

7 ENHANCED AND SIMPLIFIED CDD MEASURES AND EXEMPTIONS FROM CDD REQUIREMENTS

7.1 Overview of section

1. This section explains the circumstances in which *CDD* measures are required to be *enhanced* under Articles 15, 15A and 15B of the *Money Laundering Order* and explains the exemptions from *CDD* requirements under Part 3A of the *Money Laundering Order*. It also sets out circumstances where simplified *identification measures* can be applied in relation to low-risk products or services.

2. In addition to any case where a *supervised person* determines that a *customer* presents a higher risk of *money laundering*, the *financing of terrorism*, or *proliferation financing*, Articles 15, 15A and 15B of the *Money Laundering Order* also require *enhanced CDD* measures to be applied in the following specified scenarios:

- › [customer, or some other person, is not physically present for identification purposes – section 7.4 of this Handbook;](#)
- › [customer has a relevant connection to an enhanced risk state – section 7.5 of this Handbook;](#)
- › [customer, or some other prescribed person, is a PEP – section 7.6 of this Handbook;](#)
- › [customer is a non-resident – section 7.7 of this Handbook;](#)
- › [customer is provided with private banking services – section 7.8 of this Handbook;](#)
- › [customer is a personal asset holding vehicle – section 7.9 of this Handbook;](#)
- › [customer is a company with nominee shareholders or issues bearer shares – section 7.10 of this Handbook;](#)
- › [correspondent banking or similar relationships – section 7.11 of this Handbook.](#)

3. It may be that *CDD* measures routinely applied under Article 13 of the *Money Laundering Order* already address some of the risk characteristics of these *customers* (for instance identification of *beneficial owner(s)* and understanding the nature and purpose of the relationship) and significantly reduce the risk of *money laundering*, the *financing of terrorism* and *proliferation financing*. Therefore, any additional measures may be quite limited.

4. Nevertheless, the *enhanced CDD measures* required under Articles 15, 15A and 15B of the *Money Laundering Order* must be in addition to the measures to be taken in circumstances presenting a lower or standard risk, as set out in sections 4 and 6 of *this Handbook* and must address the particular risk presented. This section provides some (non-exhaustive) examples for each category of *customer*.

5. When applying *enhanced CDD measures*, a *supervised person* should not use a 'one size fits all'-approach, e.g., applying the same package of measures regardless of the circumstances. The measures utilised should be tailored and appropriate to the specific scenario. The *supervised person* should also be able to articulate why they have applied the measures they have chosen, how they address the specific risks posed by the *customer* and how they are appropriate and commensurate with those risks.

6. A *customer* may be an individual (or group of individuals) or a legal person. Section 4.3 of *this Handbook* deals with the obligation to find out identity and obtain evidence for a *customer* who is an individual (or group of individuals), section 4.4 of *this Handbook* deals with the obligation to find out identity and obtain evidence for a *customer* (an individual or legal person) who is acting for a legal arrangement, and section 4.5 of *this Handbook* deals with the obligation to find out identity and obtain evidence for a *customer* who is a legal person.

7. References to a *customer* include, where appropriate, a prospective *customer* (an applicant for business) with whom a *business relationship* is to be established or a *one-off transaction* carried out.

7.2 Requirement to apply enhanced CDD measures

Statutory requirements (paraphrased wording)

8. Article 11(3)(c) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures to determine whether:

- (i) a customer;
 - (ii) a beneficial owner or controller of a customer;
 - (iii) a third party for whom a customer is acting;
 - (iv) a beneficial owner or controller of a third party described in (iii);
 - (v) a person acting, or purporting to act, on behalf of a customer; or
 - (vi) a beneficiary under a life insurance policy,
- is a PEP.

9. Article 11(3)(d) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures to determine whether a business relationship or one-off transaction is with a person connected with a country or territory that does not apply, or insufficiently applies, the FATF Recommendations.

10. Article 15(1) of the Money Laundering Order requires a relevant person to apply enhanced CDD measures on a risk-sensitive basis in the following circumstances:

- a) if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the relevant person and the relevant person is not resident in the customer's country of residence or in the same country as the country from which, or from within which, the customer is carrying on business;
- b) if a customer has not been physically present for identification purposes;
- c) if the relevant person has or proposes to have a business relationship or proposes to carry out a one-off transaction with a customer having a relevant connection with a country or territory (an "enhanced risk state") in relation to which the FATF has called for the application of enhanced customer due diligence measures;
- d) if the customer of the relevant person is a company with nominee shareholders or that issues shares in bearer form;
- da) if the customer of the relevant person is a limited liability company with nominee limited liability company interest holders;

- e) *if the customer of the relevant person is:*
 - i) *a legal person established by an individual for the purpose of holding assets for investment purposes; or*
 - ii) *a person acting on behalf of a legal arrangement established for an individual for the purpose of holding assets for investment.*
- f) *if the relevant person provides or proposes to provide a customer with private banking services;*
- g) *any situation which by its nature can present a higher risk of money laundering.*

7.3 Higher risk customer

Overview

11. Section 3.3 of *this Handbook* explains the risk-based approach to *identification measures*. It explains that a *supervised person* must, based on information collected, assess the risk that a *business relationship* or *one-off transaction* will involve *money laundering*, the *financing of terrorism*, or the *financing of proliferation*.
12. *Enhanced CDD measures* must be applied where a *supervised person's* assessment is that there is a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* (i.e., a situation which by its nature can present a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation*).
13. There are several reasons why a *business relationship* or *one-off transaction* might be assessed as presenting a higher risk. For this reason, there are several possible measures listed in this section to address that risk.

Guidance notes

14. A *supervised person* may demonstrate that it has applied enhanced *identification measures* to an individual who is a higher risk *customer* under Article 15 of the *Money Laundering Order* where it obtains evidence that verifies a:
 - › former name (if applicable); or
 - › passport or national identity card number.
15. A *supervised person* may demonstrate that it has applied enhanced *identification measures* to a higher risk *customer* under Article 15(1)(g) of the *Money Laundering Order* where it takes reasonable measures to find out the **source of funds** and **source of wealth** at the time that a *business relationship* is established or *one-off transaction* carried out which are commensurate with risk and include one or more of the following:
 - › commissioning an independent and reliable report from a specialist security agency about the *source of funds* involved and/or *customer's source of wealth*;
 - › where a *supervised person* is part of a group, obtaining reliable information from the group's internal security department or business intelligence unit (or equivalent) about the *source of funds* involved and/or *customer's source of wealth*;
 - › where a *supervised person* is part of a group, obtaining reliable information from a part of the group which has an office in the country or territory with which the *customer* has a connection about the *source of funds* involved and/or *customer's source of wealth*;

- › obtaining reliable information directly from the *customer* concerned, for instance during (or subsequent to) a face-to-face meeting inside or outside Jersey, or via a telephone “welcome call” on a home or business number which has been verified or by obtaining certified copies of corroborating documentation such as contracts of sale, property deeds, salary slips, etc.
- › obtaining reliable information from an external party (for instance a ~~solicitor~~ Lawyer, *Accountant* or *tax adviser*) which has an office in the country or territory with which the *customer* has the connection about the *source of funds* involved and/or *customer’s source of wealth*;
 - A supervised person who obtains information from an external party should not accept such information on face value but should assess whether it is reasonable to use this information, e.g. is it complete and accurate to the standards required under Jersey law; how far removed from the Beneficial owner and/or controller are they; does this create any additional AML/CFT/CPF risks that should be factored into the CRA?
- › obtaining reliable information from a person eligible to be an *obliged person* (for instance a ~~solicitor~~ Lawyer, *Accountant* or *tax advisor*) about the *source of funds* involved and/or *customer’s source of wealth*;
- › where information is publicly available or available through subscription databases, obtaining reliable information from a public or private source about the *source of funds* involved and/or *customer’s source of wealth*;
- › obtaining reliable information through financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards;
- › establishing how the *source of funds* and *source of wealth* relate to the property which is or will be the subject of the *business relationship* or *one-off transaction*. For example, the *customer’s* funds, generated by their employment at an investment firm, were used to purchase a house which will be settled into a trust.

16. Where a connection is established during the course of an existing relationship, a *supervised person* may also demonstrate that it has taken reasonable measures to find out the *source of funds* and/or *source of wealth* where it reviews the relationship information that it already holds and concludes that it is reliable.

17. Where the measures set out in paragraphs ~~143~~ to ~~165~~ above are not sufficient to mitigate the risk associated with the *customer*, a *supervised person* may demonstrate that it has applied enhanced *identification measures* where it does one or more of the following in a way that is commensurate with risk:

- › in a case where a document that has been used to obtain evidence of identity for a higher risk *customer*, e.g., a passport, subsequently expires, a *supervised person* may demonstrate that documents, data or information obtained under *identification measures* are kept up-to-date and relevant where a copy of the document that replaces that originally used to obtain evidence of identity is requested and obtained;
- › in a case where a *business relationship* is to be established making use of a suitable certifier, it obtains confirmation that a photograph contained in the document certified bears a true likeness to the individual requesting certification (or words to that effect).

18. A *supervised person* may demonstrate that it has applied enhanced on-going monitoring to a higher risk *customer* where it:

- › reviews the *business relationship* on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up-to-date and relevant;
- › where monitoring thresholds are used, sets lower thresholds for transactions connected with the *business relationship*.

7.4 Customer not physically present for *identification measures*

Overview

19. Frequently, *business relationships* will be established, and *one-off transactions* carried out where there is no face-to-face contact with the *customer* to be identified or its *Beneficial owners and/or controllers*, for example:

- › relationships established with individuals by mail, telephone or via the internet where external data sources are used to obtain evidence of identity;
- › where identity is found out on persons who fall within Article 3(7) of the *Money Laundering Order* through a trustee or general partner, or on *Beneficial owners and/or controllers* of a legal person through that legal person.

20. There may also be circumstances where there is face-to-face contact with a *customer*, but where documentary evidence is to be provided at a time when the *customer* is not present.

21. Such circumstances may increase the risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* as it may be easier for criminals to conceal their true identity when there is no face-to-face contact with the *supervised person*. They may also increase the risk of impersonation or identity fraud being used to establish a *business relationship* or conduct a *one-off transaction* for illegitimate purposes.

22. For the avoidance of doubt, this section does not apply to a person whose identity has been verified through a suitable certifier, (e.g., **where the certifier has met the person at the time the documents are certified**).

Statutory requirements (paraphrased wording)

23. *Under Article 15(1)(b) of the Money Laundering Order, if a customer has not been physically present for identification purposes, a relevant person must apply enhanced CDD measures on a risk-sensitive basis.*

AML/CFT/CPF Codes of Practice

24. A *supervised person* must apply *enhanced CDD measures* on a risk-sensitive basis where a person who falls within Article 3(7) of the *Money Laundering Order*, or who is the *Beneficial owner and/or controller* of a *customer* or is a person who must otherwise be identified under Article 3 of the *Money Laundering Order*, is not physically present for identification purposes.

Guidance notes

25. A *supervised person* may demonstrate that it has applied *enhanced identification measures*:

- › under Article 15 of the *Money Laundering Order*; and
- › under the *AML/CFT/CPF Codes of Practice* set at paragraph 24 above:

Where it finds out further information on a person (in this example, “Person A”), obtains an additional form of evidence of identity for Person A, or carries out some other additional measure in respect of Person A.

26. Additional forms of evidence of identity may include use of a further source listed in section 4 of *this Handbook* (including independent data sources).

27. Other additional measures may include:

- › where a *supervised person* is part of a group, confirmation from another part of that group that Person A has been met face-to-face;
- › confirmation from a *supervised person* that carries on a *regulated business* or a person who carries on an *equivalent business* that Person A has been met face-to-face;
- › confirmation from a *supervised person* that carries on *Trust Company Business* or a person who carries on an *equivalent business* that Person A is known to the *TCSP*, and the *TCSP* is satisfied that the particular individual is the person whose identity is to be found out;
- › a combination of other checks that adequately take into account the *supervised person’s* risk assessment for Person A, including:
 - requiring the first payment for the product or service to be drawn on an account in the *customer’s* name at a bank that is a *regulated person* or carries on *equivalent business* (refer to section 1.8 of *this Handbook*);
 - telephone contact with the *customer* prior to establishing a relationship on a home or business number which has been verified, or a “welcome call” to the *customer* before transactions are permitted, using the call to verify additional components of identity found out;
 - internet sign-on following verification measures where the *customer* uses security codes, tokens, and/or other passwords which have been set up during account opening and provided by mail (or secure delivery) to the named individual at an independently verified address;
 - specific card or account activation measures.

7.5 Customer with *relevant connection* to an *enhanced risk state*

Overview

28. The *FATF* has identified a number of countries and territories which have failed to address their own *money laundering*, the *financing of terrorism*, or *proliferation financing* risks, and/or have in place insufficient *AML/CFT/CPF* regimes, in relation to which it has called for the application of countermeasures. These countries or territories are referred to in the *Money Laundering Order* as *enhanced risk states*. A person with a *relevant connection* to these countries or territories presents a higher risk of being involved in *money laundering*, the *financing of terrorism*, or the *financing of proliferation*, and doing business with such a person also poses an increased risk.

29. For the purpose of applying Article 15(1)(c) of the *Money Laundering Order*, *enhanced risk states* are those listed in [Appendix D1](#) of *this Handbook*.

7.5.1 Application of *enhanced CDD measures* to a *customer with a relevant connection to an enhanced risk state*

Statutory requirements (paraphrased wording)

30. Under Article 15(1)(c) of the Money Laundering Order, if the relevant person has or proposes to have a business relationship or proposes to carry out a one-off transaction with a customer having a relevant connection with a country or territory (an “enhanced risk state”) in relation to which the FATF has called for the application of enhanced customer due diligence measures, a relevant person must apply enhanced CDD measures on a risk-sensitive basis.

31. Under Article 15(2)(a) of the Money Laundering Order, for the purpose of the Article 15(1)(c), a “customer” includes any of the following:

- a) a beneficial owner or controller of the customer;
- b) a third party for whom the customer is acting;
- c) a Beneficial owner or controller of a third party described above;
- d) a person acting, or purporting to act, on behalf of the customer.

32. Under Article 15(2)(b) of the Money Laundering Order a person has a relevant connection with an enhanced risk state if the person is:

- a) the government or a public authority of that state;
- b) in relation to that state, a foreign PEP (within the meaning of Article 15A);
- c) a person resident in that state;
- d) a person having an address for business in that state;
- e) A customer, where the source of the customer’s funds is or derives from assets held in that state by the customer or by any person on behalf of the customer or income arising in that state.

AML/CFT/CPF Codes of Practice

33. The *enhanced CDD measures* applied to a *customer with a relevant connection to an enhanced risk state* must include:

- › requiring any new *business relationship* (and continuation thereof) or *one-off transaction* to be approved by senior management;
- › where there is a *relevant connection* because a *customer’s source of funds* is, or derives, from:
 - assets held in the state by the *customer* or by any person on behalf of the *customer*;
or
 - income arising in the State, taking reasonable measures to find out the *customer’s source of wealth*.

Guidance notes

34. A *supervised person* may demonstrate that it has taken reasonable measures to find out the *source of wealth* at the time that a *business relationship* is established, or *one-off transaction* carried out, where the measures taken are commensurate with risk and include one or more of the measures listed in paragraph 15 above.

35. Where a *relevant connection* is established during an existing relationship, a *supervised person* may also demonstrate that it has taken reasonable measures to find out the *source of wealth* where it reviews the relationship information that it already holds and concludes that it is reliable.

36. A *supervised person* may demonstrate that it has otherwise applied *enhanced CDD measures* where it does all the following:

- › in a case where a document that has been used to obtain evidence of identity for a higher risk *customer*, e.g., a passport, subsequently expires, a *supervised person* may demonstrate that documents, data or information obtained under *identification measures* are kept up-to-date and relevant where a copy of the document that replaces that originally used to obtain evidence of identity is requested and obtained;
- › in a case where a relationship is to be established making use of a suitable certifier, it obtains confirmation that a photograph contained in the document certified bears a true likeness to the individual requesting certification (or words to that effect);
- › reviews the *business relationship* on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up-to-date and relevant;
- › where monitoring thresholds are used, sets lower thresholds for transactions connected with the *business relationship*.

7.6 Customer who is a Politically Exposed Person (PEP)

Overview

37. Corruption by *PEPs* will inevitably involve serious crime, such as theft or fraud, and is of global concern. The proceeds of such corruption are often transferred to other countries and territories and concealed through private companies, trusts or foundations, frequently under the names of relatives or close associates of the perpetrator.

38. By their very nature, *money laundering* investigations involving the proceeds of corruption generally gain significant publicity and are therefore very damaging to the reputation of both the businesses and countries/territories concerned. This is in addition to the possibility of criminal charges.

39. Indications that a *customer* may relate to corruption include excessive revenue from “commissions” or “consultancy fees” or involvement in contracts at inflated prices, where unexplained “commissions” or other charges are paid to external parties.

40. The risk of handling the proceeds of corruption or becoming engaged in an arrangement that is designed to facilitate corruption, is greatly increased where the arrangement involves a *PEP*. Where the *PEP* also has connections to countries or business sectors where corruption is widespread, the risk is further increased.

41. The nature of *enhanced CDD measures* applied will be commensurate with the risk that is identified and nature of the *PEP* connection. In particular, the measures to be applied by a *supervised person* to a *PEP*:

- › who is *the Minister* of Finance in a country that is prone to corruption may be very different to the measures to be applied to a senior politician with a limited portfolio in a country or territory that is not prone to corruption;
- › as another example, the measures to be applied to a company that is a *Commission Law, listed entity*, the securities of which are traded on a recognised market, and which has an investor who is a *PEP* with a 1% holding in the scheme, may be very different to a private company established exclusively to hold investments for a *PEP*.

42. As a result, there is no “one-size fits all” approach to applying *enhanced CDD measures* for *PEPs*.

43. Whilst *PEP* status does not in itself incriminate individuals or entities, it will mean that the *customer* may be subject to *enhanced CDD measures*. The nature and scope of a *supervised person’s* activities will generally determine whether the existence of *PEPs* in its *customer* base is a practical issue for the *supervised person*.

7.6.1 Determining whether a *customer* is a *PEP*

Statutory requirements (paraphrased wording)

44. Article 15A(3) of the Money Laundering Order provides the following definitions of *PEP* categories, which include an immediate family member or a close associate of the person:

“domestic PEP” means a person who is an individual who is or has been entrusted with a prominent public function in Jersey including but not limited to:

- › heads of state, heads of government, senior politicians;
- › senior government, judicial or military officials;
- › senior executives of state owned corporations;
- › important political party officials.

“foreign PEP” means a person who is an individual who is or has been entrusted with a prominent public function in a country or territory outside Jersey including but not limited to:

- › heads of state, heads of government, senior politicians;
- › senior government, judicial or military officials;
- › senior executives of state owned corporations;
- › important political party officials.

“prominent person” means a person who is an individual who is or has been entrusted with a prominent public function by an international organisation.

“prominent public function” in relation to an international organisation, means a member of the senior management, including a director, deputy director, board member or other equivalent function.

“immediate family member” includes any of the following:

- › a spouse;

- › a partner, that is someone considered by their national law as equivalent or broadly equivalent to a spouse;
- › children and their spouses or partners (as defined above);
- › parents;
- › grandparents and grandchildren;
- › siblings.

“close associate” of a person includes any person who is known to maintain a close business relationship with the person, including a person who is in a position to conduct substantial financial transactions on behalf of the person.

45. Under Article 15A(4) of the Money Laundering Order, for the purpose of deciding whether a person is a close associate of a person, a relevant person need only have regard to information which is in that person’s possession or is publicly known.

7.6.2 Enhanced CDD measures in relation to PEPs

Statutory requirements (paraphrased wording)

46. Article 15A of the Money Laundering Order applies to a relevant person:

- › who has or proposes to have a business relationship with, or proposes to carry out a one-off transaction with, a foreign PEP; or
- › who has or proposes to have a high-risk business relationship, or proposes to carry out a high-risk one-off transaction with, a domestic PEP or prominent person; or
- › if any of the following is a foreign PEP or, in the case of a high-risk business relationship or one-off transaction, a domestic PEP or prominent person:
 - i) a Beneficial owner or controller of the customer of the relevant person;
 - ii) a third party for whom the customer of the relevant person is acting;
 - iii) a Beneficial owner or controller of a third party described in clause (ii) above;
 - iv) a person acting or purporting to act on behalf of the customer of the relevant person.

47. A relevant person to whom Article 15A of the Money Laundering Order applies must apply enhanced CDD measures on a risk-sensitive basis including:

- › unless the relevant person is a sole trader, measures requiring a new business relationship or continuation of a business relationship or a new one-off transaction to be approved by the senior management of the relevant person;
- › measures to establish the source of the wealth of the PEP and source of the funds involved in the business relationship or one-off transaction;
- › measures to conduct the enhanced ongoing monitoring of that relationship; and
- › if the relevant business relationship relates to a life insurance policy, measures requiring the senior management to be informed before any payment is made under the policy or any right vested under the policy is exercised.

48. In Article 15A:

“enhanced ongoing monitoring” means ongoing monitoring that involves specific and adequate measures to compensate for the higher risk of money laundering.

“high risk”, in relation to a business relationship or one-off transaction, means any situation which by its nature can present a higher risk of money laundering.

“source of the wealth” means the source generating the total net worth of funds of the politically exposed person, whether those funds are used in the business relationship or one-off transaction.

49. Under Article 15A(2A) a domestic politically exposed person is relieved of such status 2 years after the person ceases to be entrusted with a prominent public function if the relevant person is satisfied that:

- i) following a risk assessment, the person does not present a higher risk of money laundering; and
- ii) there is no reason to continue to treat the person as a politically exposed person.

50. Under Article 15A(2B) a foreign politically exposed person is relieved of such status after 5 years of the person ceasing to be entrusted with a prominent public function if the relevant person is satisfied that:

- i) following a risk assessment, the person does not present a higher risk of money laundering; and
- ii) there is no reason to continue to treat the person as a politically exposed person.

51. Under Article 15A(2C) a prominent person is relieved of politically exposed person status 5 years after the person ceases to be entrusted with a prominent public function by an international organisation if the relevant person is satisfied that:

- i) following a risk assessment, the person does not present a higher risk of money laundering; and
- ii) there is no reason to continue to treat the person as a politically exposed person.

52. Under Article 15A(2D), Articles 15A(2A) to Article 15A(2C) also apply to immediate family members or close associates of the politically exposed person in question as they do to that person.

53. Article 15A(3) defines a prominent public function in relation to an international organisation as being a member of the senior management, including a director, deputy director, board member or other equivalent function.

AML/CFT/CPF Codes of Practice

54. Policies and procedures maintained in line with Article 11 of the Money Laundering Order must recognise that customers may subsequently acquire PEP status.

55. A domestic PEP can only be considered as no longer being a PEP, two years after they cease to be entrusted with a prominent public function if, following a risk assessment, the person does not present a higher risk of money laundering and there is no reason to continue to treat the person as a PEP.

56. A foreign PEP can only be considered as no longer being a PEP five years after they cease to be entrusted with a prominent public function if, following a risk assessment, the person does not present a higher risk of money laundering and there is no reason to continue to treat the person as a PEP.

57. A prominent person can only be considered as no longer being a PEP five years after they cease to be entrusted with a prominent public function if, following a risk assessment, the person does not present a higher risk of money laundering and there is no reason to continue to treat the person as a prominent person.

Guidance notes – Foreign PEPs

49-58. Where the existence of foreign PEPs is a practical issue, a supervised person may demonstrate that it has appropriate policies and procedures for determining whether a customer or prescribed person is a PEP where it does all of the following:

- › assesses those countries and territories to which customers are connected, which pose the highest risk of corruption. See section 3.3.4.1 of this Handbook;
- › finds out who the current and former holders of prominent public functions are within those higher risk countries and territories and determines, as far as is reasonably practicable, whether customers have any connections with such individuals (including through immediate family or close associates). In determining who the current and former holders of prominent public functions are, it may have regard to information already held by the supervised person and to external information sources such as the UN, the European Parliament, the UK Foreign, Commonwealth & Development Office, the Group of States against Corruption, and other external data sources (see section 3.3.4.2 of this Handbook); and
- › exercises vigilance where customers are involved in business sectors that are vulnerable to corruption such as (but not limited to) oil or arms trades.

50-59. Where a supervised person runs the details of all its customers and prescribed persons through an external data source (e.g., a screening package) to determine whether any of them are PEPs, it should nevertheless also assess those countries and territories to which customers are connected, which pose the highest risk of corruption, and exercise particular vigilance where customers are involved in business sectors that are vulnerable to corruption.

51-60. Where the customer is a PEP by virtue of their position as a senior executive of a sovereign wealth fund, the supervised person should check if the body is a member of the IFSWF. The IFSWF promotes transparency, good governance, and sound investment practices. Whilst membership of the IFSWF alone cannot guarantee that a sovereign wealth fund or senior executive thereof will act with integrity, the information provided on the IFSWF's website regarding the sovereign wealth fund may support other CDD measures undertaken.

52-61. In a case where a PEP is a director (or equivalent) of a customer, or person acting or purporting to act for a customer, and where no property of that PEP is handled in the particular business relationship or one-off transaction, a supervised person may demonstrate that it applies specific and adequate measures under Article 15A(2) of the Money Laundering Order where it considers the nature of the PEP's connection and reason why the PEP has such a connection.

62. Similarly, where a PEP is a trustee or a general partner that is a customer or is a beneficiary or object of a power of a trust, and where no property of that PEP is handled in the particular business relationship or one-off transaction, a supervised person may demonstrate that it applies specific and adequate measures under Article 15A(2) of the Money Laundering Order where it considers the nature of the PEP's connection and reason why the PEP has such a connection.

63. For the purposes of declassification, immediate family members, and close associates of foreign PEPs, and prominent persons, should be treated like PEPs.

64. A declassification assessment may occur once the relevant time period has passed. The timing of such an assessment, if at all, is at the discretion of the *supervised person*.

65. When a *supervised person* is considering the declassification of foreign *PEPS*, and *prominent persons*, *supervised persons* might consider the following:

- › The level of inherent corruption risk in the country of political exposure;
- › The position held and its susceptibility to corruption or misappropriation of state funds or assets;
- › Length of time in office and the likelihood of return to office in the future;
- › The level of transparency about the source of wealth and origin of funds, in particular funds generated while in office;
- › Links to any industries that are high risk for corruption;
- › The overall plausibility of the stated customer profile and net worth;
- › The level of transparency and plausibility of transactions processed through the account;
- › Whether there is relevant adverse information about the customer published in reputable sources; and
- › How politically connected they remain once they have left office.

66. For further guidance on declassifying PEPs *supervised persons* can refer to the following:

- › *The Wolfsberg Group Guidance*; and
- › *The FATF Guidance on Recommendation 12 and 22*.

Guidance notes – Domestic PEPs

53-67. In determining whether someone is a domestic *PEP*, a *supervised person* should consider the criterion set out at Article 15A(3) of the *Money Laundering Order* – namely that a *PEP* is an individual who is or has been entrusted with a prominent public function, for example:

- › heads of state, heads of government, senior politicians;
- › senior government, judicial or military officials;
- › senior executives of state owned corporations;
- › important political party officials.

54-68. In the context of Jersey, this will include (but is not limited to) the following positions:

- › Lieutenant-Governor;
- › Ministers (but not necessarily deputy Ministers);
- › Chief Executive of the States of Jersey;
- › Director-Generals of the States of Jersey;
- › HM Attorney-General;
- › HM Solicitor-General;
- › Commissioners of the *JFSC*;
- › Director General of the *JFSC*;
- › Registrar of Companies;

- › Information Commissioner;
- › Comptroller and Auditor-General;
- › Bailiff;
- › Deputy Bailiff;
- › Judicial Greffier;
- › Comptroller of Taxes;
- › HM Receiver General;
- › Senior Executives of State owned Body Corporates (or similar);

69. Note that this will also include immediate family members and close associates of individuals listed above.

70. A declassification assessment may occur once the relevant time period has passed. The timing of such an assessment, if at all, is at the discretion of the *supervised person*.

71. When a *supervised person* is considering the declassification of domestic *PEPS*, *supervised persons* might consider the following:

- › The level of inherent corruption risk in the country of political exposure;
- › The position held and its susceptibility to corruption or misappropriation of state funds or assets;
- › Length of time in office and the likelihood of return to office in the future;
- › The level of transparency about the source of wealth and origin of funds, in particular funds generated while in office;
- › Links to any industries that are high risk for corruption;
- › The overall plausibility of the stated customer profile and net worth;
- › The level of transparency and plausibility of transactions processed through the account;
- › Whether there is relevant adverse information about the customer published in reputable sources; and
- › How politically connected they remain once they have left office.

72. For further guidance on declassifying domestic *PEPs supervised persons* can refer to the following:

- › The Wolfsberg Group Guidance; and
- › The FATF Guidance on Recommendation 12 and 22.

7.6.2.1 Higher risk domestic *PEPs*

55-73. As set out in Article 15A(1)(b) of the *Money Laundering Order*, mandatory *enhanced CDD measures* are only required in relation to *business relationships* or *one-off transactions* with domestic *PEPs* which are assessed as higher risk.

56-74. Individuals entrusted with a prominent public function in Jersey may be considered to pose a low risk, unless a *supervised person* considers that other specific risk factors indicate a higher risk. Particular consideration should be given to the following characteristics that might indicate a higher risk:

- › responsibility for, or ability to influence, large public procurement exercises;

- › responsibility for, or ability to influence, allocation of government licenses (or similar);
- › personal wealth or lifestyle inconsistent with known legitimate sources of income or wealth;
- › credible allegations of financial misconduct.

57-75. Similarly, immediate family or close associates of individuals entrusted with a prominent public function in Jersey may be considered to pose a low risk, unless a *supervised person* considers that other specific risk factors indicate a higher risk. Particular consideration should be given to the following characteristics that might indicate a higher risk:

- › wealth or lifestyle inconsistent with known legitimate sources of income or wealth;
- › credible allegations of financial misconduct;
- › wealth derived from the granting of government *Licences* (or similar);
- › wealth derived from preferential access to the privatisation of former state assets.

7.7 Non-resident customer

Overview

58-76. *Customers* who are not resident in a country or territory but who nevertheless seek to form a *business relationship* or conduct a *one-off transaction* with a *supervised person* in that country or territory will typically have legitimate reasons for doing so. Some *customers* will, however, pose a risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* and may be attempting to move illicit funds away from their country or territory of residence or attempting to further conceal funds sourced from that country or territory.

Statutory requirements (paraphrased wording)

59-77. *Under Article 15(1)(a) of the Money Laundering Order, if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the relevant person and the relevant person is not resident in the customer's country of residence or in the same country as the country from which, or from within which, the customer is carrying on business, a relevant person must apply enhanced customer due diligence measures on a risk-sensitive basis.*

Guidance notes

60-78. A *supervised person* may demonstrate that it has applied *enhanced CDD measures* under Article 15(1)(a) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk. Additional measures may include one or more of the following:

- › determining the reasons why the *customer* is looking to establish a *business relationship* or carry out a *one-off transaction* other than in their home country or territory; and/or
- › the use of external data sources to collect information on the *customer* and the country risk of the *customer's* home country or territory (see section 3.3.4.1 of *this Handbook*) to build a *customer* business and risk profile similar to that available for a resident *customer*.

7.8 Customer provided with private banking services

Overview

61-79. Private banking is generally understood to be the provision of banking and investment services to high-net-worth *customers* in closely managed relationships. It often involves complex, bespoke arrangements and high value transactions across multiple countries and territories. Such *customers* may therefore present a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation*.

62-80. A trustee who may from time to time facilitate such banking or investments services as part of carrying on *Trust Company Business* is not considered to be providing private banking services, where such facilitation is ancillary to the core business of acting as a trustee.

Statutory requirements (paraphrased wording)

63-81. Under Article 15(1)(f) of the *Money Laundering Order*, if the relevant person provides or proposes to provide a customer with private banking services, a relevant person must apply enhanced CDD measures on a risk-sensitive basis.

64-82. Under Article 15(3), a service is a “private banking service” if the service is offered, or it is proposed to offer the service, only to persons identified by the service provider as being eligible for the service, having regard to the person’s net worth, and the service:

- a) involves a high value investment;
- b) is a non-standard banking or investment service tailored to the person’s needs, or uses corporate or trust investment structures, tailored to the person’s needs; or
- c) offers opportunities for investment in more than one jurisdiction.

Guidance notes

65-83. A supervised person may demonstrate that it has applied *enhanced CDD measures* under Article 15(1)(f) of the *Money Laundering Order* in respect of a private banking relationship, where it has applied additional measures that are commensurate with risk. Additional measures may include:

- › taking reasonable measures to find out the *source of funds* and *source of wealth*;
- › reviewing the *business relationship* on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up-to-date and relevant;
- › where monitoring thresholds are used, setting lower thresholds for transactions connected with the *business relationship*.

7.9 Customer that is a personal asset holding vehicle

Overview

66-84. Personal asset holding vehicles are legal persons or legal arrangements established by individuals for the specific purpose of holding assets for investment. The use of such persons or arrangements may make identification of ultimate beneficial owners more difficult since layering of ownership may conceal the true source or controller of the investment.

67.85. Article 15(1)(e) of the *Money Laundering Order* is intended to apply in two specific scenarios:

- › where the personal asset holding vehicle is the *customer*; or
- › where the personal asset holding vehicle is the third party for whom a trustee or general partner (the *customer*) is acting.

Guidance notes

68.86. A *supervised person* may demonstrate that it has applied *enhanced CDD measures* under Article 15(1)(e) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk. Additional measures may include:

- › understanding the structure of the vehicle, determining the purpose and rationale for making use of such a vehicle, and being satisfied that the *customer's* use of such an investment vehicle has a genuine and legitimate purpose;
- › taking reasonable measures to find out and document the *source of funds* and *source of wealth*.

7.10 Customer that is a company with nominee shareholders or issues bearer shares

Overview

69.87. Companies with nominee shareholders or bearer shares (or the ability to issue bearer shares in the future) may present a higher risk because such arrangements make it possible to hide the identity of the *beneficial owner(s)* and/or changes in beneficial ownership by separating legal and beneficial ownership, or because there is no trail of ownership, which introduces a degree of anonymity.

70.88. Nevertheless, nominee shareholders are often used for good and legitimate reasons, e.g., to ease administration and reduce client costs by enabling a nominee to take necessary corporate actions, such as the passing of resolutions, in the day-to-day administration of a corporate structure.

71.89. Where one or more of the following circumstances apply, the *customer* **should not** be considered to be a *customer* that issues bearer for the purpose of Article 15(1) of the *Money Laundering Order*:

- › the bearer shares are issued by a company in a country or territory that has fully enacted appropriate legislation to require bearer shares to be registered in a public registry and the bearer shares are so registered; or
- › the bearer shares are traded on an approved stock exchange; or
- › all issued bearer shares are held in the custody of the *supervised person*, the *customer* or trusted external party along with an undertaking from that trusted external party or *customer* to inform the *supervised person* of any transfer or change in ownership.

Statutory requirements (paraphrased wording)

72.90. Under Article 15(1)(d) of the *Money Laundering Order*, if a *customer* of a relevant person is a company with nominee shareholders or that issues shares in bearer form, a relevant person must apply *enhanced CDD measures* on a risk-sensitive basis.

Guidance notes

73-91. A supervised person may demonstrate that it has applied *enhanced CDD measures* under Article 15(1)(d) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk.

74-92. In the case of *customers* who are companies with nominee shareholders, additional measures may include:

- › determining and being satisfied with the reasons why the *customer* is making use of nominees;
- › using external data sources to collect information on the fitness and propriety of the nominee (such as its regulated status and reputation) and the particular country risk.

75-93. In the case of *customers* who are companies with bearer shares (or the ability to issue bearer shares in the future), additional measures may include:

- › determining and being satisfied with the reasons why the *customer* has issued bearer shares or retains the ability to do so;
- › ensuring that any new or continued *business relationship* or any *one-off transaction* is approved by the *senior management* of the *supervised person*;
- › reviewing the *business relationship* on at least an annual basis, including all documents, data and information obtained under *identification measures* to ensure that they are kept up to date and relevant.

7.11 Correspondent banking and similar relationships

Overview

94. **Correspondent Banking** is defined as the provision of *Banking Services* by a *Jersey Ffinancial institution* or *VASP* (i.e. the **correspondent**) to a *foreign financialF institution* or *VASP* that itself provides *Banking Services* to its *customers* (i.e. the **respondent**, but only where the *respondent* is not in Jersey).

95. **Banking Services** include the following:

- › providing a current or other liability account;
- › cash management;
- › international funds transfers;
- › cheque clearing;
- › providing customers of the respondent with direct access to accounts with the correspondent (and vice versa); and
- › providing foreign exchange services.

96. In accordance with the FATF standard, *Supervised Persons* that are ~~financial institutions~~ and VASPs must also apply enhanced measures in relation to *similar relationships*, being those where financial services other than *Banking Services* are provided by the Supervised person (the correspondent) to an overseas ~~financial institution or VASP~~ (the respondent) for the benefit of customers of the respondent, including for example, those established for securities transactions. The degree of AML/CFT risk in such relationships is different, generally lower, than it is with relationships which provide for *Banking Services*; they are more similar to normal customer relationships.

97. As a result, in both cases (*correspondent banking and similar relationships*), the correspondent makes its services available to the customers of the *respondent*. In doing so, the correspondent potentially exposes itself to additional risk. This section sets out the additional CDD measures required by the *Money Laundering Order* to appropriately manage the risk presented by such relationships and provides guidance.

98. *Jersey financial institutions and VASPs* are prohibited by the *Money Laundering Order* from entering into correspondent *banking relationships* with shell banks and must take steps to ensure they do not provide *correspondent banking services* to banks that *permit shell banks* to have accounts.

~~“Correspondent banking” is a term given to the provision of banking services by a supervised person (i.e., the correspondent) to another overseas financial institution (i.e., the respondent) for the benefit of the customers of the respondent. As a result, the correspondent indirectly makes its services available to the customers of the respondent. In doing so, the correspondent potentially exposes itself to additional risk. This section sets out the additional CDD measures required where a correspondent enters a correspondent relationship with a respondent to appropriately manage the risk presented by that relationship.~~

~~FATF standards also require financial institutions to apply enhanced measures in relation to other similar relationships, for example, those established for securities transactions or funds transfers, whether for the cross-border financial institution as principal or for its customers.~~

~~Supervised persons that are registered under the BB(J)L are prohibited by the Money Laundering Order from entering banking relationships with “shell banks”.~~

Statutory requirements (paraphrased wording)

99. Article 15B of the *Money Laundering Order* applies to a Jersey VASP which has or proposes to have a correspondent banking or similar relationship with a foreign financial institution or foreign VASP. Article 15B of the *Money Laundering Order* applies to a Jersey ~~financial institution or VASP~~ -who has or proposes to have a correspondent banking or similar relationship with a ~~financial institution or VASP~~ whose address for that purpose is outside Jersey.

100. Under Article 15B(2) of the *Money Laundering Order* a Jersey ~~financial institution or VASP~~ must apply enhanced customer due diligence measures on a risk-sensitive basis including:

- › gathering sufficient information about the institution to understand fully the nature of its business

- › determining the reputation of the institution and the quality of its supervision, including whether it has been subject to any money laundering investigation or regulatory action
- › assessing the institution's systems and controls to combat money laundering in order to determine whether they are consistent with the requirements of the FATF recommendations and their effectiveness
- › requiring any new relationship to be approved by the senior management of the relevant person
- › ensuring that both the relevant person and the institution clearly understand their respective responsibilities to prevent and detect money laundering and recording those responsibilities
- › being satisfied that, in respect of customers of the institution who have services provided directly by the relevant person, that the institution has applied customer due diligence measures at least equivalent to those set out in this Order and is able to provide a copy, at the request of the relevant person, of the evidence, documents, data and information obtained when applying such measures.

101. Article 23A(1) of the Money Laundering Order provides that a Jersey Financial Institution or VASP must not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a respondent that is a shell bank.

102. Article 23A(2) of the Money Laundering Order provides that a Jersey Financial Institution or VASP must take appropriate measures to ensure that it does not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a Financial Institution or VASP that is known to permit its accounts to be used by a shell bank.

103. Article 23A(4)(b) defines "shell bank" as a bank incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is not subject to supervision by the JFSC or by an overseas regulatory authority by reason of that bank's connection with any other institution or person.

~~Article 15B of the Money Laundering Order applies to a relevant person who has or proposes to have a banking or similar relationship with an institution whose address for that purpose is outside Jersey.~~

~~Under Article 15B(2) of the Money Laundering Order a relevant person must apply enhanced customer due diligence measures on a risk sensitive basis including:~~

~~gathering sufficient information about the institution to understand fully the nature of its business;~~

~~determining the reputation of the institution and the quality of its supervision, including whether it has been subject to any money laundering investigation or regulatory action;~~

~~assessing the institution's systems and controls to combat money laundering in order to determine whether they are consistent with the requirements of the FATF recommendations and their effectiveness;~~

~~requiring any new relationship to be approved by the senior management of the relevant person;~~

~~ensuring that both the relevant person and the institution clearly understand their respective responsibilities to prevent and detect money laundering and recording those responsibilities;~~

~~being satisfied that, in respect of customers of the institution who have services provided directly by the relevant person, that the institution has applied customer due diligence measures at least equivalent to those set out in this Order and is able to provide a copy, at the request of the relevant person, of the evidence, documents, data and information obtained when applying such measures.~~

~~Article 23A(1) of the Money Laundering Order provides that a relevant person that is a correspondent bank must not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a respondent that is a shell bank.~~

~~Article 23A(2) of the Money Laundering Order provides that a relevant person that is a correspondent bank must take appropriate measures to ensure that it does not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a bank that is known to permit its accounts to be used by a shell bank.~~

~~Article 23A(4)(b) of the Money Laundering Order defines “shell bank” as a bank incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is not subject to supervision by the JFSC or by an overseas regulatory authority by reason of that bank’s connection with any other institution or person.~~

- › assessing the ~~institution’s~~ systems and controls of the foreign financial institution or foreign VASP to combat money laundering in order to determine whether they are consistent with the requirements ~~of the~~ FATF Recommendations and their effectiveness;
- › requiring any new relationship to be approved by the senior management of the Jersey financial institution or Jersey VASP ~~the relevant person~~;

Guidance notes

104. This part of the Money Laundering Order and this guidance applies to supervised persons that are financial institutions or VASPs that have correspondent banking or similar relationships with an overseas financial institution or VASP.

105. The respondent’s address for this purpose should be considered to be overseas unless the transaction is with the Jersey office of a business.

106. A correspondent may demonstrate that it has gathered sufficient information about the respondent where it obtains information concerning the following:

- › the geographic location of its customer base
- › the general nature of its customer base
- › the nature of the services which the Institution provides to its customers
- › whether relationships are conducted by the Institution on a non-face to face basis
- › the extent to which the institution relies on third parties to identify and hold evidence of identity or to conduct other CDD measures on customers.

107. A supervised person may determine the respondents’ reputation by assessing its stature from publicly-available information from credible sources on the reputation of the respondent and the quality of the supervision to which it is subject.

108. A correspondent may determine that a respondent’s systems and controls are consistent with the requirements of the FATF Recommendations where the respondent carries on equivalent business (see Section 1.8 of this Handbook).

109. Where customers of the respondent have direct access to the services of the correspondent, a correspondent may satisfy itself as to the adequacy of the respondent’s CDD measures, and its ability to provide relevant CDD information and documents on request where either:

- a) It obtains a written assurance from the respondent to this effect; or

b) The *correspondent bank* may also satisfy itself as to the adequacy of the *CDD measures* of the *respondent* and its ability to produce information and documentation on request by periodically requesting relevant *CDD* information and documents from the institution.

110. Where the *correspondent* provides *correspondent banking*, the *correspondent* should also consider the following guidance:

a) Correspondent Banking Services (FATF)

b) Correspondent Banking Principles (Wolfsberg Group)

c) Money Laundering – UK Joint Money Laundering Steering Group’s Guidance (JMLSG), Part II, Chapter 16 - the guidance relating to “Correspondent Banking Relationships”

111. For similar relationships, it should also consider the following guidance:

a) Money Laundering – UK Joint Money Laundering Steering Group’s Guidance (JMLSG), Part II, Chapter 16 - the guidance relating to “Correspondent Trading Relationships”

112. Regarding the definition of a *shell bank*, “physical presence” means meaningful mind and management located within a country. The existence simply of a local agent or low level staff does not constitute physical presence.

7.12 Enhanced CDD measures – transitional arrangements

Overview

76.113. Where amendments to the *Money Laundering Order* introduce new *CDD* requirements applicable to *business relationships* and *one-off transactions*, these requirements do not apply retrospectively, and no remediation project is required.

77.114. However, Article 13(1)(c)(ii) of the *Money Laundering Order* requires a *supervised person* to apply *identification measures* where the *supervised person* has doubts about the veracity or adequacy of documents, data or information previously obtained. In the context of this section, this would include where documents, data or information previously obtained for a *business relationship* do not satisfy additional new *CDD* requirements, such as those set out in the [Money Laundering \(Amendment No.10\) \(Jersey\) Order 2019](#)

78.115. This means that where, during the course of its regular review of a *business relationship* (pursuant to Article 3(3)(b) of the *Money Laundering Order* and discussed at section 3.4 of *this Handbook*) a *supervised person* becomes aware that documents, data or information previously obtained do not satisfy the additional *CDD* requirements set out in the [Money Laundering \(Amendment No.10\) \(Jersey\) Order 2019](#) (or any other subsequent amendments), the *supervised person* will need to apply *CDD* measures to that *customer* at that time, in line with the requirement in Article 13(1)(c)(ii) of the *Money Laundering Order*.

7.13 Exemptions from CDD requirements – Overview

Overview

79.116. Part 3A of the *Money Laundering Order* provides for exemptions from CDD requirements that apply in some strictly limited circumstances, as set out in Articles 17B - D and 18 of the *Money Laundering Order*.

80.117. Article 17A of the *Money Laundering Order* provides circumstances in which exemptions under Part 3A do not apply. See the table below:

Circumstances in which exemptions under Part 3A of the <i>Money Laundering Order</i> do not apply (Article 17A of the <i>Money Laundering Order</i>)	
Exemptions under Articles 17 B-D of the <i>Money Laundering Order</i>	Exemptions under Article 18 of the <i>Money Laundering Order</i>
› the <i>supervised person</i> suspects <i>money laundering</i>	› the <i>supervised person</i> suspects <i>money laundering</i>
› the <i>supervised person</i> considers that there is a higher risk of <i>money laundering</i> , including the risk of <i>money laundering</i> if fail to apply appropriate <i>identification measures</i> or keep records.	› the <i>supervised person</i> considers that there is a higher risk of <i>money laundering</i>
› the <i>customer</i> is resident in a country that is not compliant with the <i>FATF Recommendations</i> .	› the <i>customer</i> is resident in a country that is not compliant with the <i>FATF Recommendations</i>
› the <i>customer</i> is a person in respect of whom Article 15(1)(c) of the <i>Money Laundering Order</i> applies [specified persons having a <i>relevant connection</i> to country/territory in relation to which <i>FATF</i> has called for <i>enhanced CDD measures</i>].	› the <i>customer</i> is a person in respect of whom Article 15(1)(c) of the <i>Money Laundering Order</i> applies [specified persons having a <i>relevant connection</i> to country/territory in relation to which <i>FATF</i> has called for <i>enhanced CDD measures</i>].
› the customer is a person in respect of whom Article 15B(1) of the <i>Money Laundering Order</i> applies [certain <i>Deposit-taking businesses</i> with a banking or similar relationship with an institution whose address for that purpose is outside Jersey]	

81.118. Definitions for various terms used within Part 3A of the *Money Laundering Order* and this section are set out below (save that *relevant person* is replaced with *supervised person*):

- › **Relevant customer** means a *customer* of a *supervised person* that the *supervised person* knows or reasonably believes is:
 - a *supervised person* in respect of whose *financial services business* the *JFSC* discharges supervisory functions, or a person carrying on *equivalent business*; or

- a person wholly owned by a *supervised person* described in the above point (the “parent”), but only if:
 - the person is incorporated or registered in the same jurisdiction as the parent;
 - the person has no *customers* who are not *customers* of the parent;
 - the person’s activity is ancillary to the business in respect of which the *JFSC* discharges supervisory functions, or to *equivalent business* carried on by the parent; and
 - in relation to that activity, the person maintains the same *policies and procedures* as the parent.
- › **third party identification requirements** mean the requirements of Articles 13 or 15, 15A, 15B of the *Money Laundering Order* to apply the *identification measures* specified in Article 3(2)(b) of the *Money Laundering Order*.
- › **non-public fund** means a scheme falling within the definition of “collective investment fund” in Article 3 of the *CIF(J) Law*, except that the offer of units in the scheme or arrangement is not an offer to the public within the meaning of that Article.

82-119. Exemptions from *identification measures* may only be applied in appropriate circumstances. Where specified, this will require an assessment of the risk of applying the exemption, in addition to a *CRA*.

Guidance notes

83-120. Articles 18 and 17B-D of the *Money Laundering Order* can be applied to the same *customer* relationship, as they apply to separate identification requirements, however there are some elements of *CDD* that the *supervised person* will always be required to undertake – see the tables below:

CDD element	Always required to be undertaken by the <i>supervised person</i>
<i>Identification measures</i>	Risk assessment.
	Obtain information on purpose/nature.
On-going monitoring	Scrutinising transactions/activity.
	Keep documents/information up-to-date.

CDD element	Articles 17B-D of the <i>Money Laundering Order</i> provide an exemption from this obligation
<i>Identification measures</i>	Identify third parties.

CDD element	Article 18 of the <i>Money Laundering Order</i> provides an exemption from this obligation (N.B: Does not apply to third parties)	
<i>Identification measures</i>	Identify <i>customer</i> .	
	Identify person acting for <i>customer</i> .	Verify authority to act.
	Where <i>customer</i> is not an individual:	Understand ownership/control structure.
		Identify <i>Beneficial owners and/or controllers</i> .

84.121. Article 18 of the *Money Laundering Order* only applies to the *customer* and does not extend to third parties. For example, it would apply to a general partner of a limited partnership or a trustee of a trust, but not to the limited partnership or trust itself. Articles 17B-D of the *Money Laundering Order* **can** be applied to third parties which would, for example, encompass the investors in a limited partnership or a unit trust.

7.14 Exemption from applying *third party identification requirements* in relation to *relevant customers* acting in certain regulated, investment or fund services business

Statutory requirements (paraphrased wording)

85.122. Under Article 17B(1) of the *Money Laundering Order*, a relevant person is exempt from applying *third party identification requirements* in relation to a third party for which a relevant customer is acting where the relevant customer is acting in the course of a business:

- › that falls within paragraphs (a), (b) or (d) in the definition of “regulated business” in Article 1, or equivalent business; or
- › that is an investment business or fund services business registered under the FS(J) Law, or equivalent business.

86.123. Under Article 17B(2) of the *Money Laundering Order*, a relevant person must record the reasons for applying the exemption, having regard to the risk of money laundering inherent in the relevant customer’s business and the higher risk of money laundering associated with that type of business should the relevant customer fail to:

- a) apply the identification measures specified in Article 3(2)(b) of the *Money Laundering Order*, or if the relevant customer is not in Jersey, similar identification measures required to be applied to satisfy the requirements in Recommendation 10 of the FATF Recommendations; or
- b) keep records, or keep them for the period required to be kept.

AML/CFT/CPF Codes of Practice

87.124. A supervised person must be able to demonstrate that the exemption conditions required by the *Money Laundering Order* and summarised in the *statutory requirements* above are being met.

7.15 Exemption from applying *third party identification requirements* in relation to certain *relevant customers* involved in unregulated or non-public funds, *Trust Company Business* or the legal profession

Statutory requirements (paraphrased wording)

88-125. Under Article 17C(1) of the Money Laundering Order a relevant person is exempt from applying third party identification requirements in relation to a third party for which a relevant customer is acting if the relevant customer:

- a) is, or carries on business in respect of, an unregulated fund, within the meaning of the [*Collective Investment Funds \(Unregulated Funds\) \(Jersey\) Order 2008*](#), or equivalent business;
- b) is, or carries on business in respect of, a fund that is a non-public fund, being a fund in respect of which a service is provided that is described in paragraph 9 of Part 2 of Schedule 2 to the Proceeds of Crime Law, or equivalent business;
- c) carries on Trust Company Business and is registered to carry on such business under the FS(J) Law, or equivalent business, but only if the relevant person is:
 - i. carrying on deposit-taking business;
 - ii. a Lawyer carrying on business described in paragraph 21 of Part 3 of Schedule 2 to the Proceeds of Crime Law; or
 - iii. an Accountant carrying on a business described in paragraph 22 of Part 3 of Schedule 2 to the Proceeds of Crime Law; or
- d) is an independent legal professional carrying on a business described in paragraph 21 of Part 3 of Schedule 2 to the Proceeds of Crime Law and is registered to carry on such business under the Supervisory Bodies Law, but only if the relevant person is carrying on deposit-taking business.

89-126. Under Article 17C(2) of the Money Laundering Order, a relevant person who, by virtue of Article 17C(1) of the Money Laundering Order, does not apply third party identification requirements must:

- a) be satisfied, by reason of the nature of the relationship with the relevant customer, that there is little risk of money laundering occurring; and
- b) obtain adequate assurance in writing from the relevant customer that the relevant customer:
 - i. has applied the identification measures specified in Article 3(2)(b) of the Money Laundering Order to the third party, or if the relevant customer is not in Jersey, has applied similar identification measures that would satisfy the requirements in recommendations 10 and 12 of the FATF Recommendations;
 - ii. will provide the relevant person, without delay and in writing, with the information obtained from applying the identification measures, if so requested by the relevant person;

- iii. *will keep the evidence obtained during the course of applying the identification measures; and*
- iv. *will provide the relevant person with that evidence without delay, if requested to do so by the relevant person.*

90.127. *Under Article 17C(3) of the Money Laundering Order the following requirements to adequate assurance apply:*

- a) *assurance is adequate if it is reasonably capable of being regarded as reliable and the person who relies on it is satisfied that it is reliable;*
- b) *assurance may be given in relation to one or more business relationships and for more than one transaction; and*
- c) *assurance need not be given before deciding not to comply with third party requirements if an assurance has previously been given by that customer to the relevant person in relation to a business relationship or transaction.*

91.128. *Article 17C(4) of the Money Laundering Order provides that a relevant person (including a person who was formerly a relevant person) who has given an assurance to another person under Article 17C(2)(b) (or under an equivalent provision that applies outside Jersey) may, if requested by the other person, provide the person with the information or evidence obtained from applying the identification measures referred to in Article 17C(2)(b)(i) of the Money Laundering Order (see paragraph ~~12607~~ above).*

Guidance notes

92.129. In relation to the exemption set out at Article 17C(1)(a) or (b) of the *Money Laundering Order*, a supervised person may be satisfied that there is little risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* occurring where a particular fund is closed-ended, has no liquid market for its units, and permits subscriptions and redemptions to come from and be returned only to unitholders.

93.130. In relation to the exemption set out at Article 17C(1)(c)(i) of the *Money Laundering Order*, a supervised person may be satisfied that there is little risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* occurring where:

- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, pending the transfer to a designated account for a third party, where the funds are not to be held on an undisclosed basis for longer than 40 days;
- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, pending the receipt of instructions when exiting a *customer* relationship, where the funds are not to be held on an undisclosed basis for longer than 40 days;
- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, to facilitate ad hoc (not routine) cheque payments where designated accounts do not otherwise have this facility;
- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, to facilitate the aggregation of statutory fees for onward payment;

- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, to receive fees payable to the *customer* which have been paid in advance;
- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, to receive *customer* money on an ad hoc basis paid to the *customer* in error;
- › deposited funds are held for one or more third parties in a client account operated by a person carrying on *Trust Company Business*, where the number and value of third party transactions effected is low, e.g., to provide third parties with access to low-cost banking facilities where third parties' liquid assets are of insufficient value and volume for the establishment of a *Designated relationship* (e.g., balances of £1,000 or less per relationship, with little activity); or
- › deposited funds are aggregated by a person carrying on *Trust Company Business* in order to attract a better return on investment for third parties, and where the aggregated deposit is received from and paid back (including income or profit generated) to an account held with another person carrying on deposit-taking business who is registered to do so by the JFSC, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority.

94.131. In relation to the exemption set out at Article 17C(1)(d) of the *Money Laundering Order*, a *supervised person* may be satisfied that there is little risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* occurring where the deposit is in respect of a third party's registered contract within the meaning of the [Control of Housing and Work \(Jersey\) Law 2012](#).

95.132. In relation to the exemptions set out at Article 17C(1)(c)(ii) and (iii) of the *Money Laundering Order*, guidance on when a *supervised person* may be satisfied that there is little risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* occurring is provided in sections 15.4 and 16.5 of *this Handbook*.

7.15.1 Assessment of risk

Overview

96.133. The risk factors that are set out in this section will also be relevant to a *CRA* that is conducted under section 3.3.4.1 of *this Handbook* in the cases highlighted at sections 4.4 and 4.5 of *this Handbook*.

Statutory requirements (paraphrased wording)

97.134. Immediately before applying the exemptions set out in Part 3A, Article 17B(2) and 17D(2) of the *Money Laundering Order* require a relevant person to conduct an assessment as to whether it is appropriate to do so, having regard to the relevant customer's business and the higher risk of money laundering should the relevant customer fail to:

- › apply the necessary identification measures to its customer(s); or
- › keep records, or keep them for the period required to be kept.

98.135. Article 17B(2) and 17D(2) of the *Money Laundering Order* require a relevant person to prepare a written record of the reason why it is appropriate to apply CDD exemptions.

~~99-136.~~ Article 17D(3) of the Money Laundering Order also sets out testing requirements for application of CDD exemptions under Article 17C of the Money Laundering Order. Under Article 17D(3) a relevant person must, in the manner, and as often as, the relevant person considers appropriate in all the circumstances, conduct tests in order to establish whether the relevant customer:

- a) has appropriate policies and procedures in place to apply the identification measures described in Articles 13(1)(a), 13(1)(c)(ii) and 15 of the Money Laundering Order (or if the relevant customer is not in Jersey, similar identification measures that satisfy the FATF Recommendations in respect of identification measures);
- b) obtains information in relation to the third party;
- c) keeps the information or evidence that has been obtained in relation to the third party; and
- d) provides the relevant person with that information or evidence without delay, if requested to do so by the relevant person.

In conducting such tests, the relevant person must consider whether the relevant customer may be prevented, by application of a law, from providing that information or evidence.

~~100-137.~~ If, as a result of conducting the tests referenced above, the relevant person is unable to establish that the relevant customer complies with the above requirements under Article 17D (3)(b), (c) or (d) of the Money Laundering Order, the relevant person must immediately apply the identification measures specified in Article 13(1)(a) and 13(1)(c)(ii) of the Money Laundering Order.

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~~101-138.~~ In a case where, for a particular *business relationship*, testing under Article 17D(3) of the Money Laundering Order highlights that a *relevant customer* has not found out information or obtained evidence of identity for a third party (or parties), does not keep that information or evidence of identity, or will not provide it on request and without delay when requested to do so, a *supervised person* must review the basis upon which it has applied CDD exemptions to other relationships with that particular *relevant customer* (if any) to determine whether it is still appropriate to apply those measures.

Guidance notes

~~102-139.~~ Immediately before applying the exemptions set out in Part 3A of the Money Laundering Order, a *supervised person* may demonstrate that it has had regard to a *relevant customer's* business where it considers the following factors:

- › the general risk appetite of the *relevant customer*;
- › the geographic location of the *relevant customer's* client base;
- › the general nature of the *relevant customer's* client base, e.g., whether institutional or private client;
- › the nature of the services that the *relevant customer* provides to its clients;
- › the extent to which the *relevant customer* carries on business with its clients on a non-face to face basis or clients are otherwise subject to *enhanced CDD measures*; and
- › the extent to which clients of the *relevant customer* may be *PEPs* or present a higher risk of money laundering, the financing of terrorism, or the financing of proliferation, and the sources of funds of such *PEPs*.

~~103-140.~~ Immediately before applying the exemptions set out in Part 3A of the *Money Laundering Order*, a *supervised person* may demonstrate that it has had regard for the higher risk of *money laundering*, the *financing of terrorism*, and the *financing of proliferation* should a *relevant customer* fail to apply *identification measures*, keep records, or keep records for the required period where it considers the following factors:

- › the stature and regulatory track record of the *relevant customer*;
- › the adequacy of the framework to combat *money laundering*, the *financing of terrorism*, and the *financing of proliferation* (including *targeted financial sanctions*) in place in the country or territory in which the *relevant customer* is based and the period of time that the framework has been in place;
- › the adequacy of the supervisory regime to combat *money laundering*, the *financing of terrorism*, and the *financing of proliferation* to which the *relevant customer* is subject;
- › the adequacy of *identification measures* applied by the *relevant customer* to combat *money laundering*, the *financing of terrorism*, and the *financing of proliferation*;
- › the extent to which the *relevant customer* itself relies on other *obliged persons* to identify its clients and to hold evidence of identity, and whether such parties are *supervised persons* or carry on an *equivalent business*.

~~104-141.~~ A *supervised person* may demonstrate that it has considered the adequacy of *identification measures* applied by a *relevant customer* where it takes one or more of the following steps:

- › reviews its previous experience (if any) with the *relevant customer*;
- › makes specific enquiries, e.g., through use of a questionnaire;
- › reviews relevant *policies and procedures* of the *relevant customer*;
- › where the *relevant customer* is a member of a *financial group*, makes enquiries concerning the extent to which group standards are applied to and assessed by the group's internal audit function;
- › conducts (or commissions from an external expert) sample testing of the adequacy of the *relevant customer's policies and procedures* to combat *money laundering*, the *financing of terrorism*, or the *financing of proliferation*, whether through onsite visits, or through requesting specific *CDD* information and/or copy documentation to be provided.

7.16 Further exemptions from applying identification requirements

Statutory requirements (paraphrased wording)

~~105-142.~~ Article 18 of the *Money Laundering Order* provides further specific circumstances where exemptions from applying *identification measures* may be used.

Insurance Business

~~106-143.~~ Under Article 18(1) of the *Money Laundering Order*, a *relevant person* is exempt from applying the *identification measures* specified in Article 13 of the *Money Laundering Order* in respect of *insurance business* if:

- a) *in the case of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation, the policy contains no surrender clause and may not be used as collateral security for a loan;*
- b) *a premium is payable in one instalment of an amount not exceeding £1,750; or*
- c) *a periodic premium is payable and the total amount payable in respect of any calendar year does not exceed £750.*

Pension, superannuation, employee benefit, share option or similar scheme

~~107-144.~~ Under Article 18(2) of the Money Laundering Order, a relevant person is exempt from applying the identification measures specified in Article 13 of the Money Laundering Order if:

- a) *the business relationship or one-off transaction relates to a pension, superannuation, employee benefit, share option or similar scheme;*
- b) *the contributions to the scheme are made by an employer or by way of deductions from wages;*
- c) *the rules of the scheme do not permit the assignment of an interest of a member of the scheme except after the death of the member; and*
- d) *the interest of a deceased member of the scheme is not being assigned.*

Regulated person and those carrying on equivalent business

~~108-145.~~ Under Article 18(3) of the Money Laundering Order, a relevant person is exempt from applying the identification requirements in Article 13 of the Money Laundering Order in respect of the measures specified in Article 3(2)(a), (aa) and (c) of the Money Laundering Order in relation to a customer if the customer is:

- a) *a regulated person;*
- b) *a person who carries on equivalent business to any category of regulated business; or*
- c) *a person wholly owned by a person (the "parent") mentioned in sub-paragraph (a) or (b), but only if:*
 - i. *the person is incorporated or registered in the same jurisdiction as the parent;*
 - ii. *the person has no customers who are not customers of the parent, the person's activity is ancillary to the regulated business or equivalent business carried on by the parent;*
 - iii. *in relation to that activity, the person maintains the same policies and procedures as the parent.*

Public authority or body corporate/limited liability company with listed securities

~~109-146.~~ Under Article 18(4) of the Money Laundering Order, a relevant person is exempt from applying the identification requirements in Article 13 of the Money Laundering Order in respect of the measures specified in Article 3(2)(a) and 3(2)(aa) of the Money Laundering Order (in so far as those measures require identifying any person purporting to act on behalf of the customer), 3(2)(c)(ii) and 3(2)(c)(iii) of the Money Laundering Order in relation to a customer if the customer is:

- a) *a public authority acting in that capacity;*
- b) *a body corporate or limited liability company the securities of which are listed on an IOSCO-compliant market or on a regulated market; or*

- c) a person wholly owned by a person mentioned in sub-paragraph (b).

Person authorised to act on behalf of customer

~~110.147.~~ Under Article 18(5) of the Money Laundering Order, a relevant person is exempt from applying the identification requirements in Article 13 of the Money Laundering Order in respect of the measures specified in Article 3(2)(aa) of the Money Laundering Order (in so far as those measures require identifying any person purporting to act on behalf of a customer) in relation to a person if:

- a) the person is authorised to act on behalf of the customer;
- b) the customer is not a relevant person;
- c) the person acts on behalf of the customer in the course of employment by a person carrying on a financial services business; and
- d) the financial services business is a regulated business or an equivalent business to a regulated business.

Specified business (Lawyers and real estate agents)

~~111.148.~~ Under Article 18(6) of the Money Laundering Order, a relevant person is exempt from applying the identification requirements in Article 13 of the Money Laundering Order to the extent that the measures require identification of a person within the meaning of Article 3(4)(b) of the Money Laundering Order if:

- a) the relevant person's business falls within paragraph 21 [Lawyers] or 19 [Real estate agents] of Part 3 of Schedule 2 to the Proceeds of Crime Law; and
- b) that person enters into a business relationship or carries out a one-off transaction for the purpose of enabling a customer, directly or indirectly, to enter into a registered contract (within the meaning of the [Control of Housing and Work \(Jersey\) Law 2012](#)).

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~~112.149.~~ For each case described in Article 18 of the Money Laundering Order, a supervised person must obtain information on the purpose and intended nature of the *business relationship* or *one-off transaction*.

~~113.150.~~ A supervised person must obtain and retain documentation establishing that the customer is entitled to benefit from an exemption in Article 18 of the Money Laundering Order.

7.16.1 Pension, superannuation, employee benefit, share option or similar schemes

Overview

~~114.151.~~ Where a supervised person enters into a *business relationship* or carries out a *one-off transaction* relating to a pension, superannuation, employee benefit, share option or similar scheme, in some limited circumstances there is no requirement to apply *identification measures*.

~~115.152.~~ However, the exemption cannot be applied if a supervised person considers that there is a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation*.

Guidance notes

~~116-153.~~ A supervised person may demonstrate that it considers whether there is a higher risk of money laundering, the financing of terrorism, or the financing of proliferation when, among other things, it considers the reputation of the sponsoring employer and adequacy of controls in place over membership.

7.16.2 Jersey public authority

Overview

~~117-154.~~ Where a customer is a public authority then, in line with Article 18(4)(a) of the Money Laundering Order, there is no requirement to apply identification measures on that customer, on the Beneficial owners and/or controllers of the customer, or those purporting to act on behalf of the customer.

~~118-155.~~ However, in the above scenario the obligation to apply identification measures to any third party for which the customer may be acting and to verify the authority of persons acting on behalf of the customer remain in force.

~~119-156.~~ The following may be considered to be public authorities in Jersey:

- › a government department of the States of Jersey;
- › a majority States-owned company;
- › an agency established by a law of the States of Jersey;
- › a parish authority.

7.16.3 Body Corporate/limited liability company with listed securities

Overview

~~120-157.~~ Where a customer is a body corporate or limited liability company, the securities of which are listed on a market that conforms to international standards set by IOSCO or on a regulated market, then in line with Article 18(4)(b) of the Money Laundering Order, there is no requirement to apply identification measures on that customer (or any wholly owned subsidiary), on the Beneficial owners and/or controllers of the customer (or any wholly owned subsidiary), or those purporting to act on behalf of the customer (or any wholly owned subsidiary).

~~121-158.~~ However, in the above scenario the obligations to apply identification measures to any third party for which the customer (or wholly owned subsidiary) may be acting and to verify the authority of persons acting on behalf of the customer (or wholly owned subsidiary) remain in force.

~~122-159.~~ A market may be considered to be IOSCO-compliant if it is operated in a country or territory that has been assessed as having “fully implemented” or “broadly implemented” IOSCO Principles 16 and 17. In order to be assessed as having “fully implemented” or “broadly implemented” Principle 17, a country or territory must require:

- › information about the identity and holdings of persons who hold a substantial beneficial ownership interest to be disclosed on a timely basis;
- › material changes in such ownership and other required information to be disclosed in a timely manner.

~~123-160~~. Whilst there is not a global list of countries and territories that “fully implement” or “broadly implement” *IOSCO* Principles 16 and 17, reference may be made to [IMF Financial System Stability Assessment reports](#), prepared as part of the *IMF* Financial Sector Assessment Program.

~~124-161~~. Guidance published by the UK’s [Joint Money Laundering Steering Group](#) addresses what may be considered to be a *regulated market*. The only list of exchanges currently available is for *EU-regulated markets* (follow the link provided in the glossary entry for *regulated market*).

7.16.4 *Regulated persons and those carrying on equivalent business*

Overview

~~125-162~~. Where a *customer* is:

- › a *regulated person* (defined in Article 1(1) of the *Money Laundering Order*);
- › a person who carries on *equivalent business* to any category of *regulated business*; or
- › wholly owned by a person listed above and which fulfils certain conditions (see Article 18(3)(c) of the *Money Laundering Order*)

Then in line with Article 18(3) of the *Money Laundering Order*, there is no requirement to apply *identification measures* in respect of the *customer*, the *Beneficial owners and/or controllers* of the *customer*, or those purporting to act on behalf of the *customer*. Nor is there a requirement to verify the authority of any person purporting to act for the *customer*.

~~126-163~~. However, these provisions do not also provide an exemption in respect of any third party (or parties) for whom the *customer* is acting, or for the *Beneficial owners and/or controllers* of such a third party (or parties).

7.16.5 Person authorised to act on behalf of a *customer*

Guidance notes

~~127-164~~. Where a person authorised to act on behalf of a *customer* holds their role by virtue of their employment by (or position in) a business that is a *regulated person* or an equivalent *regulated business*, a *supervised person* may demonstrate that this exemption applies where it obtains:

- › the full name of the individual; and
- › an assurance from the employer that the individual is an officer or employee.

7.17 Exemptions from *CDD* requirements where there is outsourcing or an *AMLSP* is appointed

~~128-165~~. Exemptions from *CDD* requirements can still be used by *supervised persons* where their *customer* is a *supervised person* in receipt of outsourced services and/or *AMLSP* services:

- › Can a *supervised person* using an Outsourced service provider/*AMLSP* still use the exemptions even if the *AMLSP*/outsourced service provider is applying *CDD* measures on their behalf? Yes, subject to consideration of criteria of exemption and Article 17A of the *Money Laundering Order*;
- › Can another *supervised person* (*Supervised person 1*) with a *Supervised person 2* as their *customer*, where *Supervised person 2* is using an outsourced service provider/*AMLSP* (who

will apply *CDD* measures for *Supervised person 2* as part of the outsourced services/*AMLSP*) apply exemptions from *CDD* measures to that *Supervised person 2* ~~as its customer or in relation to third parties who are customers of Supervised person 2~~? Yes, subject to consideration of criteria of exemption and Article 17A of the *Money Laundering Order*;

- › Can an outsourced service provider/*AMLSP* apply Article 18 of the *Money Laundering Order* identification exemptions to the *customer* of the *supervised person* on its own behalf? No, A *customer* relationship with a *supervised person* does not create a *customer* relationship with the *AMLSP* or the outsourcing service provider;
- › Can an outsourced service provider/*AMLSP* contracted to provide *CDD* measures for the *supervised person* apply Article 17 of the *Money Laundering Order* third party identification exemptions to the *customers* of the *supervised persons* or the third parties for whom they act? The *JFSC* would not expect the *AMLSP* or outsourcing service provider to apply Article 17 of the *Money Laundering Order* third party identification exemptions to the *customers* of the *supervised persons* or the third parties for whom they act to avoid undertaking its contractual obligations to apply *CDD* measures as *AMLSP* or outsourcing service provider on behalf of that *supervised person*.

7.18 Simplified *identification measures* – Obtaining evidence of identity for very low risk products/services

Overview

~~129-166~~. Where funds involved in a *business relationship*:

- › have been received from a bank that is a *regulated person* or carries on *equivalent business* to deposit-taking (see section 1.8 of *this Handbook* regarding *equivalent business*); and
- › have come from an account in the sole or joint name of the *customer* who is an individual (or are individuals);

Then the receipt of funds from such an account may be considered to be reasonably capable of verifying that the person to be identified is who they are said to be where the product or service requested by the *customer* is considered to present a very low risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation*. This will be the case where funds may only be received from, and paid to, an account in the *customer's* name, i.e., a product or service where funds may not be paid in by, or paid out to, external parties.

~~130-167~~. In the event that any of the conditions set below are breached, evidence of identity for the *customer* must be obtained at that time in accordance with section 4 of *this Handbook* and this section 7 of *this Handbook*.

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~~131-168~~. The concession referred to above must not be applied in the following circumstances:

- › where a *supervised person* suspects *money laundering*, the *financing of terrorism*, or the *financing of proliferation*;
- › in any situation which by its nature can present a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation*;
- › where the *customer* has a *relevant connection* to an *enhanced risk state*; or

- › where the *customer* is resident in a country or territory that is not compliant with the *FATF Recommendations*.

~~132.169.~~ To benefit from the concession, the product or service must satisfy the following conditions:

- › all initial and future payments must be received from an account at a bank that is a *regulated person* or carries on an *equivalent business* to deposit-taking (see section 1.8 of *this Handbook*), where the account can be confirmed as belonging to the *customer*;
- › no initial or future payments may be received from external parties;
- › cash withdrawals are not permitted, with the exception of face-to-face withdrawals by the *customer*, where they are required to produce evidence of identity before the withdrawal can be made;
- › no payments may be made, other than to an account at a bank that is a *regulated person* or carries on an *equivalent business* to deposit-taking (see section 1.8 of *this Handbook*), where the account can be confirmed as belonging to the *customer*, or on the death of the *customer* to a personal representative named in the grant of probate or the letters of administration; and
- › no future changes must be made to the product or service that enable funds to be received from or paid to external parties.

~~133.170.~~ A *supervised person* must obtain and retain evidence confirming that payment has been received from an account at a bank that is a *regulated person* or carries on an *equivalent business* to deposit-taking (see section 1.8 of *this Handbook*), and, where a request for a withdrawal or transfer to another bank account is received, confirmation that this account is also in the *customer's* name and held at a bank that is a *regulated person* or carries on an *equivalent business* to deposit-taking.

~~134.171.~~ If a *supervised person* has reason to suspect that the motive behind a particular transaction, or the way a business is being structured, is to avoid standard *identification measures*, it must not use this concession.

