Guide to Section II of risk based supervision data: Lenders

Table of Contents

Table of Contents

1   General guidance

1.1   Scope

1.1.1   This guidance document relates to Section II of the 2023 risk based supervision data collection which requires the provision of activity based data from Reporting Entities registered to carry on lending services.

1.1.2   Lending is a financial services business activity as set out in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, specifically paragraph 3 of Part 2 of Schedule 2:

Lending

(1)   Lending.

(2)   Sub-paragraph (1) includes inter alia: consumer credit, mortgage credit, factoring, with or without recourse; and finance of commercial transactions (including forfeiting).

1.2   Excel workbook

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

(a)   EA - Compliance Data

(b)   EB - Customer Data

(c)   EC - Beneficial Ownership

(d)   ED - Use and application of concessions granted by the MLO[i]

(e)   EE - Country List

1.2.2   Spreadsheet EE is an input sheet for the responses to questions EA6, EC1, EC2, ED3 and ED7.

1.3   Customers

1.3.1   The spreadsheets require lenders to provide data in respect of their customers.

1.3.2   A customer is a person to whom the lender provides lending services as described in 1.1.2 above.

1.4   Data reporting period

1.4.1   Generally, data should be provided for the period 1/1/2023 to 31/12/2023.

1.4.2   There are a few data items where the data should be provided as at the end of the reporting period (31/12/2023 or closest business day).

1.5   Data Submission

1.5.1   Lenders 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 **31 May 2024**.

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

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

1.5.1 For many this will be the sixth time the data return has been completed therefore the JFSC expects lenders to be in a very good position to report their 2023 data and that only on a very exceptional basis will responses need to be derived by extrapolation or estimates supported by specific criteria.

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

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

1.5.3 With the exception of spreadsheet *EE-Lenders-Country list*, all parts of each question should be answered. Consequently, please insert a "0" where relevant.

1.5.4 Where a balance is denominated in a currency other than GBP (e.g. Euros) please convert the transaction value to GBP using the most appropriate exchange rate.

1.6 Integrity checking your submission

1.6.1 Before submitting your data the JFSC suggests that the integrity checks highlighted in paragraphs 1.6.2 to 1.6.8 should be completed.

1.6.2 Sum of EA1(a) to (c) needs to agree to the sum of EB1(a)(i) to (viii).

1.6.3 EA1(a) should equal sum of EB3(a)(i) to (viii)

1.6.4 The number (EB2(a)) and value (EB2(b)) responses should not exceed those provided in EB1(a) and EB1(b) respectively, in any given column.

1.6.5 The number and value responses in EB3 to EB11 cannot be individually greater than those provided in EB2(a) and EB2(b) respectively, in any column.

1.6.6 The number and value responses in EB11 should not exceed those provided in EB9 or EB10, in any given column.

1.6.7 The number and value responses in EB11 should not exceed those provided in EB4.

1.6.8 ED10(a) should equal the sum of ED10(b) to (f)

2 Section EA – Lenders compliance data

2.1 Overview

2.1.1 This section collects data on:

(a) customer risk ratings;

(b) business which has been declined, terminated or withdrawn due to customer due diligence or other financial crime concerns;

(c) referred business (the extent to which customers are obtained on the basis of referrals from other businesses); and

(d) cash transactions (the extent to which cash is used).

2.2 Risk Rating

EA1 **Number of customers in each category of risk (as defined by the lender) during the data reporting period**
(a) higher; (b) standard; (c) lower

EA2 **Do the lender's risk ratings include factors other than money laundering and the financing of terrorism?**
(Yes ; No) If yes, please provide details at EA13(a)

2.2.1 Question *EA1* requests data about the number of customers 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/CPF Handbook).

2.2.2 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[ii], standard or lower risk. For example, if a lender 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.

2.2.3 If a lender includes other factors e.g. commercial risk, in its risk rating of customers and the ML/TF risk element cannot be reported separately, please report the combined risk rating.

2.2.4 If a combined rating is reported please select "yes" when responding to *EA2*.

2.2.5 Please provide an answer for every element of EA1.
For example a lender with zero higher risk, 4 medium risk and 6 lower risk customers and who only considers money laundering and terrorist financing when risk rating a customer, should complete the fields as follows:

EA1(a) - Higher	0
EA1(b) - Medium	4
EA1(c) - Lower	6
EA2	Choose "No" from the dropdown

2.2.1 Please note the sum of EA1(a) to (c) should equal the sum of EB1(a)(i) to (viii).

2.3 Declined, terminated and withdrawn business

EA3 **Number of applications from prospective customers to either (i) establish a customer relationship, or (ii) carry out a one-off transaction, declined due to CDD issues or other financial crime concerns, during the data reporting period**

EA4 **Number of customer relationships terminated, due to CDD issues or other financial crime concerns, during the data reporting period**

2.3.1 In line with Section 2.4.1 of the AML/CFT/CPF Handbook (paragraph 33), questions EA3 and EA4 request data about:

(a) the number of <u>prospective customer relationships or one-off transactions that have been **declined** (**EA3**); and</u>

(b) <u>customer relationships that have been **terminated**</u> due to CDD issues or other financial crime concerns (**EA4**).
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 lender's risk appetite); and

› there is suspicion of ML/TF.

2.3.2 This question applies also to cases where:

(a) an application to form a customer 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; and

(b) an application to form a customer 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).

2.3.3 Please do not leave fields blank, insert a "0" in EA3 and EA4 if no prospective customers have been declined or customers terminated.

EA5 **Number of applications from prospective customers who have withdrawn due to CDD issues, during the data reporting period (where this data is collected)**

2.3.4 Question **EA5** collects data on customer applications withdrawn solely or partly on the basis of CDD requested.

2.3.5 It is recognised that this data may not be recorded by a lender. If this is the case please respond with "0". Do not leave the field blank.

2.3.6 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.

2.4 Referred business

2.4.1 Questions EA6, EA7 and EA8 request data about those <u>persons who referred customers</u> to a lender during the data reporting period.

2.4.1 Where business is referred to a lender but neither a one-off transaction nor customer relationship result this is not considered referred business for the purpose of responding to EA6, EA7 and EA8.

2.4.2   Persons who refer customers to a lender may be third parties such as lawyers, accountants and trust company businesses.

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

2.4.4   The following should not be reported as persons who refer customers:

(a)   a third party or group entity that acts as an obliged person under Articles 16 or 16A of the Money Laundering Order (data on these persons is collected through spreadsheet ED (Use of MLO concessions)); or

(b)   a customer acting on behalf of one or more third parties (data on these persons is collected through spreadsheet EC (3rd party and beneficial ownership)) ; or

(c)   a person who refers customers on a basis that cannot be considered regular. The meaning of regular will vary by lender and will depend on a number of factors such as the size of their current customer base and the amount of referred business.

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

EA6   Number of persons who referred customers to the lender during the data reporting period, analysed by country

2.4.6   Question *EA6* requires the number of persons who referred customers to be analysed by country, using spreadsheet EE.

2.4.7   Please note:

(a)   the countries are listed on spreadsheet EE alphabetically; and

(b)   only positive responses are required i.e. there is no need to insert "0" against every country.

**EA7   Number of persons who referred customers to the lender during the data reporting period, which carry on the following activities
(a) lawyer; (b) accountant; (c) other**

2.4.8   Question *EA7* requires analysis of the number recorded at EA6.

2.4.9   Where a lender responds that the majority of the persons that are referring customers fall in "Other" (EA7(c)) please provide further details at EA13 (General comments on section EA). This may include referrals from existing customers, another group company or a trust company business.

2.4.10   If a lender considers that it does not have any persons that refer business then please insert "0" into each of EA7(a), EA7(b) and EA7(c).

EA8   Number of relationships with persons who referred customers to the lender during the data reporting period that were terminated due to CDD issues, or other financial crime concerns

2.4.11   Question *EA8* requires a lender to record the number of times, during the data reporting period, that a relationship between them and a person who referred customers 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 customers considers that CDD measures applied by the lender are impractical or excessive.

2.4.12   If no terminations have occurred, please insert a "0" in response to EA8.

2.5   Cash transactions

EA9   Number and value of cash transactions (i.e. notes and coins) for customers during the data reporting period (receipt or payment) in any jurisdiction
(a) number; (b) value in GBP

2.5.1   Question *EA9* requests data about the <u>number (EA9(a)) and value (EA9(b)) of cash transactions</u> (using **notes and coins**) conducted for customers.

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

2.5.3   Whilst we recognise that the use of cash may be minimal in the Jersey-based lending 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.

2.5.4   If no cash transactions occurred during the data reporting period, please insert "0" at both EA91(a) and EA9(b).

2.6   Transaction monitoring

EA10   What is the timing of the ongoing monitoring of transactions during a customer relationship?
(Real-time ; Post-event ; Both ; N/A)

EA11   Are monitoring procedures automatic or manual?
(Automated ; Manual ; Both ; N/A)

EA12   What rules are applied to the transaction monitoring procedures?
(Generic ; Tailored ; Both ; N/A)

2.6.1   Questions *EA10*, *EA11* and *EA12* ask about transaction monitoring procedures.

2.6.2   In line with paragraph 16 of section 6.2.1 of the AML/CFT/CPF Handbook, where a lender's customer base is homogeneous, and where the products and services provided to customers result in uniform patterns of transactions or activity, it will be more straightforward to establish parameters to identify usual transactions and unusual activity. However, where each customer is unique, and where the product or service provided is bespoke, a lender will need to tailor monitoring systems to the nature of its business and facilitate the application of additional judgement and experience to the recognition of unusual transactions and activity.

2.6.3   Please answer each question.

2.7   General Comments

EA13   Please provide any explanations or context comments below

2.7.1   If a lender selects "yes" when responding to **EA2** details of the other factors included in the combined risk rating should be provided at EA13(a).

2.7.2   A freetext box is provided at *EA13(b)* to provide general comments, explanations or context comments in relation to the other responses in section EA-Lenders compliance data. this should include information where a lender responds that the majority of the persons that are referring customers fall in "Other" (EA7(c)) please provide further details at EA13(b) in respect of those persons reported as "Other". This may include referrals from existing customers, another group company or a trust company business.

3   Section EB – Lenders customer data

3.1   Customer data overview

3.1.1   This section collects data about:

(a)   a lender's customers which exhibit higher ML/TF risk characteristics; and

(b)   the lender's activities.

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

(a)   Individuals that are Jersey resident;

(b)   Individuals that are not Jersey residents;

(c)   Trusts with a Jersey trustee;

(d)   Trusts with a non-Jersey trustee;

(e)   Jersey companies;

(f)   Non-Jersey companies;

(g)   Other – Jersey; and

(h)   Other – non-Jersey.

3.1.3   "Other" includes a customer that is any of the following:

(a)   Foundations

(b)   Limited Partnerships

(c)   Limited Liability Partnerships

(d)   Separate Limited Partnerships

(e)   Incorporated Limited Partnerships

3.2   Customer analysis

EB1

(a) Number of customers that are
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.2.1   Question *EB1(a)* requests the total number of customers as at 31 December 2023 analysed by customer type as listed in 3.1.2 and further explained in 3.1.3.

3.2.2   Please note that the response provided to question EB1 provides the base for responding to all other Section EB questions.

3.2.3   For example, given a response to question EB1 as set out in the table below then the number of customers is the maximum number that can appear in the relevant column for all other Section EB questions:

Customer type	Number of customers

Customer type	Number of customers
Individuals – Jersey resident	10
Individuals - non-Jersey resident	2
Trusts with Jersey trustee	1
Trusts with non-Jersey trustee	0
Jersey Companies	1
Non-Jersey Companies	0
Other – Jersey	0
Other – non-Jersey	1

3.2.4   Where a lender has no customers of a particular type please insert "0".

3.2.5   Question **EB1(b)** requests the value related to the customers, ie the total of all outstanding loan balances as at the end of the data reporting period.

3.2.6   Where a balance is denominated in a currency other than GBP (e.g. Euros) please convert the transaction value to GBP using the most appropriate exchange rate.

3.2.7   If the lender has answered "0" to any of the cells at EB1(a), the corresponding cell at EB1(b) should also be "0".

3.2.8   The guidance at 3.2.6 and 3.2.7 applies to the rest of the "value" questions in this spreadsheet.

3.2.9   Please note the sum of EB1(a)(i) to (viii) should equal the sum of EA1(a) to (c).

3.3   Enhanced CDD measures

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

3.3.2   In addition to a lender deciding that a customer presents a higher risk of money laundering or financing terrorism, there are some circumstances where enhanced CDD measures are required by Articles 15, 15A and 15B of the Money Laundering Order:

(a)   the customer is, or some other prescribed person is, a politically exposed person (**PEP**) (Section 7.6)

(b)   the customer has a "relevant connection" to an "enhanced risk state" (Section 7.5)

(c)   the customer is a company with nominee shareholders or issues bearer shares (Section 7.10)

(d)   the customer is a personal asset holding vehicle (Section 7.9)

(e)   the customer, or some other person, is not physically present for identification purpose (Section 7.4)

(f)   the customer is non-resident (not a Jersey resident) (Section 7.7)

(g)   the customer is provided with private banking services (Section 7.8), or

(h)   correspondent banking or similar relationships (Section 7.11)

EB2

(a) Number where enhanced CDD measures have been applied
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.3   Using the response to question EB1 as the base for responding, question **EB2** requires data, as at 31 December 2023, about the number of customers to which enhanced customer due diligence (**CDD**) measures have been applied and the value of the balance associated with those customers.

3.3.4   For example, using the example laid out in 3.2.3, if 3 of the 10 customers that are reported as "individuals – Jersey" have been subject to enhanced CDD measures then respond "3".

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

3.3.6   If a lender has no customers which have been subject to enhanced CDD measures then insert "0" in each grey box.

EB3

(a) Number that present higher risk of ML/TF
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.7   Where a lender has determined that a customer presents a higher risk of money laundering or financing terrorism, enhanced CDD measures must be applied, therefore the response to question EB3 cannot be greater than the response to question EB2.

3.3.8   There are circumstances where enhanced CDD measures must be applied but the lender may not consider the customer presents a higher risk, therefore the response to EB3 may be lower than the response to EB2. For example, a Jersey resident purchasing a property though an asset holding vehicle.

3.3.9   If a lender has no customers which present a higher risk please do not leave a cell blank, please insert "0" in each grey box.

3.3.10   The total of EB3(a) should be the same as the answer to question EA1(a).

EB4

(a) Number that are, or who are connected with, a PEP:
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey

trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.11   Using the response to question EB2 as the base for responding, question **EB4(a)** requires the number of customers to which enhanced CDD measures have been applied due to a PEP connection, and **EB4(b)** requires the value of loans associate with those customers.

3.3.12   On 12 June 2019 the definition of Money Laundering Order was amended (see Article 15A of the Money Laundering Order and Section 7.6.1 of the AML/CFT/CPF 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;

›   a third party for whom the customer acts AND the third parties beneficial owners or controllers ;

›   purporting to act on behalf of the customer.

3.3.13   When considering whether a customer 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

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

3.3.15   If a lender has no customers who are a PEP, or who are connected with a PEP, please do not leave a cell blank, please insert "0" in each grey box.

EB5

(a) Number that have a relevant connection to an enhanced risk state
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.16   Using the response to question EB2 as the base for responding, question **EB5(a)** requires the number of customers to which enhanced CDD measures have been applied because the customer has a connection to an enhanced risk state, and **EB5(b)** requires the value of the loans associated with those customers.

3.3.17   Appendix D1 of the AML/CFT/CPF Handbook provides a list of the countries and territories that are considered an enhanced risk state. As at 16 December 2023 the following were listed:

(a)   Iran;

(b)   The Democratic People's Republic of Korea (North Korea); and

       (c)   Myanmar (Burma)

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

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

       (a)   assets held in either Iran, North Korea, or Myanmar by the customer or any person on behalf of a customer; or

       (b)   income arising in Iran, North Korea, or Myanmar.

    In either scenario the lender should take reasonable measures to find out the source of wealth of the customer.

3.3.20   If a lender has no customers with a relevant connection to an enhanced risk state, please do not leave a cell blank, please insert "0" in each grey box.

EB6

(a) Number that have one or more nominee shareholders
(b) Value of the above in GBP
FOR
(v) Jersey Companies; and (vi) Non-Jersey Companies

EB7

(a) Number of non-Jersey companies that have issued bearer shares or warrants
(b) Value of the above in GBP
FOR
(vi) Non-Jersey Companies

3.3.21   Using the response to question EB2 as the base for responding, questions EB6 and EB7 require information on:

       (a)   the number of, and value of loans associated with, customers which are companies (Jersey or non-Jersey) which have one or more nominee shareholders (*EB6(a) and (b)*); and

       (b)   the number of, and value of loans associated with, customers which are non-Jersey companies that have issued bearer shares or warrants (*EB7(a) and (b)*).

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

       (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 lender of any transfer or change in ownership.

3.3.23   If a lender has no customers which are companies (Jersey or non-Jersey) that have one or more nominee shareholders, please do not leave either cell blank, please insert "0" in each grey box.

3.3.24   If a lender has no customers which are non-Jersey companies that have issued bearer shares or warrants, please do not leave the cell blank, please insert "0" in the grey box.

EB8

(a) Number that are personal asset holding vehicles
(b) Value of the above in GBP
FOR
(iii) Trusts with Jersey trustee; (iv) trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.25   Using the response to question EB2 as the base for responding, question **EB8** requests data regarding personal asset holding vehicles which are described at paragraph 64 of section 7.9 of the AML/CFT/CPF Handbook as being a legal person or legal arrangement established by individuals for the specific purpose of holding assets for investment.

3.3.26   The personal asset holding vehicle:

(a)   may be the customer of the lender (for example a company which holds property as an investment); OR

(b)   may be the third party for whom a customer is acting. For example, the customer may be a trustee acting for a trust which is a personal asset holding vehicle.

3.3.27   If a lender has no customers which are either personal asset holding vehicles or who act on behalf of a personal asset holding vehicle, please do not leave the cells blank, please insert "0" in the grey boxes.

EB9

(a) Number of individuals who have not been met
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident

EB10

(a) Number where one or more beneficial owners/controllers of customers, or other persons who must be identified under Article 3 of the Money Laundering Order, were not physically present for identification purposes
(b) Value of the above in GBP
FOR
(iii) Trusts with Jersey trustee; (iv) trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

EB11

(a) In relation to EB9 and EB10, number of customers who are, or who are connected to, a PEP
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; and (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) trusts with non-Jersey trustee; (v) Jersey Companies; (vi) Non-Jersey Companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.3.28   Using the response to question EB2 as the base for responding, questions **EB9** to **EB11** request data about whether a customer, and the beneficial owners and controllers of customers, have been physically present for identification purposes.

3.3.29   An individual may be considered to have been physically present for the purpose of questions EB9 and EB10 where they have been met and seen:

(a)   by the lender (physically or through video conferencing facilities);

> (b)   by a suitable certifier in line with section 4.3.3 of the AML/CFT/CPF Handbook; or
>
> (c)   by a company in the same group as the lender where that company is regulated and supervised for AML/CFT/CPF purposes (the meeting can be physical or through video conferencing facilities).

3.3.30   Where either the customer or the beneficial owner/controller of the customer has not been physically present **and** they are a PEP then question *EB11* needs to record the number of, and loan values associated with, such persons.

3.3.31   If, having taken account of paragraph 3.3.2, a lender considers that all customers and beneficial owners/controllers were physically present for identification purposes please do not leave the cells blank, please insert "0" in each grey box.

3.4   Other customer characteristics

EB12

(a) Number that are regulated/supervised for AML/CFT/CPF purposes
(b) Value of the above in GBP
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.4.1   Using the response to question EB1 as the base for responding, question *EB12* collects data on customers that are Regulated and Supervised for AML/CFT/CPF purposes.

3.4.2   "Regulated and Supervised for AML/CFT/CPF purposes" specifically means:

> (a)   subject to AML/CFT/CPF requirements; **and**
>
> (b)   supervised for compliance with those requirements by the JFSC or an overseas regulatory authority discharging a similar function in respect of AML/CFT/CPF.

3.4.3   For example:

> (a)   If the customer of a lender is a trust company then they should be reported here. However, if the customer is a subsidiary company of the trust company which is not conducting a regulated and supervised activity, this should not be reported.
>
> (b)   If the customer of a lender is a sole trader, who is Regulated and Supervised for AML/CFT/CPF purposes by the JFSC, then they should be reported here.
>
> (c)   If the customer of a lender is a company acting as a trustee and is Regulated and Supervised for AML/CFT/CPF purposes, then they should be reported here.

3.4.4   If a lender does not have any customers which are Regulated and Supervised for AML/CFT/CPF purposes please do not leave the cells blank, please insert "0" in each grey box.

EB13

(a) Number that are non-profit organizations (NPOs)
(b) Value of the above in GBP
FOR
(iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.4.5   Using the response to question EB1 as the base for responding, question **EB13** requests data about customers of a lender that are a non-profit organization (**NPO**). In Jersey an NPO is defined in Article 1 of the Non-Profit Organizations (Jersey) Law 2008 as being an organisation that:

(a)   Is established solely or primarily for charitable, religious, cultural, educational, social, or fraternal purposes with the intention of benefiting the public or a section of the public; **and**

(b)   raises or disburses funds in pursuance of those purposes.

3.4.6   Please note: in Jersey an NPO and a charity are not the same. The definition of a charity is set out in the Charities (Jersey) Law 2014 and not all NPOs are charities.

3.4.7   If a lender does not have any customers that are an NPO please do not leave the cells blank, please insert a "0" in the grey boxes.

3.5   Lending services

EB14   Value of amounts advanced to customers (in GBP) during the data reporting period
(a) consumer credit
(b) mortgage credit
(c) factoring
(d) financing of commercial transactions
(e) other
FOR
(i) Individuals – Jersey resident; (ii) Individuals - non-Jersey resident; (iii) Trusts with Jersey trustee; (iv) Trusts with non-Jersey trustee; (v) Jersey companies; (vi) Non-Jersey companies; (vii) Other – Jersey; and (viii) Other – non-Jersey

3.5.1   Question **EB14** requests data about the values advanced by a lender to its customers by type of loan, during the data reporting period. It is recognised that different risks are associated with different services and different customers therefore this section gathers data to enable the JFSC gain a better understanding of a lender's risk profile.

3.5.2   Please do not leave a cell blank, please insert a "0" into all relevant grey boxes.

3.6   General comments on responses provided above

EB15   Please provide any explanations or context comment below

3.6.1   A freetext box is provided at EB15 for comments, explanations or context comments in relation to the responses provided in the section EB-Lenders Customer Data.

4   Section EC – Beneficial ownership

4.1   General

4.1.1   Where CDD exemptions from applying identification requirements under Article 18 of the Money Laundering Order have been utilised and no data is held, a lender is not expected to gather information for the purpose of completing questions EC1 and EC2.

4.1.2   Data in respect of using Article 18 is to be reported in response to question ED10 (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

EC1   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 31 December 2023

4.2.1   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/CPF Handbook provides further guidance.

4.2.2   The term "beneficial ownership and control" is defined in Article 2 of the Money Laundering Order. It refers to the individuals who ultimately own or control a customer that is a legal person[iii]. In line with guidance provided in the AML/CFT/CPF Handbook, the following will be considered to be the beneficial owner or controller of a company.

(a)   Each individual with a material controlling ownership interest in the capital of the company (through direct or indirect holdings of interests (shares) or voting rights) or who exerts control through other ownership means.

(b)   To the extent that there is doubt as to whether the individuals exercising control through ownership are beneficial owners, or where no individual exerts control through ownership, any other individual exercising control of the company through other means.

(c)   Where no individual is otherwise identified, individuals who exercise control of the company through positions held (who have and exercise strategic decision-taking powers or have and exercise executive control through senior management positions - directors).

4.2.3   Question **EC1** requests a lender provide by country (using spreadsheet *EE-Lenders-Country list*) the total number of customers who are individuals and beneficial owners or controllers of customers that are not individuals.

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

4.2.5   For example, using the data at 3.2.3, a lender may look as follows:

Customer type	Number of customers	Principal country of residence

Customer type	Number of customers	Principal country of residence
Individuals – Jersey resident	10	Jersey
Individuals - non-Jersey resident	2	UK Guernsey
Trusts with Jersey trustee	1	UK
Trusts with non-Jersey trustee	0	
Jersey Companies (4 shareholders each with 25% share capital)	1	Jersey (2) UK Germany
Non-Jersey Companies	0	
Other - Jersey	0	
Other – non-Jersey	1	Switzerland

Spreadsheet *EE-Lenders-Country list* would therefore have the following entries in the column for question EC1:

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
		EC1
276	**Germany**	1
831	**Guernsey**	1
832	**Jersey**	12
756	**Switzerland**	1
826	**UK**	3

4.2.6 **Please Note**:
Each individual should only be reported once.
The following are examples where an individual may have more than one relationship with a lender 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 acting on behalf of a third party

EC2   Number and principal country of residence of third parties on whose behalf a customer is acting

4.3.1   Question *EC2* collects data on the principal country of residence of third parties on whose behalf a customer acts.

4.3.2   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 lender 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).

4.3.3   In these cases the lender 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/CPF Handbook. For ease guidance has been provided below:

(a)   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).

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

›   the settlor[iv];

›   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).

(c)   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).

(d)   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 AML/CFT/CPF Handbook (section 14 specifically addresses Funds and Fund Services Business)).

4.4   General comments on responses provided above

EC3   Please provide any explanations or context comments below

4.4.1   A freetext box is provided at *EC3* for comments, explanations or context comments in relation to the responses provided section EC-Lenders-BO & 3rd Party Data.

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

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

5.1 General

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

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

Question	Data period	Date(s)
Customer identification and verification		
ED1	At end of reporting period	31/12/2023 or closest business day
ED2	During the reporting period	1/1/2023 – 31/12/2023
Reliance on obliged persons (Article 16 of the MLO)		
ED3	During the reporting period	1/1/2023 – 31/12/2023
ED4	At end of reporting period	31/12/2023 or closest business day
ED5	At end of reporting period	31/12/2023 or closest business day
ED6	During the reporting period	1/1/2023 – 31/12/2023
Exemptions from applying third party identification requirements (Articles 17B-D of the MLO)		
ED7	At end of reporting period	31/12/2023 or closest business day
ED8	During the reporting period	1/1/2023 – 31/12/2023
ED9	At end of reporting period	31/12/2023 or closest business day
Further exemptions from applying identification requirements (Article 18 of the MLO)		
ED10	During the reporting period	1/1/2023 – 31/12/2023

5.2   Customer identification and verification

ED1   Number of customers, 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

5.2.1   Article 13(2) of the Money Laundering Order provides for the timing of identification measures for the existing customers of a lender at the time the Money Laundering Order came into force – 4 February 2008.

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

5.2.3   A lender should have finalised the position of its existing customers by 31 December 2014, unless a later date has been agreed by the JFSC (paragraphs 208 and 209 of section 4.7.2 of the AML/CFT/CPF Handbook). Consequently, it is expected that most lenders will report "0" in respect of *ED1*.

ED2   Number of customers where delayed verification in line with Article 13(4) of the MLO was applied during the data reporting period

5.2.4   In accordance with Article 13(4) of the Money Laundering Order a lender is permitted to delay verifying the identity of customer where (finding out the identity of the customer must not be delayed):

(a)   it is necessary not to interrupt the normal course of business;

(b)   there is little risk of money laundering or financing of terrorism occurring as a result of obtaining evidence of identity after establishing the relationship; and

(c)   evidence of identity is obtained as soon as reasonably practicable.

5.2.5   Question *ED2* collects data about the number of customers where delayed verification in line with Article 13(4) of the Money Laundering Order has been applied.

5.2.6   If a lender has not delayed the verification of any customer's identity during the data reporting period, please respond with "0".

5.3   Reliance on obliged persons (Article 16 of the MLO)

5.3.1   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/CPF Handbook, are met. In practice, this has the effect of:

(a)   limiting the number of obliged persons that can be relied upon; and

(b)   requiring the basis for placing reliance to be recorded in writing.

ED3   Number of customers where reliance has been placed on obliged persons during the data reporting period

ED4   Number of obliged persons on which reliance was placed, by country, as at the end of the data reporting period

**ED5   Number of obliged person(s) carrying on financial services business or equivalent business, relied upon as at the end of the data reporting period
(i) financial services business; (ii) equivalent business
(a) deposit taker; (b) investment business; (c) fund services business; (d) trust company business; (e) permit or certificate holder under the CIF Law; (f) unregulated fund or non-public fund; (g) permit holder under the Insurance Law; (h) lawyer; (i) accountant; (j) other**

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

      (a)   Question **ED3** requests the <u>number of customers where reliance has been placed</u> on obliged persons **during the data reporting period** (please insert "0" if no reliance has been placed);

      (b)   Question **ED4** requests the <u>country of the obliged person</u> on whom reliance is being placed **at the end of the reporting period** (responses should be provided on spreadsheet *EE-Lenders-Country list*, nil responses are not required); and

      (c)   Question **ED5** requests the number of obliged persons split by the <u>type of business that is carried on,</u> **at the end of the reporting period** (please insert "0" if no obliged persons are used).

ED6   **Number of obliged persons relied upon, who failed to provide information and evidence on demand and without delay, during the data reporting period**

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

      (a)   whether or not the obliged person has appropriate policies and procedures in place to apply the reliance identification measures;

      (b)   keeps the evidence of identity; and

      (c)   will provide that evidence without delay if requested to do so.

5.3.4   In light of 5.3.3(c), question **ED6** requires a lender to report the number of obliged persons that failed to provide information and evidence on demand and without delay.

5.3.5   Please do not leave a cell blank, insert "0" if no obliged persons are used or obliged persons did provide information and evidence when requested.

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

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

      (a)   regulated and supervised by the JFSC for AML/CFT/CPF purposes;

      (b)   a person who carries on equivalent business (refer to Section 1.7 of the AML/CFT/CPF Handbook); or

      (c)   a person who is wholly-owned by a person listed above and meets certain conditions.

5.4.2   The application of exemptions from identification measures is also always subject to one or more conditions (depending on the particular case). In practice, these provisions have the effect of:

      (a)   limiting the number of customers to which exemptions from identification measures can be applied; and

      (b)   requiring the basis for applying exemptions from identification measures to be recorded in writing.

ED7 **Number of customers, by country, where CDD exemptions have been applied to third parties for whom those customers act as at the end of the data reporting period**

5.4.3   Question **ED7** requests data on the number of customers where exemptions from identification measures have been applied at the end of the reporting period, analysed by the country in which the customer is regulated and supervised for AML/CFT/CPF purposes. Responses should be provided on spreadsheet *EE-Lenders-Country list*, nil responses are not required.

ED8 **Number of customers who failed to provide information and evidence on demand and without delay during the data reporting period, where CDD exemptions have been applied in accordance with Articles 17B-D of the MLO**

5.4.4   Where a lender applies exemptions from third party identification requirements, the Money Laundering Order (Article 17D(3)) requires that a lender 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 -

(c)   has appropriate policies and procedures in place to apply the identification measures;

(d)   obtains information in relation to the third party;

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

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

5.4.5   In light of 5.4.4(d), question **ED8** requires a lender to report the number of customers that failed to provide information and evidence on demand and without delay.

5.4.6   Please do not leave the cell blank, insert "0" if no exemptions from identification measures are applied or customers did provide information and evidence when requested.

ED9 **Number of customers, where Articles 17B-D have been applied, who are carrying on financial services business, equivalent business or owned by a person carrying on financial services business or equivalent business as at the end of the data reporting period**
(i) financial services business; (ii) equivalent business; (iii) wholly owned by FS business or equivalent
(a) deposit taker; (b) investment business; (c) fund services business; (d) permit or certificate holder under the CIF Law; (d) unregulated fund or non-public fund; (f) permit holder under the Insurance Law

5.4.7   Question **ED9** requests data on the type of business that is carried on by customers where exemptions from identification measures have been applied. Please insert "0" in the grey boxes if no exemptions from identification measures are applied.

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

ED10

(a) Number of customers to whom further CDD exemptions have been applied during the data reporting period

Of the above, number of customers who are:

(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

5.5.1   Article 18 of the Money Laundering Order sets out a number of very specific circumstances where a lender may be able to apply exemptions from CDD measures. See sections 7.13 - 7.16 of the AML/CFT/CPF Handbook for further guidance.

5.5.2   If a lender has applied exemptions from CDD measures to any customers during the data reporting period the number of customers should be reported in response to *ED10(a)*.

5.5.3   If exemptions from CDD measures have not been applied please do not leave the cells blank, insert a "0" in response to *ED10 (a)-(f)*.

5.5.4   If exemptions from CDD measures have been applied, ED10(b) to (f) provide the five circumstances which are relevant for a lender. The total of ED10(b) to (f) should equal the number in cell ED10(a).

5.5.5   Please do not leave any cells blank, insert a "0" where applicable.

5.6   General comments on responses provided above

VA14   Please provide any explanations or context comments below

5.6.1   A freetext box is provided at *ED10* for comments, explanations or context comments in relation to the responses provided section ED-Lenders-Use of MLO Concessions.

5.6.2   This section should be used where ED5(i)(j), ED5(ii)(j) or ED5(iii)(j) (other) is selected.

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[i]   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.

[ii]   Section 2.4.1 of the AML/CFT/CPF Handbook (paragraph 41) explains that a relevant person may demonstrate that it checks that systems and controls are operating effectively where senior management periodically considers the effect of those systems and controls in light of the number and percentage of customers that are assessed as presenting a higher risk.

[iii]   No individual is to be treated as a beneficial owner of a body corporate the securities of which are listed on a regulated market. For the purpose of this section it is assumed that a lender is most likely to deal with legal persons that are companies therefore the text has been amended accordingly.

[iv]   Excluding a settlor of a trust who is deceased in line with paragraph 33 of section 12.2.4.1 of the AML/CFT/CPF Handbook.