



# **Guidance to Section II of risk based supervision data: TCB administered Non-Jersey Incorporated Companies**

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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 NRA<sup>i</sup>**), the JFSC collected data in 2022 from a subset of the Trust Company Business (**TCB**) sector regarding the non-Jersey incorporated companies which they administer. The data collection in 2022 did not collect data from all relevant TCBs, rather data was collected in respect of 46% of the non-Jersey incorporated companies understood to be administered by TCBs (calculated using 2021 year-end data).
- 1.1.3 In 2023 LPA NRA, TCB administered non-Jersey incorporated companies are reported as presenting a medium-high risk of ML/TF. Whilst the risks associated are similar to the risks associated with Jersey companies, these risks may be heightened due to different incorporation requirements and controls in the home jurisdiction as these may be less stringent than those applied in Jersey.
- 1.1.4 Section 3.4 of Consultation Paper No.9 2023<sup>ii</sup> notes that, as well as informing the 2023 LPA NRA, the data on non-Jersey incorporated companies 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 Paper<sup>iii</sup> confirms that, as part of its 2023 data collection exercise, the JFSC will repeat the collection of the data points first collected in 2022.
- 1.1.5 Unlike in 2022 this data collection is not targeted. All TCBs that administer non-Jersey incorporated companies are requested to complete the Excel workbook.
- 1.1.6 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 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, provides services to a non-Jersey incorporated company.
- 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 subparagraph (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 providing services to non-Jersey incorporated companies comprises 2 spreadsheets, as follows:

- (a) JFC – Overview
- (b) JFC – Country List

### 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) The response to JFC2 should be compared to the response provided to TA1(a)(iii) in the Excel workbook for Section II: TCB.
  - (b) The sum of the response to JFC3 (cell C252), provided on *JFC Country List*, should be the same as that provided to JFC2.
  - (c) The response to JFC8(b) should be less than or equal to that provided to JFC8(a).
  - (d) Both JFC11(a) and (B) should be less than or equal to JFC10(b).

## 2 Section A – Overview

### 2.1 Introduction

2.1.1 This section captures information regarding the non-Jersey incorporated companies to which the TCB provides services, for example:

- (a) Whether there are Jersey-law trusts or Jersey incorporated companies in the same structure as the non-Jersey incorporated company.
- (b) The jurisdictions in which the non-Jersey incorporated companies have been registered/incorporated and the beneficial owners/controllers reside.
- (c) The nature of the services provided and whether the customer due diligence is completed by a Jersey-based person.
- (d) The activity of the non-Jersey incorporated companies.
- (e) Whether the non-Jersey incorporated company has a bank account in Jersey or otherwise.

2.1.2 It does not capture data about individual companies.

2.1.3 Responses should be provided for the position as at 31 December 2023.

### Questions - structure

#### 2.2 Question JFC1

##### Full name of Registered person

2.2.1 Please provide the full name of the TCB completing the Excel Workbook. This must be as displayed on the JFSC website.

2.2.2 In the case of an affiliation, the name of the Affiliation Leader must be inserted. This applies even in the circumstances where a participating member provides services to one or more non-Jersey incorporated companies and the Affiliation Leader does not.

#### 2.3 Question JFC2

##### In total, how many non-Jersey incorporated companies does the TCB, and any participating members, provide services to?

2.3.1 In response to this question please state the total number of non-Jersey incorporated companies provided with one or more services by a TCB, or one of its participating members.

2.3.2 The response to this question should be compared to that provided in response to TA1(a)(iii) in the Excel workbook for Section II: TCB which states<sup>iv</sup>:

*TA1(a)(iii) Number of customer entities administered directly by the trust company business/affiliation which are non-Jersey companies.*



## 2.4 Question JFC3

**Please provide a breakdown of the jurisdictions in which the non-Jersey incorporated companies are registered/incorporated  
(to be answered using the *JFC Country List* spreadsheet)**

- 2.4.1 The country of incorporation of a non-Jersey incorporated company is relevant when considering risk therefore this question is designed to provide information regarding the geographical spread of countries of incorporation.
- 2.4.2 Response should be provided on spreadsheet *JFC Country List* which includes a list of 248 jurisdictions.
- 2.4.3 Against the relevant countries, please insert the number of non-Jersey incorporated companies registered/incorporated in that country.
- 2.4.4 The total in column C should agree with the response to JFC2.

## 2.5 Question JFC4

**What number of non-Jersey incorporated companies administered, also have one or more of the following in their structure:**

- (a) Jersey-law trust?**
- (b) Jersey incorporated company?**

- 2.5.1 This question should be answered with a number not a percentage value.
- 2.5.2 Where a non-Jersey incorporated company has both a Jersey-law trust and a Jersey incorporated company in its structure they should be reported in both JFC3(a) and (b). It is acknowledged that in aggregate this will create a double count.
- 2.5.3 The 2023 LPA NRA noted that the data collected using the targeted approach supported the understanding that non-Jersey incorporated companies may be administered by a TCB due to them being part of a structure which includes a Jersey-law trust and/or a Jersey incorporated company. 37% of non-Jersey companies had a Jersey-law governed trust within their structure and 25% a Jersey company.

## 2.6 Question JFC5

**How many non-Jersey incorporated companies undertake the following activities?**

- 2.6.1 “activities” refers to the main or primary activities of the non-Jersey incorporated company. A company may have more than one main/primary activity, in which case please include that company in all relevant activities when determining how many companies carry on specific activities.
- 2.6.2 This question is designed to collect the same information as that collected in respect of Jersey Companies (JCB1a).
- 2.6.3 This question should be answered with a number not a percentage value. Against each activity please provide the number of non-Jersey incorporated companies.
- 2.6.4 The activities listed are:
  - (a) **Holding commercial real estate:** Any non-Jersey incorporated company holding real estate that is used exclusively for business-related purposes or to provide a workspace should be captured here.
  - (b) **Holding residential real estate:** Any non-Jersey incorporated company holding real estate that is used for residential purposes.

- (c) **Holding a self-administered pension plan:** Any company that is established to hold a pension plan that is administered for the benefit of the director of the company.
- (d) **Equity holding company, shares or other securities in:**
  - (i) **Other Jersey companies**
  - (ii) **Non-Jersey companies**
  - (iii) **Both Jersey and non-Jersey companies:**  
This captures companies that solely own shares in other companies.  
Please carefully select your option to identify whether that equity is held in **only Jersey companies, only non-Jersey companies or both Jersey and non-Jersey companies.**
- (e) Moveable assets are those that are not fixed in one place. You are asked to identify from a list of common moveable assets:  
**Holding a moveable asset:**
  - (i) **Ship(s)**
  - (ii) **Aircraft(s)**
  - (iii) **High value vehicles**
  - (iv) **Artwork**
  - (v) **Precious Metals and/or Stones**
  - (vi) **Other high value item**
- (f) **Holding an investment portfolio:**
- (g) **Holding cash:**
- (h) **Acting as a General Partner:**
- (i) **Conducting a non-sensitive trade**
  - (i) **In Jersey**
  - (ii) **Outside Jersey**
  - (iii) **Both inside and outside Jersey**  
Includes local retailers, electricians, plumbers and other similar traders (non-exhaustive list) AND any company that undertakes a trade which is not sensitive, see (k) for information regarding sensitive trades.
- (j) **Conducting a sensitive trade:** Any company undertaking one of the following activities:
  - (i) An activity listed in Table 1 or 2 of the Sound Business Practice Policy<sup>v</sup>
  - (ii) Dealing and/or trading in precious metals and stones
  - (iii) Dealing and/or trading in luxury goods
  - (iv) Forestry and logging activities
  - (v) Waste trafficking
  - (vi) Land acquisition and clearing.
- (k) **Consulting:** Any company established for the purposes of providing professional advisory services which are carried on for profit. Noting that lawyers and accountants are captured within the sensitive trade category above.
- (l) **Owning intellectual property rights:** Any company whose purpose is to own rights in patents, trademarks, copyrights and trade secrets.



- (m) **An NPO registered with the JFSC:** This includes non profit organisations established as heads of orphan structures.
- (n) **Other:** If the activity of the company does not fall into any of the above categories
- (o) If other: please provide details of the services provided.

## 2.7 Question JFC6

**In which jurisdictions are the beneficial owners and controllers of the non-Jersey incorporated companies resident?**

**(to be answered using the *JFC Country List* spreadsheet)**

- 2.7.1 Responses should be provided on spreadsheet *JFC Country List* which includes a list of 248 jurisdictions.
- 2.7.2 Against the relevant countries, please insert the number of beneficial owners and controllers of the non-Jersey incorporated companies which have been identified as being resident in that country.
- 2.7.3 The country of residence of the beneficial owners and controllers of the non-Jersey incorporated company is relevant when considering risk. It is understood that there may be a mismatch between the country of incorporation of the company and the residency of its beneficial owners and controllers. The 2023 LPA NRA details that, of the non-Jersey incorporated companies for which data was provided, 5% were registered/incorporated in the UK but 18% of the beneficial owners and controllers were reported as being UK resident.

## 2.8 Question JFC7

**How many of the non-Jersey incorporated companies have PEPs as beneficial owners or controllers?**

- 2.8.1 This question should be answered with a number not a percentage value.
- 2.8.2 When determining the response to this question please include both domestic and foreign PEPs. The response to this question should be the number of non-Jersey incorporated companies NOT the number of PEPs.
- 2.8.3 The question seeks an overall number. It does not require a split between domestic and foreign PEPs.

## 2.9 Question JFC8

**How many of the non-Jersey incorporated companies have:**

- (a) one or more bank account(s)?**
- (b) one or more bank accounts with a Jersey registered bank?**

- 2.9.1 This question should be answered with a number not a percentage value.
- 2.9.2 The response to this question should be the number of non-Jersey incorporated companies NOT the number of bank accounts.
- 2.9.3 If a non-Jersey incorporated company has 4 bank accounts of which 1 is with a bank in Paris, 1 is with a bank in London and 2 are with Jersey registered banks then the response to both parts (a) and (b) is 1.

## Questions – TCB services

### 2.10 Question JFC9

**How many non-Jersey incorporated companies receive the following services from you, or any participating member?**

- (a) company secretary only**
- (b) director only**
- (c) company secretary and director**
- (d) other**
- (e) If other: please provide details of the services provided**

**(Yes ; No)**

2.10.1 This question should be answered with an absolute number with the exception of part (e) which is a free text box.

2.10.2 The nature of the service provided by the TCB is relevant when considering risk therefore please consider this question carefully.

- (a) **company secretary only:** this category is relevant where the **ONLY** service provided to the non-Jersey incorporated company is that of a company secretary. If any other service is also provided, such as correspondence address, options (c) or (d) may be the better response.
- (b) **director only:** this category is relevant where the **ONLY** service provided to the non-Jersey incorporated company is that of a director. If any other service is also provided, such as registered office address, options (c) or (d) may be the better response.
- (c) **company secretary and director:** this category should be utilised where the **ONLY** services provided to the non-Jersey incorporated company are that of company secretary and director. If another service is also provided, such as correspondence address, please select option (d).
- (d) **other:** this category should be utilised where the TCB, or a participating member, is providing any service in addition to company secretary and/or director.
- (e) **If other, please provide details of the service provided:** this is free text box and should be used to describe the services provided. Ideally an indication of the frequency with which the services are provided will be included in the text.

### 2.11 Question JFC10

**How many of the non-Jersey incorporated companies are provided with services:**

- (a) By a TCB physically based in Jersey?**
- (b) From the physical premises of a branch/subsidiary of the TCB in another jurisdiction?**

2.11.1 This question should be answered with a number not a percentage value.

2.11.2 It is recognised that some TCBs have a physical presence in jurisdictions other than Jersey therefore this question seeks to understand how many of the non-Jersey incorporated companies are provided with services from those locations.

2.11.3 If a non-Jersey incorporated company is provided with services by both Jersey-based and non-Jersey based offices, please determine which location provides the majority of services and report on that basis.

2.11.4 Notwithstanding that the data is not being captured on a country-by-country basis, the question is designed to understand whether non-Jersey incorporated companies are regularly provided with services by Jersey TCBs from their physical offices in other jurisdictions. Where this is the case, this may act as a risk mitigant.

## 2.12 Question JFC11

**With respect to the non-Jersey incorporated companies included in the response to JFC10(b), is the customer due diligence undertaken by:**

- (a) The TCB physically based in Jersey?**
- (b) The branch or subsidiary of the TCB physical present in another jurisdiction?**

2.12.1 This question should be answered with a number not percentage value.

2.12.2 The sum of the responses to parts (a) and (b) should equal the response to JFC10(b).

2.12.3 The response should reflect who is undertaking completion of customer due diligence requirements.

### 3 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](#)
- iv [Guide to Section II of risk based supervision data: Trust Company Business 2023](#)
- v [Sound Business Practice Policy](#)