

Feedback Paper on Consultation Paper No. 12 2022

Proposals regarding further enhancements to the AML/CFT Handbook

A feedback paper relating to a consultation on amendments to Codes of Practice and guidance notes within the Handbook.

Glossary of Terms

Defined terms are indicated throughout this document as follows:

AML	Anti-money laundering
AML/CFT/CPF Handbook (or the Handbook)	Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing. Known as the AML/CFT Handbook prior to 23 December 2022.
BRA	Business risk assessment
CFT	Countering the financing of terrorism
CPF	Countering the financing of proliferation
AML/CFT/CPF Codes of Practice (or Codes)	Binding regulatory requirements set out in the Handbook, issued under the Commission Law. Known as AML/CFT Codes of Practice prior to 23 December 2022.
the CP	means Consultation Paper No.12 2022 published by the JFSC on 31 October 2022
draft Section(s)	One or all of the drafted Sections of the Handbook, featuring amendments proposed in the CP
Government	The Government of Jersey
JFSC (or we/us)	Jersey Financial Services Commission
Jersey Finance	Jersey Finance Limited
PF	Proliferation financing
revised Handbook	The ‘master’ version of the Handbook consolidating all changes from this paper and our follow-on consultation regarding AML/CFT scope exemptions
supervised person	Has the meaning given in Article 1 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
TCSP	Trust and Company Service Provider (or Trust Company Business)
TF	Terrorist Financing
TFS-TF	Targeted financial sanctions related to terrorist financing

Table of Contents

1	Executive Summary.....	4
1.1	Background.....	4
1.2	Feedback received.....	4
1.3	Next Steps.....	4
2	Consultation feedback.....	6
2.1	Overview.....	6
2.2	Section 2 – Corporate Governance	6
2.3	Section 3 – Identification measures – overview	7
2.4	Section 4 – Identification measures – finding out identity and obtaining evidence	9
2.5	Section 6 – Ongoing monitoring.....	10
2.6	Section 7 – Enhanced and simplified CDD measures	12
2.7	Section 8 – Reporting money laundering and terrorist financing activity	13
2.8	Section 9 – Screening, awareness and training of employees	13
2.9	Section 10 – Record keeping	14
2.10	Section 15 – Lawyers	15
2.11	Section 16 – Accountants	16
	Appendix A	16
	List of Respondents	17

1 Executive Summary

1.1 Background

- 1.1.1 On 31 October 2022 we issued a consultation paper, [Consultation No.12 2022](#), (the **CP**) on proposals to add further guidance notes and AML/CFT Codes of Practice (now known as 'AML/CFT/CPF Codes of Practice' and also referred to in this paper as '**Codes**') to the Handbook for the detection and prevention of money laundering and the countering of terrorist financing (the **Handbook**¹).
- 1.1.2 The CP and this feedback paper represent the culmination of significant engagement with Industry over the course of 2022. This has included:
 - 1.1.2.1 A webinar on the consolidation of the Handbook in 2022 inviting Industry volunteers to discuss enhancements planned for the Handbook
 - 1.1.2.2 Circulation of early version drafts Sections to representatives of over 10 businesses in July 2022, followed by feedback sessions held in August 2022
 - 1.1.2.3 Holding two drop-in sessions at the Santander Work Café and one-to-one meetings with businesses throughout the consultation period (the **Drop-In Sessions**).

1.2 Feedback received

- 1.2.1 The consultation period for the CP closed on 13 January 2023. We received a total of **18** responses; **14** were received directly and **4** were received via Jersey Finance. It is noted that not all respondents provided responses to all questions raised.
- 1.2.2 For completeness, output from the Drop-In Sessions has been incorporated into this Feedback Paper.
- 1.2.3 Section 2 of this paper presents a summary of the substantive comments received to the CP and our response.
- 1.2.4 We are very grateful to respondents for taking the time to consider and comment on the proposals. We are also grateful to those who participated in the drop-in sessions. A full list of respondents is provided in Appendix A.

1.3 Next Steps

- 1.3.1 In light of the feedback received, we have made some amendments to the Handbook consulted on, as set out in this Feedback Paper. We have also incorporated, as we previously committed to doing so, all amendments to the Handbook arising from the AML/CFT scope exemptions.
- 1.3.2 The JFSC will aim to publish the revised Handbook the week commencing 27 March 2023.
- 1.3.3 To allow Industry time to embed the changes set out in the revised Handbook, we have put in place a transition period, running to 30 June 2023. The revised

¹ Since 23 December 2023, the Handbook has been officially known as the 'Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing'.

Handbook will become effective at the same time as the amended AML/CFT scope exemptions come into force – **1 July 2023**.

2 Consultation feedback

2.1 Overview

- 2.1.1 This section summarises the substantive comments received in response to the CP and provides our response to those comments. Please note that not every comment received is individually listed and where comments made related to an answer to one or more questions or were felt to be more appropriately dealt with in another response, they have been consolidated accordingly.
- 2.1.2 References to “Sections” in this paper are to the draft Sections discussed in the CP. References to “paragraphs” are to paragraphs of the draft Sections. References to “parts” refer to the CP, or this paper.

2.2 Section 2 – Corporate Governance

- 2.2.1 The CP raised two questions in respect of Section 2 of the Handbook:
 - 2.2.1.1 Question 1: Do you consider the proposed Code of Practice and supporting guidance at Section 2.5 [Supervisory Risk Data Questionnaires] to be appropriate and proportionate?
 - 2.2.1.2 Question 2: Do you consider the proposed guidance notes at Section 2.3.1 [Business risk assessment] to be adequate for the purposes of your business?

Question 1:

- 2.2.2 All respondents bar one, who felt the matter was sufficiently addressed in legislation, confirmed the proposed Code of Practice and supporting guidance is appropriate and proportionate. General comments were primarily raised in relation to:
 - 2.2.2.1 The need for consistency of the data requests being made
 - 2.2.2.2 Concerns that the proposed wording does not allow for extenuating circumstances where an alternative deadline might be agreed on a case-by-case basis; and
 - 2.2.2.3 Requests for publication, 12 months in advance, of all intended data requests and associated response times for the year.

Question 2:

- 2.2.3 All parties who responded to this question confirmed the proposed amendments were adequate for the purpose of their business.
- 2.2.4 General requests were however received for the guidance notes to include:
 - 2.2.4.1 Consideration of sensitive activities and politically exposed or high public profile persons
 - 2.2.4.2 Clarification on what is meant by ‘high-risk activities’; and
 - 2.2.4.3 Clarification on what a due diligence process looks like with reference to new and developing technologies.
- 2.2.5 One respondent requested that the business risk assessment requirements and the requirement for a risk appetite statement be documented under separate headings.

- 2.2.6 A further respondent raised concerns with the introduction of percentages for determining risk appetites and felt that paragraph 22 is too prescriptive.

Response

- 2.2.1 We recognise the concerns around consistency of data requests and the desire for a forward-looking calendar to capture all expected data requests. This is not always possible; however, we endeavour to provide as much notice as possible together with guidance on completion of questionnaire in each case.
- 2.2.2 We understand there may be exceptional circumstances where a supervised person may not be able to meet the data request deadlines. As such, we have amended the guidance note to reflect that should such a situation arise, the supervised person should reach out to their supervisor to request an extension.
- 2.2.3 Additional factors have been added to paragraph 20 to reflect the need for sensitive activities and customer risk profile to be examined when considering a risk appetite.
- 2.2.4 We have added, at paragraph 25, reference to our Sound Business Practice Policy to provide further indications of what may be a higher risk activity.
- 2.2.5 We acknowledge the request in respect of new and developing technologies and can confirm work underway within our Innovation Hub, in conjunction with Industry, to further enhance our position and guidance in this area.
- 2.2.6 Guidance on risk appetite statements was included in Section 2.3.1 because the Code of Practice at paragraph 12 requires a supervised person to consider their risk appetite on an ongoing basis.
- 2.2.7 We wish to clarify that the introduction of percentages is not a requirement. Paragraph 20 is guidance only and supervised persons may choose to adopt an alternative approach as they feel appropriate to their business.

2.3 Section 3 – Identification measures – overview

- 2.3.1 The CP raised two questions in respect of Section 3 of the Handbook:
- 2.3.1.1 Question 3: Do you consider the proposed Code of Practice [understand purpose and intended nature of business relationship, and nature and scope of customer's business activities] and supporting guidance at Section 3.3 to be appropriate and proportionate?
- 2.3.1.2 Question 4: Do you consider the proposed guidance notes at Sections 3.3, 3.3.4.1 and 3.5 [further guidance regarding various aspects of risk] to be adequate for the purposes of your business?

Question 3:

- 2.3.2 The majority of those who responded to this question agreed that the proposed Code of Practice and supporting guidance at Section 3.3 is appropriate and proportionate.
- 2.3.3 Comments were however received from those respondent as follows:

- 2.3.3.1 One respondent sought clarification as to whether the JFSC expected a look-back exercise to be undertaken to ensure adherence with the proposed new requirements or whether these were to be applied on a forward-looking basis; and
- 2.3.3.2 A request to clarify the meaning of 'government funding' at paragraph 35 was sought from one respondent who felt the proposed wording could be interpreted such that any individual or firm who received government funding i.e., furlough payments for firms during Covid-19, would be caught.
- 2.3.4 Two respondents did not believe the proposed Code of Practice and supporting guidance to be appropriate and proportionate.
- 2.3.5 One respondent felt the proposed wording is potentially confusing, suggesting that it may be preferable to emphasise the need to obtain information in order to understand the customer's wider business activities in the context of risk rather than as set out in the proposed new paragraphs 33 and 34.
- 2.3.6 One respondent felt the requirement at paragraph 70 was duplicative of requirements elsewhere in the Handbook and therefore unnecessary. Another felt that paragraph 70 goes too far.

Question 4:

- 2.3.7 Two respondents advised that the guidance notes at Sections 3.3, 3.3.4.1 and 3.5 were not adequate for the purposes of their business.
- 2.3.8 Both respondents felt the guidance fails to reflect that where risks are assessed as low, the expectations in respect of Section 3.3 should differ.
- 2.3.9 All other respondents to the question confirmed they were adequate for the purposes of their businesses.
- 2.3.10 Comments were however received from a small number of those respondents as follows:
 - 2.3.10.1 One respondent recommended the use of FATF terminology when referencing the 'black list and grey list'; and
 - 2.3.10.2 A recommendation that the guidance at paragraph 120 be expanded to make it clearer that underlying entities may also need to be subject to screening.

Response

- 2.3.1 It is not our expectation that a supervised person conducts a granular review of every holding a customer might have globally. Rather, the review should be of sufficient detail so that the supervised person is satisfied it can make an informed judgement of the risk posed by the customer's wider activities. The level of detail may therefore differ in each individual case. The handbook has been updated to reflect this.
- 2.3.2 This guidance at paragraph 35 is around the type of information that may be collected in order to properly understand the nature and scope of the customer's business. Government funding of any kind might form a part of that information gathering exercise.

- 2.3.3 Paragraphs 33 and 34 have not been amended as suggested above at point 2.3.5. The need to obtain information to support and demonstrate the understanding of the nature and scope of a customer's business activities is set out in the guidance note at paragraph 35.
- 2.3.4 Paragraph 70 provides additional guidance to ensure supervised persons are aware of the need to consider the wider context of activities undertaken by that supervised person when assessing product or service risks related to a particular customer.
- 2.3.5 The concerns of the respondents as set out above at 2.3.8 are noted. However, existing Code (paragraph 32) requires a risk-based approach to be applied in respect of identification measures to be undertaken. Guidance at paragraph 3 also states that "the volume of information collected and considered should be determined on a risk-based approach...".
- 2.3.6 Full names as defined by FATF have been added to paragraph 64 in respect of the 'black list' and 'grey list'.
- 2.3.7 Additional wording has been added to paragraph 120 as follows "Where underlying entities are present, it may be necessary for these to be subjected to screening".

2.4 Section 4 – Identification measures – finding out identity and obtaining evidence

2.4.1 The CP raised two questions in respect of Section 4 of the Handbook:

- 2.4.1.1 Question 5: Do you consider the proposed guidance notes at Section 4.9 [Challenges to identification] to be adequate for the purposes of your business?
- 2.4.1.2 Question 6: Do you consider the proposed guidance notes at Section 4.4.6 [Identification measures for unit trusts] to be adequate for the purposes of your business?

Question 5:

- 2.4.2 Several respondents raised concerns with the proposed guidance notes at Section 4.9 as currently worded. A small number of those respondents also felt it may be more appropriate to separate the section from the Handbook in its entirety and include in a separate guidance paper.

Question 6:

- 2.4.3 All parties who responded to this question confirmed the proposed guidance notes at Section 4.4.6 are adequate for the purpose of their business.
- 2.4.4 In providing confirmation, one respondent sought clarification on expectations around the extent of CDD to be conducted by auditors where audit services are being provided to the trustees of a unit trust.

Response

- 2.4.1 Further consideration is being given as to the most appropriate approach for addressing the concerns of FTA that Section 4.9 is looking to address in light of Industry feedback. The proposed guidance notes will not therefore be included

in the revised Handbook at this time. Further guidance in this regard will be issued during the second quarter of 2023.

- 2.4.2 Guidance is intended to apply to all supervised persons. There are no separate expectations in respect of auditors and CDD should be undertaken on the basis of risk following assessment. We will not therefore be including any additional wording specific to the auditor position set out in 2.4.4 above.

2.5 Section 6 – Ongoing monitoring

- 2.5.1 The CP raised three questions in respect of Section 6 of the Handbook:

- 2.5.1.1 Question 7: Do you consider the proposed Code of Practice and supporting guidance at Section 6.2.2 [regarding sanctions screening and monitoring] to be appropriate and proportionate?
- 2.5.1.2 Question 8: Do you consider the proposed guidance notes at Section 6.2, 6.2.1 and 6.3 [regarding sanctions screening and monitoring] to be adequate for the purposes of your business?
- 2.5.1.3 Question 9: Have you identified any unintended consequences of the new Glossary definitions [new terms related to sanctions] proposed above?

Question 7:

- 2.5.2 The responses to question 7 were almost equally split between those who believe the proposed wording to be appropriate and proportionate and those who provided additional commentary.
- 2.5.3 Additional commentary related to:
- 2.5.3.1 Concerns that the obligation to undertake sanctions screening for all business relationships and one-off transactions is irrespective of the customer risk profile and as such may be onerous and disproportionate; and
- 2.5.3.2 Concerns with the ability to review and act upon all sanction notices within 24 hours (paragraphs 43 and 56). One respondent recommended providing clarity on the meaning of 'acted upon' to address the matter.

Question 8:

- 2.5.4 The responses to question 8 were also almost equally split between those who believe the proposed wording to be adequate for the purposes of their business and those who provided additional commentary.
- 2.5.5 Additional commentary related to requests for clarification in respect of:
- 2.5.5.1 Indicators as to the reliable and independent third-party sources that could be used in reference to paragraph 38
- 2.5.5.2 The expected format for documenting the effectiveness assessment of sanctions controls; and
- 2.5.5.3 The frequency with which a supervised person must undertake an assessment of the effectiveness of their sanctions controls and compliance with the Jersey sanctions regime.
- 2.5.6 One respondent noted that the JFSC and HMT are not always aligned in their timing when issuing sanctions update notices. The respondent suggested the

guidance at paragraph 56 be made clear as to whether the 24 hours applies following receipt of notices from the JFSC or HMT to reflect this.

Question 9:

- 2.5.7 Whilst all other respondents confirmed they had not identified any unintended consequences with the Glossary definitions, some general comments were provided suggesting alignment as follows:
- 2.5.7.1 One respondent requested the definition of “designated person” be changed to "Has the meaning in Article 1 of the Sanctions and Asset Freezing (Jersey) Law 2019”.
 - 2.5.7.2 Consider aligning the definition of "Financing of Proliferation" with the definition with the JFSC's published Countering proliferation of weapons of mass destruction and its financing; and
 - 2.5.7.3 Consider aligning the definition of "sanctioned person with the definition of "designated person".

Response

- 2.5.1 Regarding the concerns expressed about Question 7 not being risk-based, we would remind Industry that all supervised persons are subject to the same regulatory framework, in order to protect Jersey from potential ML/TF/PF abuse.
- 2.5.2 A number of UK-registered entities and UK nationals are currently listed on the OFSI sanctions list. Therefore, even if a jurisdiction is considered to be low-risk, there remains the possibility that an individual could be directly or indirectly subject to sanctions.
- 2.5.3 As a result, we shall retain the proposed Code of Practice at Section 6.2. The sanctions screening activity should complement existing policies and procedures in place to monitor customer transactions and activity, as set out in the existing guidance at Section 6.2.2 paragraph 45.
- 2.5.4 We would also point out our further resources regarding sanctions, available on our website. These include good practice in the use of automated tools, which may help address associated cost issues.
- 2.5.5 Regarding the responses querying the 24-hour timeframe for actioning sanctions notifications, we have added further wording to Section 6.2.2 paragraph 58 clarifying that where a notification is received after business hours on the last working day of the week, or at the weekend, the notification should be actioned as soon as possible during the next working day.
- 2.5.6 Regarding the response to Question 8 querying which sanctions notice Section 6.2.2 paragraph 57 refers to, we would note that UK sanctions are immediately effective in Jersey as soon as the UK government publish the designation lists. Supervised persons should not wait for a JFSC or Jersey government notice before implementing the sanctions.
- 2.5.7 To provide additional clarity regarding the above point, we have further amended Section 6.2.2 paragraph 57 to reference a “change to the UK sanctions designations lists” rather than “a sanctions notice”.

- 2.5.8 We have not included a frequency with which a supervised person must undertake an assessment of the effectiveness of their sanction controls as this should be determined by each business using a risk-based approach.
- 2.5.9 The following additional wording has been added to the Handbook to provide guidance on the form an effectiveness assessment might take “A supervised person may wish to undertake their assessment of effectiveness as part of their CMP activities. The assessment may be presented to the board in the form of a report by the MLCO”.
- 2.5.10 Within the definition of “designated person” as set out in the glossary, it is appropriate to reference to Article 9(2) of the Sanctions and Asset Freezing (Jersey) Law 2019 rather than Article 1.
- 2.5.11 No amendments have been made to the glossary definition of “Financing of Proliferation” as the definition is specifically for the purposes of the Handbook, distinguishing between the wider and narrower definitions of FATF.

2.6 Section 7 – Enhanced and simplified CDD measures

- 2.6.1 The CP raised one question in respect of Section 7 of the Handbook:
 - 2.6.1.1 Question 10: Do you consider the proposed guidance notes at Sections 7.1, 7.3 and 7.6.2 [additional guidance regarding enhanced due diligence measures (**EDD**)] to be adequate for the purposes of your business?
- 2.6.2 The majority of respondents consider the proposed guidance notes at Sections 7.1, 7.3 and 7.6.2 to be adequate for the purposes of their business.
- 2.6.3 A small number of respondents requested additional guidance be provided in relation to:
 - 2.6.3.1 Sovereign funds and whether there is an expectation of the JFSC to decline business if a body is not listed on IFSWF; and
 - 2.6.3.2 Whether a PEP can now also include a legal person if they are a sovereign wealth fund.
- 2.6.4 Two respondents queried the need for paragraph 17 to be so trust specific, suggesting the deletion of ‘which is or will be settled into a trust’ to be deleted from the first sentence.

Response

- 2.6.1 We do not expect entities to decline business solely because a sovereign wealth fund is not a member of the IFSWF. It is for each supervised person to determine how much weight they wish to place on a sovereign wealth fund being a member of the IFSWF and what other risk factors are present.
- 2.6.2 The position remains that only natural persons can be considered as a PEP. The sentence “or is themselves a sovereign wealth fund” has been deleted from Section 7.6.2 to clarify this.
- 2.6.3 Paragraph 17 has now been moved under paragraph 15 which sets out guidance for demonstrating the application of enhanced identification measures where reasonable measures are taken. The wording of the paragraph has also been adjusted such that it is no longer specifically trust based guidance.

2.7 Section 8 – Reporting money laundering and terrorist financing activity

- 2.7.1 The CP raised one question in respect of Section 8 of the Handbook:
 - 2.7.1.1 Question 11: Do you consider the proposed amendments to the Codes of Practice at Sections 8.3.1 and 8.3.2 [internal and external suspicious activity reports (**SARs**)] to be appropriate and proportionate?
- 2.7.2 Six respondents were in favour of the proposed Code and guidance.
- 2.7.3 One respondent queried why the role of the individual is required rather than their business area, noting that remit and titles differ between organisations.
- 2.7.4 One respondent suggested that “and the date the suspicion was formed” be added to paragraph 74 (now paragraph 77).
- 2.7.5 A further respondent requested “and the date the suspicion was formed” be added to the sentence “the date that the information or matter came to the employees attention”.

Response

- 2.7.1 To provide greater clarity on the information we are expecting to see recorded, the wording of Section 8.3.2 has been amended to state “name of the individual making the external SAR and the capacity in which they are doing so (e.g. as the supervised person’s MLRO and deputy MLRO).”
- 2.7.2 The proposed additional wording at paragraph 74 (now paragraph 77) has not been included. It is important for compliance monitoring purposes to be able to see the time between the information coming to the employees attention and when the SAR was submitted. This allows for potential issues to be identified, for example, whether more training is required in order for the potential criminality to be identified earlier.

2.8 Section 9 – Screening, awareness and training of employees

- 2.8.1 The CP raised two questions in terms of Section 9 of the Handbook:
 - 2.8.1.1 Question 12: Do you consider the proposed Codes of Practice and supporting guidance notes at Section 9.2 [credit checks on customer-facing employees working at Investment Business firms] to be appropriate and proportionate?
 - 2.8.1.2 Question 13: Do you think that examples of changes in an employee’s circumstances which increase the risk of them being involved in money laundering, terrorist financing or a predicate offence of the same should be provided in Section 9.2?

Question 12:

- 2.8.2 A number of respondents raised concerns with the proposed Codes of Practice and supporting guidance notes at Section 9.2. in responding to Question 12.
- 2.8.3 Whilst some respondents recognised the merits of ongoing credit checks in respect of customer facing investment business employees, many were concerned as follows:
 - 2.8.3.1 An unlevel playing field was being created for investment business employees; and

- 2.8.3.2 Credit scores of investment business employees may inadvertently be impacted as a result of such requirement.
- 2.8.4 Requests were made from multiple respondents to clarify what would be considered a change in circumstance/red flag resulting in the need for an additional credit check to be undertaken.
- 2.8.5 One respondent suggested that if credit checks were required to be undertaken, they be undertaken on a regular basis or at a specific frequency thereby mitigating the need to determine 'change in circumstances'.
- 2.8.6 Two respondents questioned whether the potential issue highlighted could be better addressed/avoided by ensuring adequate controls are implemented by the investment businesses rather than imposing credit checks on employees given the potential adverse impact of doing so.
- 2.8.7 One respondent also suggested that if further measures were necessary to ensure appropriate conduct, a more appropriate place for those measures would be the Investment Business Code of Practice.

Question 13:

- 2.8.8 One respondent felt very strongly against the proposal to require credit checks on investment business employees and as such, did not think that examples should be provided.
- 2.8.9 One further respondent felt that including examples could lead to a tick box style exercise being undertaken and there being a lack of human sensitivity built into any assessment or considerations. As such, the respondent suggested that the inclusion of red flags might be more appropriate.
- 2.8.10 Four respondents agreed that the provision of examples and/or red flags would be beneficial, although one of those suggested the Handbook was not the appropriate place for such examples.

Response

- 2.8.1 Regarding Question 12, we acknowledge the concerns expressed about the proposed Codes of Practice, particularly in relation to the potential inadvertent impact on an individual's credit rating by repeating credit checks and the associated costs to a business in doing so.
- 2.8.2 On balance, it has therefore been determined that the proposed Codes of Practice and supporting guidance notes at Section 9.2 will not be included in the revised Handbook.
- 2.8.3 We remind Industry however that Section 2 of the Handbook a "supervised person must establish and maintain appropriate and consistent systems and controls to prevent and detect money laundering, the financing of terrorism, and the financing of proliferation...". Further, the Investment Business Code of Practice provides at principle 3 that a "registered person must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.

2.9 Section 10 – Record keeping

- 2.9.1 The CP raised three questions in terms of Section 10 of the Handbook:

- 2.9.1.1 Question 14: Do you consider the proposed Code of Practice and supporting guidance at Section 10.2 [requirement to keep accounts files and business correspondence] to be appropriate and proportionate?
- 2.9.1.2 Question 15: Have you identified any unintended consequences of removing the guidance note at Section 10.2 paragraph 5 [circumstances where it would not be possible to take a copy of evidence of identity]?
- 2.9.1.3 Question 16: Do you consider the proposed guidance notes at Section 10.4.4 to be adequate for the purposes of your business?

Question 14:

- 2.9.2 The majority of respondents agreed that the proposed wording at Section 10.2 was appropriate and proportionate.
- 2.9.3 A small number of respondents requested that further clarity be provided, primarily in respect of the following:
 - 2.9.3.1 The need to maintain relevant documentation on a stand-alone basis noting the requirement at Section 10.2 does not specifically state the accounts files and business correspondence must be retained separately as the FTA recommendation is suggesting; and
 - 2.9.3.2 What is considered to represent “Accounts files” with in the DNFBP sector.

Question 15:

- 2.9.4 Almost half of the respondents requested that the guidance note at Section 10.2 paragraph 5 be retained. The two primary reasons for this being:
 - 2.9.4.1 That there may be occasions where the use of smart phones might not be possible/permissible; and
 - 2.9.4.2 That there may be occasions where the use of smart phones may not be appropriate, particularly where a supervised person’s employee may be calling on a customer in a difficult or sensitive situation.

Question 16:

- 2.9.5 All respondents confirmed that they consider the proposed guidance notes at Section 10.4.4 to be adequate for the purposes of their business.

Response

- 2.9.1 The word ‘records’ has been added to business correspondence at paragraph 6 to draw out the separation between accounts files and business correspondence.
- 2.9.2 We do not consider it appropriate to outline what an account file should include. It is for each supervised person to determine in the context of their own businesses.
- 2.9.3 In light of the feedback received to Question 15, the guidance at Section 10.5, paragraph 5 has been retained. However, as this guidance related to evidence of identity, this will be moved to section 4.3.2 of the revised Handbook.
- 2.9.4 With all respondents confirming the proposed guidance notes at Section 10.4.4 to be adequate for the purposes of their business, they will be included in the revised Handbook without amendment.

2.10 Section 15 – Lawyers

- 2.10.1 The CP raised one question in terms of Section 15 of the Handbook:
- 2.10.1.1 Question 17: Do you consider the amended guidance notes at Section 15.3.1.8 [property transactions not involving a mortgage or not financed wholly through the sale of a previous property] to be adequate for the purposes of your business?
- 2.10.2 There were only five respondents to Question 17. Four of those responded to advise that Section 15.3.1.8 of the Handbook does not apply to their business.
- 2.10.3 One respondent felt the use of the term “wholly financed” appeared excessive given that part of the funding in the sale and purchase of primary residences may also be from other sources such as savings.

Response

- 2.10.1 The term “wholly financed” is not a new term being introduced as a result of the proposed amendments at this time. The feedback from the respondent is noted but as this is an existing and familiar term to industry, there is no proposal to amend at this time.

2.11 Section 16 – Accountants

- 2.11.1 The CP raised one question in terms of Section 16 of the Handbook:
- 2.11.1.1 Question 18: Do you consider the amended guidance notes at Section 16.2.1.1 [further examples of sectors which might pose a higher ML/TF risk] to be adequate for the purposes of your business?
- 2.11.2 Only three parties responded to this question, each advising the amended guidance notes at Section 16.2.1.1 were not applicable to their business.

Response

- 2.11.3 As there was no feedback in respect of Question 18, the amended guidance notes at Section 16.2.1.1 will be included in the revised Handbook.

List of Respondents

- Law firm (x2)
- DC and MSB licence holder
- FSB and IB licence holder
- FSB and TCB licence holder (x2)
- FSB, IB, TCB, MSB and DC licence holder
- FSB, GIMB, IB, MSB and DC licence holder (x3)
- GIMB and TCB licence holder
- IB licence holder (x2)
- TCB licence holder (x2)
- Jersey Association of Trust Companies
- Consultancy company (x2)