



Jersey Financial
Services Commission

Guidance to Section II of risk based supervision data: TCB administered Trusts

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1 Introduction

1.1 Background

- 1.1.1 The Jersey Financial Services Commission (**JFSC**) has been collecting supervisory risk data from reporting entities since 2018.
- 1.1.2 In support of the legal persons and arrangements national risk assessment (2023 LPA NRAⁱ), the JFSC collected data in 2022 from the Trust Company Business (**TCB**) sector regarding the Trusts they administer.
- 1.1.3 Section 3.4 of Consultation Paper No.9 2023ⁱⁱ notes that, as well as informing the 2023 LPA NRA, the data on Trusts administered by TCBs is valuable in informing the JFSC's risk understanding of the TCB sector. Consequently, the JFSC proposed continuing to collect the data on an annual basis. The feedback to this proposal was not adverse and paragraph 1.3.2 of the Feedback Paperⁱⁱⁱ confirms that, as part of its 2023 data collection exercise, the JFSC will repeat the collection of the data points first collected in 2022.
- 1.1.4 Consideration of risk at a national level is an ongoing activity therefore the JFSC may provide an aggregated view of the information collected to other Jersey authorities for risk assessment purposes. No individual Trust or TCB will be identified as part of data sharing.

1.2 Scope

- 1.2.1 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 TCBs where they, or one of their participating members, administers a trust.
- 1.2.2 Where a Reporting Entity is an Affiliation Leader, its responses to the questions in the Excel workbook should cover all members of that affiliation.
- 1.2.3 For the purpose of this data collection TCB is defined in Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 (**FS(J)L**) (as at 31 December 2023) as follows:

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

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

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

(4) Those services are –

- (a) acting as a company formation agent, a limited liability company registration agent, a partnership formation agent or a foundation formation agent;*
- (b) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of director or alternate director of a company;*

- (c) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a partner of a partnership;*
- (d) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a member of the council of a foundation;*
- (da) *acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a member or manager of a limited liability company;*
- (e) *acting or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company a limited liability company or a limited liability partnership;*
- (f) *providing a registered office or business address for a company, a limited liability company, a partnership or a foundation;*
- (g) *providing an accommodation, correspondence or administrative address for a company, a limited liability company, a partnership or a foundation or for any other person;*
- (h) *acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust;*
- (i) *acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person*

1.3 Excel workbook

1.3.1 The Excel workbook for Reporting Entities that are TCBs administering a trust comprises 7 spreadsheets, as follows:

- (a) JTA – Trust Details
- (b) JTB – Type of Trust
- (c) JTC – Assets
- (d) JTD – Co-Trustees
- (e) JTE – Other Parties
- (f) JTF1 – Distributions (Dest’n)
- (g) JTF2 – Distributions (Nation’y)

1.4 Data reporting period

1.4.1 The reporting period is the calendar year 2023. 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 Reporting Entities are recommended to consider the data request as soon as possible. It may take some time to gather the requested data and the deadline for submission is **23:59 on 31 May 2024**.
- 1.5.2 Each Reporting Entity will be submitting a completed Excel workbook through the JFSC Portal, and each Reporting Entity has a designated individual who is the JFSC Portal contact.
- 1.5.3 Notwithstanding that the JFSC Portal contact has responsibility for submitting the data, the board, or equivalent, of the Reporting Entity should have oversight of the content of the submission made on their behalf.
- 1.5.4 Failure to respond to an applicable question will not be acceptable.

1.6 Integrity checking your submission

- 1.6.1 Before submitting your data the JFSC suggests that the following are considered:
- (a) Where the trust has co-trustees spreadsheet *JTD Co-Trustees* should be completed.
 - (b) If the response to JTA10 is “Yes”, spreadsheet *JTE Other Parties* should be completed.
 - (c) Where the trustees have made distributions in the calendar year 2023 spreadsheets *JTF1 Distributions (Dest’n)* and *JTF2 Distributions (Nation’y)* should be completed

2 Section A – Trust Details

2.1 Introduction

- 2.1.1 This section captures structural information regarding the trusts to which the TCB provides services, for example:
- (a) The governing law of the trust both on establishment and now
 - (b) Any reserved powers in relation to the assets, and to whom the power has been reserved
 - (c) The value of the trust assets
 - (d) What is the value and currency of the company's assets?
 - (e) Whether the TCB is a corporate trustee and whether there are other trustees
- 2.1.2 Responses should be provided for the position as at 31 December 2023.

2.2 Question JTA1

Trust number

- 2.2.1 We do not want to capture the name of the administered trusts therefore please provide each trust with a unique number. This unique number should be used on each relevant spreadsheet.

2.3 Question JTA2

What was the governing law of the trust on establishment?

Dropdown list of Jurisdictions

- 2.3.1 Using the dropdown, please select the jurisdiction of the **governing law** of the trust **at the time it was created** (for ease, the most common jurisdictions appear first). For example, if the trust was established for Middle Eastern beneficiaries using UK trust law, please select United Kingdom

2.4 Question JTA3

If the governing law of the trust has changed, what is the current governing law of the trust?

Dropdown list of Jurisdictions

- 2.4.1 If the governing law of the trust has changed since it was established, please select the **current governing law** of the trust using the drop-down list of countries.

2.5 Question JTA4, JTA5 and JTA6

JTA4 Does the trust instrument contain reserved powers in relation to the assets?

(Yes ; No)

JTA5 If yes, in favour of whom are the powers reserved?

(Settlor / Protector / Other)

JTA6 If Other, then please specify

- 2.5.1 JTA4. should **only** be answered “yes” where the trust instrument reserves powers in relation to some or all of the assets of the trust. In all other instances the response should be “no”.

- 2.5.2 JTA5. should **only** be completed if the response to **JTA4. is “yes”**. Using the dropdown, please identify who the powers are reserved for.
- 2.5.3 JTA6. should **only** be completed if the response to **JTA5. is “other”**. This is a free text response, please specify that has the powers have been reserved for e.g. Investment committee. Please do not provide any details that will identify individuals, rather provide a description of the person’s role or connection to the trust.

2.6 Question JTA7

What is the total value of the Trust assets?

Dropdown options

£0 - £99	£100 - £999,9999
£1m - £5m	£5m - £10m
£10m - £25m	£25m - £50m
£50m - £100m	£100m+ (or sterling equivalent))

- 2.6.1 To understand the scale of the assets held within trusts administered by the Jersey TCB sector, please select the applicable bracket to identify the value of the assets in the trust.
- 2.6.2 It is not necessary to value the assets for the purpose of this exercise. Please use the last valuation of the trust assets.

2.7 Question JTA8

Are you a corporate trustee?

(Yes ; No)

- 2.7.1 Using the dropdown please indicate whether one of the services you provide to the trust is that of being a corporate trustee.

2.8 Question JTA9

Are you the sole Trustee?

(Yes ; No)

- 2.8.1 JTA9. should **only** be completed where the response to JTA8. is “yes”.
- 2.8.2 Using the dropdown, please indicate whether you are the sole trustee for the trust.

2.9 Question JTA10

Have any other individuals or entities contributed to the trust assets?

(Yes ; No)

- 2.9.1 Using the dropdown, please indicate whether any person (individual or corporate) other than the settlor has contributed to the trust assets.
- 2.9.2 Further details regarding the contributor should be provided in response to JTE2. See section 6

3 Section B – type of Trust

3.1 Introduction

- 3.1.1 The data requested through spreadsheet *JTB. Type of Trust* is designed to provide information regarding the type of trust being administered.
- 3.1.2 Trusts may be established to hold assets for a variety of reasons and the type of trust provides invaluable information about its risk profile.
- 3.1.3 A Reporting Entity should report its data as at 31 December 2023.

3.2 Question JTA1

Trust Number

- 3.2.1 There is no need to complete this field it will auto populate from spreadsheet *JTA. Trust Details*.

3.3 Question JTB1

Please indicate the type of trust and reason for establishment from the list (All that apply)

- 3.3.1 For each trust, please select at least one of options (a) to (m).

Dropdown options

- 3.3.2 (a) to (l) should be answered with a “yes” or “no” from the dropdown menu. If (m) – other, is selected this is a free text field and should be used to describe the type of the trust without providing any details that will identify individuals.
 - (a) **Discretionary**: where the trustee decides on distributions to beneficiaries (in accordance with the powers and duties in the trust instrument).
 - (b) **Charitable**: where the trustees may only use the assets of the trust to benefit charities, or purposes that are charitable in law.
 - (c) **Non-Charitable Purpose**: a trust established without beneficiaries but for purposes that are non-charitable.
 - (d) **Employee Benefit**: a trust established to hold assets and provide benefits for employees (and/or former employees) of a company or group of companies.
 - (e) **Fixed Interest**: the trust instrument specifies how and when assets are to be made available to the beneficiaries.
 - (f) **Will Trust**: a trust created via a will.
 - (g) **Unit Trust**: legal ownership of assets is vested in one or more trustees who hold the assets on trust for the benefit of unitholders.
 - (h) **Reserved powers**: a trust where the settlor has reserved for him/herself or granted to a third-party certain rights or powers.
 - (i) **Wealth protection**: a trust established to protect the settlor and/or beneficiaries against claims on the assets of the trust.
 - (j) **Estate planning**: a trust established to facilitate the transfer of assets to the next generation on the death of the principal.
 - (k) **Savings or pensions trusts**: a trust established for long term savings for retirement.

- (l) **Life interest trusts**: may be referred to as an interest in possession trust. The beneficiary has the right to income or occupation during their lifetime but on death, the property passes to a third party.
- (m) **Other**: please provide details of any other type of trust which may be alternative to, or in addition to, those listed in a - l above.

3.4 Question JTB2

JTB2. If you select JTA1(b) “charitable trust”, what are the charitable purposes? (tick all that apply) (only answer if you select charitable trust)

- 3.4.1 JTB2 should **only** be completed if the response to **JTB1 includes (b) charitable**.
- 3.4.2 Please indicate which charitable purposes the trust was established for selecting all that apply. The charitable purposes are those specified in Article 6(1)(a) to (p) of the [Charities \(Jersey\) Law 2014](#).
- 3.4.3 If the purposes do not match exactly, please choose the purpose which most accurately encompasses the trust’s purpose.

3.5 Question JTB3, JTB4, JTB5 and JTB6

JTB3. Is the trust a registered charity? (Yes ; No)

- 3.5.1 JTB3 should **only** be completed if the response to **JTB1 includes (b) charitable**.
- 3.5.1 Using the dropdown, please indicate whether the trust which has a charitable purpose, is registered with a charities regulator.

JTB4. If yes, please select the regulator (Jersey Charity Commissioner ; UK Charity Commission ; Scottish Charity Regulator ; Other

- 3.5.2 JTB4 should **only** be completed if the response to **JTB3 is “Yes”** please select the relevant regulator from the dropdown list.
- 3.5.3 If the trust is registered with more than one, please select the first relevant regulator i.e. if registered with both the Jersey and Scottish Charity Commissioner, please select Jersey Charity Commissioner.
- 3.5.4 Please note the Association of Jersey Charities and equivalent are not considered to be a regulator for the purpose of responding to this question.

JTB5. If JTB4 is Other, please specify the name and jurisdiction of the regulator

- 3.5.5 JTB5 should only be completed if the response to JTB 4 is “other”.
- 3.5.6 This is a free text response field, please provide the name and jurisdiction of the charity regulator.

JTB6. If the trust is not a registered charity, is the trust the owner of an orphan structure? (Yes ; No)

- 3.5.7 JTB6 should **only** be completed if the response to **JTB1 includes (b) charitable AND the response to JTB3 is “No”**.
- 3.5.8 Using the dropdown, please answer “yes” or “no” to confirm whether the trust is the owner of an orphan structure, for example holding assets off balance sheet.

3.6 Question JTB7

JTB7 If the trust is a non-charitable purpose trust, is one of the purposes to hold shares in a private trust company?

(Yes ; No)

- 3.6.1 JTB7 should **only** be completed if the response to **JTB1 includes (c) non-charitable**.
- 3.6.2 Using the dropdown, please indicate whether **one of the purposes** of the trust is to hold shares in a company that meets the definition of a private trust company set out in paragraph 4 or 4A of the [Financial Services \(Trust Company Business \(Exemptions\)\) \(Jersey\) Order 2000](#). In summary, a private trust company is a company whose sole purpose is to act as trustee to a specific trust or trusts.

3.7 Question JTB8

For non-charitable purpose trusts, what is the nationality of the Enforcer?

Dropdown list of Jurisdictions

- 3.7.1 JTB8 should **only** be completed if the response to **JTB1 includes (c) non-charitable AND the trust is a purpose trust**.
- 3.7.2 Where an enforcer has been appointed to a trust, using the dropdown, please indicate the nationality of the enforcer by selecting the relevant country.

4 Section C – Assets

4.1 Introduction

- 4.1.1 Spreadsheet *JTC. Assets* is designed to capture information regarding the nature of the assets held in trust, their location and whether they are held by a nominee.
- 4.1.2 Note: Questions JTC2, JTC5 and JTC6 should be answered for all asset types. Whereas completion of JTC3 and JTC4 is dependent on the responses to JTC2 and JTC3 respectively.

4.2 Question JTC1

Asset Number

- 4.2.1 **This field will auto populate.**
- 4.2.2 The field acts as a counter for the rows completed therefore please do not skip rows when completing the spreadsheet.

4.3 Question JTA1

Trust Number

- 4.3.1 On spreadsheet *JTA Trust Details* each trust was allocated a unique number. These numbers auto populate the dropdown for JTA1. From the dropdown, please select the relevant Trust Number and complete question JTC3 to JTC6 as applicable.

4.4 Question JTC2

Asset Type

Dropdown options

Real Estate	Cash
Investment Portfolio	Artwork
Ship(s)	Aircraft(s)
Other high value vehicles	Precious Metals and/or Stones
Other high value item	Shares or other securities (includes loan arrangements)
Cryptocurrencies or digital assets	

- 4.4.1 For each trust, using the dropdown, please indicate the assets held within the trust.
- 4.4.2 Where a trust holds more than one type of asset please use a new line for each asset class:
- In the column for JTA1. using the dropdown menu, please select the number of the trust which has another type of asset.
 - In column JTC2 select the next asset.
 - If a trust has more than two assets, please repeat steps (a) and (b).

4.5 Questions JTC3 and JTC4

JTC3 Where the asset of the trust is “shares or other securities”, what is the activity of the underlying company?

Dropdown options

Holding Cash	Holding Investment Portfolio
Holding Art	Holding Motor Vehicle(s)
Holding Ship(s)	Holding Aircraft(s)
Holding High value vehicles	Holding Precious Metals and/or Stones
Holding Other high value item	Holding Shares or other securities (includes loan arrangements)
Other	

- 4.5.1 JTC3 should **only** be completed if the response to **JTC2 is shares or other securities**.
- 4.5.2 Using the dropdown list, please select the nature of the activity undertaken by the company in which the shares or other securities are held.
- 4.5.3 If shares or other securities are held in more than company, please complete questions JTA1 and JTC2 again to create as many rows as necessary to properly reflect the trust assets.
- 4.5.4 If the activity of the company in which shares are held is not expressly listed, please select “other”.

**JTC4. If other, please specify
(free text)**

- 4.5.5 JTC4 should only be completed if the response to JTC3 is “other”.
- 4.5.6 This is a free text field. Please provide a brief description of the activity of the company in which shares or other securities are held.

4.6 Question JTC5

Where are the assets of the trust located?

Dropdown list of Jurisdictions

- 4.6.1 **JTC5 should be completed for each row. Please do not leave a blank.**
- 4.6.2 Using the dropdown list of countries, please indicate where the asset is located.
- 4.6.3 Where the asset is “shares or other securities” please select the country of incorporation of the company in which the shares or other securities are held.
- 4.6.4 Where the asset is ship(s) or aircraft(s) please select the country where they are registered.
- 4.6.5 Where the asset is Cryptocurrencies or digital assets, please select “virtual” (scroll to the bottom of the dropdown).

4.7 Question JTC6

Is the asset held by a nominee?

(Yes ; No)

- 4.7.1 **JTC6 should be completed for each row. Please do not leave a blank.**

4.7.2 Using the dropdown please indicate whether a nominee has been appointed to hold the asset.

5 Section D – Co-Trustees

5.1 Introduction

- 5.1.1 Spreadsheet *JTD. Co-Trustees* is designed to capture information regarding any co-trustees.
- 5.1.2 This spreadsheet should **only** be completed for any trust where the response to question **JTA9 is “No”** i.e. the TCB is not the sole trustee.

5.2 Question JTD1

Co-Trustee Number

- 5.2.1 **This field will auto populate.**
- 5.2.2 The field acts as a counter for the rows completed therefore please do not skip rows when completing the spreadsheet.

5.3 Question JTA1

Trust Number

- 5.3.1 On spreadsheet *JTA Trust Details* each trust was allocated a unique number. These numbers auto populate the dropdown for JTA1. From the dropdown, please select the relevant Trust Number and complete questions JTD2 and JTD3.

5.4 Question JTD2

JTD2 Is the co-trustee a legal or natural person? (Legal person ; Natural person)

- 5.4.1 Using the dropdown, please indicate whether the co-trustee is a natural or legal person.

JTD3 In which jurisdiction is the co-trustee located? Dropdown list of Jurisdictions

- 5.4.2 Using the dropdown, please indicate the country in which the co-trustee is located.
- 5.4.3 Where the trustee is a legal person, please select the country of incorporation of the legal person.
- 5.4.4 Where there is more than one co-trustee, please repeat questions JTA1 and JTD2 to create a new row.

6 Section E – Other Parties

6.1 Introduction

- 6.1.1 Spreadsheet *JTE. Other Parties* is designed to capture information regarding the following other parties to the trusts: Settlor; Protector; and Contributor.
- 6.1.2 For each party the following information is to be provided:
 - (a) Type of relationship
 - (b) Nationality of the other party
 - (c) Jurisdiction in which the other party is ordinarily resident
- 6.1.3 Where a trust has none of the above spreadsheet *JTE. Other Parties* should not be completed.

6.2 Question JTE1

Party Number

- 6.2.1 **This field will auto populate.**
- 6.2.2 The field acts as a counter for the rows completed therefore please do not skip rows when completing the spreadsheet.

6.3 Question JTA1

Trust Number

- 6.3.1 On spreadsheet *JTA Trust Details* each trust was allocated a unique number. These numbers auto populate the dropdown for JTA1. From the dropdown, please select the relevant Trust Number and complete questions JTE2, JTE3 and JTE4.

6.4 Question JTE2, JTE3 and JTE4

JTE2 Type of Relationship

(Settlor ; Protector ; Contributor)

JTE3 What is the nationality of the other party?

Dropdown list of Jurisdictions

JTE4 In which jurisdiction is the party ordinarily resident?

Dropdown list of Jurisdictions

- 6.4.1 For JTE2, using the dropdown please select the relevant other party: settlor, protector or contributor. Contributor should be selected where a legal or natural person (other than the settlor) has made a contribution to the trust. A contribution can be made in the form of any of the assets identified earlier in this guidance.
- 6.4.2 Where a trust has more than one other party please repeat question JTA1 to create new rows.
- 6.4.3 For JTE3, using the dropdown list of jurisdictions please select the nationality of the other party. Where the other party is a body corporate, nationality is the place of incorporation.
- 6.4.4 For JTE4, using the dropdown list of jurisdictions please select the jurisdiction where the other party is ordinarily resident. Where the other party is a body corporate, ordinarily resident is the place of incorporation.

7 Section F – Distributions

7.1 Introduction

- 7.1.1 Spreadsheets *JTF1. Distributions (Dest’n)* and *JTF2. Distributions (Nation’y)* are designed to capture information in respect of distributions made by the trustees.
- 7.1.2 The spreadsheets do not capture the number or value of distributions. Rather, they focus on jurisdictional information.
1. Question F2 considers Please select all jurisdictions that apply. If no distributions have been made, please leave this sheet of the spreadsheet blank.

7.2 Spreadsheet JTF1

JTA1. Trust Number

- 7.2.1 On spreadsheet *JTA Trust Details* each trust was allocated a unique number. These numbers auto populate the first column of JTF1.

JTF1. Into which jurisdictions has a distribution been made within the last 12 months? (Yes ; No)

- 7.2.2 JTF1 considers the jurisdictions to which distributions from the trust have been made in the calendar year 2023.
- 7.2.3 If the trustees did not make any distributions during 2023, please select “yes” in the column headed “NO DISTRIBUTION IN 2023” and move to the next trust.
- 7.2.4 Responses on this spreadsheet should be made horizontally across the spreadsheet by selecting “Yes” for all jurisdiction into which a distribution was made.
- 7.2.5 Please make sure you have considered all columns, there are 249 jurisdictions listed alphabetically meaning the UK is in column ID.

7.3 Spreadsheet JTF2

JTA1. Trust Number

- 7.3.1 On spreadsheet *JTA Trust Details* each trust was allocated a unique number. These numbers auto populate the first column of JTF1.

JTF2. What is the nationality/place of incorporation of the person to whom a distribution was made? (Yes ; No)

- 7.3.2 JTF2 considers the nationality and/or place of incorporation of the persons to which distributions from the trust have been made in the calendar year 2023.
- 7.3.3 If the trustees did not make any distributions during 2023, please select “yes” in the column headed “NO DISTRIBUTION IN 2023” and move to the next trust. This should match the response made to question JTF1.
- 7.3.4 Responses on this spreadsheet should be made horizontally across the spreadsheet by selecting “Yes” for all jurisdiction into which a distribution was made.
- 7.3.5 Please make sure you have considered all columns, there are 249 jurisdictions listed alphabetically meaning the UK is in column ID.

- 7.3.6 There may be instances where the responses to questions JTF1 and JTF2 do not match e.g. a distribution may be made to the United Kingdom but the recipient may be a French national therefore the response to JTF1 is UK and JTF2 is France.

8 Glossary of key terms

2023 LPA NRA	Legal persons and arrangements national risk assessment, published July 2023
FS(J)L	Financial Services (Jersey) Law 1998
JFSC	Jersey Financial Services Commission
TCB	A person registered by the JFSC under the FS(J)L to conduct Trust Company Business

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- i [Legal Persons and Legal Arrangements NRA, July 2023](#)
 - ii [Additional Supervisory Risk Data Consultation Paper No. 9 2023](#)
 - iii [Feedback Paper on Consultation Paper No. 9 2023](#)