question requires the FSB to provide the number of public funds that have investors that exert control over the public fund. See sections 14.3.4 and 13.3 and of the AML/CFT Handbook for further guidance.

**X2 Number of public funds, as at the end of the reporting period, who are the clients of the FSB that only have passive non-controlling investors?**

This question requires the FSB to provide the number of public funds that have no investors that exert control over the public fund.

### 4.3 General comments

**X3 Provide any explanations or context comments below**

A free text box is provided at **X3** to provide general comments, explanations or context comments in relation to the other responses in Section X-*FSB Control data*.

## 5 Section Y – Use and application of concessions granted by the Money Laundering Order

### 5.1 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), **16A** (persons in the same financial group), and Part **3A** (CDD Exemptions).

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

Question	Data period	Date(s)
<b>Client identification and verification</b>		
Y1	At end of reporting period	31/12/2021 or closest business day
Y2	During the reporting period	1/1/2021 – 31/12/2021
<b>Reliance on obliged persons and persons in the same financial group (Articles 16 and 16A of the MLO)</b>		
Y3	At end of reporting period	31/12/2021 or closest business day
Y4	At end of reporting period	31/12/2021 or closest business day
Y5	At end of reporting period	31/12/2021 or closest business day
Y6	At end of reporting period	31/12/2021 or closest business day
Y7	During the reporting period	1/1/2021 – 31/12/2021
Y8	During the reporting period	1/1/2021 – 31/12/2021
<b>Exemptions from applying third party identification requirements (Articles 17B-D of the MLO)</b>		
Y9	At end of reporting period	31/12/2021 or closest business day
Y10	During the reporting period	1/1/2021 – 31/12/2021
Y11	During the reporting period	1/1/2021 – 31/12/2021
Y12	At end of reporting period	31/12/2021 or closest business day
<b>Further exemptions from applying identification requirements (Article 18 of the MLO)</b>		
Y13	During the reporting period	1/1/2021– 31/12/2021

## 5.2 Client identification and verification

### Y1 Number of public funds, 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 public funds of an FSB at the time the Money Laundering Order came into force – 4 February 2008.

Article 13(2) sets out very particular circumstances which enabled an FSB to delay verification of a public fund's identity – section 4.7.2 of the AML/CFT Handbook provides further guidance.

An FSB should have finalised the position of its existing public funds 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 FSBs will report "0" in respect of **Y1**.

### Y2 Number of public funds 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 FSB is permitted to delay verifying the identity of a public fund where (finding out the identity of the public fund 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.

Question **Y2** collects data about the **number of public funds where delayed verification in line with Article 13(4) of the Money Laundering Order has been applied**.

If an FSB has not delayed the verification of any public fund's identity during the data reporting period, respond with "0".

## 5.3 Reliance on obliged persons and persons in the same financial group (Articles 16 and 16A 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 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.

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.*

**Y3 Number of public funds where reliance has been placed on obliged persons and persons in the same financial group, as at the end of the data reporting period**

**(a) Obligated persons**

**(b) Same financial group**

**Y4 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**

**Y5 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**

**Y6 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**

**(i) financial services business; (ii) equivalent business; (iii) same financial group**

**(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; (j) other**

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

- (a) Question **Y3** requests the **number of public funds where reliance has been placed** on obliged persons and persons in the same financial group during the data reporting period (insert "0" if no reliance has been placed);
- (b) Question **Y4** requests **the country of the obliged person** on whom reliance is being placed (responses should be provided on spreadsheet *Z-FSB-Country list*. Note the countries are listed alphabetically. "0" is already the default against each country);
- (c) Question **Y5** requests the **country of the person in the same financial group** on whom reliance is being placed (responses should be provided on spreadsheet *Z-FSB -Country list*. Note the countries are listed alphabetically. "0" is already the default against each country)); and
- (d) Question **Y6** 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 (insert "0" if no reliance is placed).

**Y7 Number of obliged persons and persons in the same financial group relied upon, who were requested to provide information and evidence during the data reporting period**

**Y8 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**

Where an FSB places reliance, the Money Laundering Order (Article 16(5)) requires that an FSB tests, 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.

Questions **Y7** and **Y8** require an FSB to report the number of obliged persons and persons in the same financial group that have been requested to provide information and evidence and have failed to provide information and evidence on demand and without delay.

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)

In line with Articles 17B-D of the Money Laundering Order, an FSB may be exempt from applying identification requirements in relation to a third party 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.

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.

### Y9 Number of public funds, by country, where CDD exemptions have been applied to third parties for whom those public funds act (Articles 17B-D of the MLO) as at the end of the data reporting period

Question **Y9** requests data on the number of public funds where exemptions from identification measures have been applied at the end of the reporting period, analysed by the country in which the public fund is regulated and supervised for AML/CFT purposes. Responses should be provided on spreadsheet *Z-FSB-Country list*. Note the countries are listed alphabetically. "0" is already the default against each country.

Question Y9 is designed to elicit how prevalent the use of exemptions from identification measures in relation to third parties is but the data to be reported is the **number of public funds not the number of third parties**.

For example there may be 10 third parties in relation to a public fund but exemptions from identification measures may only have been applied to 3 of them.

This represents a use of the Money Laundering Order CDD exemption on third parties in relation to 1 public fund and counts as 1 when responding to Y9.

Whilst provisions of Part 3A can be applied to the same client relationship (public fund), they apply to separate identification requirements – Article 18 relates to identification of the public fund and Articles 17B-D relate to identification of third parties on whose behalf the public fund is acting. The use of Articles 17B-D does not automatically mean Article 18 has also been used in respect of the same public fund.

- Y10** Number of public funds who were requested to provide information and evidence on demand and without delay during the data reporting period where CDD exemptions have been applied in accordance with Articles 17B-D of the MLO
- Y11** Number of public funds who failed to provide information and evidence on demand and without delay during the data reporting period, where CDD exemptions have been applied in accordance with Articles 17B-D of the MLO

Where an FSB applies exemptions from identification measures, the Money Laundering Order (Article 17D (3)) requires that FSB to establish, as often as it considers, whether the public fund:

- (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) provide the information or evidence without delay if requested to do so.

Questions **Y10 and Y11** require an FSB to report the number of public funds that have been requested to provide information and evidence on demand and have 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 public funds did provide information and evidence when requested.

- Y12** Number of public funds, 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  
(i) financial services business; (ii) equivalent business; (iii) same financial group  
(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

Question **Y12** requests data on the type of business that is carried on by public funds where exemptions from applying third party identification measures have been applied. Insert "0" in the purple boxes if no exemptions from third party identification measures are applied.

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

- Y13** (a) Number of public funds to whom further CDD exemptions (Article 18 of the MLO) have been applied during the data reporting period

Of the above, number of public funds 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 FSB may be able to apply CDD exemptions. See sections 7.13 - 7.16 of the AML/CFT Handbook for further guidance.

If an FSB has applied CDD exemptions to any public funds during the data reporting period the number of public funds should be reported in response to **Y13(a)**.

Question Y13(a) is designed to elicit how prevalent the use of CDD exemptions in relation to public funds is. The question is not after the number of investors who CDD exemptions are applied to but the number of public funds where CDD exemptions have been used.

For example, there may be 100 investors but CDD exemptions may only have been applied to 2 of them.

This represents the use of Article 18 of the Money Laundering Order on investors in relation to 1 public fund and counts as 1 when responding to Y13(a).

Whilst provisions of Part 3A can be applied to the same client relationship (public fund), they apply to separate identification requirements – Article 18 relates to identification of the public fund and Articles 17B-D relate to identification of third parties on whose behalf the public fund is acting. The use of Article 18 does not automatically mean Articles 17B-D have also been used in respect of the same public fund.

If CDD exemptions have not been applied do not leave the cells blank, insert a “0” in response to **Y13 (a)-(f)**.

If CDD exemptions have been applied, **Y13(b)** to **(f)** provide the five circumstances which are relevant for an FSB. The total of **Y13(b)** to **(f)** should equal the number in cell **Y13(a)**.

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

## 5.6 General comments

### Y14 Provide any explanations or context comments below

A free text box is provided at **Y14** to provide general comments, explanations or context comments in relation to the other responses in Section *Y-Use of MLO Concessions*.

This section should be used where Y6(i)(j), Y6(ii)(j) or Y6(iii)(j) (other) is selected.

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<sup>i</sup> Industry update: [2021 Supervisory Risk Data Collection Exercise](#)

<sup>ii</sup> 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.

<sup>iii</sup> Section 2.4.1 of the AML/CFT Handbook (paragraph 33) explains that a fund services 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 public funds that are assessed as presenting a higher risk.