



Jersey Financial  
Services Commission  
Companies Registry

# Guidance to completing the NDS1 (Non-Fund) Form

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## Glossary

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|----------------------|--|
| AML/CFT Handbook     | shall mean the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for regulated financial services businesses. |
| CDD                  | shall mean customer due diligence as described in the AML/CFT Handbook.  |
| COBO                 | shall mean the Control of Borrowing (Jersey) Order 1958.   |
| COBO consent         | shall mean the consent of the JFSC which is granted pursuant to the provisions of COBO.  |
| COBO Fees Notice     | shall mean the JFSC notice of fees payable in relation to COBO.  |
| JFSC                 | shall mean the Jersey Financial Services Commission.   |
| MLO                  | shall mean the Money Laundering (Jersey) Order 2008.   |
| NDS (Non-Fund)       | shall mean a non-Jersey domiciled structure which is not an investment fund.   |
| NDS (Non-Fund) Fee   | shall mean the application fee payable by the NDS (Non-Fund) to the JFSC pursuant to the COBO Fees Notice.   |
| NDS1 (Non-Fund) Form | shall mean the application form for a COBO consent for an NDS (Non-Fund).  |
| Registry             | shall mean the Jersey Companies Registry.  |
| SBPP                 | shall mean the JFSC's Sound Business Practice Policy.  |

## Introduction

COBO provides for certain activities to be carried out in the Island by an NDS (Non-Fund) provided that the requisite COBO consent has been granted, in advance, by the JFSC.

The Control of Borrowing (Jersey) Law 1947 sets out the JFSC's obligation at Article 2(3), in so far as discharging its function of granting, revoking or refusing to grant consent. In accordance with Article 2(3), the JFSC shall have regard to the need to protect the integrity of Jersey in commercial and financial matters and the best economic interests of Jersey.

To be able to discharge its function the JFSC will need to obtain information in order to make a decision on whether to grant or refuse to grant consent. The NDS1 (Non-Fund) Form is a starting point for collecting such information. In most cases the information given within the NDS1 (Non-Fund) Form will be sufficient for the JFSC's purpose; however the JFSC may in some cases request further information.

## Policy and guidance

The JFSC has published a SBPP which is applicable to persons wishing to make an application for a COBO consent (pursuant to the provisions of COBO).

Note: The JFSC's Policy Statements and Guidance Notes are published on the [JFSC's Website](#).

## The NDS1 (Non-Fund) Form

The JFSC has determined that the NDS1 (Non-Fund) Form is to be used by a registered trust company business (TCB) seeking a COBO consent on behalf of an NDS (Non-Fund) under Articles 1, 3, 9(1)(a), 9(1)(b), 10 (1)(a), 10(1)(b), 11(1)(a) and/or 11(1)(b) of COBO (as appropriate).

Please note that should the NDS (Non-Fund) require consent pursuant to Article 4 of COBO (structure issuing securities (other than shares)), the NDS (Non-Fund) should refer to the 'Checklist for Securities Issues'. Alternatively, should the NDS (Non-Fund) require a consent pursuant to Articles 8, 10(1)(c) or 11(1)(c) (circulation of an offer or prospectus), the NDS (Non-Fund) should refer to the 'Securities Checklist for Circulation in Jersey of Offers for Subscription, Sale or Exchange of Securities Originating Outside of Jersey'. Both checklists are available on request to the Registry.

The NDS1 (Non-Fund) Form comprises five Parts (A, B, C, D and E). All questions in the relevant Parts of the NDS1 (Non-Fund) Form must be answered. Any deviation from the prescribed NDS1 (Non-Fund) Form may invalidate the application.

It is the responsibility of the TCB making the declaration under Part E of the NDS1 (Non-Fund) Form to ensure that all data and information contained in the NDS1 (Non-Fund) Form is gathered in accordance with the requirements set out in the MLO, with guidance in the AML/CFT Handbook. The TCB must also satisfy itself and confirm to the JFSC that the activity of the NDS (Non-Fund) is in compliance with the principles set out in the SBPP.

The JFSC reserves the right to make such requests for additional information as it deems fit under its general powers.

## Submitting the NDS1 (Non-Fund) Form

The NDS1 (Non-Fund) Form is available to download on the [JFSC's Website](#) (in the form of an interactive PDF document). Duly completed NDS1 (Non-Fund) Forms must be submitted by PDF attachment to the Registry to the following email address [NDS@jerseyfsc.org].

Following receipt of the duly completed NDS1 (Non-Fund) Form an invoice in respect of the NDS (Non-Fund) Fee will be automatically generated and sent by email to the relevant TCB for settlement on behalf of the relevant NDS (Non-Fund) within 30 days' of the invoice being issued.

If you have any further questions concerning the completion of the NDS1 (Non-Fund) Form you are encouraged to contact the [Registry](#).

## Completing the NDS1 (Non-Fund) Form

### Part A: Details of NDS (Non-Fund)

| NDS1 (Non-Fund) Form Reference: | Notes   |
|---------------------------------|---|
| <b>1. NDS (Non-Fund).</b>       |   |
| 1.1                             | The name of the NDS (Non-Fund) must be inserted.  |
| 1.2                             | The address of the NDS (Non-Fund's) principal place of business / registered office address in the country of /establishment/incorporation/registration must be inserted. |
| 1.3                             | The NDS (Non-Fund's) date of establishment/incorporation/registration (as applicable) must be inserted.   |
| 1.4                             | The NDS (Non-Fund's) legal form must be selected.   |
| 1.5                             | The registration number of the NDS (Non-Fund) (issued in its jurisdiction of establishment/incorporation/registration) must be inserted.                                  |
| 1.6                             | The NDS (Non-Fund's) jurisdiction of establishment / incorporation / registration must be inserted.   |
| 1.7                             | The NDS (Non-Fund's) governing law must be inserted.  |

### Part B: Jersey service provider(s) to NDS (Non-Fund)

| NDS1 (Non-Fund) Form Reference                          | Notes |
|---|-------|
| <b>2. Jersey service provider(s) to NDS (Non-Fund).</b> |       |

|     |   |
|-----|---|
| 2.1 | Provide the name and address of the TCB submitting the NDS1 (Non-Fund) Form on behalf of the NDS (Non-Fund).                    |
| 2.2 | Provide the name(s) and address(es) (including the post code(s)) of any other Jersey service provider(s) to the NDS (Non-Fund). |

### Part C: Activity of NDS (Non-Fund)

| NDS1 (Non-Fund) Form Reference   | Notes  |
|--|--|
| <p>Full details of the intended activity of the NDS (Non-Fund) must be given in this Part C of the NDS1 (Non-Fund) Form. The SBPP sets out the principles regarding the activities that the JFSC considers sensitive. If the NDS (Non-Fund), subsidiary, affiliate or associated vehicle falls within SBPP table 1 or 2, the activity will be deemed sensitive (whether or not an exemption may be relied upon).</p> |  |
| <p><b>3. Activity of NDS (Non-Fund).</b></p>   |  |
| 3.1  | Confirm pursuant to which Article(s) of COBO (from the Articles of COBO referred to under this Part C.3.1.1 to 3.1.4) the COBO consent is being sought.  |
| 3.2  | Please confirm whether or not the activity of the NDS (Non-Fund) falls within the remit of Tables 1 or 2 of the SBPP.  |
| 3.2.1  | If yes, please provide details of the NDS (Non-Fund's) activity falling within the SBPP.   |
| 3.3  | If the activity of the NDS (Non-Fund) is not caught within the remit of the SBPP, please confirm whether any of the activities referred to under Part C 3.3 apply to the NDS (Non-Fund).   |
| 3.4  | If the activity of the NDS (Non-Fund) is not caught within the remit of the SBPP and none of the activities in Part C.3.3 apply to the NDS (Non-Fund), please give appropriate details of what other activity the NDS (Non-Fund) will be conducting. |

## Part D: Higher risk factors

| Notes                          |   |
|--------------------------------|---|
| <b>4. Higher risk factors.</b> |   |
| 4.1                            | <p>Please confirm (by ticking each of the boxes in this Part D 4.1 that, in completing CDD in relation to the NDS (Non-Fund), due regard has been given to the following:</p> <ul style="list-style-type: none"> <li>› Corruption (Jersey) Law 2006;</li> <li>› Sanctions;</li> <li>› The JFSC’s proliferation and proliferation financing guidance;</li> <li>› Higher risk factors described in the AML/CFT Handbook (e.g. Part 1, Section 3 – Identification Measures (CDD) and Appendices D1 and D2); and/or</li> <li>› Adverse public source information.</li> </ul>  |
| 4.2                            | <p>Please detail any higher risk factors identified in the CDD or enhanced due diligence process (as applicable) undertaken as part of the NDS (Non-Fund) application in the free text box provided under this Part D 4.2. Particular regard should be made to Article 15 of the MLO.</p> <p>It is important that higher risk factors are identified and disclosed to the Registry in the NDS1 (Non-Fund) Form. Upfront disclosure of concerns means that the Registry are able to deal with vetting information swiftly in its role as a second line of defence for the prevention of money laundering and terrorist financing. With this in mind and for the avoidance of any doubt, reference to Article 15 is not to be construed as having to disclose whether the customer has not been physically present for identification purposes (Article 15(3) MLO).</p> |

## Part E: Declaration of TCB

| Notes   |
|---|
| <p>The NDS1 (Non-Fund) Form must be signed by two directors/authorised signatories of the TCB submitting the NDS1 (Non-Fund) Form on behalf of the NDS (Non-Fund).</p> <p>The NDS1 (Non-Fund) Form will be retained by the JFSC even if the requisite COBO consent is not granted or the NDS1 (Non-Fund) Form is withdrawn.</p> <p>It should be noted that, in some circumstances, an NDS1 (Non-Fund) Form may be withdrawn during the application process. In such circumstances where the JFSC has commenced processing the NDS1 (Non-Fund) Form, the JFSC will not waive or refund the NDS (Non-Fund) Fee.</p> |