

## 3 CUSTOMER DUE DILIGENCE REQUIREMENTS

### 3.1 OVERVIEW OF SECTION

1. This section explains the minimum CDD requirements of the Handbook, and sets out a framework by which a relevant person is required to develop a risk based approach to determining the type and extent of measures to apply to different types of customers, products and services. For example, the type and extent of customer identification and relationship information to collect, the nature of verification of information obtained, and the level of business relationship monitoring activity. Deleted: establishes
2. The minimum CDD measures required by the Statutory and Regulatory Requirements of the Handbook involve:
  - Identifying an applicant for business and verifying the applicant's identity using reliable, independent source documents, data or information.
  - Identifying the beneficial ownership and control of the applicant and taking reasonable measures to verify the identity of the beneficial owners and controllers such that a relevant person is satisfied that it knows who the beneficial owners and controllers are.
  - Identifying any third parties (and owners and controllers) on whose behalf the applicant is acting.
  - Obtaining information on the purpose and intended nature of the business relationship.
  - Keeping the above information up to date, and monitoring activity and transactions undertaken throughout the course of a relationship to determine whether the activity or transaction being conducted is consistent with the relevant person's knowledge of the customer.
3. Sound CDD measures are vital because they:
  - help to protect the relevant person and the integrity of the financial sector in which it operates by reducing the likelihood of the business becoming a vehicle for, or a victim of, financial crime;
  - assist law enforcement, by providing available information on applicants for business, customers or activities and transactions being investigated - following a suspicious activity report to the JFCU;
  - constitute an essential part of sound risk management, e.g. by providing the basis for identifying, limiting and controlling risk; and
  - help to guard against identity fraud.
4. The inadequacy or absence of satisfactory CDD measures can subject a relevant person to serious customer and counterparty risks, as well as reputational, operational, legal, regulatory and concentration risks, any of which can result in significant financial cost to the business. CDD information is also a vital tool for the MLRO and business employees when examining unusual or higher risk activity or transactions, in order to determine whether a suspicious activity report is appropriate.
5. The CDD sections of the Handbook (Sections 3, 4 and 5) follow the approach taken to CDD in the FATF Recommendations.

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6. General requirements, including the application of a risk based approach, are described in this section ([Section 3](#)) together with the circumstances in which enhanced [CDD measures](#) must be conducted. Deleted: due diligence
7. Identification and verification elements of CDD are addressed in [Section 4](#), together with circumstances in which exceptions apply and simplified procedures might be applied to lower risk applicants for business. Ongoing monitoring and scrutiny of activity and transactions is described in [Section 5](#). Accordingly, this section should be read and understood in conjunction with [Sections 4 and 5](#).
8. Throughout this section, references to an “applicant for business” or “applicant” relate to a prospective customer, and references to a “customer” relate to a person with whom a business relationship has been formed or one-off transaction conducted.
9. An applicant for business may be an individual, trustee of an express trust, or a legal body (including bodies corporate, foundations, anstalts, partnerships, associations, or any similar bodies that can establish a permanent customer relationship with a relevant person or otherwise own property) seeking to enter into a business relationship or conduct a one-off transaction - as principal or on behalf of a third party.
10. The individuals considered to be the beneficial owners and controllers for each customer type are described in [Section 4](#).

## 3.2 OBLIGATION TO CONDUCT CUSTOMER DUE DILIGENCE [MEASURES](#)

### STATUTORY REQUIREMENTS

11. *Article 37 of the [Proceeds of Crime Law](#) enables the Treasury and Resources Minister to prescribe the measures to be followed by a [person carrying on](#) financial services business.*
12. *Article 13(1) of the [Money Laundering Order](#) requires a relevant person to apply CDD measures.*
13. *Article 3 sets out what [CDD measures](#) are to involve.*
14. *Article 11(1) requires a relevant person to maintain policies and procedures for the application of CDD measures that are appropriate having regard to the degree of risk of money laundering and the financing of terrorism.*
15. *[Article 11\(3\)](#) requires that the appropriate policies and procedures include policies and procedures:*
  - *which provide for the identification and scrutiny of:*
    - a. *complex or unusually large transactions;*
    - b. *unusual patterns of transactions, which have no apparent economic or lawful purpose;*
    - c. *business relationships and transactions connected with [countries and territories](#) that do not, or insufficiently, apply the FATF Recommendations;* Deleted: jurisdictions
    - d. *business relationships and transactions with persons or jurisdictions that are subject to UN or EU sanctions and measures, or measures imposed by one more countries for insufficient or non-existent application of FATF Recommendations; or*
    - e. *any other activity, the nature of which causes the relevant person to regard it as particularly likely to be related to money laundering or the financing of terrorism.*
  - *which specify additional procedures where products and transactions are susceptible to anonymity; and*
  - *which determine whether a customer is a PEP.*

### 3.3 RISK BASED APPROACH TO CUSTOMER DUE DILIGENCE

#### OVERVIEW

16. [Section 2.3](#) of the Handbook requires the Board of a relevant person to conduct (and keep up to date) a business risk assessment, which considers the business' activities and structure and concludes on the business' exposure to money laundering and financing terrorism risk.
17. This business risk assessment will enable a relevant person to determine its initial approach to performing Stage 1 of the CDD process as set out below, depending on the type of customer, product or service involved. The remaining stages of the process require a relevant person to consider whether the specific circumstances of the customer, or the product or service requested, will necessitate further CDD measures to be applied.
18. A risk based approach to CDD is one that involves a number of discrete steps in assessing the most effective and proportionate way to manage the money laundering and financing terrorism risk faced by a relevant person. While these steps must be incorporated into policies and procedures, the steps do not need to take place in the sequence outlined below, and will often occur simultaneously.
19. The risk assessment of a particular applicant will determine the extent of identification information (and other CDD information) that will be requested, how that information will be verified, and the extent to which the resulting relationship will be monitored.
20. Systems and controls will not detect and prevent all instances of money laundering or the financing of terrorism. A risk based approach will, however, serve to balance the cost burden placed on a relevant person and on applicants and customers with the risk that the business may be used in money laundering or to finance terrorism by focusing resources on higher risk areas.
21. Care has to be exercised under a risk based approach. Being identified as carrying a higher risk of money laundering does not automatically mean that a customer is a money launderer or is financing terrorism. Similarly, identifying a customer as carrying a lower risk of money laundering does not mean that the customer is not a money launderer or financing terrorism.

#### REGULATORY REQUIREMENTS

22. A relevant person must apply a risk based approach to determine the extent and nature of the measures to be taken when undertaking the process set out below. For higher risk customers, refer also to [Section 3.4](#).

Stages 1-3:	Regulatory Requirements: determination and recording of risk	Guidance
Stage 1:	<p>A relevant person must collect relevant CDD information on:</p> <ul style="list-style-type: none"> <li>• the applicant for business,</li> <li>• any beneficial owners and controllers of the applicant, and</li> <li>• any third parties on whose behalf the applicant acts (and beneficial owners and controllers of third parties); and</li> <li>• the relationship to be established,</li> </ul> <p>to enable a customer profile to be prepared.</p> <p>In particular, a relevant person must understand the nature of the business that the applicant expects to conduct and the rationale for the business relationship or one-off transaction.</p>	<p><a href="#">Section 3.3.1</a></p> <p><a href="#">Section 3.3.2</a></p> <p><a href="#">Section 3.3.3</a></p>

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Stages 1-3:	Regulatory Requirements: determination and recording of risk	Guidance
Stage 2:	A relevant person must, on the basis of the relevant CDD information collected at Stage 1, evaluate the information with reference to “factors to consider” and appropriate external data sources, and consider whether it is appropriate to collect further information.	<a href="#">Section 3.3.3</a> <a href="#">Section 3.3.4</a>
Stage 3:	A relevant person must determine and record a risk assessment for the applicant.	<a href="#">Section 3.3.5</a>
Stages 4-5:	Regulatory Requirements: application of a risk based approach	Guidance
Stage 4:	A relevant person must verify the identity of the applicant and take reasonable measures to verify the identity of any beneficial owners and controllers of the applicant and of any third parties on whose behalf the applicant acts (and beneficial owners and controllers of such third parties).	<a href="#">Section 4</a>
Stage 5:	A relevant person must periodically update relevant CDD information and its risk assessment (in line with Stages 1 to 3). In the event of any change in beneficial ownership or control of the applicant, or third parties on whose behalf the applicant acts reasonable measures should be taken to verify identity (in line with Stage 4).	<a href="#">Section 3.3.6</a>

### 3.3.1 Customer due diligence information – Stage 1

#### GUIDANCE NOTES

23. CDD information comprises both identification information and relationship information.
24. Information that may be considered relevant *identification* information is set out in [Section 4](#). Information that may be considered relevant *relationship* information for individuals, express trusts, and legal bodies is described below.
25. The extent of relationship information sought in respect of a particular applicant, or type of applicant, will depend upon the jurisdictions with which the applicant is connected, the characteristics of the product or service requested, how the product or service will be delivered, as well as factors specific to the applicant.

Guidance Notes: customer relationship information	
All customer types	<ul style="list-style-type: none"> <li>• Purpose and intended nature of relationship.<sup>1</sup></li> <li>• Type, volume and value of activity expected.</li> <li>• Source of funds, e.g. nature and details of occupation or employment.</li> <li>• Details of any existing relationships with the relevant person.</li> <li>• Reason for using overseas service provider (non-residents only).</li> </ul>

<sup>1</sup> For many simple retail savings or investment products, the reasons for a relationship may be self-evident.

Additional relationship information	
Express trusts	<ul style="list-style-type: none"> <li>Type of trust (e.g. fixed interest, discretionary, testamentary).</li> <li>Structure of any underlying legal bodies (if applicable) and nature of activities undertaken by the trust and any underlying legal bodies (having regard for <a href="#">the Commission's policy on "sensitive activities"</a>, and trading activities).</li> <li>Classes of beneficiaries, including any charitable causes named in the trust instrument.</li> <li>Name of trustee's regulator, if applicable.</li> </ul>
Legal bodies	<ul style="list-style-type: none"> <li>Entity and group (if applicable) ownership and control structure.</li> <li>Nature of activities undertaken (having regard for <a href="#">the Commission's policy on "sensitive activities"</a>, and trading activities).</li> <li>Geographical sphere of the legal body's activities and assets.</li> <li>Name of regulator, if applicable.</li> </ul>

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### 3.3.2 Customer due diligence profile – Stage 1

#### GUIDANCE NOTES

- For certain types of products or services, it may be possible to prepare a customer profile on the basis of generic expected activity and transactions. For more complex products or services, however, tailored activity profiles may be necessary.
- In any event, a relevant person may demonstrate that a customer profile contains sufficient information where that profile enables it to:
  - identify a pattern of expected business activity and transactions within each business relationship; and
  - identify unusual or higher risk activity and transactions that may indicate money laundering or financing terrorism activity.

### 3.3.3 Source of funds and wealth – Stages 1 and 2

#### OVERVIEW

- The ability to follow the audit trail for criminal funds and transactions flowing through the financial sector is a vital law enforcement tool in money laundering and financing of terrorism investigations. Understanding the source of funds and, in higher risk relationships, the customer's source of wealth is also an important aspect of CDD.

#### GUIDANCE NOTES

- Except where there is a specific legal or regulatory requirement (see 3.4.1 and 3.4.2), a relevant person may demonstrate that it has collected relevant relationship information by:

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<b>Lower and standard risk</b>	<ul style="list-style-type: none"> <li>Taking reasonable measures to <a href="#">find out the source</a> of funds for each applicant and, when third party funding is involved, making further enquiries as to the relationship between the person providing the funds and the applicant.</li> </ul>
<b>Higher risk: additional measures</b>	<ul style="list-style-type: none"> <li>Taking reasonable measures to <a href="#">find out</a> a customer's source of wealth. <a href="#">See also Sections 3.4.3 and 3.4.4.</a></li> </ul>

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- 30. The “**source of funds**” is the activity which generates the funds for a customer, e.g. a customer’s occupation or business activities. Information concerning the geographical sphere of the activities may also be relevant.
- 31. The Money Laundering Order and the Handbook stipulate record keeping requirements for transaction records, which require information concerning the remittance of funds to be recorded (e.g. the name of the bank and the name and account number of the account from which the funds were remitted). This is not to be confused with source of funds.
- 32. “**Source of wealth**” is distinct from source of funds, and describes the activities which have generated the total net worth of a person, i.e. those activities which have generated a customer’s funds and property. Information concerning the geographical sphere of the activities that have generated a customer’s wealth may also be relevant.
- 33. In finding out a source of wealth it will often not be necessary to determine the monetary value of an individual’s net worth.

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### 3.3.4 Evaluation of customer due diligence information – Stage 2

#### GUIDANCE NOTES

- 34. The following factors - country risk, product (or service) risk, delivery risk, and customer specific risk - will be relevant when assessing and evaluating the CDD information collected at Stage 1, and are not exhaustive. A relevant person should consider whether other variables are appropriate factors to consider in the context of the products and services that it provides and its customer base. Where this evaluation of CDD information highlights a higher risk, then it may prove necessary to request further CDD information.

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#### 3.3.4.1 Factors to consider

##### Country risk

The following factors will be relevant to an assessment of country risk:

- Residence in, or other connection with, higher risk countries or territories, where the following countries or territories may be considered to present a higher risk:
  - Those with strategic deficiencies in the fight against money laundering and the financing of terrorism, e.g. those identified by the FATF as having deficiencies but which have developed an agreed action plan to address those deficiencies (listed in Group 3 in Appendix D).
  - Those identified as major illicit drug producers or through which significant quantities of drugs are transited, e.g. those highlighted in the UK Threat Assessment of Organised Crime or listed by the US Department of State in its annual International Narcotics Control Strategy Report.
  - Those that otherwise have high levels of organised crime, e.g. arms trafficking.
  - Those that have strong links (such as funding or other support) with terrorist activities, e.g.: those designated by the US Secretary of State as state sponsors of terrorism; and those physical areas identified by the US (in its annual report entitled Country Reports on Terrorism) as ungoverned, under-governed or ill-governed where terrorists are able to organise, plan, raise funds, communicate, recruit, train, transit and operate in relative security because of inadequate governance capability, political will, or both.
  - those that are involved in the proliferation of nuclear and other weapons, e.g. those that are the subject of sanctions measures in place in Jersey or, as appropriate, elsewhere.
  - Those that are vulnerable to corruption, including bribery, e.g. those with poor

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<#>Geographical sphere of business activities, e.g. the location of the markets in which a customer does business.¶

ratings in Transparency International's Corruption Perception Index or highlighted as a concern in the Worldwide Governance Indicators project.

- Those in which there is no, or little, confidence in the **rule of law**, in particular the quality of contract enforcement, property rights, the police and the courts, e.g. those highlighted as a concern in the Worldwide Governance Indicators project.
- Those in which there is no, or little, confidence in **government effectiveness**, including the quality of the civil service and the degree of its independence from political pressures, e.g. those highlighted as a concern in the Worldwide Governance Indicators project.
- Those that are **politically unstable**, e.g. those highlighted as a concern in the Worldwide Governance Indicators project, or which may be considered to be a "failed state", e.g. those listed in the Failed States Index (central government is so weak or ineffective that it has little practical control over much of its territory; non-provision of public services; widespread corruption and criminality; refugees and involuntary movement of populations; sharp economic decline).
- Those that are the subject of **sanctions** measures that are in place in Jersey or elsewhere, e.g. those dealing with the abuse of human rights or misappropriation of state funds.
- Those that **lack transparency** or which have excessive secrecy laws, e.g. those identified by the OECD as having committed to internationally agreed tax standards but which have not yet implemented those standards.
- Those with inadequate regulatory and supervisory standards on international **cooperation and information exchange**, e.g. those identified by the Financial Stability Board as making material progress towards demonstrating sufficiently strong adherence or being non-cooperative.
- Those with **cash-intensive** economies.
- Residence in, or other connection with, **lower risk countries or territories**. In assessing country risk, the following factors may be considered to be indicative of lower risk:
  - A favourable rating in the Worldwide Governance Indicators project
  - The application of national **financial reporting standards** that follow international financial reporting standards, e.g. those countries identified by the European Commission as having generally accepted accounting principles that are equivalent to International Financial Reporting Standards.
  - A commitment to **international export control regimes** (Missile Technology Control Regime, the Australia Group, the Nuclear Suppliers Group and the Wassenaar Arrangement).
  - A favourable assessment by the Financial Stability Board concerning adherence to regulatory and supervisory standards on international **cooperation and information exchange**.
- Familiarity of a relevant person with a country or territory, including knowledge of its local legislation, regulations and rules, as well as the structure and extent of regulatory oversight, for example, as a result of a relevant person's own operations within that country.

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#### *Product or service risk*

The following features may be attractive to money launderers:

- Ability to make payments to third parties.

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- Ability to pay in or withdraw cash.
- Ability to migrate from one product to another.
- Use of numbered accounts (without reference to the name of the customer).
- Ability to use “hold mail” facilities, and “care of” addresses (other than temporary arrangements).
- Ability to place funds in client, nominee or other accounts, where funds are mingled with others’ funds.
- Ability to place sealed parcels or sealed envelopes in safe custody boxes.

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<#>Ability to pool underlying customers.¶  
Mechanism or instrument that could be used to finance activity-based financial prohibitions (i.e. prohibitions on provision of financial services related to the supply, sale, transfer, manufacture or use of prohibited items, materials, equipment, goods

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*Delivery risk*

- The following may be attractive to money launderers:
- Non-face to face relationships - product or service delivered exclusively by post, telephone, internet etc where there is no physical contact with the customer.
  - Availability of “straight-through processing” of customer transactions (where payments may be made electronically without the need for manual intervention by a relevant person).

*Customer specific risk*

- The following factors will be relevant to an assessment of customer risk:
- Type of applicant or customer. For example, an individual who has been entrusted with a prominent public function (or immediate family member or close associate of such an individual) may present a higher risk.
  - Nature and scope of business activities generating the funds/assets. For example, an applicant or customer conducting “sensitive” activities (as defined by the Commission [in its policy on sensitive activities](#)) or conducting activities which are prohibited if carried on with certain countries; an applicant or customer engaged in higher risk trading activities; or an applicant or customer engaged in a business which involves significant amounts of cash, may indicate higher risk.
  - Transparency of applicant or customer. For example, persons that are subject to public disclosure rules, e.g. on exchanges or regulated markets (or consolidated subsidiaries of such persons), or subject to licensing by a statutory regulator, e.g. the [Jersey Competition Regulatory Authority](#), may indicate lower risk. Customers where the structure or nature of the entity or relationship makes it difficult to identify the true beneficial owners and controllers may indicate higher risk.
  - Reputation of applicant or customer. For example, a well known, reputable person, with a long history in its industry, and with abundant independent and reliable information about it and its beneficial owners and controllers may indicate lower risk.
  - Behaviour of applicant or customer. For example, where there is no commercial rationale for a customer buying the products that he seeks or setting up a particular structure, requests undue levels of secrecy, or where it appears that an “audit trail” has been deliberately broken or unnecessarily layered, an applicant for business may indicate higher risk.
  - The regularity or duration of the relationship. For example, longstanding relationships involving frequent customer contact that result in a high level of understanding of the customer relationship may indicate lower risk.
  - Type and complexity of relationship. For example, the use of overly complex structures, unexplained use of corporate structures and express trusts, and use of nominee and

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- bearer shares may indicate higher risk.
- Value of assets handled.
  - Value and frequency of cash or other “bearer” transactions [\(e.g. travellers’ cheques and electronic money purses\)](#).
  - Delegation of authority by the applicant or customer. For example, the use of powers of attorney, mixed boards and representative offices may indicate higher risk.
  - [Involvement of persons other than beneficial owners and controllers in the operation of a business relationship](#).
  - In the case of an express trust, the relationship [between](#) the settlor(s) [and](#) beneficiaries with a vested right, [other](#) beneficiaries and persons who are the object of a power. (See also [Section 4.4.](#))
  - In the case of an express trust, the nature of classes of beneficiaries and classes within an expression of wishes. [For example, a trust that is established for the benefit of the close family of the settlor may indicate a lower risk](#)

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**3.3.4.2 External data sources**

35. [In assessing the risk that countries and territories may present, objective data published by the IMF, FATF, World Bank and the Egmont Group of Financial Intelligence Units will be relevant, as will objective information published by national governments \(such as the World Factbook published by the US Central Intelligence Agency\). Information on sanctions and the proliferation of nuclear and other weapons may be found on the Commission’s website. Other appropriate sources may include information published on electronic subscription databases, the Internet and in other media.](#)
36. [Appendix D1 lists a number of countries and territories that are identified by reliable and independent external sources as presenting a higher risk. In assessing country risk, it will be relevant to take account of the number of occasions that a particular country or territory is listed as a result of different reasons. Where a country is identified as presenting a higher risk for different reasons by three or more, or four or more, separate external sources, it is more prominently listed in the appendix.](#)

Deleted: <#>Appropriate external data sources will include sources such as domestic legislation applying UN and EU sanctions and measures, and guidance issued by the Commission, and may include information published by governments and law enforcement authorities on terrorists (e.g. United States government agencies such as the [Federal Bureau of Investigation](#) and [OFAC](#)), electronic subscription databases, the internet and other media.¶

<#>In particular, [HM Treasury](#) maintains a consolidated list of targets listed by the UN, EU, and UK under legislation relating to current financial sanctions regimes. ¶

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**3.3.5 Customer risk assessment – Stage 3**

**GUIDANCE NOTES**

37. A relevant person may demonstrate an effective process to determine an initial customer risk assessment by taking into account:
  - the CDD information obtained at Stage 1 and the evaluation of this information carried out at Stage 2 against relevant “factors to consider” and external data sources; and
  - inconsistencies between the CDD information obtained, for example, between specific information concerning source of funds or source of wealth, and the nature of transactions.
38. In determining a risk assessment for a customer, the presence of one factor to consider that might indicate higher risk will not automatically [mean](#) that a customer is higher risk. Equally, the presence of one lower risk factor should not automatically lead to a determination that a customer is lower risk. As set out above, the process of determining an appropriate risk assessment should take into account the absence or presence of relevant factors, whether any compensating factors apply and the CDD information held by the relevant person.
39. The sophistication of the risk assessment process may be determined according to factors [supported](#) by the business risk assessment.

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40. Where it is appropriate to do so, risk may be assessed generically for applicants and customers falling into similar categories.
- The business of some relevant persons, their products, and customer base, can be relatively simple, involving few products, with most applicants or customers falling into similar risk categories. In such circumstances, a simple approach, building on the risk that the business' products are assessed to present, may be appropriate for most customers, with the focus being on those customers who fall outside the norm.
  - Others may have a greater level of business, but large numbers of their customers may be predominantly retail, served through delivery channels that offer the possibility of adopting a standardised approach to many procedures. Here too, the approach for most customers may be relatively straight forward - building on product risk.
  - In the case of Jersey residents seeking to establish retail relationships, and in the absence of any information to indicate otherwise, such applicants may be considered to present a lower risk.
41. A more complex system may be appropriate for diverse customer bases or businesses with broad ranges of products or services.

### 3.3.6 Updating customer due diligence and customer risk assessments – Stage 5

#### **GUIDANCE NOTES**

42. In the case of a business relationship [that is subject to enhanced customer due diligence measures \(e.g. because it has been assessed as presenting higher risk\)](#), a relevant person may demonstrate that its CDD information remains up to date where it is reviewed and updated on at least an annual basis.
43. In the case of other relationships, a relevant person may demonstrate that its CDD information remains up to date where it is reviewed and updated on a risk sensitive basis, including where additional "factors to consider" become apparent.
44. Trigger events, e.g. the opening of a new account, the purchase of a further product, or meeting with a customer may also present a convenient opportunity to update CDD information.
45. Under [Article 13\(1\)\(c\)](#) of the Money Laundering Order, where there is doubt about the veracity or adequacy of documents, data or information previously obtained under CDD measures, then CDD information must be updated.
46. A comprehensive understanding of the risk presented by a business relationship may only become evident at a later stage following the establishment of relationship. A relevant person may demonstrate that its customer risk assessments remain up to date where its review procedures (as outlined above), and its monitoring procedures ([Section 5](#)) involve consideration as to the ongoing appropriateness of the customer's risk assessment.

## 3.4 ENHANCED CUSTOMER DUE DILIGENCE MEASURES

### OVERVIEW

47. [This section considers the enhanced customer due diligence measures to be taken in some of the cases that are prescribed in Article 15 of the Money Laundering Order. The cases are where:](#)
- [A customer has a connection to a PEP \(Article 15\(5\)\).](#)
  - [A customer is connected with a country or territory that does not apply, or insufficiently applies, the FATF Recommendations \(Article 15\(3A\)\) - and which is listed in Group 1 in Appendix D.](#)

- [A customer is assessed as presenting a higher risk \(Article 15\(1\)\(b\)\), including where that assessment follows a higher assessment of country risk because of a connection to a country or territory that is listed in Group 2 in Appendix D, or because of a connection to a country or territory considered to present a higher risk under guidance set out in Section 3.3.4.1 \(for example, because of a connection to a country or territory listed in Group 3 in Appendix D\).](#)
48. [Section 4.8 of the AML/CFT Handbook considers the measures to be taken in the case of a customer relationship that is established on a non-face to face basis \(Article 15\(3\)\). A separate section considers the measures to be taken where correspondent banking services are provided \(Article 15\(4\)\).](#)

#### STATUTORY REQUIREMENTS

49. *Article 15 of the Money Laundering Order requires that a relevant person apply enhanced CDD measures using a risk based approach where:*
- *A customer is not physically present for identification purposes.*
  - *The relevant person has or proposes to have a business relationship or proposes to carry out a one-off transaction with a person connected with a country or territory that does not apply or insufficiently applies the FATF Recommendations.*
  - *The relevant person has or proposes to have a business relationship or proposes to carry out a one-off transaction with an applicant for business or a customer who is a PEP or where any of the following is a PEP: (i) owner or controller of an applicant or customer, (ii) third party on whose behalf an applicant or customer acts, (iii) beneficial owner or controller of a third party described in (ii), or (iv) person acting, or purporting to act, on behalf of a customer.*
  - *The relevant person holds a deposit-taking licence and has or proposes to have a correspondent banking relationship with a bank that is outside Jersey. See sector specific section on correspondent banking.*
  - *The nature of the situation is such that a higher risk of money laundering is likely.*
50. *Article 15(5A) of the Money Laundering Order requires that a relevant person that has or proposes to have a business relationship or proposes to carry out a one-off transaction with a PEP (or relationship or transaction that has a prescribed connection to a PEP) must have specific and adequate measures that: (i) require any new business relationship or continuation of such a relationship or any new one-off transaction to be approved by the senior management of the relevant person; and (ii) establish the source of the wealth of the PEP and the source of the funds involved in the business relationship or one-off transaction.*
51. *For the purposes of determining whether a person is a close associate of a PEP a relevant person need only consider information that it holds or is publicly known.*

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### 3.4.1 [Customer that is a politically exposed person \(PEP\) \(Article 15\(5\)\)](#)

#### OVERVIEW

52. Corruption inevitably involves 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.
53. 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 businesses and [countries and territories](#) concerned. This is in addition to the possibility of criminal charges.

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Effective from: 4 February 2008

Sections 3.3.4.1 and 3.4 revised: 12 January 2009

Section 3.4 revised: 30 January 2009

Paragraph 48 revised: 22 April 2009

Sections 3.3.4.1 and 3.4.2 revised 22 July 2010

54. Indications that an applicant or customer may be connected with 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 third parties.
55. 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.
56. PEP status itself does not, of course, incriminate individuals or entities. It will mean, however, that the applicant for business or customer will be subject to enhanced CDD measures.

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#### STATUTORY REQUIREMENTS

57. *Article 11 of the Money Laundering Order requires a relevant person to put in place appropriate risk based systems and controls to determine whether an (i) applicant for business or customer, (ii) owner or controller of an applicant or customer, (iii) third party on whose behalf an applicant or customer acts, (iv) beneficial owner or controller of a third party described in (iii), or (v) person acting, or purporting to act, on behalf of a customer, is a PEP. Such systems and controls must recognise that customers may subsequently acquire PEP status.*

#### GUIDANCE NOTES

58. The nature and scope of a relevant person’s activities will generally determine whether the existence of PEPs in its customer base is a practical issue for the business.
59. Where the existence of PEPs is considered to be a practical issue, a relevant person may demonstrate that it has appropriate systems and controls for determining whether it is servicing a PEP where it:
  - Assesses those countries and territories with which customers are connected, which pose the highest risk of corruption. One source of information is the Transparency International Corruption Perception Index.
  - Finds out who are the current and former holders of prominent public functions within those higher risk countries and territories and determines, as far as is reasonably practicable, whether or not applicants for business and customers have any connections with such individuals (including through immediate family or close associates). In determining who are the current and former holders of prominent public functions, it may have regard to information already held by the relevant person and to external information sources such as the UN, the European Parliament, the UK Foreign and Commonwealth Office, the Group of States Against Corruption, and commercially available databases.
  - Exercises vigilance where applicants and customers are involved in business sectors that are vulnerable to corruption such as, but not limited to, oil or arms sales.

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### 3.4.2 Customer who is connected with a country or territory that does not apply or insufficiently applies the FATF Recommendations (Article 15(3A))

#### REGULATORY REQUIREMENT

60. Countries and territories listed in Group 1 in Appendix D (which the FATF considers present ongoing and substantial money laundering and terrorist financing risks and which should be subject to counter-measures to protect the financial system) are to be treated as countries and territories that do not apply, or insufficiently apply, the FATF Recommendations under Article 15(3A) of the Money Laundering Order. The effect of this is that enhanced CDD measures must be applied under Article 15 of the Money Laundering Order to any business relationship or one-off transaction with a person connected with such a country or territory.
61. In the case of a relationship or one-off transaction that is subject to Article 15(3A) of the Money Laundering Order, then enhanced CDD measures must include:

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- [Requiring any new business relationship \(and continuation thereof\) or one-off transaction to be approved by senior management.](#)
- [Measures to establish the source of the wealth of the customer and source of the funds involved in the business relationship or one-off transaction.](#)

#### **GUIDANCE NOTES**

62. [A relevant person may demonstrate that it has taken measures to establish source of wealth and source of funds where measures include one or more of the following:](#)
- [Commissioning a satisfactory independent report from a specialist security agency about source of wealth and source of funds which adequately explains how sources have been verified.](#)
  - [Where a relevant person is part of a group, obtaining adequate information from the group's internal security department/business intelligence unit \(or equivalent\) about source of wealth and source of funds and how sources have been verified.](#)
  - [Where a relevant person is part of a group, obtaining adequate information from a part of the group which has direct representation in the country or territory with which the customer has a connection about source of wealth and source of funds and how sources have been verified.](#)
  - [Collecting and verifying information on both sources on the basis of a face-to-face interview.](#)
63. [A relevant person may demonstrate that it has otherwise applied enhanced CDD measures under Article 15\(3A\) of the Money Laundering Order where it does all of the following:](#)
- [In a case where a relationship is to be established non-face to face, requiring a suitable certifier to certify \(in addition to confirming that a document is a true copy of an original document \(or extract thereof\) that verifies the identity and/ or residential address of an individual\) that the photograph contained in the document certified bears a true likeness to the individual requesting certification \(or words to that effect\).](#)
  - [Assigns a dedicated relationship manager to the business relationship.](#)
  - [Requires more frequent reviews of the business relationship, e.g. annual reviews.](#)
  - [Requires the review of the business relationship to be undertaken by the compliance function, or other employees not directly involved in managing the customer, e.g. by a customer monitoring team.](#)
  - [Sets lower monitoring thresholds for transactions connected with the business relationship.](#)
64. [In determining the measures to be taken under paragraphs 62 and 63, a relevant person may take into account the precise nature of the connection that an applicant for business or customer has with a country or territory. For example, the measures to be taken in the case of an applicant or customer who is a national of such a country or territory, resides in such a country or territory, and derives his wealth or income from such a country or territory, will be significantly more than in the case of a foreign national that temporarily resides in such a country or territory, or in the case of a national of such a country or territory who is permanently resident outside that country or territory.](#)

**3.4.3 Customer who presents a higher risk as a result of country risk (Article 15(1)(b))**

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**REGULATORY REQUIREMENT**

65. Countries and territories listed in Group 2 in Appendix D (identified by the FATF as having strategic AML/CFT deficiencies and which are failing to deal properly with those deficiencies) are to be treated as countries and territories that present a higher country risk under normal CDD measures.

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**GUIDANCE NOTES**

66. Where a relationship or one-off transaction is considered to present a higher risk under Article 15(1)(b) of the Money Laundering Order as a result of, or in part due to:

- the requirement set out at paragraph 65 above; or
- a higher assessment of country risk under normal CDD measures (taking into account the "country risk" factors listed at section 3.3.4.1 above).

a relevant person may demonstrate that it has applied enhanced CDD measures under Article 15(1)(b) of the Money Laundering Order, including taking reasonable measures to find out a customer's source of wealth and source of funds in line with paragraph 29 above and to verify that information, where measures include one or more of the measures listed at paragraph 62 above and one or more of the measures listed at paragraph 63 above.

67. In determining the measures to be taken, a relevant person may take into account the precise nature of the connection that an applicant for business or customer has with a country or territory. For example, the measures to be taken in the case of an applicant or customer who is a national of such a country or territory, resides in such a country or territory, and derives his wealth or income from such a country or territory, will be significantly more than in the case of a foreign national that temporarily resides in such a country or territory, or in the case of a national of such a country or territory who is permanently resident outside that country or territory.

**3.4.4 Customer who presents a higher risk other than as a result of country risk (Article 15(1)(b))**

**GUIDANCE NOTES**

68. A relevant person may demonstrate that it has applied enhanced CDD measures under Article 15(1)(b) of the Money Laundering Order, including taking reasonable measures to find out a customer's source of wealth and source of funds in line with paragraph 29 above and to verify that information, where it: (i) considers whether it is appropriate to verify the source of funds and source of wealth; and (ii) undertakes one or more of the measures set out below. The nature of the measures to be applied will depend on the circumstances of the relationship or transaction and the factors leading to the customer being considered to be higher risk.

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69. Enhanced CDD measures include:

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- Obtaining additional CDD information (identification information and relationship information, including further information on the source of funds and source of wealth), from either the customer or independent sources (such as the internet, public or commercially available databases and professional intermediaries).
- In a case where a relationship is to be established non-face to face, requiring a suitable certifier to certify (in addition to confirming that a document is a true copy of an original document (or extract thereof) that verifies the identity and/ or residential address of an individual) that the photograph contained in the document certified bears a true likeness to the individual requesting certification (or words to that effect).

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- [Taking fresh or additional steps to verify the CDD information obtained, e.g. obtaining an up to date copy of a passport where the one held has expired. In a case where reliance has been placed on suitable certification, a suitable certifier may be requested to certify \(in addition to confirming that a document is a true copy of an original document \(or extract thereof\) that verifies the identity and/or residential address of an individual\) that the photograph contained in the document certified bears a true likeness to the individual requesting certification – where such a confirmation had not been provided under general provisions set out in section 4.10.](#)
- Commissioning due diligence reports from independent experts to confirm the veracity of CDD information held.
- [Undertaking Internet research.](#)
- [Requiring any new business relationship \(and continuation thereof\) or one-off transaction to be approved by senior management.](#)
- [Assigning a dedicated relationship manager to the business relationship.](#)
- [Requiring more frequent review of business relationships, e.g. annual reviews.](#)
- Requiring the review of business relationships to be undertaken by the compliance function, or other employees not directly involved in managing the customer, e.g. by a [customer monitoring team](#).
- Setting lower monitoring thresholds for transactions connected with the business relationship.

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### 3.5 CDD REQUIREMENTS WHEN ACQUIRING A BUSINESS OR A BLOCK OF CUSTOMERS

#### OVERVIEW

70. This sub-section [explains](#) the requirements when established business relationships are taken on when acquiring a business or block of customers.

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#### REGULATORY REQUIREMENTS

71. Before acquiring a business with established business relationships or a block of relationships, a relevant person must undertake sufficient due diligence on the vendor to [find out](#) the level of CDD information and evidence of identity held in relation to the business to be acquired.
72. A relevant person may rely on the information and evidence of identity previously obtained by the vendor where the following criteria are met:
- the vendor is a [person carrying on](#) financial services business that is a regulated person or carries on equivalent business to any category of regulated business as defined by [Article 5](#) of the Money Laundering Order (refer to [Section 1.7](#)); and
  - the relevant person has assessed that the vendor's CDD policies and procedures are satisfactory. This assessment must either involve sample testing, or alternatively an assessment of all relevant CDD information for the relationships to be acquired.
73. When relying on this concession, a relevant person must obtain from the vendor the CDD information and evidence of identity held for each customer acquired.

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74. Otherwise, where the vendor is not a [person carrying on](#) financial services business that is a regulated person, or is not carrying on equivalent business to any category of regulated business (refer to [Section 1.7](#)), or where deficiencies in the vendor's CDD policies and procedures are identified (either at the time of transfer or subsequently), [the relevant person](#) must determine and implement a programme to apply CDD measures on each customer and to remedy deficiencies. The [relevant person](#) must agree its programme with the Commission.
75. CDD procedures must be undertaken as soon as possible in line with a risk based approach and requirements set out in the Handbook.

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