Appendix D – Draft Codes of Practice and Guidance for AMLSPs and their customers

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AML/CFT Handbook

GLOSSARY

AML/CFT obligations	*AML/CFT* obligations under *Anti-Money Laundering and Counter-Terrorism Legislation* and the *AML/CFT Handbook*
AMLSP	Means *Anti Money Laundering Services Provider*
AMLSP Direct Customer	Means a customer of an *AMLSP* that is itself a *Schedule 2 Business* in receipt of *AMLSP services* from the *AMLSP*
AMLSP Direct Customer MLCO	Means an *AMLSP Direct Customer*'s *MLCO,* being an individual appointed by the *AMLSP* to fulfil the *MLCO* function on behalf of its *AMLSP Direct Customer*
AMLSP Direct Customer MLRO	Means a*n AMLSP Direct Customer*'s *MLRO,* being an individual appointed by the *AMLSP* to fulfil the *MLRO* function on behalf of its *AMLSP Direct Customer*
AMLSP Indirect Customer	Means a customer of the *AMLSP Direct Customer* and includes third parties for whom the *AMLSP Indirect Customer* acts.
AMLSP services	Means services provided by a *AMLSP* to a*n AMLSP Direct Customer* that enable the *AMLSP Direct Customer* to fulfil its *AML/CFT obligations*
Governing body	Means the body that is considered to be exercising ultimate control of a legal person or arrangement. Generally, this will be board of directors of: • a company, protected cell company, incorporated cell company or the incorporated cells of an incorporated cell company • the trustee of a trust • the general partner of a limited partnership, a separate limited partnership or incorporated limited partnership or the partners of a limited liability partnership • the manager or if no manager, the managing members of a limited liability company • the council of a foundation.

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18 ANTI-MONEY LAUNDERING SERVICES PROVIDERS AND THEIR CUSTOMERS

18.1 Overview of section

1. This section applies only to *supervised persons who* are eligible to appoint *an AMLSP* in accordance with the Notice issued under Article 9A(4) of the Money Laundering (Jersey) Order 2008, as amended (**Article 9A(4) Notice**) .

2. An individual or organisation which is a *supervised person* may itself fulfil its own AML/CFT obligations under the Anti-Money Laundering and Counter-Terrorism Legislation and the *AML/CFT Handbook* (together the ***AML/CFT Obligations***). Alternatively, it may engage the services of an *AMLSP* and/or outsource within its group or to a third party (an outsourcing services provider) to assist it in meeting certain AML/CFT obligations.

3. The use of an *AMLSP* will not be subject JFSC's Outsourcing Policy. The use of any other party, whether within the same group of the supervised person or not, is outsourcing and will be subject to the JFSC's Outsourcing Policy. This Section 18 will not apply to such outsourcing arrangements.

4. The provision of MLRO/MLCO roles to a *supervised person* may be undertaken by an *AMLSP*. It cannot however be outsourced within the *AMLSPs* wider group or to a third party.

5. Where a *supervised person* engages the services of an *AMLSP*, they shall be a direct customer of that *AMLSP* (an ***AMLSP Direct Customer***).

6. This section outlines the statutory provisions concerning the *AMLSP*. It also sets out the *AML/CFT Codes of Practice* and provides guidance on the obligations of an *AMLSP* and how an *AMLSP* might assist an *AMLSP Direct Customer* in fulfilling its *AML/CFT Obligations*.

7. It is expected that the *AMLSP Direct Customer* will use the *AMLSP* to enable it to meet the majority of its *AML/CFT obligations*.

8. The *AMLSP Direct Customer* bears the ultimate responsibility for the activities undertaken in its name. This will include the requirement to determine that the *AMLSP* has in place satisfactory systems and controls (including policies and procedures), and that those systems and controls (including policies and procedures) are kept up to date to reflect changes in requirements.

18.2 Anti-Money Laundering Services Providers

18.2.1 *AMLSP systems and controls*

Codes of Practice

9. An *AMLSP* must include consideration of its *AMLSP services* within:

   - its business risk assessment
   - its formal strategy to counter money laundering and the financing of terrorism (**AML/CFT strategy**) and
   - its systems and controls (including policies and procedures).

10. An *AMLSP* must consider *AMLSP Indirect Customers* as if they were its own customers when providing *AMLSP services*.

11. Taking into account the conclusions of the BRA and AML/CFT strategy as they relate to the *AMLSP services*, the *AMLSP* must:

    › organise and control its affairs in a way that effectively mitigates the risks that it has identified, including areas that are complex; and

    › be able to demonstrate the existence of adequate and effective systems and controls (including policies and procedures) to counter money laundering and the financing of terrorism.

12. An *AMLSP* must assess possible money laundering, or the financing of terrorism risk associated with sub-outsourced functions, record its assessment, and monitor any risk on an ongoing basis.

Guidance notes

13. An *AMLSP* may demonstrate consideration of its *AMLSP services* within its BRA, AML/CFT strategy, and systems and controls (including policies and procedures) by clearly documenting the *AMLSP services* that it provides for its *AMLSP Direct Customers* and determining whether there are any differences arising from the provision of *AMLSP services* for its *AMLSP Direct Customers* by comparison to the AML/CFT activities that the *AMLSP* performs for its other customers.

14. For example, if there is clear documentation showing that the *AMLSP services* provided for *AMLSP Direct Customers* feature the same activities in respect of *AMLSP Indirect Customers* that the *AMLSP* performs for its other customers then this may be taken to indicate that the *AMLSP* has considered its *AMLSP services* within its BRA, AML/CFT strategy and systems and controls (including policies and procedures).

15. Where the activities of an *AMLSP Direct Customer* are similar in nature to an *AMLSP's* other customers extending the *AMLSP's* BRA, AML/CFT strategy and systems and controls (including policies and procedures) to include activities performed for *AMLSP Direct Customers* in respect of *AMLSP Indirect Customers* may be a natural extension.

16. Careful consideration of the following differences, and clear documentation of the measures taken to address these differences, may be taken to demonstrate that the *AMLSP* has properly considered *AMLSP Direct Customers*, and *AMLSP Indirect Customers*, in its BRA, AML/CFT strategy and systems and controls (including policies and procedures).

    a. Where the activities or operations of *AMLSP Direct Customers* are not similar in nature to an *AMLSP's* own activities or operations, or

    b. Where *AMLSP Indirect Customers* are not similar in nature to the other customers of an *AMLSP*.

17. An *AMLSP* may demonstrate consideration of *AMLSP Indirect Customers* as if they were its own customers by demonstrating the application of its BRA, AML/CFT strategy, and systems and controls (including policies and procedures) as amended for any differences in the nature of its *AMLSP Direct Customers*, and *AMLSP Indirect Customers* to its other customers.

18.2.2 *AMLSP responsibilities*

Statutory requirements (paraphrased wording)

18. *Article 9A(1) of the Money Laundering Order provides that a relevant person may appoint an AMLSP to appoint an MLCO and MLRO and to comply with any other requirement of the relevant person under the Money Laundering Order.*

Codes of Practice

19. The *AMLSP* must appoint an employee or employees to carry out the roles of *AMLSP Direct Customer MLCO* and *AMLSP Direct Customer MLRO* to each *AMLSP Direct Customer*. There can be no outsourcing of these roles by the *AMLSP*.

20. The *AMLSP* must make the appointment from a list of persons to whom the JFSC has provided its "no objection" in accordance with the Article 9A(4) Notice to such individuals being appointed as *AMLSP Direct Customer MLCOs* and *AMLSP Direct Customer MLROs* , and also notifying the JFSC of the removal of anyone from the list.

21. The *AMLSP* need not supply the JFSC with updates on individual appointments into the roles for particular *AMLSP Direct Customers* but, must supply up to date information to the JFSC on request.

22. The *AMLSP* must be able to demonstrate that it is providing services such that it has sufficient oversight and access to relevant information to appropriately manage the risks of providing the AMLSP services and to enable the *AMLSP Direct Customer MLCO* and the *AMLSP Direct Customer MLRO*, provided by the *AMLSP*, to fulfil their roles for the AMLSP Direct Customer.

23. An *AMLSP* must provide sufficient information to satisfy an *AMLSP Direct Customer* that the *AMLSP* is fulfilling the AML/CFT obligations on an ongoing basis in accordance with the written agreement for services with the *AMLSP Direct Customer*.

24. An *AMLSP* must demonstrate to its *AMLSP Direct Customer* how knowledge, suspicion, or reasonable grounds for knowledge or suspicion of money laundering or financing of terrorism activity will be reported to the *AMLSP Direct Customer MLRO* (or deputy).

25. An *AMLSP* must notify the JFSC and its *AMLSP Direct Customer,* immediately in writing of any material failures to comply with the requirements of the *Money Laundering Order* or the *AML/CFT Handbook* in respect of the *AMLSP services* it provides.

26. An *AMLSP* must consider the effect that sub-outsourcing of activities that it performs as an *AMLSP* has on money laundering and the financing of terrorism risk, in particular where an *AMLSP Direct Customer MLCO* or *AMLSP Direct Customer MLRO* is provided with additional support from other parties, whether from within group or externally.

Guidance notes

27. The guidance in Sections 2.3 and 2.4 will support *AMLSPs* in their approach to their general responsibilities.

28. Where it is deemed appropriate, taking into account the size and complexity of the *AMLSP Direct Customer*, the JFSC anticipates the same employee could hold both *AMLSP Direct Customer MLCO* and *MLRO* roles.

29. Evidence to support compliance with the Codes of Practice at 18.2.2 is likely to include:

    a. Documented consideration of *AMLSP services*, *AMLSP Direct Customers*, and *AMLSP Indirect Customers* within an *AMLSP's* BRA, AML/CFT strategy and systems and controls (including policies and procedures)

    b. A written agreement for services between an *AMLSP* and its *AMLSP Direct Customer* regarding the provision of *AMLSP services* and

    c. Consideration of *AMLSP services* in the *AMLSP's* board minutes (or equivalent if the *AMLSP* is not a company).

18.2.3 *AMLSP Direct Customer MLCO*

Statutory requirements (paraphrased wording)

30. *Article 9A(2) of the Money Laundering Order provides that an AMLSP must fulfil the obligations of an AMLSP Direct Customer by appointing an employee as MLCO.*

Codes of Practice

31. An *AMLSP* must appoint an individual as *AMLSP Direct Customer MLCO* for an *AMLSP Direct Customer* that:

- is employed by the *AMLSP* or an enterprise in the same financial group as the *AMLSP*
- is based in Jersey
- has sufficient experience and skills.

32. An *AMLSP* must ensure that the *AMLSP Direct Customer's MLCO*:

- has appropriate independence, in particular from customer-facing, business development and systems and controls development roles
- reports regularly and directly to the *MLCO* of the *AMLSP* (where they are not the same person) and has a sufficient level of authority within the *AMLSP* so that the *MLCO* of the *AMLSP* reacts to and acts upon reports made by the *AMLSP Direct Customer MLCO*
- is able to raise issues directly with the governing body of the *AMLSP Direct Customer*
- has sufficient resources, including sufficient time and (if appropriate) a deputy *AMLSP Direct Customer MLCO* and compliance support staff
- is fully aware of their, the *AMLSP's*, and the *AMLSP Direct Customer's AML/CFT obligations*
- formally acknowledges their appointment as *AMLSP Direct Customer MLCO* for each *AMLSP Direct Customer* to which they are appointed and
- has sufficient access to information, oversight and knowledge of the *AMLSP Direct Customer's* and the *AMLSP Indirect Customer's* activities on a continuing basis to fulfil the MLCO role.

33. The *AMLSP Direct Customer MLCO*, the *AMLSP* and the governing body of the *AMLSP Direct Customer* must ensure any proposed *AMLSP Direct Customer MLCO* has sufficient skills and experience to fulfil the role of *AMLSP Direct Customer MLCO* of the specific *AMLSP Direct Customer* to which they will be appointed.

34. In the event that the position of an *AMLSP Direct Customer's MLCO* is expected to fall vacant, to comply with the statutory requirement to have an individual appointed to the office of *MLCO* at all times, an *AMLSP* must take action to appoint another appropriate member of senior management to the position on a temporary basis.

Guidance notes

35. Section 2.5 provides further information about the role of the *MLCO*.

36. An *AMLSP's MLCO* may also be appointed as an *AMLSP Direct Customer MLCO*.

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37. The appointment of an *AMLSP's MLCO* as *AMLSP Direct Customer MLCO* is likely to be appropriate where the activities or operations of *AMLSP Direct Customers* are similar in nature to an *AMLSP's* other customers, and where *AMLSP Indirect Customers* are similar in nature to the other customers of an *AMLSP*. In such circumstances, there is likely to be little difference between the *AMLSP's* BRA, AML/CFT strategy and systems and controls (including policies and procedures) in respect of both the *AMLSP's* own AML/CFT activities and the *AMLSP services* provided to its *AMLSP Direct Customers*.

18.2.4 *AMLSP Direct Customer MLRO*

Statutory requirements (paraphrased wording)

38. *Article 9A(2) of the Money Laundering Order provides that an AMLSP must fulfil the obligations of an AMLSP Direct Customer by appointing an employee as MLRO.*

Codes of Practice

39. An *AMLSP* must appoint an individual as *AMLSP Direct Customer MLRO* for an *AMLSP Direct Customer* that:

- is employed by the *AMLSP* or an enterprise in the same financial group as the *AMLSP*
- is based in Jersey
- has sufficient experience and skills.

40. An *AMLSP* must ensure that the *AMLSP Direct Customer MLRO:*

- has appropriate independence, in particular from customer-facing and business development roles
- has a sufficient level of authority within the *AMLSP*
- has sufficient resources, including sufficient time, and (if appropriate) is supported by deputy *AMLSP Direct Customer MLROs*
- is able to raise issues directly with the governing body of the *AMLSP Direct Customer*,
- is fully aware of their, the *AMLSP's* and the *AMLSP Direct Customer's* AML/CFT obligations
- formally acknowledges their appointment as *AMLSP Direct Customer MLRO* for each *AMLSP Direct Customer* to which they are appointed and
- has sufficient access to information, oversight and knowledge of the *AMLSP Direct Customer's* activities and *AMLSP Indirect Customers* on a continuing basis to fulfil the MLRO role

41. Where an *AMLSP* has appointed one or more *deputy AMLSP Direct Customer MLROs* the requirements set out above for *the AMLSP Direct Customer MLRO* must also be applied to any *deputy AMLSP Direct Customer MLROs*.

42. Where an *AMLSP* has appointed one or more *deputy AMLSP Direct Customer MLROs*, it must ensure that the *AMLSP Direct Customer MLRO*:

- keeps a record of all deputy *AMLSP Direct Customer MLROs*
- provides support to, and routinely monitors the performance of, each *deputy AMLSP Direct Customer MLRO*
- considers and determines that SARs are being handled in an appropriate and consistent manner.

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43. The *AMLSP Direct Customer MLRO*, the *AMLSP* and the governing body of the *AMLSP Direct Customer* must ensure any proposed *AMLSP Direct Customer MLRO* has sufficient skills and experience to fulfil the role of *AMLSP Direct Customer MLRO* of the specific *AMLSP Direct Customer* to which they will be appointed.

44. In the event that the position of *AMLSP Direct Customer MLRO* is expected to fall vacant, to comply with the statutory requirement to have an individual appointed to the office of *MLRO* at all times, an *AMLSP* must take action to appoint another appropriate member of senior management to the position on a temporary basis.

Guidance notes

45. Section 2.6 provides further information about the role of the MLRO.

46. An *AMLSP's MLRO* (or deputies, as appropriate) may also be appointed as an *AMLSP Direct Customer MLRO.*

47. The appointment of an *AMLSP's MLRO* (or deputies, as appropriate) as *AMLSP Direct Customer MLRO* is likely to be appropriate where the activities or operations of *AMLSP Direct Customers* are similar in nature to an *AMLSP's* other customers, and where *AMLSP Indirect Customers* are similar in nature to the other customers of an *AMLSP*. In such circumstances, there is likely to be little difference between the *AMLSP's* BRA, AML/CFT strategy and systems and controls (including policies and procedures) in respect of both the *AMLSP's* own AML/CFT activities and the *AMLSP services* provided to its *AMLSP Direct Customers*.

18.3 *AMLSP Direct Customers*

18.3.1 *AMLSP systems and controls*

Codes of Practice

48. Before engaging the services of an *AMLSP*, an *AMLSP Direct Customer* must be satisfied the *AMLSP:*

- Organises and controls its affairs in a way that effectively mitigates the risks that it has identified, including areas that are complex
- Is able to demonstrate the existence of adequate and effective systems and controls (including policies and procedures) to counter money laundering and the financing of terrorism and
- Is able to perform the activities required to ensure the *AMLSP Direct Customer* fulfils its *AML/CFT Obligations*.

49. On an ongoing basis, the *AMLSP Direct Customer* must ensure its *AML/CFT obligations* continue to be fulfilled by its *AMLSP* and must be able to demonstrate its oversight of the AMLSP.

Guidance notes

50. To satisfy itself an *AMLSP* and the *AMLSP Direct Customer MLRO and AMLSP Direct Customer MLCO* are able to perform the activities required, an *AMLSP Direct Customer* might ensure there is a written agreement in place between itself and its *AMLSP* that clearly sets out the scope of the *AMLSP services.* Such an agreement might include:

- Which AML/CFT obligations the *AMLSP* is responsible for fulfilling
- How the *AMLSP services* are being fulfilled (service levels)

- Frequency and content of regular reporting by *the AMLSP Direct Customer MLRO* and the *AMLSP Direct Customer MLCO* to the *AMLSP Direct Customer* board (or equivalent). Such reporting to be at a frequency in line with the risks assessed within the *AMLSP's* BRA
- Actions to be taken on trigger events such as suspicions arising, or a change in the risk profile of an *AMLSP Indirect Customer*
- Arrangements around suspicious activity reporting
- The requirement for an *AMLSP Direct Customer* to consent to the sub-outsourcing of any of the *AMLSP services* undertaken by its *AMLSP*, if sub-outsourcing is to be permitted at all and
- Clear acknowledgement of the *AMLSP Direct Customer's* ultimate responsibility for its own *AML/CFT obligations.*

51. The JFSC would expect to see, upon request, board minutes (or equivalent) of the governing body of the *AMLSP Direct Customer* evidencing that it had carefully considered the appointments of its *AMLSP, AMLSP Direct Customer MLRO and AMLSP Direct Customer MLCO* prior to such appointments taking effect.

52. Demonstrating that the *AMLSP* is providing the services it has contracted to and they are fulfilling the *AMLSP Direct Customer's* AML/CFT Obligations may be achieved through:

- the ongoing oversight of the *AMLSP Direct Customer's* governing body of the *AMLSP services*. For example, if there is scheduled compliance reporting that this is complied with and
- the governing body of an *AMLSP Direct Customer* having participated in all relevant training provided by their *AMLSP* to its equivalent employees may support the *AMLSP Direct Customer* in demonstrating compliance with its *AML/CFT obligations.*

53. The JFSC would expect to see, upon request, board minutes (or equivalent) of the governing body of the *AMLSP Direct Customer* evidencing the ongoing monitoring of services provided by the *AMLSP*.

18.3.2 *AMLSP Direct Customer general responsibilities*

Codes of Practice

54. An *AMLSP Direct Customer* must be satisfied that knowledge, suspicion, or reasonable grounds for knowledge or suspicion of money laundering or financing of terrorism activity will be reported to the *AMLSP Direct Customer MLRO* (or deputy).

Guidance notes

55. An *AMLSP Direct Customer* could, when engaging with an *AMLSP* to assist in fulfilling its *AML/CFT Obligations*, for example, use one of the methods set out in the below table, subject to appropriate risk-based modifications.

56. The JFSC recognises that it may not be appropriate in all cases for an *AMLSP Direct Customer* to adopt either of the two methods in totality or in part as set out below and a more bespoke approach may be required. For example, in complex high-risk scenarios.

Method 1	Method 2
AMLSP provides a form of BRA, CRA, and policies and procedures (in a similar form to its own) which can be adopted by the *AMLSP Direct Customer* as its own.	The *AMLSP* confirms and can demonstrate to the governing body of the *AMLSP Direct Customer* that the BRA, CRA, and policies and procedures of the *AMLSP* address the risks associated with the *AMLSP Direct Customer's* business and customers (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act) as appropriate. For example, the AMLSP CRA of the *AMLSP Direct Customer* could be used as their BRA. In such instances the governing body of the *AMLSP Direct Customer* would not need to adopt a separate BRA, CRA or policies and procedures.
AMLSP assists the *AMLSP Direct Customer* with the application of CDD measures at the outset of a relationship and on an ongoing basis in accordance with the policies and procedures of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).	*AMLSP* assists the *AMLSP Direct Customer* with the application of CDD measures at the outset of a relationship and on an ongoing basis in accordance with the *AMLSP's* policies and procedures (which will have been extended to make it clear that the *AMLSP* must carry out CDD in relation to each customer of the *AMLSP Direct Customer* and each third party for whom that customer acts).
AMLSP assists the *AMLSP Direct Customer* with the ongoing monitoring of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).	*AMLSP* assists the *AMLSP Direct Customer* with the ongoing monitoring of the *AMLSP Direct Customer* (which includes *AMLSP Indirect Customers and* third parties for whom the *AMLSP Indirect Customers* act).
The *AMLSP Direct Customer MLCO* carries out the AML compliance monitoring programme in accordance with the AML compliance monitoring programme of the *AMLSP Direct Customer* (in line with Section 6).	The *AMLSP* carries out its own AML compliance monitoring programme which will include ongoing monitoring in line with Section 6. The AMLSP Direct Customer MLCO, they should have the authority to request adjustment of the monitoring based on risk.
The *AMLSP Direct Customer MLCO* provides written periodic reporting at a frequency in line with the risks assessed of the *AMLSP Direct Customer* to the governing body of the *AMLSP Direct Customer*.	The *AMLSP Direct Customer MLCO* provides written periodic reporting at a frequency in line with the risks assessed of the *AMLSP Direct Customer* to the governing body of the *AMLSP Direct Customer*.

18.3.3 *AMLSP Direct Customer* – reserved activities

Codes of Practice

57. The appointment of an *AMLSP including the AML/CFT services to be provided by the AMLSP must be approved by the* governing body of the *AMLSP Direct Customer.*

58. The governing body of an *AMLSP Direct Customer* must approve any new business relationship (and continuation thereof) or one-off transaction where there is a connection to an enhanced risk state.

59. An *AMLSP Direct Customer* that undergoes mergers, continuance, takeovers or internal reorganisations, must ensure that records remain readily accessible and retrievable for the required periods in Section 10. This extends to the rationalising of computer systems and storage arrangements.

60. Record-keeping arrangements must be agreed with the JFSC where an *AMLSP Direct Customer* terminates its activities or transfers customers to another person.

Guidance Notes

61. Reserved activities are activities that only the *AMLSP Direct Customer* can undertake.

62. Section 10 of the AML/CFT Handbook provides additional information regarding record-keeping arrangements.

18.3.4 *AMLSP Direct Customer* is a legal arrangement

Codes of Practice

63. Where a *Schedule 2 activity* is conducted in relation to a legal arrangement, then the legal person, which is the governing body of the legal arrangement, is responsible for the *AML/CFT obligations* of the legal arrangement. This applies whether the legal person is a corporate entity or a natural person.

64. In some circumstances the legal person, which is the governing body of the legal arrangement, may have its own *AML/CFT obligations* in respect of the legal arrangement as well as *AML/CFT obligations* on behalf of the legal arrangement.

65. *AMLSP services* provided to an *AMLSP Direct Customer* that is a legal person acting in relation to a legal arrangement may encompass both of these obligations. For example, where the legal person who is the *AMLSP Direct Customer* is acting in both the capacity of:

- A fund service provider/operator/functionary to the legal arrangement (the provision of financial services within the Schedule 2 definition of fund and security services activities and a trustee or general partner which will also be a Schedule 2 activity); and
- Governing body of the legal arrangement acting on behalf of the legal arrangement (participation in securities issues within the definition of fund and security services activities).

66. This is a common arrangement in the funds sector, where for example there is a limited partnership that is a fund, and the general partner acts as both service provider to the fund as well as the governing body of the fund.

67. An *AMLSP* could provide the *AMLSP Direct Customer MLCO* and *AMLSP Direct Customer MLRO* to the *AMLSP Direct Customer* and this appointment could relate to both the *AMLSP Direct Customer*:

    a. In its own capacity and

    b. Acting in relation to the legal arrangement

68. If the *AMLSP* services are to encompass a legal arrangement in relation to which the *AMLSP Direct Customer* is acting, the written agreement for *AMLSP services* is to be provided in relation to the legal arrangement.

69. However, there may be circumstances where the *AMLSP Direct Customer*, or the *AMLSP*, will want to make differing arrangements in relation to those two roles because it may not be appropriate to fulfil both functions via the *AMLSP*. This is likely to depend on the level of complexity of the arrangement.

70. Circumstances where the *AMLSP* is likely to fulfil the *AML/CFT obligations* for both the legal person and where the legal person is acting in relation to a legal arrangement may be where the *AMLSP Direct Customer* is acting as the governing body for one legal arrangement. For example, where the *AMLSP Direct Customer* is a SPV Trustee, or SPV General Partner, without employees other than directors.

71. Some examples of circumstances where a*n AMLSP* arrangement in respect of a legal person acting for itself and a legal arrangement may not be appropriate include:

    a. Where the Trustee or the General Partner are businesses with presence in the island which have their own employees

    b. Where the Trustees or the General Partner provide services to multiple legal arrangements/funds or

    c. Where the complexity, frequency or risks posed by the fund require a more subjective bespoke approach.

72. Section 13 of the AML/CFT Handbook provides additional information regarding funds and fund operators, with Section 13.2.4 regarding risk-assessments for SPV governing bodies providing guidance regarding potential approaches to the consolidation of risk assessments for legal arrangements.

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