

# **Guide to Section II of risk based supervision data: Trust Company 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 trust company business, except:

- natural persons registered to carry on a single class of trust company business;
- participating members of a trust company business affiliation; and
- persons who are recognized experienced personal advisers, when continuing to provide a relevant personal service that the adviser was providing immediately before the commencement of the Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000.

Where a trust company business is an affiliation leader, its responses to the questions in the Excel workbook should also cover all members of that affiliation, in respect of their trust company business activities. Where a participating member is also registered to conduct a separate activity, e.g. fund services business, information in respect of that activity should be included in the workbook relevant to that activity. Separate workbooks for each activity are being provided through myJFSC.

Trust company 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. Trust company business is defined in Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 (**FS(J)L**) (as at 31 December 2021) as follows:

(3) *A person carries on trust company business if the person carries on a business that involves –*

- (a) *the provision of company administration services;*
- (b) *the provision of trustee or fiduciary services; or*
- (c) *the provision of services to foundations,*
- (d) *the provision of services to partnerships not being services described in sub-paragraph (a), (b) or (c),*

*and in the course of providing those services the person provides any of the services specified in paragraph (4).*

(4) *Those services are –*

- (a) *acting as a company formation agent, a partnership formation agent or a foundation formation agent;*
- (b) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of director or alternate director of a company;*
- (c) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a partner of a partnership;*
- (d) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a member of the council of a foundation;*
- (e) *acting or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company;*

- (f) *providing a registered office or business address for a company, a partnership or a foundation;*
- (g) *providing an accommodation, correspondence or administrative address for a company, a partnership or a foundation or for any other person;*
- (h) *acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust;*
- (i) *acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person.*

The Schedule to the Financial Services (Financial Service Business) (Jersey) Order 2009 (Financial Service Business Order) specifies 11 classes of trust company business (as at 31 December 2021):

<b>Class</b>	<b>Description</b>	<b>FS(J)L Article</b>
<i>F</i>	<i>Acting as a company, partnership or foundation formation agent</i>	<i>2(3) and 2(4)(a)</i>
<i>G</i>	<i>Acting or fulfilling the function of or arranging for another person to act as or fulfil the function of director or alternate director of a company.</i>	<i>2(3) and 2(4)(b)</i>
<i>H</i>	<i>Acting or fulfilling the function of or arranging for another person to act as or fulfil the function of a partner of a partnership.</i>	<i>2(3) and 2(4)(c)</i>
<i>I</i>	<i>Acting or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company.</i>	<i>2(3) and 2(4)(e)</i>
<i>J</i>	<i>Providing a registered office or business address for a company, partnership or a foundation.</i>	<i>2(3) and 2(4)(f)</i>
<i>K</i>	<i>Providing an accommodation, correspondence or administrative address for a company, a partnership or a foundation or for any other person.</i>	<i>2(3) and 2(4)(g)</i>
<i>L</i>	<i>Acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust.</i>	<i>2(3) and 2(4)(h)</i>
<i>M</i>	<i>Acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person.</i>	<i>2(3) and 2(4)(i)</i>
<i>N</i>	<i>Acting as a manager of a managed trust company (as distinct from administering a private trust company being a company that is exempted by Order made under the Law from registration when providing a service specified in Article 2(4) of the Law).</i>	<i>2(3) and 2(4)</i>
<i>O</i>	<i>Providing a service specified in Article 2(4)(a), (e), (f) or (i) of the Law ("the specified services") to a person who is:</i> <i>(a) An individual ordinarily resident in Jersey; or</i>	<i>2(3) and 2(4)</i>

<b>Class</b>	<b>Description</b>	<b>FS(J)L Article</b>
	<p>(b) A company incorporated under the Companies Jersey Law 1991 all the beneficial owners of which are –</p> <p>(i) individuals ordinarily resident in Jersey,</p> <p>(ii) companies incorporated under that Law the beneficial owners of which are all individuals ordinarily resident in Jersey, or</p> <p>(iii) both such individuals and companies,</p> <p>where the provision of the specified service to that person by the provider does not require the provider to handle or control the person's trust company business assets except as a necessary result of providing the specified service.</p>	
OA	Acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a member of the council of a foundation.	2(3) and 2(4)(d)

## 1.2 Excel workbook

The Excel workbook for a reporting entity carrying on trust company business comprises 5 spreadsheets, as follows:

- SA – TCB Compliance Data
- TA – TCB Customer Entity Data
- UA – TCB Beneficial Ownership
- VA – TCB Use and application of concessions granted by the MLO<sup>ii</sup>
- WA – TCB Country List
  - Spreadsheet WA is an input sheet for the responses to questions SA9, UA1, UA2, VA4, VA5 and VA9.

## 1.3 Customer entities

A trust company business/affiliation is required to complete the spreadsheets in respect of their customer entities.

A customer entity will be: (i) a legal person, such as a company or foundation; or (ii) a legal arrangement, such as a trust (including a pension scheme or employee benefit trust) or limited partnership.

A customer entity is a person with whom the trust company business transacts or has transacted business which falls within the definition set out in 1.1 above.

In a case where the same customer entity is served directly by a trust company business/affiliation and by a private trust company, that customer entity should be reported once only.

## 1.4 Affiliations

Care should be taken to avoid duplication of data reported by affiliations. For example, in a case where the same customer entity is served by the affiliation leader and a participating member, that customer entity should be reported once only.

## 1.5 Data reporting period

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

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

## 1.6 Data Submission

Trust company businesses are 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 trust company business will be submitting a completed Excel Workbook through myJFSC, and each trust company business has a designated individual who is the myJFSC contact, which, in the vast majority of cases, is the compliance officer.

Notwithstanding that the myJFSC contact has responsibility for submitting the data, the board, or equivalent, of the trust company 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 trust company 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 trust company 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 trust company 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 trust company business should complete all parts of each question on the relevant spreadsheets, with the exception of spreadsheet *WA-TCB-Country list* where it is not necessary to insert a "0" against each country.

## 1.7 Integrity checking your submission

Before submitting your data to us, we suggest that the integrity checks below should be completed.

- Sum of SA1(a) to (c) needs to agree to the sum of TA1(c)(i) to (v).
- SA1(a) should equal sum of TA14(i) to (v).
- No response in TA2 to TA13 should exceed TA1(c), in any given column.
- TA13 to TA20 cannot be individually greater than TA13, in any column.
- TA20 should not exceed TA19 in any given column.
- TA20 should not exceed TA15.
- VA13(a) should equal the sum of VA13(b) to (f).

## 2 Section SA – Trust company business compliance data

### 2.1 Overview

This section collects data on:

- customer entity 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 customer entities are obtained on the basis of referrals from other businesses)
- cash transactions (the extent to which cash is used)
- customer assets under management; and
- transaction monitoring

### 2.2 Risk Rating

**SA1** Number of customer entities in each category of risk (as defined by the trust company business/affiliation) as at the end of the data reporting period  
(a) Higher; (b) Standard; (c) Lower

**SA2** Do the trust company business's risk ratings include factors other than money laundering and the financing of terrorism?  
(Yes ; No) If Yes, provide details at SA16(a)

Question **SA1** requests data about the number of customer entities 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, standard or lower risk. For example, if a trust company business measures risk on a score of 1 to 10, it may consider anything between 1 and 3 to present a lower risk, 4 to 7 to present a standard risk, and 8 to 10 to present a higher risk.

If a trust company business includes other factors e.g. commercial risk, in its risk rating of customer entities 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 **SA2** and provide details at **SA16** (free text box) of the other factors included.

Do not leave fields blank, insert a "0" in SA1(a), SA1(b), or SA1(c) if no customer entities are rated as higher, standard or lower respectively.

Note the sum of SA1(a) to (c) should equal the sum of TA1(a)(i) to (v).

**SA3** If the trust company business/affiliation risk rates any beneficial owners/controllers of customer entities, or other persons who must be identified under Article 3 of the MLO, the number in each category of risk (as defined by the trust company business/affiliation) as at the end of the data reporting period  
(a) Higher; (b) Standard; (c) Lower

**SA4** With respect to SA3, do the trust company business's risk ratings include factors other than money laundering and the financing of terrorism?  
(Yes ; No ; N/A) If Yes, provide details at SA16(b)



It is not a requirement of the MLO or AML/CFT Handbook for a trust company business to risk rate the beneficial owners and controllers of their customer entities, including any person purporting to act on behalf of the customer. However, we would like to understand the extent to which this happens in practice.

It is understood that a trust company business may risk rate some but not all beneficial owners and controllers of their customer entities, in this case respond with respect to those that are risk rated.

If a trust company business does risk rate any beneficial owners and controllers of their customer entities, separately to the customer entity risk rating, questions **SA3** and **SA4** should be answered.

If a trust company business does not separately risk rate any beneficial owners and controllers of their customer entities, insert a “0” in all cells **SA3(a)-(c)** and select “N/A” from the drop down menu at **SA4**.

## 2.3 Declined, terminated and withdrawn business

**SA5** Number of applications from prospective customer entities 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

**SA6** Number of business 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 AML/CFT Handbook (paragraph 33), questions **SA5** and **SA6** request data about:

- the number of prospective business relationships or one-off transactions that have been declined (SA5); and
- business relationships that have been terminated due to CDD issues or other financial crime concerns (SA6).

This will include cases where:

- it has not been possible to complete identification measures (before or during a customer 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 trust company business’s risk appetite); and
- there is suspicion of ML/TF.

These questions apply also 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 lawyer, and where there is no direct contact with the prospective customer entity; and
- 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 SA5 and SA6 if no prospective customer entities have been declined or business relationships terminated.

**SA7 Number of applications from prospective customer entities who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)**

Question **SA7** collects data on customer entity applications withdrawn solely or partly on the basis of CDD requested.

It is recognised that this data may not be recorded by a trust company business. 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 lawyer, and where there is no direct contact with the prospective customer entity.

## **2.4 Referred business**

Questions SA8, SA9 and SA10 request data about those persons who referred customers to a trust company business on a regular basis during the data reporting period.

Where business is referred to a trust company but neither a one-off transaction nor customer relationship result this is not considered referred business for the purpose of responding to SA8, SA9 and SA10.

Persons who refer customers to a trust company business may be third parties such as firms of lawyers and accountants.

Additionally, if a trust company business is part of a group, any referrals from group companies or other branches of the same company should be included here.

For example, if a Jersey trust company business 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 customers:

- 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 VA (Use of MLO concessions)); or
- a customer acting on behalf of one or more third parties (data on these persons is collected through spreadsheet UA (3rd party and beneficial ownership)); or
- a person who refers customers on a basis that cannot be considered regular. The meaning of regular will vary by trust company business and will depend on a number of factors such as the size of their current customer base and the amount of referred business.

A person may be classified as having referred business even if a trust company business does not pay that person a fee for the referrals.

**SA8 Number of persons who referred business to the trust company business/affiliation, during the data reporting period, which carry on the following activities  
(a) Lawyer; (b) Accountant; (c) Other**

Question **SA8** requires analysis of the number of persons who referred business to the trust company business or one of its participating members. “Other” should include any referrals from another group company that is not part of the affiliation.

Where a trust company business responds that the majority of the persons that are referring customers fall in “Other” (SA8(c)) provide further details at SA16(c) (general comments on section SA). This may include referrals from existing customer entities.

If a trust company business considers that it does not have any persons that refer business then insert “0” into each of SA8(a), SA8(b) and SA8(c).

#### **SA9 Number of persons who referred business to the trust company business/affiliation, during the data reporting period, analysed by country**

Question **SA9** requires the number of persons who referred business to be analysed by country, using spreadsheet *WA-TCB Country List*.

Note:

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

#### **SA10 Number of relationships with persons who referred business to the trust company business/affiliation during the data reporting period that were terminated due to CDD issues, or other financial crime concerns**

Question **SA10** requires a trust company business to record the number of times, during the data reporting period, that a relationship between them and a person who referred customer entities 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 customer entities considers that CDD measures applied by the trust company business are impractical or excessive.

If no terminations have occurred, insert a “0” in response to SA10.

## **2.5 Cash transactions**

#### **SA11 Number and value of cash transactions (i.e. notes and coins) for customer entities of the trust company business/affiliation during the data reporting period (receipt or payment) in any jurisdiction (a) Number; (b) Value in GBP**

Question **SA11** requests data about the number (SA11(a)) and value (SA11(b)) of cash transactions (using **notes and coins**) conducted for customer entities.

This question is intended to determine the extent to which physical cash is still used in the trust company business 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 likely to be minimal in the Jersey-based trust company business sector, it is important that this assumption is validated as cash transactions are a key risk indicator for money laundering and the financing of terrorism.

For example, record here any cash that is paid to beneficiaries of a trust.

Where a trust company business attaches physical bank notes to a trust deed in respect of funds settled, or accepts physical bank notes for the initial paid up share capital of a newly incorporated company, this should **not** be reported here.

If no cash transactions occurred during the data reporting period, insert “0” at both SA11(a) and SA11(b).

## **2.6 Customer assets**

#### **SA12 Total overall estimate of assets under management (AUM) as at the end of the data reporting period (in GBP)**

For the purpose of responding to this data request “customer assets” carries the meaning provided in Article 1 of the FS(J)L for “trust company business assets”, namely:

- (a) trust property; or
- (b) any other assets or property not beneficially owned by the registered person.

A customer entity is to be treated as having assets under management by a trust company business where the trust company business (or officer thereof) is the director, partner, council member of a foundation or trustee. Where a trust company business manages a number of customer entities in the same group structure, assets under management in the entire structure should be reported only for the customer entity that is at the top of the group structure.

The value of assets to be reported is the gross (or total) amount that is recorded as trust company business assets in accounting records that disclose the financial position of the legal person or legal arrangement<sup>iii</sup>. It is acknowledged there is no unified standard for the preparation of accounting records and it is rare that they are subject to an audit. In many cases, directly held trust assets may be shares in a company. It is also not unusual for trust assets to be shown in trust accounts at historic cost, and there is no general requirement to ‘mark to market’ the trust assets annually. Accordingly, trust accounts may show trust assets at historic (or book) cost. We do not expect trust company businesses to value assets specifically for the purpose of this data collection exercise.

There is no absolute need for the value of assets to be reported as at the end of the reporting period. Instead, it may be appropriate to report the value of assets at the date that accounting records have been prepared or for which a value has been calculated that is closest to the reporting date.

Responses should be provided in sterling. Where amounts are recorded by a trust company business/affiliation in a currency other than sterling, those amounts should be converted into sterling using the exchange rate applied by the trust company business/affiliation at the end of, or during, the data reporting period as applicable.

## 2.7 Transaction monitoring

Questions **SA13**, **SA14** and **SA15** ask about ongoing transaction monitoring procedures.

**SA13 What is the timing of the ongoing monitoring of transactions during a business relationship?**  
**(Real-time ; Post-event ; Both)**

Ongoing monitoring includes scrutinising transactions undertaken throughout the course of a business relationship. Scrutiny may involve both real time and post event monitoring. Real time monitoring will focus on transactions and activity when information or instructions are received from a customer entity, before or as the transaction is processed. Post event monitoring may involve end of day, weekly, monthly or annual reviews of customer transactions and activity.

**SA14 Are ongoing monitoring procedures automatic or manual?**  
**(Automated ; Manual ; Both)**

**SA15 What rules are applied to the ongoing transaction monitoring procedures?**  
**(Generic ; Tailored to customer risk profile ; Both)**

Where a trust company business’s customer base is homogeneous, and where the products and services provided result in uniform patterns of transactions or activity, generic parameters may be sufficient to identify usual and unusual activity.

However, where each customer is unique, and the product or service is bespoke, eg acting as a trustee of an express trust, monitoring systems will need to be tailored to the nature of the business in order to recognise unusual activity.

## 1.1 General Comments

### SA16 Provide any explanations or context comments below

If a trust company business/affiliation selects “yes” when responding to **SA2** details of the other factors included in the combined risk rating should be provided at SA16(a).

If a trust company business/affiliation responds to the question regarding risk rating beneficial owners/controllers and selects “yes” when responding to **SA4** details of the other factors included in the combined risk rating should be provided at SA16(b).

A free text box is provided at **SA16(c)** to provide general comments, explanations or context comments in relation to the other responses in section SA-TCB compliance data. This should include information where a trust company business responds that the majority of the persons that are referring customers fall in “Other” (SA8(c)) provide further details at SA16(c) in respect of those persons reported as “Other”. This may include referrals from existing customer entities or another group company that is not part of the affiliation.

## 3 Section TA – TCB customer entity data

### 3.1 Customer entity data overview

Section TA collects data about:

- activities of a trust company business;
- activities of a trust company business’s customer entities;
- a trust company business’s customer entities which exhibit higher ML/TF risk characteristics; and
- some specific customer entity characteristics.

This section collects data by type of customer entity in order to establish whether any particular customer entity type exhibits higher risk factors than others. Responses need to be provided in the following customer entity types:

- Trusts;
- Jersey companies;
- Non-Jersey companies;
- Other – Jersey; and
- Other – non-Jersey.

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

- Foundation
- Limited Partnership
- Limited Liability Partnership
- Separate Limited Partnership
- Incorporated Limited Partnership.

When completing section TA, data should be provided separately for:

- incorporated cell companies - because they have a legal personality that is separate to the cell company; and

- protected cell companies – because each cell may have different characteristics to other protected cells.

For example, in the case where a cell company has established three cells, four companies should be reported in the appropriate column.

- Data should be provided only on trust company business that is carried on by a trust company business/affiliation. Data in respect of other activities carried on by the trust company business/affiliation eg in respect of fund services business, will be collected in a separate Excel workbook provided through myJFSC.
- For questions TA1 to TA26 data should be provided as at 31 December 2021 or the closest business day. For questions TA27 and TA28 data should be provided in respect of the year ended 31 December 2021.

## 3.2 Customer entity data

**TA1(a) Number of customer entities administered directly by the trust company business/affiliation:**

**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

**TA1(b) Number of customer entities administered through a private trust company:**

**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

**TA1(a) and TA1(b)** request the total number of customer entities as at 31 December 2021 analysed by customer entity type.

There is no need to provide any data at TA1(c) as this will automatically calculate the total of TA1(a) and TA1(b).

Note that responses provided to TA1(a) and TA1(b) provide the base for responding to all other data requests in section TA.

For example, given a totalled response to TA1(c) as set out in the table below, then the number of customer entities is the maximum number that can appear in the relevant column for all other section TA questions:

Ref	Customer entity type	Number of customer entities
TA1(a)(i)	Trusts	50
TA1(a)(ii)	Jersey Companies	25
TA1(a)(iii)	Non-Jersey Companies	15
TA1(a)(iv)	Other - Jersey	0
TA1(a)(v)	Other – non-Jersey	1

Where a trust company business has no customer entities of a particular type insert “0”.

The sum of SA1(a) to (c) should equal the sum of TA1(c)(i) to (v).

## 3.3 Activities of the trust company business

This section collects more detailed data about the activities of the trust company business/affiliation that may be considered to present a lower or higher ML/TF risk.

**TA2 Number where management functions are provided:**  
(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey

**TA2** requests data on the number of customer entities to which management functions are provided. A customer entity is to be treated as managed by a trust company business/affiliation where the trust company business (or officer thereof) is the director, partner, council member of a foundation or trustee.

**TA3 Number where only ‘limited services’ are provided:**  
(ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey

‘Limited services’ refers to the situation where a trust company business/affiliation provides only a registered office, secretary, or both to a customer entity.

**TA4 Number where only registered office services are provided:**  
(ii) Jersey companies; (iv) Other – Jersey

**TA5 Number where only director services are provided:**  
(ii) Jersey companies; (iii) Non-Jersey companies

**TA6 Number where only trustee services are provided:**  
(i) Trusts

**TA7 Number where only partner services are provided:**  
(iv) Other - Jersey; (v) Other - non-Jersey

**TA8 Number where only council member services are provided:**  
(iv) Other - Jersey; (v) Other - non-Jersey

**TA9 Number where only a nominee service is provided:**  
(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies

**TA10 Number where only an accommodation, correspondence or administrative address is provided:**  
(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other - Jersey; (v) Other - non-Jersey

**TA11 Number where a ‘hold mail’ service is provided:**  
(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other - Jersey; (v) Other - non-Jersey

Questions TA4 to TA11 collect data in relation to services provided by a trust company business to its customer entities, where the trust company business provides only that regulated service.

Non-regulated services such as bookkeeping can be disregarded for the purposes of these questions. For example, where a trust company business provides only director services and bookkeeping to a Jersey company, a response should be entered in cell TA5(ii).

‘Hold mail’ services are provided where a trust company business/affiliation is providing a registered office or business address for a company, partnership or foundation, or providing an accommodation, correspondence or administrative address for a company, partnership, foundation or any other person, and is holding correspondence (whether postal packets, electronic data or otherwise) for collection or forwarding.

### 3.4 Activities of the customer entity



**TA12 Number that carry out any activity included in Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 and which do not have an established place of business in Jersey: (i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other - Jersey; (v) Other - non-Jersey**

This question is designed to capture those customer entities of a trust company business that are themselves carrying on an activity included in paragraph 7(1) of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 e.g. lending.

Such customer entities are exempt from registration with us under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 so long as they continue to have no established place of business in Jersey other than that provided by the trust company business. In all other respects, the customer entities are within the scope of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

For example,

- A Jersey company, provided with regulated services by a trust company business, that is in the business of lending but has no physical presence here would be reported at TA12(b)(ii).
- In contrast, a Jersey lending company that is provided with regulated services by a trust company business but also has a shop on the high street where customers can go to apply for loans. This company would not need to be reported at TA12(b)(ii).

Note that customer entities that have as their primary objective the raising of equity or debt through securities issues, e.g. funds, securitisation vehicles, repackaging vehicles, and tax efficient capital raising arrangements, are likely to be considered as participating in securities issues under paragraph 7(1)(h) of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 and should be disclosed here.

### 3.5 Enhanced CDD measures

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

In addition to a trust company business deciding that a customer entity 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 customer entity:

- (a) is, or some other prescribed person is, a politically exposed person (**PEP**) (Section 7.6)
- (b) has a “relevant connection” to an “enhanced risk state” (Section 7.5)
- (c) is a company with nominee shareholders or issues bearer shares (Section 7.10)
- (d) is a personal asset holding vehicle (Section 7.9)
- (e) is, or some other person is, not physically present for identification purpose (Section 7.4)
- (f) is provided with private banking services (Section 7.8) or
- (g) 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 trust company business and the trust company business 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 trust company business must apply enhanced customer due diligence measures on a risk-sensitive basis.

**TA13 Number where enhanced CDD measures have been applied:**

**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the total of customer entities shown at TA1(c) as the base for responding, question **TA13** requests data about the number of customer entities to which enhanced customer due diligence (**CDD**) measures have been applied as at 31 December 2021.

This could relate to any aspect of the customer entity, eg a director who is a PEP, or a beneficial owner whose source of funds comes from an enhanced risk state.

For example, if 6 of the 25 customer entities that are reported as “Jersey companies” have been subject to enhanced CDD measures then respond “6”.

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

If a trust company business has no customer entities which have been subject to enhanced CDD measures do not leave a cell blank, insert “0” in each blue box.

**TA14 Number that present higher risk of ML/TF:**

**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Where a trust company business has determined that a customer entity presents a higher risk of money laundering or financing terrorism, enhanced CDD measures must be applied, therefore the response to question **TA14** cannot be greater than the response to question TA13.

There are circumstances where enhanced CDD measures must be applied but the trust company business may not consider the customer entity presents a higher risk, therefore the response to TA14 may be lower than the response to TA13. For example, a Jersey resident transacting through an asset holding vehicle.

If a trust company business has no customer entities 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 SA1(a).

**TA15 Number that are, or who are connected with, a PEP:**

**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to question TA13 as the base for responding, question **TA15** requires the number of customer entities to which enhanced CDD measures have been applied due to a PEP connection.

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 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 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 customer entity 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 trust company business or information that is publicly known (Article 15A(4) of the Money Laundering Order).

Where a structure that is connected to a PEP includes a trust and a number of wholly owned companies, then it is recognised that the PEP connection will be duplicated in different columns. However, where a customer entity is provided with services by more than one member of an affiliation, that customer entity should be reported once only.

If a trust company business has no customer entities who are a PEP, or who are connected with a PEP, do not leave a cell blank, insert "0" in each blue box.

**TA16 Number that have a relevant connection<sup>iv</sup> to an enhanced risk state:**  
**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to TA13 as the base for responding, question **TA16** requires the number of customer entities to which enhanced CDD measures have been applied because the customer entity 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<sup>v</sup>. As at 31 December 2021 the following were listed:

- Iran and
- 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 customer entity's source of funds is, or derives from:

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

In either scenario the trust company business should take reasonable measures to find out the source of wealth of the customer entity.

If a trust company business has no customer entities with a relevant connection to an enhanced risk state, do not leave a cell blank, insert “0” in each blue box.

**TA17 Number that have one or more nominee shareholders that are not provided by the trust company business/affiliation (or a member of their group):**  
**(ii) Jersey Companies; and (iii) Non-Jersey Companies**

Using the response to question TA13 as the base for responding, question **TA17** requires information on the number of customer entities that are companies (Jersey or non-Jersey) which have one or more nominee shareholders.

If the trust company business/affiliation, or another company in the same financial group, provides the nominee shareholders to the trust company business’s customer entity then that customer entity should not be reported here. The rationale being that the customer entity is not higher risk as the additional measures recommended as guidance in the AML/CFT Handbook (paragraph 71 of Section 7.10) cannot be applied as they include using external data sources to collect information on the fitness and propriety of the nominee (such as its regulated status and reputation) and the particular country risk – this information is already known.

If a trust company business has no customer entities 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.

**TA18 Number of non-Jersey companies that have issued bearer shares or warrants:**  
**(iii) Non-Jersey Companies**

Using the response to question TA13 as the base for responding, question **TA18** requires information on: the number of customer entities which are non-Jersey companies that have issued bearer shares or warrants.

Section 7.10 of the AML/CFT Handbook explains that, where one or more of the following circumstances apply, the company should not be considered to have issued bearer shares:

- (a) the bearer shares are issued by a company in a country or territory that has fully enacted appropriate legislation to require bearer shares to be registered in a public registry and the bearer shares are so registered; or
- (b) the bearer shares are traded on an approved stock exchange; or
- (c) all issued bearer shares are held in the custody of the customer or trusted external party along with an undertaking from that trusted external party or customer to inform the trust company business of any transfer or change in ownership.

If a trust company business has no customer entities which are non-Jersey companies that have issued bearer shares or warrants, do not leave the cell blank, insert “0” in the blue box.

**TA19 Number where one or more beneficial owners/controllers of customer entities, or other persons who must be identified under Article 3 of the MLO, were not physically present for identification purposes:**  
**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

**TA20 In relation to TA19, number who are, or who are connected to, a PEP:**  
**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to question TA13 as the base for responding, questions **TA19** and **TA20** request data about the number of beneficial owners and controllers of customer entities that have not been physically present for identification purposes.

An individual may be considered to have been physically present for the purpose of question TA19 where they have been met and seen:

- by the trust company business (physically or through video conferencing facilities);
- by a suitable certifier in line with Section 4.3.3 of the AML/CFT Handbook; or
- by a company in the same group as the trust company business where that company is regulated and supervised for AML/CFT purposes (the meeting can be physical or through video conferencing facilities).

The period of time that has elapsed since an individual was last met is not important, nor whether an individual was met at the time of “on-boarding” the customer entity.

In a case where a trust company business takes on a customer entity through the transfer of a book of customers from another business (in line with Section 3.5 of the AML/CFT Handbook), then the trust company business may consider that the individual has been met if that other business provides evidence that the individual had been physically present for identification purposes.

Where the beneficial owner/controller of the customer entity has not been physically present and they are a PEP then question **TA20** should record the number of such persons.

If a trust company business considers that all beneficial owners/controllers were physically present for identification purposes do not leave the cells blank, insert “0” in each blue box.

**TA21 Number with assets under management (AUM) higher than GBP 25 million**  
**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

GBP 25 million is being used in this data gathering exercise as a marker for identifying high net worth customers. Section 7.8 of the AML/CFT Handbook (paragraph 59) identifies that in particular circumstances the provision of trust company services to high net worth customers may present a higher risk of money laundering or financing of terrorism.

A customer entity is to be treated as having assets under management by a trust company business/affiliation where the trust company business/affiliation (or officer thereof) is the director, partner, council member of a foundation or trustee.

Where a trust company business/affiliation manages a number of customer entities in the same group structure, assets under management in the entire structure should be reported only for the customer entity that is at the top of the group structure. For example, the assets of companies owned by trusts should be included in the ‘Trusts’ column.

### 3.6 Other characteristics of the customer entity

**TA22 Number that are regulated/supervised for AML/CFT purposes or carrying on activities in parts 1 to 5 of Table 1 of the Sound Business Practice Policy:**  
**(i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to question TA1(c) as the base for responding, question **TA22** collects data on the number of customer entities that are Regulated and Supervised for AML/CFT purposes or carrying on activities in parts 1 to 5 of Table 1 of the Sound Business Practice Policy.

“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 customer entity of a trust company business is a bank then they should be reported here. However, if the customer entity is a subsidiary company of the bank which is not conducting a regulated and supervised activity, this should not be reported.

TA22 also collects data on the number of customer entities that carry on activities in parts 1 to 5 of Table 1 of the Sound Business Practice Policy.

If a trust company business/affiliation does not have any customer entities which are Regulated and Supervised for AML/CFT purposes, or carrying on activities in parts 1 to 5 of Table 1 of the Sound Business Practice Policy, do not leave the cells blank, insert “0” in each blue box.

**TA23 Number that carry out any activity listed in Table 2 of the Sound Business Practice Policy: (i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to question TA1(c) as the base for responding, question **TA23** requests data about the number of customer entities of a trust company business that are carrying out any activity listed in Table 2 of the Sound Business Practice Policy.

There are 11 such activities, which are numbered separately (a) to (k) in the question.

The descriptions of each activity are too long to reproduce in this guidance, but the *Sound Business Practice Policy* can be found on [our website](#).

If a trust company business/affiliation does not have any customer entities that are carrying out any activity listed in Table 2 of the Sound Business Practice Policy, do not leave the cells blank, insert a “0” in the blue boxes.

**TA24 Number that have used/registered for a foreign tax disclosure facility in the past 3 years: (i) Trusts; (ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Using the response to question TA1(c) as the base for responding, question **TA24** requests data about the number of customer entities of a trust company business that have used/registered for a foreign tax disclosure facility in the past 3 years.

This is intended to capture cases where a customer entity has been: (i) reported under a tax amnesty; or (ii) disclosed to a revenue authority because it offers tax benefits, e.g. Disclosure of Tax Avoidance Schemes to Her Majesty’s Revenue and Customs in the United Kingdom (UK).

Both disclosures instigated by trust company businesses on behalf of their customers **and** those instigated by a beneficial owner or controller should be reported here.

If a trust company business/affiliation does not have any customer entities that have used/registered for a foreign tax disclosure facility in the past 3 years, do not leave the cells blank, insert a “0” in the blue boxes.

**TA25 Number of trusts where investment powers are reserved by the settlor or held by a nominated third party: (i) Trusts;**

Question **TA25** collects data on the number of trusts where the settlor or other third party have reserved a power to: (i) invest trust property without reference to the trustee; or (ii) direct the trustee to invest trust property.

If a trust company business/affiliation does not have any trusts where investment powers are reserved, do not leave the cells blank, insert a "0" in the blue boxes.

**TA26 Number of companies with a mixed board:**  
**(ii) Jersey companies; (iii) Non-Jersey companies;**

Question **TA26** collects data on the number of companies that have mixed boards.

A mixed board means a board of directors that includes a combination of: (i) directors provided by the trust company business/affiliation; and (ii) other directors, e.g. those provided by other trust companies, nominated by the customer, or who are independent directors.

If a trust company business/affiliation does not have any companies that have mixed boards, do not leave the cells blank, insert a "0" in the blue boxes.

**TA27 Number of companies, partnerships and foundations formed where no further services were provided subsequent to formation (ie the trust company business/affiliation acted only as a formation agent):**  
**(ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

Question **TA27** requires the number of customer entities formed by the trust company business/affiliation during the year ended 31 December 2021 where no other services are subsequently provided.

A trust company business/affiliation that acts only as a formation agent will not be considered to have entered into a business relationship with its customer.

This question therefore collects data on the frequency with which a trust company business/affiliation carries out one-off transactions.

**TA28 In relation to TA27, number where none of the following were physically present for identification purposes: (a) for partnerships, individuals who are partners (including general partners) and (b) for legal persons, individuals who are beneficial owners or controllers:**  
**(ii) Jersey companies; (iii) Non-Jersey companies; (iv) Other – Jersey; and (v) Other – non-Jersey**

For this question, refer to the guidance at section 0 in respect of the meaning of 'physically present'.

### **3.7 General comments on responses provided above**

**TA29 Provide any explanations or context comment below**

A free text box is provided at TA29 for comments, explanations or context comments in relation to the responses provided in the section TA-TCB Customer Entity Data.

## 4 Section UA – Beneficial ownership

### 4.1 General

Where CDD exemptions from applying identification measures under Article 18 of the Money Laundering Order have been utilised and no data is held, a trust company business is not expected to gather information for the purpose of completing questions UA1 and UA2.

Data in respect of using Article 18 is to be reported in response to question VA13 (Further exemptions from applying identification requirements (Article 18 of the MLO)).

### 4.2 Customers who are individuals and beneficial owners or controllers of customers that are not individuals

#### UA1 Number and principal country of residence of: (i) individuals who are customers; and (ii) individuals who are the beneficial owner or controller of a customer that is not an individual, as at the end of the data reporting period

The principal country of residence of an individual who is a customer, or the beneficial owners and controllers of customers who are not individuals, is recognised as a key factor in determining the riskiness of a customer – Section 3 of the AML/CFT Handbook provides further guidance.

Question **UA1** requests a trust company business/affiliation to provide by country (using spreadsheet *WA-TCB-Country list*) the total number of customers and beneficial owners or controllers of customers that are not individuals.

Section 13 of the AML/CFT Handbook in respect of trust company business provides information in relation to identifying the beneficial owners and controllers of legal persons and legal arrangements, when providing trust company business services.

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

For example, a trust company business may look as follows:

Customer entity type	Number of customer entities	Number of beneficial owners/controllers	Principal country of residence of beneficial owners/controllers
Trusts	50	70	France (10) Guernsey (15) Spain (35) UK (10)
Jersey Companies	25	51	France (2) Germany (3) Guernsey (12) Jersey (18) Spain (9) UK (7)



Customer entity type	Number of customer entities	Number of beneficial owners/controllers	Principal country of residence of beneficial owners/controllers
Non-Jersey Companies	15	36	Poland (7) Spain (4) UK (25)
Other - Jersey	0	0	N/A
Other – non-Jersey	1	3	Switzerland (3)

Spreadsheet *WA-TCB-Country list* would therefore have the following entries in the column for question UA1:

ISO Code	Country	Number and principal country of residence of: (i) individuals who are customers; and (ii) individuals who are the beneficial owners or controllers of a customer that is not an individual
		<b>UA1</b>
250	France	12
276	Germany	3
616	Poland	7
724	Spain	48
756	Switzerland	3
826	UK	42
831	Guernsey	27
832	Jersey	18

**Note:**

Each individual should only be reported once.

The following are examples where an individual may have more than one relationship with a trust company business but should only be reported once:

- (a) they are the beneficial owner or controller of more than one company; or
- (b) they are the beneficial owner or controller of a company and are also a customer in their own right

### 4.3 Customer entity acting on behalf of a third party

**UA2** Number and principal country of residence of third parties on whose behalf a customer is acting



Question **UA2** collects data on the principal country of residence of third parties on whose behalf a customer 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 a trust company business on behalf of the legal arrangement and who will be considered to be the customer(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 trust company business should have identified the persons for whom the customer is acting in line with Article 3(2) of the Money Laundering Order and the guidance provided in Section 4 of the AML/CFT Handbook. For ease guidance has been provided below:

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<sup>vi</sup>;
- 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)).

**UA3 Does the trust company business/affiliation have a policy regarding how often it should meet beneficial owners/controllers of customer entities, or other persons who must be identified under Article 3 of the MLO?**

Where a trust company business/affiliation has a written policy regarding the frequency with which it meets beneficial owners/controllers of customer entities, respond 'yes' to this question. Otherwise, answer 'no'.

If a trust company business/affiliation does not have such a written policy, but considers it best practice to do so, or has other similar working practices, answer 'no' but provide additional information in the comments box at UA4.

## 4.4 General comments on responses provided above

**UA4 Provide any explanations or context comments below**

A freetext box is provided at **UA4** for comments, explanations or context comments in relation to the responses provided section UA-TCB-BO & 3<sup>rd</sup> Party Data.

This section should always be completed where the response "no" is selected at UA3.

## 5 Section VA – 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** (customer 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>Customer entity identification and verification</b>		
VA1	At end of reporting period	31/12/2021 or closest business day
VA2	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>		
VA3	At end of reporting period	31/12/2021 or closest business day
VA4	At end of reporting period	31/12/2021 or closest business day
VA5	At end of reporting period	31/12/2021 or closest business day
VA6	At end of reporting period	31/12/2021 or closest business day
VA7	During the reporting period	1/1/2021 – 31/12/2021
VA8	During the reporting period	1/1/2021 – 31/12/2021
<b>Exemptions from applying third party identification requirements (Articles 17 and 17B - D of the MLO)</b>		
VA9	At end of reporting period	31/12/2021 or closest business day
VA10	During the reporting period	1/1/2021 – 31/12/2021
VA11	During the reporting period	1/1/2021 – 31/12/2021
VA12	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>		
VA13	During the reporting period	1/1/2021 – 31/12/2021

## 5.2 Customer identification and verification

### VA1 Number of customer entities, 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 customer entities of a trust company business/affiliation at the time the Money Laundering Order came into force – 4 February 2008.

Article 13(2) sets out very particular circumstances which enabled a trust company business/affiliation to delay verification of a customer entity's identity – Section 4.7.2 of the AML/CFT Handbook provides further guidance.

A trust company business/affiliation should have finalised the position of its existing customer entities by 31 December 2014, unless a later date has been agreed by us (paragraphs 208 and 209 of Section 4.7.2 of the AML/CFT Handbook). Consequently, it is expected that most trust company businesses/affiliations will report "0" in respect of **VA1**.

### VA2 Number of customer entities 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 a trust company business/affiliation is permitted to delay verifying the identity of a customer entity (finding out the identity of the customer entity must not be delayed) where:

- (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 **VA2** collects data about the number of customer entities where delayed verification in line with Article 13(4) of the Money Laundering Order has been applied.

If a trust company business/affiliation has not delayed the verification of any customer entities' 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:

- limiting the number of obliged persons that can be relied upon; and
- 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.*

- VA3** Number of customer entities 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
- VA4** 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
- VA5** 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
- VA6** 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; (ii) 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; or (j) other

It is important for us to understand the extent to which a trust company business/affiliation makes use of these concessions and to collect information regarding the obliged person, consequently:

- Question **VA3** requests the number of customer entities where reliance has been placed on obliged persons and persons in the same financial group (insert "0" if no reliance has been placed);
- Question **VA4** requests the country of the obliged person on whom reliance is being placed (responses should be provided on spreadsheet *WA-TCB-Country list*, nil responses are not required);
- Question **VA5** requests the country of the person in the same financial group on whom reliance is being placed (responses should be provided on spreadsheet *WA-TCB-Country list*, nil responses are not required); and
- Question **VA6** requests the number of obliged persons and persons in the same financial group relied upon split by the type of business that is carried on (insert "0" if no reliance is placed).

- VA7** 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
- VA8** 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 a trust company business/affiliation places reliance, Article 16(8) of the Money Laundering Order requires that a trust company business/affiliation test, in such manner and at such intervals as they consider appropriate:

- 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;
- keeps the evidence of identity; and
- will provide that evidence without delay if requested to do so.

Question **VA7** requires a trust company business/affiliation to report the number of obliged persons and persons in the same financial group that have been requested to provide information and evidence during the data reporting period.

Of the number disclosed in VA7, question **VA8** requires disclosure of the number of such requested persons who failed to provide the relevant information and evidence on demand and without delay.

Do not leave a cell blank, insert “0” if no reliance is placed or if no obliged persons and persons in the same financial group were requested to provide information and evidence.

## 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, a trust company business/affiliation may be exempt from applying identification measures in relation to a third party when the customer entity is:

- regulated and supervised by us for AML/CFT purposes;
- a person who carries on equivalent business (refer to Section 1.7 of the 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 customer entities to which exemptions from identification measures can be applied; and
- requiring the basis for applying exemptions from identification measures to be recorded in writing.

### **VA9 Number of customer entities, by country, where CDD exemptions have been applied to third parties for whom those customers act (Article 17B-D of the MLO) as at the end of the reporting period**

Question **VA9** requests data on the number of customer entities where exemptions from identification measures have been applied at the end of the reporting period, analysed by the country in which the customer entity is regulated and supervised for AML/CFT purposes. Responses should be provided on spreadsheet *WA-TCB-Country list*, nil responses are not required.

### **VA10 Number of customer entities who were requested to provide information and evidence during the data reporting period, where CDD exemptions have been applied to third parties for whom those customers act in accordance with Articles 17B-D of the MLO**

### **VA11 Number of customer entities who failed to provide information and evidence on demand and without delay during the data reporting period, where CDD exemptions have been**

**applied to third parties for whom those customers act in accordance with Articles 17B-D of the MLO**

Where a trust company business/affiliation applies exemptions from third party identification measures, Article 17D(3) of the Money Laundering Order requires that a trust company business/affiliation must, in the manner, and as often as it considers appropriate, in all the circumstances, conduct tests in order to establish whether the relevant customer entity -

- has appropriate policies and procedures in place to apply the reliance identification measures;
- obtains information in relation to the third party;
- keeps the information or evidence in relation to the third party; and
- provides the information or evidence without delay if requested to do so.

Question **VA10** requires a trust company business/affiliation to report the number of customer entities that have been requested to provide information or evidence during the data reporting period.

Of the number disclosed in VA10, question **VA11** requires disclosure of the number of such requested customer entities who failed to provide the relevant information and evidence on demand and without delay.

Do not leave the cell blank, insert "0" if no exemptions from third party identification measures are applied or if no customer entities were requested to provide information or evidence.

**VA12 Number of customer entities, 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; (ii) same financial group**  
**(a) deposit taker; (b) investment business; (c) fund services business; (d) permit or certificate holder under the CIF Law; (e) unregulated fund or non-public fund; (f) permit holder under the Insurance Law**

Question **VA12** requests data on the type of business that is carried on by customer entities where the exemptions from applying third party identification measures have been applied. Insert "0" in the blue boxes if no exemptions are applied.

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

**VA13**

**(a) Number of customer entities to whom further CDD exemptions (Article 18 of the MLO) have been applied during the data reporting period**

**Of the above, number of customer entities 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 a trust company business/affiliation may be able to apply CDD exemptions. See Sections 7.13 - 7.16 of the AML/CFT Handbook for further guidance.

If a trust company business/affiliation has applied exemptions from CDD identification measures to any customer entities during the data reporting period the number of customer entities should be reported in response to **VA13(a)**.

If exemptions from CDD identification measures have not been applied do not leave the cells blank, insert a "0" in response to **VA13 (a)-(f)**.

If exemptions from CDD identification measures have been applied, VA13(b) to (f) provides the five circumstances which are relevant for a trust company business/affiliation. The total of VA13(b) to (f) should equal the number in cell VA13(a).

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

## 5.6 General comments on responses provided above

### VA14 Provide any explanations or context comments below

A freetext box is provided at **VA12** for comments, explanations or context comments in relation to the responses provided section VA-TCB-Use of MLO Concessions.

This section should be used where VA6(i)(j), VA6(ii)(j) or VA6(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> Under sections 3.2.3, 3.2.4 and 3.2.8 of the Code of Practice for Trust Company Business, a trust company business must keep, or satisfy itself that someone else is keeping, accounting records that are sufficient to show and explain transactions, and disclose with reasonable accuracy, the financial position of the structures under administration.

<sup>iv</sup> What it means to have a relevant connection with an enhanced risk state is described in Article 15(2)(b)

<sup>v</sup> "enhanced risk state" is the countries and territories in relation to which the FATF has called for the application of enhanced CDD

<sup>vi</sup> Excluding a settlor of a trust who is deceased in line with paragraph 72 of Section 4.4 of the AML/CFT Handbook.