



**Jersey Financial
Services Commission**

Guidelines on interpretation

Article 36 of the Proceeds of Crime (Jersey) Law 1999

Consultation draft

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1 Introduction

1.1 Context and scope

Purpose of the Guidelines

- 1.1.1 These guidelines (the **Guidelines**) will help you to determine if you fall within Jersey's anti-money laundering, countering the financing of terrorism and countering proliferation financing (**AML/CFT/CPF**) regime.
- 1.1.2 In particular, the Guidelines are designed to aid you in determining if you are conducting 'financial services business' and, where applicable, outline the associated registration obligation and supervisory oversight.

Legal basis

- 1.1.3 Article 36(2) of the Proceeds of Crime (Jersey) Law 1999 (**POCL**) empowers the JFSC to issue guidelines on the interpretation of: (i) the expression 'when conducted as a business'; or (ii) any provision (including any expression used) in Schedule 2 of POCL (**Schedule 2**).
- 1.1.4 Article 36(3) of POCL states that regard must be given to the Guidelines in interpreting any Schedule 2 expression.
- 1.1.5 The majority of these Guidelines are issued under the statutory power in Article 36(2) of POCL. In some places, additional supplementary guidance is provided which does not have the same statutory basis. This is provided to assist understanding and promote good practice and is presented in separate boxes throughout.

Reference to FATF Documentation

- 1.1.6 Article 36(5) of POCL provides that, in interpreting any expression contained within Schedule 2, account must be taken of the meaning (if any) given to that expression in the **FATF Recommendations** and the **FATF Methodology** (together, the **FATF Documentation**).
- 1.1.7 We have carefully considered the FATF Documentation in preparing these Guidelines. Where relevant we have inserted relevant text from the FATF Documentation into the body of these Guidelines with the intention of aiding users. Further information on considering the FATF Documentation is included in Section 3 and a list of referenced materials is included in Annex 2.
- 1.1.8 Whilst we anticipate the Guidelines will provide enough information for the majority of users to reach sound decisions on whether their activities constitute 'financial services business' and are in scope of Schedule 2, we recognise that they cannot cover every eventuality. The Guidelines do not replace or diminish the obligation on persons to ensure their own compliance with POCL, and it may therefore be necessary in some cases for users to directly consult the FATF Documentation alongside these Guidelines.

Ongoing assessment

- 1.1.9 The obligation to assess whether a person conducts 'financial services business' is ongoing; it is not a one-time exercise.
- 1.1.10 It applies both when a person begins such activities or operations and when there is a change in their circumstances, the AML/CFT/CPF legislation, or the Guidelines themselves that could affect whether those activities or operations fall within scope.

Effective date

1.1.11 These revised Guidelines shall take effect from 30 April 2026 (the **Effective Date**). They do not apply retrospectively. From the Effective Date onward, these revised Guidelines will supersede the previous version in its entirety.

1.2 Application of the Guidelines

Distinction from Jersey's conduct and prudential regime

1.2.1 The AML/CFT/CPF regime, which implements the FATF Recommendations, is distinct and separate from the broader regulatory regime for the conduct and prudential regulation of financial services in Jersey. Whilst these areas were historically closely aligned, the recast of Schedule 2 in 2023 marked a clear structural separation between the two.

1.2.2 These Guidelines are issued solely for use in interpreting and applying aspects of the AML/CFT/CPF regime. They must not be used – whether directly or by implication – to inform, influence, or interpret matters falling within the conduct and prudential space, which is governed separately.

Exemptions

1.2.3 Exemptions from conduct and prudential regulation are not exemptions from the AML/CFT/CPF regime and are not to be relied upon in coming to decisions on the scope and application of Schedule 2.

1.2.4 From a Financial Action Task Force (**FATF**) perspective, jurisdictions are permitted to grant certain exemptions in limited circumstances and only when there is a low risk of money laundering or terrorist financing.¹

1.2.5 This is reflected in POCL, whereby Article 36(7) grants the Minister for External Relations the power to designate any operation or activity as a low risk financial services business (subject to any applicable conditions) and to apply, disapply or modify POCL or any other enactment in respect of such business.

1.2.6 Any orders made under this power will be published on the [Jersey Legal Information Board](#), links to which can be found [here](#).

1.3 What is 'financial services business'?

1.3.1 Understanding whether a person conducts 'financial services business' is essential to determine if Jersey's AML/CFT/CPF regime applies to them.

1.3.2 The concept of 'financial services business' is set out in Schedule 2 under four broad categories:

- 1) Financial Institutions (**FIs**) – Part 2 of Schedule 2;
- 2) Designated Non-Financial Businesses and Professions (**DNFBPs**) – Part 3 of Schedule 2;
- 3) Virtual Asset Service Provider (**VASP**) – Part 4 of Schedule 2; and
- 4) Express Trusts – Part 5 of Schedule 2. This category specifically applies to trustees of an express trust who are not acting as a business (**Non-Professional Trustees**). Further detail on this category can be found below at paragraph 1.5 and paragraph 3.21.

¹ Please see paragraph 8 of Interpretive Note to Recommendation 1 of the FATF Recommendations for further detail on the FATF approach to exemptions

1.3.3 Section 3 of these Guidelines expands upon certain activities and operations set out in Schedule 2, providing interpretive guidance to clarify the meaning and scope of the activity or operation where further support is needed.

1.3.4 In most cases, two key criteria must be present before a person is considered to be conducting 'financial services business'. This is set out in Article 36(1) of POCL:

- 1) a person's activities or operations² must be listed in Parts 1 – 4 of Schedule 2 (the **Activity Gateway**)
- 2) such activities or operations are conducted as a business (the '**As a Business' Gateway**)

1.3.5 An important exception to this is in respect of Non-Professional Trustees (see Article 36(1A) of POCL). Further information on this category of trustee is provided below in paragraph 1.5.

1.4 When do I have to register with the JFSC?

1.4.1 Subject to paragraph 1.5 below, Article 10 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (**SBL**) prohibits any person from carrying on a business described in Schedule 2 to POCL (except a business described in Part 5 of that Schedule) (**Schedule 2 business**)³ unless they are registered by the JFSC in respect of that Schedule 2 business and are acting in accordance with this registration.

1.4.2 This only applies where the Schedule 2 business is carried on:

- 1.4.2.1 in or from within Jersey; or
- 1.4.2.2 in respect of a person being:
 - › a company incorporated in Jersey, or
 - › a person (other than a natural person or company) whose registered office is in Jersey,
 in any part of the world,
 (together, the **Jersey Nexus Gateway**).

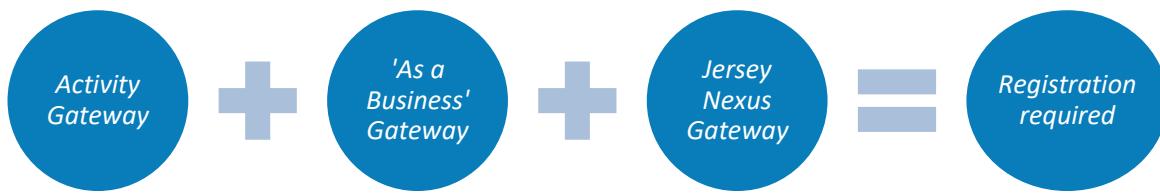
1.4.3 Additionally, any person who holds themselves out as carrying on a Schedule 2 business in the circumstances described at paragraphs 1.4.2.1 and 1.4.2.2 above shall be treated as carrying on such business and will require an appropriate registration – please see Article 10(3) of the SBL.

1.4.4 The relevant application forms can be found [here](#).

² In these Guidelines, any reference to 'activity' means both an activity and an operation, in line with the terminology used in Articles 36(1) and 36(1A) of POCL, unless the context indicates otherwise.

³ i.e. the Activity Gateway + the 'As a Business' Gateway.

1.4.5 In summary, the test for whether a person is required to register with the JFSC has 3 components:



1.4.6 Each gateway is considered further in Section 2.

1.4.7 Subject to paragraph 1.5 below, a person must ensure that each Schedule 2 activity they carry on as a business is included in their registration in order to comply with Article 10 of the SBL. Elements of a person's business may fall under multiple Schedule 2 activities and registration covering all applicable activities is required to satisfy Article 10.

1.4.8 For example, a person who acts as a general partner of a limited partnership may fall within the following paragraphs (each of which stemming from the same overarching service of acting as general partner) which should be included in their registration:

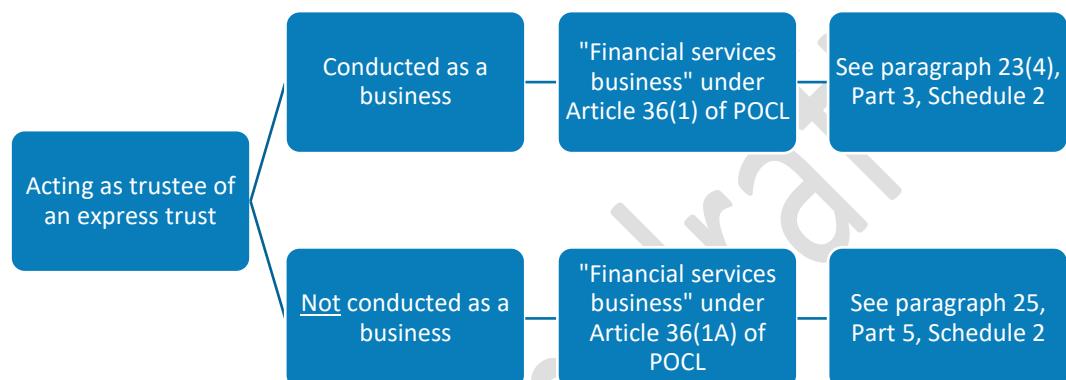
- Paragraph 9, Part 2, Schedule 2 (Fund and security services activities)
- Paragraph 11, Part 2, Schedule 2 (Portfolio management)
- Paragraph 23(2), Part 3, Schedule 2 (Director, secretary, partner, etc)

This example is illustrative only. Additional paragraphs may also apply depending on the specific activities involved. These should be reviewed and included where relevant.

1.4.9 Compliance with Article 10 of the SBL is essential. Operating a Schedule 2 business (or holding out as doing so) without the appropriate registration may result in enforcement action and the possibility of criminal prosecution.

1.5 What if I am a non-professional trustee?

- 1.5.1 Acting as trustee of an express trust is always considered a 'financial services business' regardless of whether or not the activity is conducted 'as a business'.
- 1.5.2 The distinction between the two lies in the applicable provision under Article 36 of POCL and Schedule 2. This can be explained as follows:



1.5.3	This is designed to ensure that Non-Professional Trustees are still brought within the scope of the AML/CFT/CPF regime (albeit with certain key aspects disapplied).
1.5.4	Trustees who are natural persons not acting as a business are subject to the provisions of the Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016 (NPTO) which applies selected, modified requirements of the Money Laundering (Jersey) Order 2008 (MLO) to these trustees.
1.5.5	Trustees falling only within paragraph 25, Part 5 of Schedule 2 are not subject to Article 10 of the SBL and are not required to register with the JFSC.

1.6 Do I have to register the underlying trust?

1.6.1	The trust itself is not registerable under the SBL. However, the JFSC maintains oversight of any Schedule 2 business arising out of the trust at the trustee level.
1.6.2	As such, a trustee is required to register for any Schedule 2 business undertaken in its own capacity (i.e. where it is providing trustee services as a business) and also any Schedule 2 business it carries out in its capacity as trustee in pursuance of the underlying trust's business.
1.6.3	For example, for a person acting as trustee in respect of a trust which participates in lending as a business, the person's registration would look as follows: <ol style="list-style-type: none">1.6.3.1 in its own capacity for its trustee services under Paragraph 23(4), Part 3, Schedule 2 (assuming these are conducted as a business – see paragraph 1.5); and

1.6.3.2 in its capacity as trustee for lending under Paragraph 3, Part 2, Schedule 2.

This example is illustrative only. Additional paragraphs may also apply depending on the specific activities involved. These should be reviewed and included where relevant.

1.7 What if I carry on regulated business?

- 1.7.1 If you conduct or intend to conduct regulated business⁴, you must still register in accordance with Article 10 of the SBL if you intend to carry on Schedule 2 business.
- 1.7.2 Instead of a full application, you can notify the JFSC of your intention to carry on Schedule 2 business in accordance with Article 11(3) of the SBL.
- 1.7.3 You still need to assess whether your activities fall within Parts 1 – 4 of Schedule 2 and are conducted ‘as a business’. However, the registration process is more streamlined because you are (or will be) already under JFSC oversight.
- 1.7.4 This notification is often built into conduct and prudential application forms. If not, or if you need to add new Schedule 2 business at a later date, please use [this form](#).
- 1.7.5 Once notified, you become a ‘deemed registered person’ for SBL purposes. You must not carry on Schedule 2 business without being registered or deemed registered, even if you are regulated for conduct and prudential matters.
- 1.7.6 A registration for conducting Schedule 2 business does not replace conduct or prudential regulatory obligations.

1.8 Documentation and record keeping

- 1.8.1 A person must ensure that any assessment undertaken concerning whether their activities constitute ‘financial services business’ and require registration is comprehensively documented and that these records are retained.
- 1.8.2 Such documentation may be requested by the JFSC in connection with carrying out its supervisory functions.

⁴ ‘Regulated business’ means (a) the business of a recognized fund, or of an unclassified fund, within the meaning of the [Collective Investment Funds \(Jersey\) Law 1988](#), or (b) a Schedule 2 business for which a person must be registered under the [Banking Business \(Jersey\) Law 1991](#), hold a permit under the [Collective Investment Funds \(Jersey\) Law 1988](#), be registered under the [Financial Services \(Jersey\) Law 1998](#), or be authorized by a permit under the [Insurance Business \(Jersey\) Law 1996 \(Regulated Business\)](#).

2 Guidelines on interpretation

2.1 Overview

- 2.1.1 The following section provides further information and support in respect of each of the gateways summarised at paragraph 1.4.5.
- 2.1.2 When conducting an assessment on whether a person conducts ‘financial services business’, we accept that there may be borderline cases. It is important to keep in mind the underlying purpose of POCL and Jersey’s AML/CFT/CPF regime, being to forestall, prevent and detect money laundering and terrorist financing, in conducting any assessment.

2.2 The Activity Gateway

- 2.2.1 In assessing whether activities are in scope of Schedule 2, you should consider:
 - 2.2.1.1 what the person is doing in practice, rather than how the activity is described, labelled or structured;
 - 2.2.1.2 if a person performs the actions or operations involved in a Schedule 2 activity, they are considered to be conducting that activity even if they do not explicitly identify or title themselves as doing so; and
 - 2.2.1.3 a person should assess all of their activities and must not disregard activities simply because they are considered ancillary, secondary or supportive to the primary business.
- 2.2.2 Persons should keep their activities under regular review. If their activities change, it may take them into or out of scope.
- 2.2.3 For further guidance on how this applies to specific activities, please refer to Section 3.

2.3 The ‘As a Business’ Gateway

- 2.3.1 Aside from Non-Professional Trustees (see paragraph 1.5 above), activities are only a ‘financial services business’ when they are conducted ‘as a business’.
- 2.3.2 Two broad criteria should be considered when deciding whether an activity is conducted ‘as a business’:
 - 1) Acting on a business, professional or commercial basis
 - 2) The presence of a customer
- 2.3.3 Both of these criteria must be present before a person is considered to be conducting the activities ‘as a business’.
- 2.3.4 This requires a careful, fact-based assessment, taking into consideration the nature, scale, and context of a person’s activities.

Business, professional or commercial basis

- 2.3.5 The first ‘as a business’ consideration is whether the person performing the activity is doing so on a business, professional or commercial basis. Where any one of these descriptors is present, this criterion is met.
- 2.3.6 These terms should be given their ordinary meaning and, particularly in the event of uncertainty, applied in a way that supports the underlying purpose of Article 36 of POCL (please see above at paragraph 2.1).
- 2.3.7 The assessment must focus on the substance and context of the activity, rather than solely on its frequency, form, or how it is described by the person undertaking it.

2.3.8 A single transaction may be conducted as a business. The absence of repetition does not, by itself, exclude an activity from being considered business in nature.

2.3.9 Professional persons who in good faith utilise their skills principally for a charitable or philanthropic purpose will not be regarded as conducting activities ‘as a business’ provided that there is no commercial basis to their activities. This is subject always to the proper consideration of the purposes of Article 36 and the risk that their services may be used for or to facilitate money laundering, terrorist financing, or proliferation financing.

The presence of a customer

2.3.10 In order for an activity to be conducted ‘as a business’, it is also necessary to consider whether there is a customer present (i.e. the person is acting for or providing services to a customer).

2.3.11 For the purposes of these Guidelines, the meaning of the term customer is the same as its meaning under the MLO and the AML/CFT/CPF Handbook issued by the JFSC. This includes any person with whom a business relationship is established or with whom a one-off transaction is carried out.⁵

2.3.12 While the MLO uses the term ‘customer’, the FATF Documentation employs a range of non-defined terms to describe the counterparty to a business activity. For example, the definition of:

- 1) FIs refers to a ‘customer’
- 2) Trust and company service providers (TCSPs) refers to ‘third parties’
- 3) VASP refers to ‘another natural or legal person’

2.3.13 The underlying concept remains consistent: it is the person or entity for whom the service is provided, or the transaction is conducted. Accordingly, and for the avoidance of doubt, the use of the term customer in these Guidelines encompasses the terms used in FATF Documentation when defining FIs, TCSPs and VASP.

2.3.14 For clarity, a company transacting with another company within the same group may still establish a customer relationship. Group affiliation alone does not exclude the possibility of a customer relationship forming.

2.3.14.1 For example, A Ltd specialises in portfolio management services and provides these services to B Ltd, a company within the same corporate group. The arrangement is documented by a formal agreement, and A Ltd charges a management fee at a commercial rate. A Ltd is applying its expertise to deliver formal, professional services aligned with the wider group’s commercial objectives. There is clear commercial intent, satisfying the first limb of the ‘as a business’ test. Additionally, even though B Ltd is part of the same group, it is receiving services from A Ltd under a formal, commercial arrangement. B Ltd is A Ltd’s customer and this is a business relationship for the purposes of the MLO.

2.3.15 The same applies in the context of a family connection or connection between close friends. The presence of family connection or close association alone does not prevent a customer relationship.

2.3.15.1 For example, Ms M is a qualified accountant and provides accounting and bookkeeping services to a number of people; primarily friends who operate their own businesses. Notwithstanding their connection, each

⁵ In the case of a transaction or relationship with a legal arrangement (i.e. a trust), it is the governing body of such legal arrangement that will be the customer.

arrangement is documented by a formal engagement letter, and Ms M charges an annual fee at a market rate consistent with industry standards. Ms M is utilising her professional skills in providing such services, she provides them to more than one person, and there is a commercial driver through the fee charged. This satisfies the first limb of the ‘as a business’ test. Notwithstanding the relationship with a number of the recipients, each person is receiving services from Ms M under a formal arrangement on a professional and commercial basis. Even with a friend as the recipient, this is capable of constituting a business relationship for the purposes of the MLO, with each recipient a customer of Ms M.

2.3.16 For further guidance on how this applies to specific activities, please refer to Section 3.

Acting in an employment context

2.3.17 When an employee is acting within the scope of their employment, it is the employer who carries on any Schedule 2 activities as a business. The employee is not doing so in their own right.

2.3.18 Where a person provides the service of acting as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons or arrangements, and that person is a salaried employee of:

- 2.3.18.1 that company, partnership, or other legal person or arrangement; or
- 2.3.18.2 a registered TCSP that provides the service of arranging for another person to act as a director / a secretary / a partner / a similar position to that company, partnership, or other legal person or arrangement (as applicable),

that employee is not considered to be providing that service as a business in their own right.

2.3.19 Additionally, ‘partners or employed professionals’ (or equivalent) within a registered Schedule 2 business of lawyers, notaries, other independent legal professionals, or accountants are not regarded as carrying on such activity as a business in their own right, provided that:

- 2.3.19.1 such person is not conducting activities independent of the Schedule 2 business; and
- 2.3.19.2 the JFSC has been appropriately notified of the identity of relevant partners or employed professionals (or their equivalent) who are principal or key persons of the employer in accordance with the provisions of the SBL.

2.4 The Jersey Nexus Gateway

- 2.4.1 As mentioned at paragraph 1.4 above, the prohibition on carrying out financial services business without a registration only applies where a person meets the Jersey Nexus Gateway.
- 2.4.2 This does not apply in respect of Non-Professional Trustees – please see paragraph 1.5 above.

In or from within Jersey

- 2.4.1 One of the key elements of establishing the Jersey Nexus Gateway is whether activities are carried on 'in or from within Jersey'.
- 2.4.2 The JFSC has issued guidance on the interpretation of 'in or from within Jersey', which is reproduced in Annex 1 for ease of reference.
- 2.4.3 This guidance provides practical support to help assess whether a person's presence, operations, or impact are sufficiently connected to Jersey to trigger registration requirements.

Any part of the world

- 2.4.4 Additionally, a company that is incorporated in Jersey or a person (other than a natural person or company) whose registered office is in Jersey shall not carry on Schedule 2 business in any part of the world without an appropriate registration.

3 Guidelines on interpretation by Schedule 2 activity

3.1 Approach to Section 3

- 3.1.1 This section provides interpretive guidance on the terminology and activities listed in Schedule 2.
- 3.1.2 Part A provides guidance of general application which should be considered in all cases.
- 3.1.3 Part B provides further guidance in respect of certain specific activities on up to three aspects:
 - 1) the meaning of the activity itself, including an interpretation of the FATF Documentation
 - 2) how it may be assessed as being conducted on a business, professional or commercial basis
 - 3) who the relevant customers may be
- 3.1.4 Not all activities require further elaboration. It may be that no further guidance is provided in this section, or it is only provided in respect of a specific element (e.g. conducted on a business, professional or commercial basis).
- 3.1.5 Where no guidance is provided, this reflects a determination that it is sufficiently clear and does not require further support. Users should refer directly to POCL and the FATF Documentation where appropriate.

PART A – GENERAL GUIDANCE

3.2 FATF terms

- 3.2.1 Article 36(2) of POCL provides that the Guidelines may cover the interpretation of:
 - 3.2.1.1 the expression ‘when conducted as a business’; or
 - 3.2.1.2 any provision (including any expression used) in Schedule 2.
- 3.2.2 When interpreting an expression used in Schedule 2, Article 36(5) of POCL requires that account must be taken of the meaning, if any, given to that expression within the FATF Documentation. Where multiple FATF meanings exist, we give precedence to the glossary within the FATF Recommendations (the **FATF Glossary**).
- 3.2.3 The definitions in POCL and FATF are broadly well-aligned and in most cases the FATF Documentation provides additional context or considerations to assist in interpreting the language used in POCL. We have drawn this out in relevant sections below. Where there are material differences between POCL and the FATF Documentation, POCL will prevail.

3.3 Other FATF sources

- 3.3.1 In addition to the FATF Documentation, FATF has published a substantial body of supporting guidance and best practices papers⁶.
- 3.3.2 Whilst these materials do not fall within the remit of Article 36(5) of POCL (and therefore there is no obligation to review them), the JFSC regards them as highly authoritative and encourages users of this document to refer to these sources for further guidance.

⁶ This can be found at: www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html in the section Guidance and Best Practices

3.3.3 Certain examples are highlighted in Part B below and a list of referenced materials is included in Annex 2.

PART B – ACTIVITY SPECIFIC GUIDANCE

3.4 Definitions

POCL reference: paragraph 1, Part 1, Schedule 2

Securities

3.4.1 In addition to the definition of 'securities' provided in paragraph 1, Part 1, Schedule 2 of POCL, persons may wish to consider the [FATF guidance on the risk-based approach for the securities sector](#).

3.4.2 In particular, the term 'securities' is broadly defined in this document as including, for instance:

- transferable securities, including equities and bonds or similar debt instruments;
- money-market instruments;
- investment funds, including units in collective investment undertakings;
- options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields or other derivatives instruments, financial indices or financial measures, which may be settled physically or in cash;
- options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash;
- derivative instruments for the transfer of credit risk;
- financial contracts for differences; and
- options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that are settled in cash, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this section, which have the characteristics of other derivative financial instruments.

3.4.3 This may assist with interpreting the meaning of 'other securities of any description' in subparagraph (e) of the POCL definition.

Virtual assets

3.4.4 In addition to the definition of 'virtual asset' at paragraph 1, Part 1, Schedule 2 of POCL, the FATF Recommendations also define virtual asset as follows:

'A digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes. Virtual assets do not include digital representations of fiat currencies, securities and other financial assets that are already covered elsewhere in the FATF Recommendations.'

FINANCIAL INSTITUTIONS

3.5 Lending

POCL reference: paragraph 3, Part 2, Schedule 2

- 3.5.1 The value of the loan will not impact on whether a person will be considered to be conducting the activity of 'lending'.
- 3.5.2 A person will be considered to be 'lending' throughout the life of the loan, even where the loan is drawn down in one lump sum at the beginning of the term.

Intermittent lending

- 3.5.3 It is recognised that there may be times where a person who is registered with the JFSC for lending does not have any active loans. This may occur due to business cycles, strategic pauses, or temporary market conditions. However, such temporary periods of inactivity do not necessarily mean that the business has ceased, and the lending may resume in the future.
- 3.5.4 In such cases, it is not expected that the person should frequently register and de-register with the JFSC. Instead, the person should consider whether it is more appropriate to maintain their registration during the intervening period, particularly where there is an expectation that lending will recommence. A person should consider Article 10(3) of the SBL in making this determination – please see paragraph 1.4.3.

When will lending be conducted as a business?

Business, professional, or commercial basis

- 3.5.5 Generally, lending between family members or close friends will not be assessed as being conducted on a business, professional or commercial basis. For example:
 - 3.5.5.1 Parents lending their child the deposit to purchase a property – the loan is unsecured, no interest is charged, and it has no fixed repayment date.
 - 3.5.5.2 Lending a sum on an unsecured basis to a close friend to pay for home renovations. A nominal rate of interest is charged. The friends verbally agree that the sum will be repaid in 2 years.
- 3.5.6 These examples reflect informal, personal arrangements and will unlikely be conducted on a business, professional or commercial basis.
- 3.5.7 On the other hand, the following examples would likely be assessed as being conducted on a business, professional or commercial basis:
 - 3.5.7.1 Ms A lends money to several persons, consisting of both individuals and companies on a recurring basis. Although the loans are undocumented and agreed orally, they include interest at or above market rates and clear repayment terms. Ms A actively markets her lending services.
The frequency, commercial intent, active promotion and structured nature of the arrangements demonstrate a business and commercial arrangement notwithstanding the lack of documentation.
 - 3.5.7.2 Mr B regularly lends money to multiple family members, such as siblings and cousins. Each loan is governed by a formal agreement, includes interest at market rates, and has defined repayment terms. Mr B takes security or obtains guarantees where appropriate and derives consistent income from the activity.

The frequency, structure, and nature of the lending, as well as risk management (through security and guarantees) that is typical of commercial lending, resembles a business or commercial-like operation, notwithstanding the familial relationship.

3.5.7.3 Mr C grants a single interest-bearing loan to D Ltd, which is guaranteed by its shareholder Mr E. The loan is on an arm's length basis, documented by a detailed loan agreement with a high interest rate meaning Mr C is earning a clear profit on the loan. There is a regular repayment plan and a fixed repayment date.

Notwithstanding that this is a single transaction, the formality and structure of the loan and the clear commercial driver will likely be sufficient to give it a business and commercial nature.

The presence of a customer

3.5.8 A customer in the case of lending would typically be the borrower. This may also include other parties to a loan arrangement, such as a security provider or guarantor.

Local lending

3.5.9 All lenders must undertake an assessment of whether they meet the three gateways and register with the JFSC as required.

3.5.10 However, effective 3 September 2025, the Proceeds of Crime (Low Risk Financial Services Business) (Jersey) Order 2024 (**LRFSB Order**) was amended to include certain local lending activity. This order operates to disapply certain of the MLO obligations imposed on such persons once in scope.

3.5.11 Please see Article 4A of the LRFSB Order for the applicable conditions.

3.6 Money or value transfer services

POCL reference: paragraph 5, Part 2, Schedule 2

3.6.1 In addition to the definition at paragraph 5, Part 2, Schedule 2 of POCL, the FATF Recommendations also define money or value transfer services as:

'Financial services that involve the acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer, or through a clearing network to which the MVTS provider belongs. Transactions performed by such services can involve one or more intermediaries and a final payment to a third party, and may include any new payment methods. Sometimes these services have ties to particular geographic regions and are described using a variety of specific terms, including hawala, hundi, and fei-chen.'

3.6.2 We consider such services to be in scope of this paragraph.

3.7 Means of payment

POCL reference: paragraph 6, Part 2, Schedule 2

3.7.1 'Electronic money' includes prepaid cards and other stores of value in electronic form that do not necessarily involve bank accounts in transactions.

3.8 Trading

POCL reference: paragraph 8, Part 2, Schedule 2

When will trading be conducted as a business?

The presence of a customer

3.8.1 In the following examples, the absence of a customer means that the trading is not assessed to be conducted as a business:

3.8.1.1 Ms A occasionally engages in day trading using her personal dealing account. She trades entirely on her own behalf, using her own funds, and does not act on behalf of or provide services to any other person or entity. As she does not conduct trading for or on behalf of a customer, the trading is not conducted as a business.

3.8.2 The same principle would apply for legal persons:

3.8.2.1 C Ltd engages in the activity of trading securities using its own capital. All trades are executed in respect of the company's own account, and it does not offer trading services to third parties or act on behalf of others. Despite the business or commercial nature of the trading, C Ltd is not conducting trading for or on behalf of a customer and therefore it is not conducted as a business.

3.9 Fund and security services activities

POCL reference: paragraph 9, Part 2, Schedule 2

3.9.1 A person needs to be both participating in securities issues and providing financial services related to such issues to be in scope of this paragraph. The issuance of securities alone is not sufficient.

3.9.2 'Participation in securities issues' in paragraph 9(1) includes any person who plays a direct, active, and important role in relation to the issue of securities. This principally covers service providers without whom the issuance could not occur or succeed. It includes those listed in paragraph 9(2)(b) but is not limited to that list. Other examples may include underwriters, lead managers, bookrunners, broker-dealers and advisory firms.

When will fund and security services activities be conducted as a business?

The presence of a customer

3.9.3 A customer of a financial service provider related to the issue of securities will typically be the underlying securities issuer to which it is providing services.

3.9.4 Persons conducting this activity on their own behalf (e.g. maintaining their own register of securities or having custody of their own assets) are not in scope due to the absence of a customer relationship.

3.10 Advice on capital structure, industrial strategy etc.

POCL reference: paragraph 10, Part 2, Schedule 2

3.10.1 Typical businesses offering these services include investment banks, corporate finance advisory firms, acquisitions specialists, private equity and venture capital firms and legal and accounting firms with corporate finance teams providing such advice.

3.11 Portfolio management

POCL reference: paragraph 11, Part 2, Schedule 2

3.11.1 With regard to the reference to 'fund and security services activities' in this paragraph, please see paragraph 3.9 above.

When will portfolio management be conducted as a business?

The presence of a customer

3.11.2 The customer will typically be the person on whose behalf the portfolios are managed.

3.11.3 As with each activity, portfolio management must be conducted for a customer. In the absence of this, the person will not be considered to be acting as a business.

3.11.4 For example, X Ltd is a company that manages its own assets. The board of directors make all investment decisions for the company, and it does not provide portfolio management services to any external party. Therefore, there is no customer.

3.12 Safe keeping and administration

POCL reference: paragraph 12, Part 2, Schedule 2

3.12.1 This activity is limited to the safekeeping and administration of cash or liquid securities for a customer. For assets other than cash or liquid securities, refer below to paragraph 3.13.

3.12.2 'Cash or liquid securities' includes physical notes, bearer shares, as well as other securities that can be readily disposed of in exchange for their face value.

3.13 Safe custody services

POCL reference: paragraph 13, Part 2, Schedule 2

3.13.1 This activity is intended to cover the safe custody of assets that are not already captured by paragraph 12, Part 2, Schedule 2.

3.14 Investing, administering or managing funds or money

POCL reference: paragraph 14, Part 2, Schedule 2

3.14.1 This paragraph will only apply where such activities are not otherwise specified in Part 2 of Schedule 2.

3.14.2 The reference in this paragraph to 'funds' is distinct from the term 'fund' as defined at paragraph 1, Part 1, Schedule 2 of POCL.

3.14.3 The FATF Recommendations define the broader concept of 'funds' as 'assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets'. We would adopt the same definition in respect of this paragraph.

3.14.4 Examples of activities within this paragraph may include:

- 3.14.4.1 payroll services
- 3.14.4.2 debt collection
- 3.14.4.3 letting agents
- 3.14.4.4 property management services

DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

3.15 Real estate agents

POCL reference: paragraph 19, Part 3, Schedule 2

- 3.15.1 FATF's [guidance for a risk-based approach to the real estate sector](#) provides further guidance on FATF's interpretation of when a person is considered a real estate agent.
- 3.15.2 In particular, and for the purposes of the expression 'estate agency services' in paragraph 19(2), Part 3, Schedule 2, we interpret this as including the following functions when linked to the buying and selling of real estate: traditional exclusive (and non-exclusive) seller representation, traditional exclusive (and non-exclusive) buyer representation, representation of both buyer and seller in the same transaction, national and transnational referrals, representation at auctions (and auctioneers), financial settlement and real estate brokerage.
- 3.15.3 In general, the activities undertaken by letting agents do not fall within the scope of acting as a real estate agent. However, where a letting agent becomes actively involved in negotiating, arranging, or facilitating the sale or purchase of a property (such as by a tenant from a landlord), the letting agent's role will be deemed to fall within the definition of a real estate agent.

3.16 High value dealers

POCL reference: paragraph 20, Part 3, Schedule 2

- 3.16.1 'Cash' does not include bank transfers or credit card payments.
- 3.16.2 Please see above at paragraph 3.4.4 in respect of the definition of 'virtual asset'.
- 3.16.3 A person can be in scope as a high value dealer even when they only occasionally accept applicable payments.
- 3.16.4 Examples of businesses that may be captured by this paragraph include (but are not limited to):
 - 3.16.4.1 jewellers;
 - 3.16.4.2 car or yacht dealers;
 - 3.16.4.3 art and antique dealers; and
 - 3.16.4.4 agricultural auctioneers.

3.17 Lawyers, etc.

POCL reference: paragraph 21, Part 3, Schedule 2

- 3.17.1 Participation in a transaction refers to any activity that involves assisting in the preparation for or carrying out of a transaction. This may include, for example, drafting documentation to enable the transaction to proceed, or gathering and analysing information to advise on the planning, structuring, or execution of the transaction.
- 3.17.2 This is different from the provision of general legal advice. Unless the legal advice consists of preparing for or carrying out one or more of the transactions specified in paragraph 21(4), Part 3, Schedule 2 of POCL, it is not captured by this paragraph.
- 3.17.3 Legal advice given in relation to a specific transaction (such as whether the transaction is permissible under Jersey law, or what legal factors must be considered to make the transaction viable) will only be regarded as participation if the decision has been made to proceed with the transaction.
- 3.17.4 Participation in litigation or alternative dispute resolution is generally not captured by this paragraph unless, during the course of such representation or alternative dispute resolution,

the legal professional is involved with one or more of the transactions specified in paragraph 21(4).

3.18 Accountants

POCL reference: paragraph 22, Part 3, Schedule 2

- 3.18.1 Examples of accountancy services may include, but are not limited to, the recording, review, analysis, calculation or reporting of financial information. This includes bookkeeping.
- 3.18.2 The provision of tax compliance services is included within the scope of 'advice about the tax affairs of another person'.

3.19 Trust and company service providers

POCL reference: paragraph 23, Part 3, Schedule 2

- 3.19.1 Where a person who is registered with the JFSC for a TCSP activity or operation does not have any active roles, it is not expected that the person should frequently register and de-register with the JFSC.
- 3.19.2 Instead, the person should consider whether it is more appropriate to maintain their registration during the intervening period, particularly where there is an expectation that the activity will recommence. A person should consider Article 10(3) of the SBL in making this determination – please see paragraph 1.4.3.

Directors

- 3.19.3 Where a recruitment agency advertises and facilitates the placement of suitable candidates into directorship roles, this activity does not constitute 'arranging for another person to act as' a director for the purposes of this paragraph.

When will acting as a director be conducted as a business?

Business, professional or commercial basis

- 3.19.4 A person who holds a directorship role is not the same as a person who is in the business of providing directorship services.
- 3.19.5 By way of an example:
 - 3.19.5.1 Mr A is a director of X Ltd which he wholly owns. Mr A holds no other directorships. This is a personal arrangement and Mr A is simply managing his own company. Mr A is unlikely to be assessed as providing the directorship services on a business, professional or commercial basis.
 - 3.19.5.2 Mr B is a director of Y Ltd, a company set up by a friend. Mr B has been appointed to provide support and guidance to the company given his prior experience in the relevant industry. Mr B holds no other directorships, is paid a nominal rate in recognition for this contribution to the company but does not hold himself out as providing directorship services to the public. This is also a personal arrangement, and Mr B is simply helping a friend. Mr B is unlikely to be assessed as providing the directorship services on a business, professional or commercial basis.
 - 3.19.5.3 Ms C is a director who holds directorships in multiple companies. She receives fees for her services from each company at a commercial rate and publicly holds herself out as a director available for appointment. Ms C is operating in a structured, profit-making manner, offering

expertise to external parties. Ms C is likely to be assessed as providing the directorship services on a business, professional and commercial basis.

3.19.5.4 Ms D serves as a director on the board of a small local charity, offering support based on her financial expertise. Her involvement is voluntary, and she receives no remuneration for this role. This is her only directorship, and she does not hold herself out as providing directorship services to the public. On this basis, Ms D is unlikely to be acting on a business, professional, or commercial basis. However, the context should always be reviewed carefully to ensure there are no risk factors or commercial elements that could alter this conclusion – see paragraph 2.3.9.

3.19.6 In each of these examples, the individuals perform the same function: acting as a director. What differentiates them is not the role itself, but the context and manner in which they provide those services.

The presence of a customer

3.19.7 Where a person is providing directorship services, the company to which it is appointed will ordinarily be the customer of the director.

3.19.8 In fulfilling their role, the director might manage or supervise the underlying company's interactions and relationship with its customers. These relationships are attributable to the company, not to the director in a personal capacity.

Trustees

3.19.9 Paragraph 23(4), Part 3, Schedule 2 of POCL is intended to cover all persons acting as, or arranging for another person to act as, a trustee of an express trust (or equivalent) as a business.

3.19.10 Trustees who are not acting as a business would instead be caught by paragraph 25, Part 5, Schedule 2 of POCL. Please refer to paragraph 1.5 above and paragraph 3.21 below for further information in this regard.

3.19.11 In conducting their assessment, we would encourage users to also consider paragraph 3.21 and the examples contained therein.

What is an express trust?

3.19.12 Within paragraph 23(4), Part 3, Schedule 2 of POCL (and, for the avoidance of doubt, paragraph 25, Part 5, Schedule 2 of POCL), 'express trust' is stated to have the meaning given to that expression in Article 1(1) of the Financial Services (Jersey) Law 1998 (FSJL).

3.19.13 Article 1(1) of the FSJL defines 'express trust' as:

'A trust created by the express declaration of a settlor or a trustee made orally, by instrument in writing or by will.'

3.19.14 The FATF Glossary defines 'express trust' as:

'A trust clearly created by the settlor, usually in the form of a document e.g. a written deed of trust. They are to be contrasted with trusts which come into being through the operation of the law and which do not result from the clear intent or decision of a settlor to create a trust or similar legal arrangements (e.g. constructive trust).'

3.19.15 Both definitions require a clear intention to create the trust before it can be considered an 'express trust.' The FATF Glossary also explicitly excludes trusts arising by operation of law.

3.19.16 Accordingly, trustees of trusts arising by operation of law, such as constructive trusts, are not captured by paragraph 23(4) or paragraph 25.

VIRTUAL ASSET SERVICE PROVIDER

3.20 Virtual asset service provider

POCL reference: paragraph 24, Part 4, Schedule 2

- 3.20.1 Please see above at paragraph 3.4.4 in respect of the definition of 'virtual asset'.
- 3.20.2 The activities listed in paragraph 24(2), Part 4, Schedule 2 of POCL must be conducted for or on behalf of another person or arrangement for them to be a VASP activity.
- 3.20.3 By way of an example, where Mr X undertakes the activity of exchange between virtual assets and fiat currencies (under paragraph 24(2)(a), Part 4, Schedule 2 of POCL), but he does so solely with his own currency or virtual asset and solely on his own behalf, he does not fall within the definition of a VASP.

EXPRESS TRUSTS

3.21 Express trusts

POCL reference: paragraph 25, Part 5, Schedule 2

- 3.21.1 Paragraph 25, Part 5, Schedule 2 of POCL is intended to cover all persons acting as a trustee of an express trust otherwise than as a business.
- 3.21.2 For further detail, please refer to Article 36(1A) of POCL and paragraph 1.5 above.
- 3.21.3 For the meaning of 'express trust', please refer to paragraphs 3.19.12 to 3.19.16 above.

When will acting as trustee of an express trust be conducted as a business?

Business, professional, or commercial basis

- 3.21.4 By way of an example:

- 3.21.4.1 Mr S agrees to act as trustee for the Jones Family Trust. Each year, the family gives him a pair of West End tickets as a gesture of thanks. Although there is a token reward, the arrangement is informal and personal in nature. Mr S is unlikely to be acting on a business, professional, or commercial basis. Mr S's activities would likely fall within paragraph 25, Part 5, Schedule 2 of POCL as a non-professional trustee. He does not have to register with the JFSC, and he would be subject to the NPTO.
 - 3.21.4.2 Over time, Mr S spends around 10 hours per week on trust business. The family agrees to reimburse his expenses and pays him per hour at a commercial rate that allows him to make a profit. The trustee services have evolved into a structured, profit-making activity. Mr S is now likely acting on a business and commercial basis. Mr S's activities would likely now fall within paragraph 23(4), Part 3, Schedule 2 of POCL. He will be required to register with the JFSC (provided he meets the Jersey Nexus Gateway) under the SBL and will be subject to the MLO.
 - 3.21.4.3 Ms T acts as a trustee of a trust established for the benefit of her friends' children. She accepted the role as a favour for her friends and is unpaid. Ms T is unlikely to be acting on a business, professional or commercial basis and would instead be providing her services as a non-professional

trustee. She does not have to register with the JFSC, and she would be subject to the NPTO.

3.21.4.4 Mr U acts as a trustee of a trust established for the benefit of his family. He charges fees significantly above market rates, derives a profit from this role, and operates under a formal agreement. In addition, Mr U provides trustee services on a recurring basis, including for other trusts. The profit-making nature, contractual formality, and ongoing pattern of activity indicate that Mr U is likely acting on a commercial basis, notwithstanding the family context. He will be required to register with the JFSC (provided he meets the Jersey Nexus Gateway) under the SBL and will be subject to the MLO.

Consideration of the underlying trust's activities

3.21.5 A trust itself is not registrable under the SBL (see paragraph 1.6). JFSC oversight of any in-scope activities carried out in connection with the trust's business is at the trustee level.

3.21.6 A trustee must assess the activities it carries out in the following capacities:

- 3.21.6.1 all activities it undertakes in its own corporate capacity (e.g. acting as trustee of an express trust); and
- 3.21.6.2 all activities it undertakes in its capacity as trustee in carrying on the trust's business.

3.21.7 Where the activities carried out in relation to a trust's business are conducted 'as a business,' the trustee should carefully assess whether the services they provide in their own capacity will also be regarded as being conducted 'as a business.'

3.21.8 Given the nature of the activities carried on in respect of the underlying trust, the JFSC considers it is highly likely that the trustee will also be acting 'as a business' in its own capacity in these circumstances.

3.21.9 This position ensures that the treatment of 'non-professional trustees' is limited to genuinely private arrangements and does not create a route for trustees of business-oriented trusts to avoid supervisory oversight.

3.22 Guidance on other activities

Executor services

3.22.1 Although the role of executor is not expressly referenced within Schedule 2, persons should assess whether the functions they perform in this capacity fall within the scope of a Schedule 2 activity or operation.

3.22.2 It is often the case that persons who are appointed to the role of executor are not acting on a business, professional or commercial basis – particularly in the family context.

3.22.3 This assessment will depend on the specific facts and circumstances. However, we would encourage persons to consider the potential relevance of the following provisions:

- 3.22.3.1 Paragraph 14, Part 2, Schedule 2 – on the basis that an executor may be investing, administering or managing funds or money on behalf of another; and
- 3.22.3.2 Paragraph 23, Part 3, Schedule 2 and Paragraph 25, Part 5, Schedule 2 – on the basis that executors sometimes also fulfil the role of a trustee of an express trust created by the will.

3.22.4 The above paragraphs are provided as examples only. Additional paragraphs may be applicable and should be considered where relevant.

Employee incentive arrangements

3.22.5 Where an employer establishes a scheme solely for the purposes of providing its own employees with performance-related fees or dividends as part of employee remuneration, this is not considered to be in scope. These arrangements are treated as forming part of employee remuneration rather than a separate business providing services to a customer.

3.22.6 Persons should consider their arrangements holistically, particularly if such a scheme engages in other activities which could bring the scheme into scope.

Glossary

Term	Definition
Activity Gateway	a person's activities or operations must be listed in Parts 1 – 4 of Schedule 2
'As a Business' Gateway	a person's activities or operations are conducted as a business
AML/CFT/CPF	anti-money laundering, countering the financing of terrorism, and countering proliferation financing
DNFBPs	Designated Non-Financial Businesses and Professions
Effective Date	30 April 2026
FATF	Financial Action Task Force
FATF Documentation	the FATF Recommendations and the FATF Methodology
FATF Glossary	the Glossary contained within the FATF Recommendations
FATF Methodology	Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems issued by FATF, as amended from time to time
FATF Recommendations	International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation issued by FATF, as amended from time to time
FIs	Financial Institutions
financial services business	means a business specified, or of a description specified, in Schedule 2 of POCL
FSJL	Financial Services (Jersey) Law 1998, as amended from time to time
Guidelines	these guidelines issued by the JFSC
Jersey Nexus Gateway	<p>a person's Schedule 2 business is carried on:</p> <ol style="list-style-type: none"> 1) in or from within Jersey; or 2) in respect of a person being: <ul style="list-style-type: none"> > a company incorporated in Jersey, or

Term	Definition
	<ul style="list-style-type: none"> › a person (other than a natural person or company) whose registered office is in Jersey, in any part of the world
JFSC	Jersey Financial Services Commission
LRFSB Order	Proceeds of Crime (Low Risk Financial Services Business) (Jersey) Order 2024, as amended from time to time
MLO	Money Laundering (Jersey) Order 2008, as amended from time to time
Non-Professional Trustees	trustees of an express trust who are not acting as a business
NPTO	Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016, as amended from time to time
person	<p>shall have the meaning as ascribed to such term in the Interpretation (Jersey) Law 1954, as amended from time to time</p> <p>For the avoidance of doubt, a trust is not a person.</p>
POCL	Proceeds of Crime (Jersey) Law 1999, as amended from time to time
Regulated Business	<p>means (a) the business of a recognized fund, or of an unclassified fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988, or (b) a Schedule 2 business for which a person must be registered under the Banking Business (Jersey) Law 1991, hold a permit under the Collective Investment Funds (Jersey) Law 1988, be registered under the Financial Services (Jersey) Law 1998, or be authorized by a permit under the Insurance Business (Jersey) Law 1996</p>
SBL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended from time to time
Schedule 2	Schedule 2 of POCL, as amended from time to time
Schedule 2 business	means a business described in Schedule 2 of POCL except a business described in Part 5 of Schedule 2

Term	Definition
TCSPs	Trust and Company Service Providers
VASP	Virtual Asset Service Provider
we/us/our	the JFSC

consultation draft

Annex 1

‘In or from within’ guidance

Consultation draft

Annex 2

FATF resources referred to within the Guidelines

- [FATF Recommendations](#)
- [FATF Methodology](#)
- [Risk-based approach guidance for the securities sector](#)
- [Guidance for a risk-based approach to the real estate sector](#)

Consultation draft