Jersey Financial Services Commission

6 ONGOING MONITORING

6.1 Obligation to perform ongoing monitoring

Statutory requirements (paraphrased wording)

1. Article 3(3) of the *Money Laundering Order* sets out what ongoing monitoring is to involve:

- *scrutinising transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with the relevant person's knowledge of the customer, including the customer's business and risk profile. See Article 3(3)(a) of the Money Laundering Order;*
- *keeping documents, data, or information up-to-date and relevant by undertaking reviews of existing records, particularly in relation to higher risk categories of customers. See Article 3(3)(b) of the Money Laundering Order.*

2. *Article 13 of the Money Laundering Order requires a relevant person to apply ongoing monitoring throughout the course of a business relationship.*

6.2 Overview of ongoing monitoring

3. This section outlines the statutory provisions concerning ongoing monitoring. Ongoing monitoring consists of:

- scrutinising transactions undertaken throughout the course of a *business relationship* and
- keeping documents, data, or information up-to-date and relevant.

4. The obligation to monitor a *business relationship* starts at the time the business relationship is established and finishes at the time that it is terminated.

5. As part of the take on and risk assessment of any *customer*, a *supervised person* may demonstrate that it has considered the risk of the business where it considers the factors set out at Section 3.3.4.1 of *this Handbook*. In assessing these factors, reference may be made to external data sources as per Section 3.3.4.2.

6. In a case where a relationship has been terminated, but where payment for a service remains outstanding, a *supervised person* will still need to consider reporting provisions summarised in section 9 of *this Handbook*. For example, where there is suspicion that payment for the service is made from the proceeds of criminal conduct or instrumentalities. Noting that record keeping requirements extend beyond the termination of business relationships see section 11. Termination provides an opportunity to ensure *CDD* records are up to date.

7. This section explains the requirement to regularly keep *customer* documents, data, or information up-to-date and relevant to current standards and the measures required to demonstrate compliance with the requirement to scrutinise transactions and sets a requirement to scrutinise *customer* activity. Customer information and data is dynamic and need to be reassessed continuously.

8. Ongoing monitoring activities can be divided into two types:

- Scheduled periodic reviews; and
- Monitoring activities undertaken on an ongoing basis, which includes transaction/activity monitoring, ongoing screening or business as usual notifications which may lead to a Trigger Event.

9. Screening, transaction/activity monitoring and periodic review arrangements should be properly documented *and* assessed as to whether they provide an acceptable level of risk mitigation as part of ongoing monitoring of effectiveness of compliance.

10. For some *customer*s, additional information may only become evident **during** the course of the *business relationship* (i.e., whilst acting for the *customer*), leading to a revised profile and risk assessment. This requires particular diligence and care when updating documents, data or information and when scrutinising and monitoring *customer* activity and transactions. In these cases, appropriate staff training in the recognition of unusual transactions and activity is vital, as are relevant systems and controls.

11. Monitoring may involve **manual** and **automated processes**. Automated monitoring processes may add value to manual processes by recognising transactions or activity that fall outside set parameters. This will be particularly so where a *supervised person* processes large volumes of *customer* transactions which are not subject to day-to-day oversight. However, where automated monitoring processes are not in place, monitoring is likely to be most effective when undertaken on a case-by-case basis by *customer* facing staff, administration, and accounts staff, whom may be expected to spot and highlight notable transactions or activity.

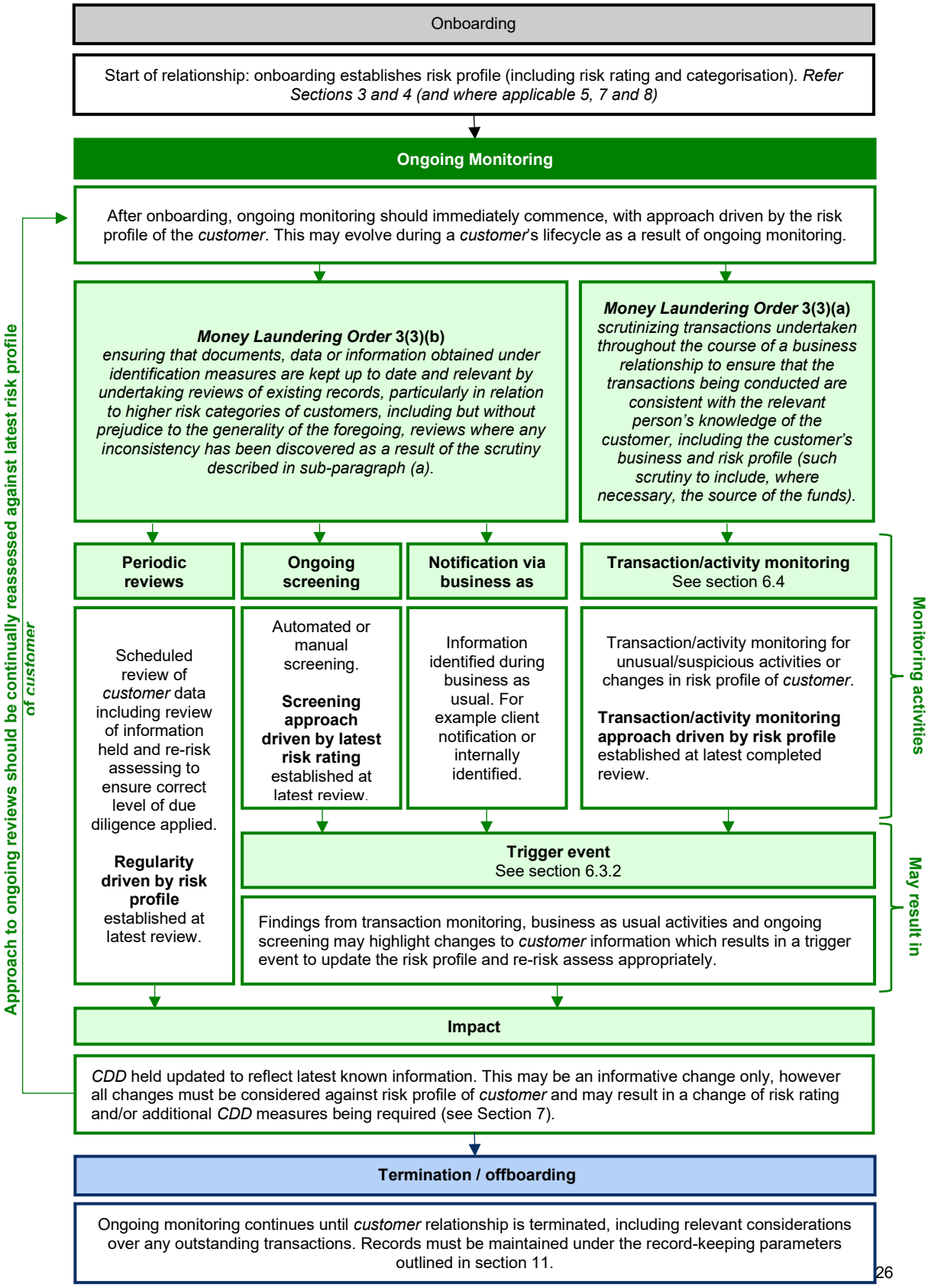
12. Where ongoing monitoring gives rise to a suspicion of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* activity, an internal *SAR* must be made to the *MLRO*. Reporting of knowledge, suspicion, or reasonable grounds for knowledge or suspicion, of *money laundering*, the *financing of terrorism*, or the *financing of proliferation* is addressed in section 9 of *this Handbook*.

13. Practical guidance on financial sanctions implementation matters, including an explanation of reporting obligations under the Sanctions and Asset-Freezing Law, is provided on the JFSC's website. See also section 9.8 of this Handbook.

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6.3 Monitoring requirements over *customer* lifecycle

14. Process-flow illustrating *the customer lifecycle, including the* interrelation between key ongoing monitoring components.



Ongoing monitoring

15. Ongoing monitoring: ensuring that documents, data and information are up to date and remain relevant

Overview

16. Article 3(3)(b) of the *Money Laundering Order* explains that ongoing monitoring includes ensuring that documents, data, or information obtained under *identification measures* are kept up-to-date and relevant by undertaking reviews of existing records, particularly in relation to higher risk categories of *customers*, including reviews where any inconsistency has been disclosed because of scrutiny.

17. Among other things, where there is a change to information found out about the *customer*, the *customer* acts for a new third party, a new person purports to act for the *customer*, or the *customer* has a new *Beneficial owner and/or controller*, Article 13(1)(c)(ii) of the *Money Laundering Order* requires that the identity of that person is found out and evidence obtained.

Guidance notes

6.3.1 Scheduled periodic reviews

18. A *supervised person* may demonstrate that documents, data and information obtained under *identification measures* are kept up-to-date and relevant under Article 3(3)(b) of the *Money Laundering Order* where they are reviewed on a risk-sensitive basis, including where additional "factors to consider" (see section 3) or trigger events occur which may impact the *customer* business and risk profile.

19. A *supervised person* may demonstrate that documents, data or information obtained under *identification measures* are kept up-to-date and relevant under Article 3(3)(b) of the *Money Laundering Order* where the *customer* is requested to, and does provide, an assurance that they will update the information provided on a timely basis in the event of a subsequent change.

20. The frequency of scheduled periodic reviews should be based on the risk rating of the *customer* as set out in the *customer* risk assessment. *Supervised persons* are expected to record the frequency of periodic reviews aligned to the relevant risk profiles in their policies and procedures. Higher risk categories of *customer*s, particularly (as indicated by Article 3(3)(b) of the *MLO)* may require more frequent and detailed reviews, see also section 6.5 for enhanced ongoing monitoring.

6.3.2 Trigger events

21. A trigger event is an event or circumstance that triggers the *supervised person* to review the information and documentation held on the customer to ensure that it is comprehensive, accurate and up to date.

22. Trigger events may also present a convenient opportunity to reassess the *customer*'s risk profile and review documents, data and information obtained under *identification measures*. Such review may result in the *customer*'s risk profile changing, enhanced due diligence becoming necessary or the filing of a suspicious activity report.

23. Non exhaustive examples of potential trigger events:

- Customer advises of change of circumstances as per terms of engagement e.g. change of domicile, change to the family
- Doubts about currentness of *customer* information
- Customer purchases further product or opens a new account
- Unusual transactions
- Change to customer's Source of Wealth and/ or changes in risk profile of customer's SoW
- New taxation reporting requirements
- Undeliverable post
- Scrutiny of transactions reveals inconsistency
- Automated database screening raises an alert, e.g. indicates *customer* has become a PEP or connected to a PEP
- Change of intermediary who acts on behalf of *customer* and provides instructions
- Meeting with *customer* to discuss new business
- Update to Appendix D2
- Material changes to the assets and business activities of a structure and exclusion/addition of beneficiaries to a Trust
- Change in corporate form of *customer* e.g. merger
- Change to *customer*'s Source of Funds
- Controller through other means identified
- Adverse media on *customer* or persons connected to the *customer*
- JFSC examination findings flags ongoing monitoring common failings
- Awareness *customer* is having financial difficulties
- Court case outcome
- Change to *customer*'s risk profile
- Change in *customer*'s ownership and control structure
- Update to Sanctions list
- Employee suspicion of ML/TF/PF arises regarding *customer*

6.4 Ongoing monitoring: transactions and activity

Statutory requirements (paraphrased wording)

24. *Article 11 of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures for the application of CDD measures, having regard to the degree of risk of money laundering and the financing of terrorism. The policies and procedures referred to include those:*

- *which provide for the identification and scrutiny of:*
  - *complex or unusually large transactions;*
  - *unusual patterns of transactions, which have no apparent economic or visible lawful purpose; or*
  - *any other activity which the relevant person regards as particularly likely by its nature to be related to money laundering or the financing of terrorism.*
- *which determine whether:*

a. business relationships or transactions are with a person connected with a country or territory in relation to which the FATF has called for the application of enhanced CDD measures; or

b. business relationships or transactions are with a person:

i. subject to measures under law applicable in Jersey for the prevention and detection of money laundering;

ii. connected with an organization that is subject to such measures; or

iii. connected with a country or territory that is subject to such measures.

25. *Article 11(3A) of the Money Laundering Order explains that, for the purposes of Article 11(3)(a), "scrutiny" includes scrutinising the background and purpose of transactions and activities.*

26. *Parts 3, 4 and 5 of the Sanctions and Asset-Freezing Law set out a range of restrictions and prohibitions in respect of designated persons. These relate to funds, economic resources and financial services.*

27. *By virtue of the Sanctions and Asset-Freezing Law, UK designations have immediate effect in Jersey.*

28. *Article 32(1) of the Sanctions and Asset-Freezing Law requires a relevant financial institution to inform the Minister for External Relations and Financial Services (the Minister) as soon as practicable if:*

- *it knows, or has reasonable cause to suspect, that the person:*
  - *is a designated person; or*
  - *has committed, is committing, or intends to commit an offence under that law; and*
- *the information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business.*

AML/CFT/CPF Codes of Practice

[COP58] In addition to the scrutiny of transactions, ongoing monitoring must also involve scrutinising activity in respect of a business relationship to ensure that the activity is consistent with the *supervised person*'s knowledge of the *customer*, including the *customer*'s business and risk profile.

[COP59] A *supervised person* must establish and maintain appropriate and consistent *policies and procedures* which provide for the **identification** and **scrutiny** of:

- complex or unusually large activity;
- unusual patterns of activity, which have no apparent economic or visible lawful purpose; and
- any other activity, the nature of which causes the *supervised person* to regard it as particularly likely to be related to *money laundering*, the *financing of terrorism*, or the financing of proliferation.

[COP60] As part of its examination of the above transactions, a *supervised person* must **examine**, as far as possible, their background and purpose and set forth its findings in writing.

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Guidance notes

6.4.1 Scrutiny of transactions and activity

29. High level approach to the three pillars of transaction and activity monitoring described below.

1

Supervised person defines expected transaction/activity profile of *customer*

30. Transaction monitoring should be established through onboarding and subsequent ongoing monitoring, taking into account risk profile of *customer* with factors such as (but not limited to) risk rating, expected turnover/transactions, geographic sphere of activities, industry and products to establish expected transaction/activity profile.

31. Sections 3 and 4 of *this Handbook* address the capturing of sufficient information about a *customer*, allowing a *supervised person* to record a ***customer* business and risk profile** which provides a basis for recognising notable transactions/activity, which may indicate *money laundering*, the *financing of terrorism*, or the *financing of proliferation*.

32. Where a *supervised person's customer* base is homogeneous, and where the products and services provided to *customer*s result in uniform patterns of transactions or activity, it may be easier to establish parameters to identify usual transactions/activity. For example, when dealing with local property transactions being passed before the Royal Court or undertaking deposit taking activities.

33. Where each *customer* is unique, and where the product or service is bespoke, a *supervised person* will need to tailor monitoring systems to the nature of its business and facilitate the application of additional judgement and experience to the recognition of unusual transactions and activity. This is particularly the case when transactions are being made in VAs.

34. Higher risk or complex transactions/activity may be recognised by developing a set of 'red flags' or indicators which may indicate *money laundering*, the *financing of terrorism*, or the financing of proliferation, based on a *supervised person's* understanding of its business, products and *customer*s (i.e. the outcome of its BRA – section 2.3.1 of *this Handbook*).

2

Supervised person monitors all transactions and activity

35. Based on expectations outlined in step 1, *supervised person* monitors all transactions and activity to recognise notable transactions or activity that:

- are inconsistent with the *supervised person's* knowledge of the *customer* (including inconsistency with the normal business activities for the product/service being offered);
- are complex or unusually large;
- form part of an unusual pattern; or
- present a higher risk of *money laundering*, the *financing of terrorism*, or the financing of proliferation.

36. A *supervised person* must therefore, as a part of its scrutiny of transactions/activity, establish appropriate procedures to monitor all its *customer*s' transactions/activity, and to recognise and examine notable transactions/activity.

37. Scrutiny may involve both real time and post event monitoring. Real time monitoring will focus on transactions and activity when information or instructions are received from a *customer*, before or as the instruction is processed. Post event monitoring may involve end of day, weekly, monthly or annual reviews of *customer* transactions and activity. Real time monitoring of transactions and activity will more effectively reduce a *supervised person's* exposure to *money laundering*, the *financing of terrorism*, and the financing of proliferation. Post event monitoring may be more effective at identifying unusual patterns.

3

Appropriate person reviews transactions identified and takes necessary steps

38. Where notable transactions or activity are **recognised**, they will need to be **examined**. The purpose of this examination is to determine whether there is an **apparent economic** or **visible lawful purpose** for the transactions or activity. It is not necessary (nor will it be possible) to conclude with certainty that a transaction or activity has an economic or lawful purpose. Sometimes, it may be possible to make such a determination based on an existing *customer* business and risk profile and on occasion this examination will involve requesting additional information from a *customer*.

39. Such notable transactions and activity, including their background and purpose, should be examined by an appropriate person to ensure that they are within:

- the expected pattern of transactions;
- the expected activity for a particular *customer*; or
- the normal business activities for the type of product or service that is being delivered.

40. Notable transactions or activity may indicate *money laundering*, the *financing of terrorism*, or the *financing of proliferation* where there is no apparent economic or visible lawful purpose for the transaction or activity, i.e., they are no longer just unusual but may also be suspicious. **Reporting** of knowledge, suspicion, or reasonable grounds for knowledge or suspicion of *money laundering* or the *financing of terrorism* or *proliferation financing* is addressed in section 9 of *this Handbook*.

41. Subsequent to the review, appropriate steps may need to be taken, which can include (but not be limited to) the following:

- An update of risk profile to ensure the latest *customer* information is maintained (see Trigger Events in Section 6.3.2);
- This may also impact the risk assessment, subsequent risk rating and risk categorisation of a *customer*, which could consequently require additional due diligence to be collected, and future ongoing monitoring approach may change (see Section 6.5 on *Enhanced Monitoring*);
- The raising of a Suspicious Activity Report (see Section 9.3);
- Further enquiries from the *customer* (if not constituting 'Tipping Off', see section 9.5);
- A cessation of activity and business with the *customer*.

42. The examination of notable transactions or activity may also be conducted either by *customer* facing employees, or by an independent reviewer. In any case, the examiner must have access to all *customer* records and be appropriately trained and experienced.

43. The results of an examination should be recorded, including appropriate action taken and rationale. Refer to section 11 of *this Handbook* for record-keeping requirements in relation to the examination of notable transactions and activity.

44. In addition to the scrutiny of **transactions** as required by the *Money Laundering Order*, *AML/CFT/CPF Codes of Practice* in this section also require a *supervised person* to scrutinise *customer* **activity**. This is not just relevant to transaction-based *business relationships*, but also to *business relationships* that do not involve transactions, e.g., where a *supervised person* gives investment advice, or acts as a director to a company.

45. Monitoring activities are required over all *customer*s to an extent that is appropriate for their risk profile. Additional or more frequent monitoring is required for relationships that have been designated as carrying a higher risk of *money laundering*, the *financing of terrorism*, or the *financing of proliferation (*enhanced monitoring as part of *enhanced CDD measures,* see section 6.5 below*)*.

46. External data sources and media reports may also assist with the identification of notable transactions and activity.

47. To **recognise** *money laundering*, the *financing of terrorism*, and the *financing of proliferation, employees* will need to have a good level of awareness of each, and to have received training. Refer to section 10 of *this Handbook* for raising awareness and training.

Guidance notes

48. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate where **scrutiny** of transactions and activity has regard to the following factors:

- its *BRA* (including the size and complexity of its business);
- the nature of its business and services;
- whether it is practicable to monitor transactions or activity in real time (i.e., before *customer* instructions are put into effect);
- whether it is possible to establish appropriate standardised parameters for automated monitoring; and
- the monitoring procedures that already exist to satisfy other business needs.

49. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate where the following are used to **recognise** notable transactions or activity:

- *customer* business and risk profile – see section 3.3.5 of *this Handbook*;
- 'red flags' or indicators of higher risk – that reflect the risk that is present in the *supervised person's customer* base – based on its *BRA* (refer to section 2.3.1 of *this Handbook*), information published from time-to-time by the *JFSC* or *FIU*, e.g., findings of supervisory and themed examinations and typologies, and information published by reliable and independent third parties;
- 'red flags' or indicators of complex transactions and activity – based on its *BRA* (refer to section 2.3.1 of *this Handbook*), information published from time-to-time by the *JFSC* or *FIU*, e.g. findings of supervisory and themed examinations and typologies, and information published by reliable and independent third parties; and
- 'red flags' or indicators of sanctions evasion - based on its *BRA* (refer to section 2.3.1 of *this Handbook*), information published from time-to-time by the *JFSC* or the Government of Jersey, e.g. findings of supervisory/themed examinations and typologies, and information published by reliable and independent third parties.

50. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate if **examination** of notable transactions or activity includes:

- reference to the *customer's* business and risk profile;
- as far as possible, a review of the background and purpose of a transaction or activity (set in the context of the business and risk profile); and
- where necessary, the collection of further information needed to determine whether a transaction or activity has an **apparent economic** or **visible lawful purpose**.

Case study:

- a *supervised person* may have a *business relationship* with a *customer* who previously advised that they had a modest *source of funds*.
- the *customer* then instructs the *supervised person* to purchase an asset, the value of which appears to be outside the means of the *customer's source of funds,* as currently understood.
- while the *supervised person* may be satisfied that it still knows the identity of the *customer*, as part of its ongoing monitoring obligations, it would be appropriate to ask about the *source of funds* for this purchase. Depending on the *customer's* willingness to provide such information, and the answer that is provided, the *supervised person's staff* should also consider whether they:
- are satisfied with the response;
- want further proof of the *source of funds*; and/or
- need to submit an internal *SAR* to the *supervised person's MLRO*.

51. A *supervised person* may demonstrate that *CDD* and reporting *policies and procedures* are effective if, **post-examination** of notable transactions or activity, it:

- revises, as necessary, its *customer's* business and risk profile;
- adjusts, as necessary, its monitoring system, e.g., it refines monitoring parameters, enhances controls for more vulnerable products/services/business units;
- considers if it knows, or has reasonable cause to suspect, that a person:
  - i) is a *designated person*; or
  - ii) has committed, is committing or intends to commit and offence under the *Sanctions and Asset-Freezing Law*; and
- considers whether it knows, suspects, or has reasonable grounds for knowing or suspecting that another person is engaged in *money laundering,* the *financing of terrorism*, or the *financing of proliferation*, or that any property constitutes or represents:
  - i) the proceeds of criminal conduct; or
  - ii) property used in or intended to be used in criminal conduct.

  If the above applies, a suspicious activity report should be considered (refer to section 9)

6.5 Enhanced ongoing monitoring

52. A *supervised person* may demonstrate that it has applied enhanced ongoing 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. The document review should always include the obtaining of documentary/corroborating evidence to verify *source of funds* and *source of wealth* (where evidence is lacking) and updating beneficial ownership information.
- where monitoring thresholds are used, sets lower thresholds for transactions connected with the *business relationship*.

53. Additional or more frequent monitoring for relationships that have been designated as carrying a higher risk of *money laundering*, the *financing of terrorism*, or the financing of proliferation. Enhanced ongoing monitoring on a risk sensitive basis may be specifically required by statute, for example, Article 15A (2) of the *Money Laundering Order* in relation to:

- Business relationships/one of transactions with foreign PEPs and their immediate family members and close associates; and
- higher risk relationships/one off transactions with domestic PEPs or prominent persons or their immediate family members and close associate. See Section 7.6.

54. The *supervised person* may need to continue to assess the monitoring approach for suitability. A *customer* may require enhanced monitoring as a result of previous monitoring which impacts the *customer* risk profile.

6.5.1 Case studies

55. New accounts were being approved by senior management before screening was completed. In one case this resulted in the *customer* being identified as a politically exposed person after the account was opened.

56. Source of Wealth and Source of Funds records did not meet the *supervised person*'s requirements as outlined in their policies and procedures, for example, incorrect recording of the origins of Source of Wealth and Source of Funds and confusion as to what each term means. **Good Practice:** Source of Wealth and Source of Funds should be clearly defined in policies and procedures and be well understood by employees in *customer* facing roles and those employees tasked with *customer* onboarding and *customer* periodic reviews.

6.5.2 Existing Customers

57. Historically, Article 13(2) of the *Money Laundering Order* allowed for deferral of *CDD* measures, specifically finding out the identity of an existing *customer* (also known as legacy *customer*s) with a relationship established before the *supervised person* was subject to *AML/CFT/CPF* requirements, subject to certain conditions. This concession became time barred on 31 December 2014 unless consent was sought from the JFSC. No such consents remain outstanding and therefore all existing *customer*s should have been remediated. Article 13(1)(c)(ii) of the *Money Laundering Order* will apply to such a relationship in the same way as a relationship established on or after the dates referred to in Article above, on the basis that documents, data or information on all existing/legacy *customer*s should align with the *CDD* measures prescribed in Article 3.

58. All existing/legacy *customer*s are subject to ongoing monitoring and review of *CDD* information and evidence. The requirement to review *CDD* is not limited to high-risk *customer*s.

59. Higher risk existing/legacy *customer*s will be subject to the same programme of enhanced monitoring as any new high-risk *customer*.

6.5.3 Monitoring and recognition of *business relationships* and transactions – *Enhanced risk states* and targets subject to sanctions (e.g. a country or a *designated person*)

Overview

60. The risk that a *business relationship* is tainted by funds that are the proceeds of criminal conduct or instrumentalities, or are used to *finance terrorism* or the *financing of proliferation*, is increased where the *business relationship* or *one-off transaction* is with a person or entity connected with:

- an *enhanced risk state* (see **Appendix D1** of *this Handbook*);
- a *sanctioned country or territory* (see **Appendix D2** of *this Handbook*, sources 6 and 12 therein); or
- a *sanctioned person*.

61. A *supervised person* is required to comply with asset-freezing and reporting obligations to prevent funds or other assets being made available, directly or indirectly, for the benefit of a *designated person*. Changes to *UN* and *UK* asset-freeze designations are immediately effective in Jersey by virtue of the ambulatory provisions in Jersey's sanctions legislation.

62. *FATF Recommendations 6 and 7* require implementation of *UN TFS* "without delay", which should be understood as no more than 24 hours and interpreted in the context of:

- the need to prevent the flight or dissipation of funds or other assets which are linked to the *financing of terrorists* or *financing of proliferation* of weapons of mass destruction; and
- the need for global, concerted action to swiftly prevent and disrupt their flow.

63. Following changes to the sanctions designations lists effective in Jersey, the Government of Jersey will issue a sanctions notice without delay, and the *JFSC* will alert *supervised persons* of the changes.

64. As a part of its ongoing monitoring procedures, a *supervised person* must establish and maintain appropriate *policies and procedures* to **monitor** all *customer* transactions and activity to **recognise** whether any *business relationships* or *one-off transactions* are directly or indirectly with such *sanctioned person*s, organisations, or other parties.

65. There is not a separate requirement to **examine**, or have *policies and procedures* in place to examine, *business relationships* with an *enhanced risk state* once they are recognised. This is because *enhanced CDD measures* are required to be applied in line with Article 15(1)(c) of the *Money Laundering Order*. See section 7.5 of *this Handbook*.

66. There is not a statutory requirement to **examine**, or have *policies and procedures* in place to examine, *business relationships* or *one-off transactions* with a *designated person* once they are recognised. This is because provisions in financial sanctions legislation must be followed. Among other things, such provisions prohibit dealing with the assets of designated persons, and not making funds, economic resources, or financial services available to them. Further guidance is published on the *JFSC's* website and the Government of Jersey website.

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AML/CFT/CPF Codes of Practice

[COP61] Ongoing monitoring must involve **examining** transactions and activity recognised as being with a person connected with an *enhanced risk state*.

[COP62] A *supervised person* must establish and maintain appropriate and consistent *policies and procedures* which provide for the **examination** of transactions and activity recognised as being with a person connected with an *enhanced risk state*.

[COP63] As part of its **examination** of the above transactions and activity, a *supervised person* must examine, as far as possible, their background and purpose and set forth its findings in writing.

[COP64] A *supervised person* must undertake sanctions screening for all *business relationships* and *one-off transactions*. This screening must include the *customer*, any *Beneficial owners and/or controllers* and other associated parties. The screening must be carried out at the time of take-on, periodic review and when there is a trigger event, i.e., amendments made to the sanctions designations lists.

[COP65] A *supervised person* must sign up to receive sanctions notices from the Government of Jersey, which are publicly available on the Jersey Gazette – see the Government of Jersey Sanctions Notices Registration (gov.je)

[COP66] A *supervised person* must ensure their sanctions monitoring arrangements include an assessment of the effectiveness of their sanctions controls and their compliance with the Jersey sanctions regime.

Guidance notes

67. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate where **scrutiny** of transactions and activity has regard to the following factors:

- its *BRA* (including the size and complexity of its business and risks arising from breach, non-implementation or evasion of sanctions obligations);
- the nature of its business and services;
- whether it is practicable to monitor transactions or activity in real time (i.e., before *customer* instructions are put into effect);
- whether it is possible to establish appropriate standardised parameters for automated monitoring; and
- the monitoring procedures that already exist to satisfy other business needs.

68. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate where the following are used to **recognise** connections with *enhanced risk states*, *sanctioned countries and territories*, *sanctioned persons,* and how sanctions measures may impact the *supervised persons* business:

- all *customers* – Business and risk profile in line with section 3.3.5 of *this Handbook*;
- all *customers* – Adopting the sanctions designations lists as a comprehensive listing of designated persons subject to sanctions measures applicable in Jersey;
- all *customers* – Considering methods of identifying possible indirect associations and connections (also referred to as 'indirect links') that may exist between the *supervised person's customer* and any *sanctioned persons* and/or *enhanced risk states*, that will

not immediately be obvious from screening of the relevant sanctions designations lists;

- *enhanced risk states* - **Appendix D1** of *this Handbook*; and
- sanctioned countries and territories - **Appendix D2** of *this Handbook* (sources 6 and 12 therein).
- sanctions measures- there are many types of sanctions measures which will need to be kept under review and consideration given as to how these may impact the supervised persons business, for example prohibitions on providing particular services or engaging in specific transactions under certain sanctions regimes.

Statutory requirements (paraphrased wording)

69. Under Article 2A of the Sanctions and Asset-Freezing (Jersey) Law 2019 provides guidance on when an account, funds or economic resources are owned indirectly and Schedule 2 set out rules of interpretation.

70. If someone owns or controls funds or resources jointly with others, they are still treated as owning or controlling them.

71. "Indirect ownership or control" means:

- Another person holds the asset but acts as your employee, agent, nominee, or under your direction or on your behalf.
- There is an arrangement where it's reasonable to believe they will act according to your wishes or with your consent.

72. For companies or other legal entities:

- You control them if you own more than 50% of shares or voting rights, or can appoint/remove most of the board.
- Even without those rights, if you can generally make the company follow your wishes, you are considered to control it.

73. Control can flow through chains of ownership — if you control Company A, and Company A controls Company B, you are treated as controlling Company B.

74. Schedule 2 explains how to calculate indirect control:

- Shares or rights held by nominees or through arrangements count as yours.
- Rights you can exercise only in certain circumstances still count if those circumstances exist.
- Rights held as security may count if you can exercise them.
- Joint arrangements and agreements to act together can combine holdings.
- Control can be inferred from influence, not just formal rights.

75. Indirect links as described in the above paragraph may be formed through any relationship between the *customer* and its close associates including, but not limited to, political links, financial links, familial links, social links, professional links and business (e.g. *customer*s and suppliers) links.

76. A *supervised person* may look to mitigate risks of undetected indirect links by considering:

- Have all reasonable steps been taken to ascertain close associates and family ties (examples described under 7.6.1)to identify potential sanctions evasion and do your policies and procedures ensure that these have been appropriately investigated and documented?
- Has sufficient scrutiny been applied to establish any additional indirect links who may have influence (as outlined in above paragraph)?
- Have all connections identified in the above two steps been screened at the point of onboarding?
- Is ongoing screening sufficiently regular to detect any changes in circumstance given the profiles of those subject to screening?
- Is the configuration of screening (both at onboarding and ongoing) appropriate given the profile of those being screened (e.g. adverse media results, screening results, the risk profile associated with them, the countries in which they operate, the industries in which they operate and the known links they presently hold) to detect changes in information in relation to indirect links that may occur during the relationship with that *customer*? It may be that entities overnight screening/data analytics are configured to identify customers who may be close associates or dependents or have transactional links with designated persons, and so may represent a higher risk of sanctions non-compliance.

77. Sanctions are not static. Supervised person as good practice may wish to consider scenarios where sanctions breaches may occur and test/consider whether your sanctions screening is robust enough to flag sanctions issues. For example, the following scenarios where there are indirect sanctions links which have been identified by an administrator's screening measures:

- A request is received from an individual who is based in a jurisdiction where some of the residents are subject to financial sanctions. The individual asks for a third-party payment to be made, with the third party being a friend or colleague of the individual. The individual is on a sanctions list, and this is picked up by the administrator who screens third party payments.
- Two individuals are majority shareholders of a company, one of them being a sanctioned individual. This is a new sanction listing and has been identified by the administrator via overnight screening.
- During the course of a business relationship, it is identified that an individual who is the UBO/Settlor/Founder (i.e. funder of a structure) provides services to sanctioned individuals via other business interests. During a periodic review higher risk connections have been flagged and following further manual investigations these connections have been discovered by the administrator.
- A wealthy individual goes through the CDD process, they reside in a jurisdiction that is not high risk, their source of wealth and funds is verified. A trust is set up for the individual and used to purchase its main asset which is an expensive mansion. During an administrators overnight screening he is flagged as having social and business dealings with an oligarch who is sanctioned. Following their policies and procedures this flag is reviewed by the compliance team who determine that further enquiries are required. These further enquiries yield

information that the mansion owned by the wealthy individual via his jersey trust is being used as a residential address by the sanctioned oligarch.

78. A *supervised person* should have appropriate *systems and controls* (including *policies and procedures*) in place to ensure that a change to the *UK* and *UN* sanctions designations lists is reviewed and acted upon "without delay". This term is defined in *FATF*'s Best Practices Paper: Targeted Financial Sanctions Related to Terrorism and Terrorist Financing Recommendation 6, on page 9, as meaning "ideally, within a matter of hours of a designation". This activity should include a comparison of the *supervised person's customer* base against the *designated persons* listed within the sanctions notices.

79. *A supervised person* is encouraged to refer to the *FSIU's guidance* in terms of the *supervised person's* unfreezing procedure.

80. A *supervised person* may demonstrate that *CDD policies and procedures* are appropriate if **examination** of transactions or activity recognised as being with a person connected with an *enhanced risk state* includes:

- reference to the *customer's* business and risk profile;
- as far as possible, a review of the background and purpose of a transaction or activity (set in the context of the business and risk profile); and
- where necessary, the collection of further information needed to determine whether a transaction or activity has an **apparent economic** or **visible lawful** purpose.

81. A *supervised person* may demonstrate that *CDD* and reporting *policies and procedures* are appropriate if post-examination of transactions or activity recognised as being with a person connected with an *enhanced risk state* it:

- revises, as necessary, its *customer's* business and risk profile;
- adjusts, as necessary, its monitoring system e.g., refines monitoring parameters, enhances controls for more vulnerable products/services/business units;
- considers if it knows, or has reasonable cause to suspect, that a person:
    i) is a *designated person*; or
    ii) has committed, is committing or intends to commit and offence under the *Sanctions and Asset-Freezing Law;* and
- considers whether it knows, suspects, or has reasonable grounds for knowing or suspecting that another person is engaged in *money laundering*, the *financing of terrorism*, or the *financing of proliferation*, or that any property constitutes or represents:
    i) the proceeds of criminal conduct; or
    ii) property used in or intended to be used in criminal conduct.

82. Examples of effective sanctions compliance include, but are not limited to:

- having appropriate procedures in place to ensure that the content of targeted financial sanctions amendments is reviewed **without delay**, including screening of *customer* data against the sanctions designations lists;
- in the case of an identified positive match, freezing of such accounts, and other funds or economic resources without notice and without delay;

- refraining from dealing with the funds or assets or making them available (directly or indirectly) to such persons unless licensed by the *Minister;*
- sanctions compliance reports required under the *Sanctions and Asset-Freezing Law* are filed as soon as practicable.
- identifying where there is an accumulation of risks i.e. nexus to a sanctioned country and higher risk activities, for example to manage the risk where funds flowing up a trust structure from its non TCB managed trading companies due to an underlying asset undertaking sanctioned activities or facilitating sanctioned activities, such as mining in an appendix D2 country

83. A *supervised person* may wish to undertake their assessment of effectiveness as part of their compliance monitoring plan activities. The assessment may be presented to the board in the form of a report by the *MLCO*.

84. In the context of sanctions compliance reports, "as soon as practicable" means as soon as possible and practical, considering all of the facts and circumstances in the individual case. For example key facts should be reported within 24/48 hours with a more detailed report to follow later, if appropriate. Obtaining independent legal advice may delay immediate reporting of a sanctions matter and take some time, however, it is reasonable to suggest that the issue will be resolved within a matter of days. In any case, this should be no more than 14 days.

85. Further examples of good practice in respect of a range of sanctions compliance matters can be found in the *JFSC's* Financial sanctions practical guidance and the Government of Jersey website.

6.6 Automated monitoring methods

Overview

86. Automated monitoring methods may be effective in recognising notable transactions and activity, and *business relationships* and *one-off transactions* with persons connected to *enhanced risk states, sanctioned countries or territories*, or *sanctioned persons*.

87. **Exception reports** can provide a simple but effective means of monitoring all transactions to, or from, particular geographical locations or accounts, and any activity that falls outside of pre-determined parameters, based on thresholds that reflect a *customer*'s business and risk profile.

88. Large or more complex *supervised persons* may also use automated monitoring methods to facilitate the monitoring of significant volumes of transactions, or – such as in an e-commerce environment – where the opportunity for human scrutiny of individual transactions is limited.

89. What constitutes unusual behaviour by a *customer* is often defined by the automated monitoring system selected by the *supervised person*. It is important that the system selected has an appropriate definition of 'unusual' and is in line with the nature of business conducted by the *supervised person*.

90. Where an automated monitoring method (group or otherwise) is used, a *supervised person* will need to understand:

- how the system works and when it is changed;
- its coverage (who or what is monitored and what external data sources are used);

- how to use the system, e.g., making full use of guidance; and
- the nature of its output (exceptions, alerts etc.).

91. Use of automated monitoring methods does not remove the need for a *supervised person* to otherwise remain vigilant. Factors such as staff intuition, direct contact with a *customer* and the ability, through experience, to recognise transactions and activity that do not seem to make sense, cannot be automated.

92. In the case of **screening** of a *business relationship* (before establishing that relationship and subsequently) and transactions, the use of electronic external data sources to screen *customers* may be particularly effective. However, where a *supervised person* uses group screening arrangements, it will need to be satisfied that it provides adequate mitigation of risks applicable to the Jersey business. In all cases, it is important that a *supervised person*:

- understands which *business relationships* and transaction types are screened;
- understands the system's capacity for **fuzzy matching** (a technique used to recognise names that do not precisely match a target name, but which are still potentially relevant);
- sets clear procedures for dealing with potential matches, driven by risk considerations rather than resources; and
- records the basis for **discounting** alerts (e.g., false positives) to provide an audit trail.

93. The audit trail should enable a *supervised person* to review the dates on which screening checks were undertaken and the results of those checks (e.g., the number of false positives), thus allowing them to assess if the system is operating effectively. Where the *supervised person* is part of a wider group and utilises a group-wide screening system, a written confirmation from its head office may be obtained which confirms that such an audit trail exists and that its records can be accessed upon request.

94. By way of example, **fuzzy matching** arrangements can be used to identify the following variations:

Variation	Example
Different spelling of names.	"Jon" instead of "John". "Abdul" instead of "Abdel".
Name reversal.	"Adam, John Smith" instead of "Smith, John Adam".
Shortened names.	"Bill" instead of "William".
Insertion/removal of punctuation and spaces.	"Global Industries Inc" instead of "Global-Industries, Inc.".
Name variations.	"Chang" instead of "Jang".

95. Further information on screening practices may be found in reports published by the *JFSC* in August 2014, May 2021. Practical guidance in respect of financial sanctions is also available on the *JFSC*'s website.

6.7 *Money laundering* warning signs

Overview

96. Article 13 of the *Money Laundering Order* requires a *supervised person* to apply ongoing monitoring throughout the course of a *business relationship* and take steps to be aware of transactions with heightened *money laundering*, the *financing of terrorism*, and the *financing of proliferation* risks. The *Proceeds of Crime Law* requires a *supervised person* to report suspicious transactions and activity (see section 9 of *this Handbook*).

97. This section highlights several general warning signs for *supervised persons* to help them decide whether there may be reasons for concern, or the basis for a reportable suspicion.

98. In relation to ongoing monitoring, a *supervised person* should have regard both to the warning signs contained in the relevant sector-specific sections of *this Handbook* and the general indicators set out below, where they may become vulnerable to *money laundering*, the *financing of terrorism*, or the *financing of proliferation*. These warning signs apply to ongoing relationships just as much as to circumstances that may arise at the start of a *business relationship.*

99. Because *money launderers, terrorist financers*, and *proliferators of weapons of mass destruction* are always developing new techniques, no list of examples can be fully comprehensive. However, the following are some key factors indicating activity or transactions which might heighten a *customer*'s risk profile or give cause for concern.

6.7.1 Secretive *customers*

100. Whilst face-to-face contact with *customers* is not always possible, an excessively obstructive or secretive *customer* may be a cause for concern. Consideration should be given as to whether *customers* who demand strict confidentiality relating to their financial and business affairs, or are reluctant to answer *CDD* questions, are evading tax or seeking to mask the true beneficial ownership of their assets.

6.7.2 Unusual instructions

101. Instructions that are unusual in themselves, or that are unusual for the *supervised person,* or the *customer* may give rise to concern, particularly where no rational or logical explanation can be given. Be wary of:

- loss-making transactions where the loss is avoidable;
- dealing with money or property when there are suspicions that it is being transferred to avoid the attention of either a trust in a bankruptcy case, a revenue authority (e.g., *UK's* HM Revenue and Customs, Revenue Jersey etc.), or a law enforcement agency;
- complex or unusually large transactions, particularly where underlying *beneficial ownership* is difficult to ascertain and/or where the underlying transactions have been conducted in cash;
- unusual patterns of transactions which have no apparent economic purpose particularly those where a number of jurisdictions and different entities are involved for no logical business reason;
- funds that are being switched between investments or jurisdictions for no apparent reason;
- use of shell companies, blind trusts or other structures that are merely being used as a front for other activities;

- excessive use of off-balance sheet transactions or activity.

6.7.2.1 **Instructions outside the *supervised person's* area of expertise**

102. Taking on work which is outside the *supervised person's* normal range of expertise can present additional risks because a money launderer, terrorist financer or financier of proliferation of weapons of mass destruction might be using the *supervised person* to avoid answering too many questions. A *supervised person* inexperienced in the provision of a particular product or service might be influenced into taking steps which a more experienced business would not contemplate. *Supervised persons* should be wary of highly paid niche areas of work in which they have no background, but in which the *customer* claims to be an expert.

103. If the *customer* is not resident in Jersey, *supervised persons* should satisfy themselves that there is a genuine legitimate reason why they have been approached. For example, have the *supervised person's* services been recommended by another *customer*? Making these types of enquiries makes good business sense, as well as being a sensible *AML/CFT/CPF* check.

6.7.2.2 **Changing instructions**

104. Instructions that change unexpectedly or significantly might be suspicious, especially if there seems to be no logical reason for the changes. This may also be the case where the person making the instruction changes. The obligation to re-conduct *CDD* may well arise.

105. The following situations could give rise to cause for concern:

- a *customer* deposits funds into a *supervised person's* client account for a transaction, but then ends the transaction for no apparent reason;
- a *customer* advises that funds are coming from one source and at the last minute the source changes; and
- a *customer* unexpectedly requests that money received into a *supervised person's* client account be sent back to its source, to the *customer* or to a third party.

6.7.3 Use of client accounts

106. Client accounts should only be used to hold *customer* money for legitimate transactions for *customers*, or for another proper legal purpose. Putting criminal money through a *supervised person's* client account can make it appear clean, whether the money is sent back to the *customer*, on to a third party, or invested in some way. Introducing cash into the banking system can become part of the placement stage of *money laundering*. Therefore, the use of cash for non-cash-based businesses is often a warning sign/red flag.

6.7.3.1 ***Source of funds***

107. If funding is from a source other than the *customer*, *supervised person*s may need to make further enquiries, especially if the *customer* has not previously advised that a third party would be involved. When considering whether to accept funds from a third party, *supervised person*s should ask how and why the third party is helping with the funding.

108. A *supervised person* must always be alerted to warning signs and in some cases will need to seek more information.

6.7.4 *Money laundering* offences factors

6.7.4.1 Intent

109. Except for certain strict liability offences, criminal conduct requires an element of criminal intent which means that an offender must know or suspect that an action or property is criminal. Conduct which is an innocent error or mistake may be criminal where it constitutes a strict liability offence but will not also be *money laundering*.

110. If an individual or *supervised person* knows or believes that a *customer* is acting in error, the *customer* may be approached, and the situation and legal risks explained to them. However, once the criminality of the conduct is explained to the *customer*, they must bring their conduct (including past conduct) promptly within the legislation to avoid a *money laundering* offence being committed. Where there is uncertainty about the legal issues that are outside the competence of the *supervised person, customers* should be referred to an appropriate specialist or legal adviser.

111. If there are reasonable grounds to suspect that a *customer* knew or suspected that their actions were criminal, a report must be made. Even if the *customer* does not have the relevant intent, but the *supervised person* is aware that there is criminal property, consideration needs to be given to whether a report must be made to the *FIU*.

112. In all circumstances, *supervised person*s should be mindful of committing a 'tipping-off' offence as set out at Article 35(4) of the *Proceeds of Crime Law*. See section 9.5 of *this Handbook* for more information.

6.7.4.2 Holding of funds

113. *Supervised persons* who choose to hold funds on behalf of a *customer* should consider the checks to be made about the funds they intend to hold before the funds are received. Consideration should be given to conducting *CDD* measures on all those on whose behalf the funds are being held.

114. Consideration should be given to any proposal that funds are collected from a number of individuals whether for investment purposes or otherwise. This could lead to wide circulation of client account details and payments being received from unknown sources.

6.7.4.3 Factors arising from action by the *customer* or its *controllers*

115. Where a *customer* is actively involved in *money laundering*, the signs may include:

- unusually complex corporate structure where complexity does not seem to be warranted, or cannot be explained;
- complex or unusual transactions, possibly with related parties;
- transactions with little commercial logic taking place in the normal course of business (such as selling and re-purchasing the same asset);
- transactions conducted outside of the normal course of business or where the method of payment/receipt is not usual business practice, such as wire transfers or payments in foreign currency;
- transactions where there is a lack of information or explanation, or where explanations are unsatisfactory;
- transactions that are under- or overvalued, including double billing;

- transactions with companies whose identity or beneficial ownership is difficult to establish;
- abnormally extensive or unusual related party transactions;
- unusual numbers of cash transactions for substantial amounts or a large number of small transactions that add up to a substantial amount;
- payment for unspecified services or for general consultancy services; and
- long delays in the production of company or trust accounts for no apparent reason.

6.7.4.4 **Where the *customer* may unknowingly be a party to *money laundering*, the *financing of terrorism*, or the *financing of proliferation.***

116. There may be occasions where **the *customer* has been duped by its own *customer*** into providing assistance or becoming a vehicle for *money laundering*, the *financing of terrorism*, or the *financing of proliferation*. Warning signs may be:

- unusual transactions without an explanation, or a pattern of trading with a *customer* of the *supervised person's customer* that is different from the norm;
- request for settlement of sales in cash;
- the *customer's customer* setting up a transaction that appears to be of no commercial advantage or logic;
- the *customer's customer* requesting special arrangements for vague purposes;
- unusual transactions with companies registered in other jurisdictions;
- request for settlement to bank accounts or jurisdictions which would be unusual for a normal commercial transaction; or
- excessive overpayment of accounts, subsequently requesting a refund.

6.7.5 Administration of estates

117. A deceased person's estate is very unlikely to be actively utilised by criminals as a means for laundering their funds; however, there is still a risk of *money laundering* for those working in this area.

118. When winding up an estate, there is no blanket requirement that *supervised persons* should be satisfied about the history of all the funds which make up the estate under administration. However, *supervised persons* should be aware of the factors which can increase *money laundering* risks and consider the following:

- where estate assets have been earned in a foreign jurisdiction, *supervised persons* should be aware of the wide definition of criminal conduct in Article 1 of the *Proceeds of Crime Law*; and
- where estate assets have been earned or are in a *higher risk country or territory*, *supervised persons* may need to make further checks about the source of those funds.

119. *Supervised persons* should be alert from the outset and monitor throughout so that any disclosure can be considered as soon as knowledge or suspicion is formed, and problems of delayed consent can be avoided.

120. *Supervised persons* should bear in mind that an estate may include criminal property. An extreme example would be where the *supervised person* knows or suspects that the deceased person was accused or convicted of acquisitive criminal conduct during their lifetime.

121. If *supervised persons* know or suspect that the deceased person improperly claimed welfare benefit or had evaded the due payment of tax during their lifetime, criminal property will be included in the estate and so a *money laundering* disclosure may be required.

122. Relevant local laws will apply before assets can be released. For example, a grant of probate will normally be required before *UK* assets can be released. *Supervised persons* should remain alert to warning signs, for example if the deceased or their business interests are based in a *higher risk country or territory*.

123. If the deceased person is from another jurisdiction and a Lawyer is dealing with the matter in the home country, *supervised person*s may find it helpful to ask the Lawyer for information about the deceased to gain some assurances that there are no suspicious circumstances surrounding the estate. The issue of the tax payable on the estate may depend on the jurisdiction concerned.

6.7.6 Charities

124. While most charities are used for legitimate reasons, they can be used as vehicles *for money laundering*, the *financing of terrorism*, or the *financing of proliferation*.

125. *Supervised persons* acting for charities should consider their purpose and the organisations they are aligned with. If money is being received on the charity's behalf from an individual or a company donor, or a bequest from an estate, *supervised persons* should be alert to unusual circumstances, such as receipt of unexpectedly large sums of money.

6.7.7 Taxation matters

126. There are several tax offences which can give rise to the proceeds of crime and therefore require the submission of a *SAR* to the *FIU*. A *supervised person* is not required to be an expert in criminal law, but they would be expected to recognise activity which might suggest the *customer* is involved in tax evasion.

127. There will, however, be no question of criminality where the *customer* has adopted in good faith, honestly and without misstatement, a technical position with which a revenue authority disagrees.

128. The main areas where offences may arise in relation to direct tax are:

- tax evasion, including making false returns (including supporting documents), accounts or financial statements or deliberate failure to submit returns and
- deliberate refusal to correct known errors.

6.7.7.1 **Innocent or negligent error**

129. Where a *customer* indicates that they are unwilling, or refuse, to disclose an innocent mistake or negligent act to the *competent authority* to avoid paying the tax due, the *customer* appears to have formed a criminal intent and therefore a reporting obligation arises. The *supervised person* should also consider whether they can continue to act for the *customer*. This paragraph applies equally to potential *customer*s for whom the *supervised person* has declined to act.

6.7.7.2 Intention to underpay

130. *Customer*s may suggest that they will, in the future, underpay tax. This would be tax evasion and a *money laundering* offence when it occurs. A *supervised person* should investigate whether the *customer* has understood their obligations under the relevant legislation. Should the *customer's* intention in this regard remain in doubt, the *supervised person* should consider carefully whether they can commence, or continue, to act, and if in doubt should seek specialist legal advice. A *SAR* may well be required in such cases.

6.7.8 Observation of unlawful conduct

131. It should be borne in mind that for property to be criminal property, not only must it constitute a person's benefit from criminal conduct, but the alleged offender must know or suspect that the property constitutes such a benefit. This means, for example, that if someone has made an innocent error, even if such an error resulted in benefit and constituted a strict liability criminal offence, then the proceeds are not criminal property, and no *money laundering* offence has arisen until the offender becomes aware of the error.

132. Examples of unlawful behaviour which may be observed, but which are not reportable as *money laundering*, are set out below:

- offences where no proceeds or benefit results, such as the late filing of company accounts. However, *supervised persons* should be alert to the possibility that persistent failure to file accounts could represent part of a larger offence with proceeds, such as fraudulent trading or credit fraud involving the concealment of a poor financial position;
- misstatements in tax returns, for whatever cause, but which are corrected before the date when the tax becomes due;
- attempted fraud where the attempt has failed and so no benefit has accrued (although this may still be an offence in some jurisdictions e.g., the *UK*); andwhere a *customer* refuses to correct, or unreasonably delays in correcting, an innocent error that gave rise to proceeds and which was unlawful, firms should consider what that indicates about the client's intent and whether the property has now become criminal property.