



JFSC

CONSULTATION PAPER NO. 4 2009

HANDBOOK FOR THE PREVENTION AND DETECTION OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM FOR FINANCIAL SERVICES BUSINESS REGULATED UNDER THE REGULATORY LAWS

**Amendments to Part 1, Section 4: Identification and
verification of identity concerning, inter alia,
foundations**

ISSUED 11 MAY 2009

CONSULTATION PAPER

The Jersey Financial Services Commission (the “**Commission**”) invites comments on this consultation paper. Comments should reach the Commission by 30 June 2009.

If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, please contact Andrew Le Brun.

Responses should be sent directly to:

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It is the policy of the Commission to make the content of all responses available for public inspection unless specifically requested otherwise.

Glossary of terms

the AML/CFT Handbook	means the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Financial Services Business Regulated under the Regulatory Laws
the Commission	means the Jersey Financial Services Commission
the Commission Law	means the Financial Services Commission (Jersey) Law 1998
the FATF	means the Financial Action Task Force
the Foundations Law Jersey Finance	means the Foundations (Jersey) Law 200- means Jersey Finance Limited
the Money Laundering Order	means the Money Laundering (Jersey) Order 2008
a relevant person	means a person that is subject to the Money Laundering Order
the Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008

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1 EXECUTIVE SUMMARY

1.1 Overview

- 1.1.1 The Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Financial Services Business Regulated under the Regulatory Laws (the “**AML/CFT Handbook**”) came into force on 4 February 2008. Since that date, a number of amendments have been made to the AML/CFT Handbook, which are summarised in Part 4 thereof.
- 1.1.2 So far, none of the changes made to Part 1 of the AML/CFT Handbook have been subject to public consultation. This is because the changes made so far to Part 1 have:
- 1.1.2.1 been consequential to changes in, and amendments to, primary and secondary legislation;
 - 1.1.2.2 provided additional “overview” text;
 - 1.1.2.3 clarified the original intention of requirements and guidance set in the AML/CFT Handbook;
 - 1.1.2.4 reflected statements made by the Financial Action Task Force (the “**FATF**”) and other international bodies on countries that have failed to apply international standards; or
 - 1.1.2.5 been to update the list of jurisdictions which the Commission considers to have in place requirements to prevent and detect money laundering and the financing of terrorism that are consistent with those of the FATF’s Recommendations.
- 1.1.3 In contrast, many of the changes that are proposed in this consultation paper follow the adoption by the States of Jersey of the Foundations (Jersey) Law 200- (the “**Foundations Law**”) in October 2008. The changes proposed will have the effect of establishing regulatory requirements and providing accompanying guidance on how identification measures are to be applied in cases where a foundation is establishing a business relationship or carrying out a one-off transaction with a person that is subject to the Money Laundering (Jersey) Order 2008 (the “**Money Laundering Order**”), referred to hereafter as a “**relevant person**”.

1.2 What is proposed and why?

- 1.2.1 A number of amendments are proposed to section 4 of Part 1 of the AML/CFT Handbook that follow the adoption of the Foundations Law. As described above, these will have the effect of establishing regulatory requirements and providing accompanying guidance on how identification measures are to be applied in cases where a foundation is establishing a business relationship or carrying out a one-off transaction with a relevant person.

- 1.2.2 Some other amendments are also proposed. In particular:
- 1.2.2.1 Changes are made to reflect amendments made to the Money Laundering (Jersey) Order 2008 by the Money Laundering (Amendment No. 2) (Jersey) Order 2008.
 - 1.2.2.2 Guidance is included on what is meant by the term “regulated market”, which is defined in Article 2 of the Money Laundering Order as having the same meaning as in the Money Laundering Regulations 2007 of the United Kingdom.
 - 1.2.2.3 The circumstances in which the factors and measures that are set out in section 4.10.1 of the AML/CFT Handbook (assessment of risk where reliance is placed on intermediaries and introducers) are also relevant to a customer risk assessment are clarified. Such factors and measures will be considered as part of an assessment of customer risk even where Article 16 of the Money Laundering Order is not relied on.
 - 1.2.2.4 The intended scope of the concessions set out at Article 18(2) and 18(6A) of the Money Laundering Order is clarified.
- 1.2.3 The consultation paper does not consider the requirements that are to be applied where a trust company is incorporating a foundation, or providing any of the services that are set out in Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 to a foundation. These will be covered in a separate section of the AML/CFT Handbook for trust company business.
- 1.2.4 Nor does the consultation paper pre-empt publication of the International Monetary Fund’s detailed assessment report on Jersey’s compliance with the FATF Recommendations. As a result, further amendments to section 4 of the AML/CFT Handbook may be proposed following publication of that report.

1.3 Who would be affected?

- 1.3.1 The proposals will affect only relevant persons.
- 1.3.2 In particular, the proposals will affect relevant persons that establish business relationships and carry out one-off transactions with foundations. Whilst the changes that are proposed in section 4 of the AML/CFT Handbook use terms that are taken from the Foundations Law, the requirements and guidance that are proposed are intended to apply to any foundation that is a body corporate, wherever it is incorporated.

2 CONSULTATION

2.1 Basis for consultation

- 2.1.1 The Commission has issued this consultation paper in accordance with Article 8(3) of the Financial Services Commission (Jersey) Law 1998 (the “**Commission Law**”), under which the Commission “*may, in connection with the carrying out of its functions -consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate*”.
- 2.1.2 In addition, the Commission is required to consult on amendments to Codes of Practice that are issued in accordance with Article 22 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the “**Supervisory Bodies Law**”).

2.2 Responding to the consultation

- 2.2.1 The Commission invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 To assist in analysing responses to the consultation paper, respondents are asked to:
- 2.2.2.1 prioritise comments and to indicate their relative importance; and
 - 2.2.2.2 respond as specifically as possible and, where they refer to costs, to quantify those costs.

2.3 Next steps

- 2.3.1 Responses received to this consultation paper will be discussed with the Commission’s Steering Group for countering money laundering and the financing of terrorism, made up of representatives from the Commission, Jersey Finance, the JFCU and industry. A full list of members can be found on the Commission’s website at [AML/CFT Steering Group](#).
- 2.3.2 Following such a discussion and agreement on the amendments that may be made to regulatory requirements, guidance notes, and overview text, section 4 of the AML/CFT Handbook will be revised in line with the power that is available to the Commission under Article 22 of the Supervisory Bodies Law.

3 THE COMMISSION

3.1 Overview

3.1.1 The Commission is a statutory body corporate established under the Commission Law. It is responsible for the supervision and development of financial services provided in or from within Jersey.

3.2 Commission's functions

3.2.1 The Commission Law prescribes that the Commission shall be responsible for:

3.2.1.1 the supervision and development of financial services provided in or from within Jersey;

3.2.1.2 providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;

3.2.1.3 preparing and submitting to the Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;

3.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:

- as are required or authorised by or under any enactment, or
- as the States may, by Regulations, transfer; and

3.2.1.5 such other functions as are conferred on the Commission by any other Law or enactment.

3.3 Guiding principles

3.3.1 The Commission's guiding principles require it to have particular regard to:

3.3.1.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence, malpractice, or the financial unsoundness of persons carrying on the business of financial services in or from within Jersey;

3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;

3.3.1.3 the best economic interests of Jersey; and

3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

4 AMENDMENTS TO SECTION 4

4.1 Introduction

4.1.1 This part of the consultation paper highlights the key changes that are proposed to section 4 of the AML/CFT Handbook.

4.2 Section 4.5 – Identification and verification: legal bodies

4.2.1 Paragraph 76 of the AML/CFT Handbook has been updated to clarify the existing reference to section 4.10.1 of the AML/CFT Handbook. It says that the risk factors that are set out in section 4.10.1 will also be relevant to a customer risk assessment carried out by a relevant person under section 3 of the AML/CFT Handbook where:

4.2.1.1 a customer is a legal body; and

4.2.1.2 information and evidence of identity for that customer is collected through a trust and company service provider (and not directly from the company itself).

4.2.2 Paragraph 76 of the AML/CFT Handbook applies whether or not a relevant person places reliance on the concession that is set out in Article 16 of the Money Laundering Order.

4.2.3 Paragraph 78 of the AML/CFT Handbook provides a link to guidance that is published by the UK's Joint Money Laundering Steering Group on what may be considered to be a "regulated market".

4.3 Sections 4.5.3 – Establishing identity - foundations

4.3.1 This section sets out the identification requirements that are to be applied where a customer is a foundation.

4.3.2 Paragraphs 95 and 96 of the AML/CFT Handbook provide that a relevant person must collect relevant identification information on the foundation and on the "persons who are concerned with the foundation". The extent of the information that is collected will be dependant upon the assessment of risk for a particular customer.

4.3.3 Guidance on meeting these requirements follows in paragraphs 97 and 98 of the AML/CFT Handbook and is based on existing guidance for legal bodies and express trusts.

4.3.4 The following are considered to be "persons who are concerned with the foundation":

4.3.4.1 A council member of the foundation - however described;

- 4.3.4.2 A founder of the foundation, a person (other than the founder of the foundation) who has endowed the foundation, and, if any rights a founder of a foundation had in respect of the foundation and its assets have been assigned to some other person, that other person, however described. Each of these persons is considered to be a “person with standing” under Article 1(1) of the Foundations Law;
- 4.3.4.3 A guardian - however described;
- 4.3.4.4 Any beneficiary entitled to a benefit under the foundation in accordance with the charter or the regulations of the foundation. This is based on Article 25(2)(a) of the Foundations Law; and
- 4.3.4.5 Any other person who may become entitled to a benefit under the foundation in accordance with the charter or regulations of the foundation and that has been identified as presenting a higher risk. This is based on guidance that is published in section 4.4.1 of the AML/CFT Handbook – for trustees and express trusts.
- 4.3.5 “Any other person” described in 4.3.4.5 above is not intended to lead to the identification of any person that could benefit from a particular foundation; instead it is intended to cover individuals that are identified (most likely by the foundation) as presenting a higher risk.
- 4.3.6 **Do you agree that the persons listed in 4.3.4 above are “persons who are concerned with the foundation”? If you do not agree, please list who you consider to be the persons that are concerned, and why you consider this to be the case.**

4.4 Section 4.5.4 - Verifying identity - foundations

- 4.4.1 This section sets out the verification requirements that are to be applied where a customer is a foundation.
- 4.4.2 Paragraphs 99 and 100 of the AML/CFT Handbook provide that a relevant person must verify the identity of a foundation and take reasonable measures to verify the identity of “persons who are concerned with the foundation”.
- 4.4.3 Guidance on meeting these requirements follows in paragraphs 102 to 107 of the AML/CFT Handbook and is based on existing guidance for legal bodies and express trusts. The extent of the verification of information collected will be dependant upon the assessment of risk for a particular customer.
- 4.4.4 Like in the case of a beneficiary of a trust with a vested right, guidance in paragraph 104 of the AML/CFT Handbook provides for the identity of a beneficiary entitled to a benefit under the foundation to be verified at the time of or before distribution. Like in the case of other beneficiaries of a trust, and persons who are the object of a power, guidance in paragraph 104 of the AML/CFT Handbook provides for the identity of a person who may become entitled to benefit under the foundation and that has been identified as presenting a higher risk, to be verified at the time that the risk is identified.

4.5 Section 4.9.2 – Companies with listed securities

- 4.5.1 Article 18(6A) of the Money Laundering Order provides that the identification measures set out at Article 13 are not required in any case where the customer of a relevant person is a body corporate the securities of which are listed on a regulated market.
- 4.5.2 Paragraph 144 of the AML/CFT Handbook explains that the concession that is available is intended to cover the application of measures to the body corporate itself (Article 3(2)(a) of the Money Laundering Order) and the beneficial owners and controllers of that body (Article 3(2) (c)(ii) and (iii)), and not also any third party for which the body corporate may be acting (Article 3(2)(b)) or person purporting to act on behalf of the body (Article 3(2)(c)(i)).
- 4.5.3 **Do you agree with the explanation of the intended scope of Article 18(6A) of the Money Laundering Order? Do you support an amendment to Article 18(6A) to clarify the scope of the concession?**
- 4.5.4 Paragraph 145 of the AML/CFT Handbook provides a link to guidance that is published by the UK's Joint Money Laundering Steering Group on what may be considered to be a "regulated market".

4.6 Section 4.9.3 – Jersey public authorities

- 4.6.1 Article 18(2) of the Money Laundering Order provides that the identification measures set out at Article 13 are not required in any case where the customer of a relevant person is a public authority and acting in that capacity.
- 4.6.2 Paragraph 147 of the AML/CFT Handbook explains that the concession that is available is intended to cover the application of measures to the public authority itself (Article 3(2)(a) of the Money Laundering Order) and the beneficial owners and controllers of the authority (Article 3(2)(c)(ii) and (iii)), and not also any third party for which the authority may be acting (Article 3(2)(b)) or person purporting to act on behalf of the authority (Article 3(2)(c)(i)).
- 4.6.3 **Do you agree with the explanation of the intended scope of Article 18(2) of the Money Laundering Order? Do you support an amendment to Article 18(2) to clarify the scope of the concession?**

4.7 Section 4.10 – Identification and verification of identity in intermediary and introduced relationships

- 4.7.1 Paragraph 162 of the AML/CFT Handbook explains that the qualified member of a foundation that is incorporated under the Foundations Law may be considered to be an introducer for the purpose of the operation of Article 16 of the Money Laundering Order.
- 4.7.2 This means that, in a case where a foundation wishes to establish a relationship with a relevant person, e.g. a bank, it will be possible for that trust company (the introducer) to be relied upon by a relevant person to already have carried out the identification

measures that are set out in Article 13 of the Money Laundering Order. In line with Article 16 of the Money Laundering Order, the trust company will be required to provide information on the “persons who are concerned with the foundation” – on a fully disclosed basis.

- 4.7.3 This is in line with the approach that is permitted where a company (which, like a foundation, is a body corporate under Jersey law) is introduced by a trust company to a relevant person. It is different to the provisions that apply to an express trust, where the trust company acts as an intermediary, and, under section 4.10.5 of the AML/CFT Handbook (see Appendix B), it may not be necessary for information on the “persons who are concerned with the trust” to be disclosed to a relevant person.

4.8 Other matters

- 4.8.1 **Do you have any other comments on the proposed revisions to section 4 of the AML/CFT Handbook?**

5 COST BENEFIT ANALYSIS

5.1 Costs to industry

- 5.1.1 It is not thought that the introduction in section 4 of the AML/CFT Handbook of explicit provisions to deal with foundations will involve significant costs.
- 5.1.2 The Money Laundering Order already provides for identification measures to be applied by a relevant person to any relationship involving a foundation, and the provisions that are included in section 4 of the AML/CFT Handbook are based on this existing requirement.
- 5.1.3 In determining how the identification measures that are set out in Articles 13 and 3 of the Money Laundering Order might be applied by a relevant person to a customer that is a foundation, requirements and guidance have been based on existing provisions for legal bodies and express trusts, and use has been made of terms that are introduced in the Foundations Law.

5.2 Costs to the Commission

- 5.2.1 Publication of revised section 4 will involve some limited internal training of Commission staff.

5.3 Benefits

- 5.3.1 The changes that are proposed will provide greater clarity in the application of identification measures set in the Money Laundering Order.
- 5.3.2 The inclusion of explicit provisions dealing with foundations provides a clear message to the international community that Jersey will do all that it can to prevent the use of foundations (incorporated in Jersey or elsewhere) in money laundering or the financing of terrorism.

6 SUMMARY OF QUESTIONS

REFERENCE	QUESTION
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|-------|--|
| 4.3.6 | Do you agree that the persons listed in 4.3.4 above are “persons who are concerned with the foundation”? If you do not agree, please list who you consider to be the persons that are concerned, and why you consider this to be the case. |
| 4.5.3 | Do you agree with the explanation of the intended scope of Article 18(6A) of the Money Laundering Order? Do you support an amendment to Article 18(6A) to clarify the scope of the concession? |
| 4.6.3 | Do you agree with the explanation of the intended scope of Article 18(2) of the Money Laundering Order? Do you support an amendment to Article 18(2) to clarify the scope of the concession? |
| 4.8.1 | Do you have any other comments on the proposed revisions to section 4 of the AML/CFT Handbook? |

APPENDIX A

List of representative bodies who have been sent this consultation paper.

The consultation paper has been sent to all members of the Commission's AML/CFT Steering Group. Members are listed on the Commission's website under [AML/CFT Steering Group](#).

In addition, copies of this paper have been sent to:

- Citizens Advice Bureau
- Institute of Directors
- Jersey Compliance Officers Association

APPENDIX B

Part 1: Section 4 of the Handbook showing tracked changes.



JERSEY FINANCIAL
SERVICES COMMISSION

HANDBOOK FOR THE
PREVENTION AND DETECTION OF MONEY LAUNDERING
AND THE FINANCING OF TERRORISM

FOR FINANCIAL SERVICES BUSINESS
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Part 1

Statutory and Regulatory
Requirements and Guidance Notes

Section 4 IDENTIFICATION AND
VERIFICATION OF IDENTITY

Please note the links in this document are not active.
Should you need to utilise the link function please refer to the consolidated version.

Issued 4 February 2008 (~~Revised xx June 2009~~)

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4 IDENTIFICATION AND VERIFICATION OF IDENTITY

4.1 OVERVIEW OF SECTION

1. The purpose of this section of the Handbook is to establish the identification information to be requested when establishing a business relationship or carrying out a one-off transaction, the information to be verified, and how that information is to be verified. This section also sets out exceptions and concessions to these general requirements, which apply in certain scenarios.
2. Guidance is also given on the timing of verification measures, and on what to do where it is not possible to complete identification or verification of identity.
3. Identification and verification requirements (referred to in the Money Laundering Order as "identification measures") apply at the outset of a business relationship or one-off transaction, where there is suspicion of money laundering or financing of terrorism, or where there is some doubt as to the veracity or adequacy of documents, data or information that are already held (including the circumstances set out in 4 below).
4. In particular, identification and verification requirements will apply when there is a:
 - change in identification information of a customer;
 - change in beneficial ownership and control of a customer; or
 - change in the third parties (or beneficial ownership or control of third parties) on whose behalf an applicant or customer acts.
5. An applicant for business may be an individual (see Section 4.3), trustee of an express trust (see Section 4.4), or a legal body (including companies and foundations (both of which are bodies corporate when incorporated in Jersey), anstalts, partnerships, associations, or any similar bodies that can establish a business relationship with a relevant person or otherwise own property) (see Section 4.5) seeking to enter into a business relationship or to conduct a one-off transaction - as principal or on behalf of a third party (see Section 4.7).
6. This section should be read and understood in conjunction with Sections 3 and 5, which also address customer due diligence requirements.
7. 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.

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4.2 OBLIGATION TO IDENTIFY AND VERIFY IDENTITY OF APPLICANT FOR BUSINESS

OVERVIEW

8. Determining that an applicant for business is the person that he, she, or it claims to be is a combination of being satisfied that:
 - a person exists - on the basis of appropriate identification information; and
 - the applicant for business is that person - by verifying from reliable, independent source documents, data or information, satisfactory confirmatory evidence of appropriate components of the applicant's identity.
9. Evidence of identity can take a number of forms. In respect of individuals, much weight is placed on identity documents and these are often the easiest way of providing evidence as to someone's identity. It is, however, possible to be satisfied as to a customer's identity by obtaining other forms of confirmation, including, in appropriate circumstances, written assurances from persons or organisations that have dealt with the customer for some time.

10. How much identification information to ask for, what to verify, and how to verify it in order to be satisfied as to a customer's identity, will depend on the risk assessment for that customer (refer to [Section 3.3](#)).
11. When verifying identity, a relevant person will need to be prepared to accept a range of documents, and may also wish to use independent data sources to verify information.

STATUTORY REQUIREMENTS

12. ~~Article 13 of the Money Laundering Order requires identification measures to be conducted in respect of an applicant for business and any third parties for whom the applicant is acting (reasonable measures to verify identity in the case of the latter). Where the applicant (or any third party) is not an individual, Article 13 also requires beneficial owners and controllers of the applicant (or third parties) to be identified and reasonable measures to be taken to verify their identity.~~
13. For persons who are not individuals, [Article 2](#) of the Money Laundering Order describes:
 - beneficial owners as individuals with ultimate beneficial ownership of that person; and
 - beneficial controllers as individuals who ultimately control that person or otherwise exercise control over the management of that person.
14. The description of a beneficial owner or controller will apply whether the individual satisfies the description alone or jointly with other persons.
15. ~~Article 2 of the Money Laundering Order provides that no individual is to be treated as a beneficial owner of a person that is a body corporate, the securities of which are listed on a regulated market.~~
16. ~~Article 3 of the Money Laundering Order defines what is meant by customer due diligence measures and provides that identification of a person involves:~~
 - obtaining information about identity; and
 - verification of that information.
17. Verification evidence is satisfactory if, ~~on the basis of documents, data or information from a reliable and independent source,~~ it is reasonably capable of establishing that the applicant for business or customer (and others) is who he is said to be and the person conducting verification is satisfied that it does establish that fact.
18. Where the person to be identified is not physically present when identification ~~measures~~ are carried out, ~~Article 15(3) of the Money Laundering Order requires that the customer due diligence measures must take into account the greater risk that is posed.~~
19. ~~Article 13(1) of the Money Laundering Order requires identification measures to be applied before the establishment of a business relationship or before carrying out a one-off transaction, except where Article 13(4) and (5) apply. It also requires identification measures to be applied where the relevant person suspects money laundering or the financing of terrorism or has doubts about the veracity or adequacy of documents, data or information previously obtained under customer due diligence measures.~~
20. ~~Article 13(4) provides for verification of identity of a person to be completed as soon as reasonably practicable after the establishment of a business relationship if:~~
 - this is necessary not to interrupt the normal conduct of business; and
 - ~~there is little risk of money laundering occurring as a result of completing such verification after the establishment of that relationship.~~

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21. Where there is a change in the beneficial owners or controllers of a customer, [Article 13\(1\)\(c\)\(ii\) of the Money Laundering Order](#) requires that the new beneficial owners or controllers are identified and that reasonable measures are taken to verify their identity.
22. [Article 13 of the Money Laundering Order](#) also requires a relevant person to identify and to take reasonable measures to verify the identity of persons [purporting to be](#) authorised to act on behalf of a customer [and to verify the authority of any persons purporting so to act](#).

4.3 IDENTIFICATION AND VERIFICATION: INDIVIDUALS

OVERVIEW

23. The following requirements are relevant to situations where an individual is the applicant for business or where the applicant for business is more than one individual, such as a husband and wife opening a joint account.
24. They also apply to situations where an individual is a beneficial owner or controller of an applicant for business, is acting on behalf of an applicant for business (e.g. is acting according to a power of attorney, or who has signing authority over an account), or is a third party (underlying customer) on whose behalf an applicant for business is acting (see [Section 4.7](#)).

4.3.1 Establishing identity

REGULATORY REQUIREMENTS

25. A relevant person must collect relevant identification information on an individual.

GUIDANCE NOTES

26. A relevant person may demonstrate collection of relevant identification information where it requests and keeps up to date the following:

All customers
<ul style="list-style-type: none"> • Legal name, any former names (such as maiden name) and any other names used. • Principal residential address. • Date of birth.
Standard and higher risk: additional information
<ul style="list-style-type: none"> • Place of birth. • Nationality. • Sex. • Government issued personal identification number or other government issued unique identifier.

4.3.2 Verifying identity

REGULATORY REQUIREMENTS

27. A relevant person must verify the identity of the individual.
28. Where a particular aspect of an individual's identity subsequently changes (such as following marriage, change of nationality, or change of address), a relevant person must take reasonable measures to re-verify that particular aspect of identity of the individual.

29. All key documents (or parts thereof) used to verify identity must be understandable (i.e. in a language understood by the employees of the business), and must be translated into English at the request of the JFCU or the Commission.

GUIDANCE NOTES

30. A relevant person may demonstrate that it has verified the identity of an individual where it verifies the following components:

Lower risk – information to be verified
<ul style="list-style-type: none"> • Legal name, any former names (such as maiden name) and any other names used, and; • Principal residential address or date of birth. <p>using at least one identification verification method (see paragraph 31).</p>
Standard – information to be verified
<ul style="list-style-type: none"> • Legal name, any former names (such as maiden name) and any other names used; • Principal residential address; • Date of birth; • Place of birth; • Nationality; and • Sex. <p>using at least two identification verification methods (see paragraph 31).</p>
Higher risk – information to be verified
<ul style="list-style-type: none"> • Legal name, any former names (such as maiden name) and any other names used; • Principal residential address; • Date of birth; • Place of birth; • Nationality; • Sex; and • Government issued personal identification number or other government issued unique identifier. <p>using at least two identification verification methods (see paragraph 31). Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</p>

31. Components of identity may be verified using the following methods:

All customers – identification verification methods
<p>General identification information:</p> <ul style="list-style-type: none"> • Current passport - providing photographic evidence of identity. • Current national identity card - providing photographic evidence of identity. • Current driving licence - providing photographic evidence of identity - where the licensing authority carries out a check on the holder's identity before issuing. • Independent data sources (including electronic sources). (Refer to Section 4.3.3)

Residential address:

- Correspondence from a central or local government department or agency (eg. States and parish authorities).
- A letter of introduction confirming residential address from: (i) a relevant person that is regulated by the Commission; (ii) a regulated financial services business which is operating in a well-regulated jurisdiction; or (iii) a branch or subsidiary of a group headquartered in a well-regulated jurisdiction which applies group standards to subsidiaries and branches worldwide, and tests the application of, and compliance with, such standards.
- Personal visit to residential address.
- A bank statement or utility bill.
- One of the general identification information sources listed above.

Lower risk

Where the above general identification information methods are not possible, identity may be verified using:

- A Jersey driving licence; or
- A birth certificate in conjunction with:
 - a bank statement or a utility bill;
 - documentation issued by a government source; or
 - a letter of introduction from a relevant person that is regulated by the Commission.

32. Verification methods provide evidence of identity from a number of sources. These sources may differ in their integrity, reliability and independence. For example, some identification documents are issued after due diligence on an individual's identity has been undertaken, for example passports and national identity cards; others are issued on request, without any such checks being carried out. A relevant person should recognise that some documents are more easily forged than others.
33. Additionally, verification methods incorporating photographic confirmation of customer identity provide a higher level of assurance that an individual is the person who he or she claims to be.
34. Where a relevant person is not familiar with the form of the evidence obtained to verify identity, appropriate measures may be necessary to satisfy itself that the evidence is genuine.
35. When applying reasonable measures to the re-verification of identity following a change in a particular aspect of identity, e.g. a change of address, a relevant person may apply a risk based approach which focuses on higher risk customers.
36. In determining whether a jurisdiction is well-regulated, a relevant person may have regard to:
- the development and standing of the jurisdiction's regulatory framework; and
 - recent independent assessments of its regulatory environment, such as those conducted and published by the IMF.
37. Where components of identity are verified through use of a passport, national identity card, or driving licence, which subsequently expires, then, in the absence of other risk factors, no further verification is necessary.

4.3.3 Independent data sources

OVERVIEW

38. Independent data sources can provide a wide range of confirmatory material on an applicant for business or customer, and are becoming increasingly accessible, for example, through improved availability of public information and the emergence of commercially available data sources such as electronic databases and research firms. Sources include:
- Registers of electors.
 - Telephone directories.
 - Credit reference agency checks.
 - Business information services.
 - Electronic checks provided by commercial agencies.
39. Where a relevant person is seeking to verify identity using an independent data source, whether by accessing the source directly or by using an independent third party organisation (such as a credit reference agency), an understanding of the depth, breadth and quality of the data is important in order to determine that the method of verification does in fact provide satisfactory evidence of identity.

REGULATORY REQUIREMENTS

40. Where a relevant person intends to use independent data sources to verify components of identity, it must ensure that:
- The source, scope and quality of the data are satisfactory. At least two matches of each component of an individual's identity (see [Section 4.3.2](#)) must be obtained.
 - Processes allow the relevant person to capture and record the information used to verify identity.
41. The level of satisfaction required will depend on the extent that a relevant person relies on the independent data sources to obtain satisfactory evidence of identity.

GUIDANCE NOTES

42. Where a relevant person intends to use data held by independent third party organisations to verify identity, the business may demonstrate that data is satisfactory where the organisation is registered with a data protection agency in the EEA (or with an agency in a jurisdiction that has similar data protection provisions to the EEA), and where the organisation:
- uses a range of positive information sources that can be called upon to link an applicant to both current and historical data;
 - accesses negative information sources such as databases relating to fraud and deceased persons;
 - accesses a wide range of alert data sources; and
 - has transparent processes that enable a relevant person to know what checks have been carried out, what the results of these checks were and to be able to determine the level of satisfaction provided by those checks.

4.3.4 Guarding against the financial exclusion of Jersey residents

OVERVIEW

43. On occasions, an individual may be unable to provide evidence of identity using the verification sources set out at [Section 4.3.2](#). Examples of such individuals include:

- Seasonal workers whose principal residential address is not in Jersey.
- Individuals living in Jersey in accommodation provided by their employer, with family (for example in the case of minors), or in care homes, who may not pay directly for utility services.
- Jersey students living in university, college, school, or shared accommodation, who may not pay directly for utility services.
- Minors.

REGULATORY REQUIREMENTS

44. A relevant person must determine that there is a valid reason for an applicant for business being unable to satisfy its more usual verification requirements, and must document that reason.

GUIDANCE NOTES

45. In the case of a lower risk minor, whose parent or guardian is unable to produce more usual documentation to verify the minor's identity, and who would otherwise be excluded from accessing financial services and products, satisfactory verification of identity may be established with a birth certificate.
46. In other cases, where a lower risk individual has a valid reason for being unable to produce more usual documentation to verify identity, and would otherwise be excluded from accessing financial services and products, satisfactory verification of identity may be established by:
- A letter from the head of the household at which the individual resides confirming that the applicant lives at that Jersey address, setting out the relationship between the applicant and the head of household, together with evidence that the head of household resides at the address.
 - A letter from a Jersey nursing home or residential home for the elderly, which a relevant person is satisfied that it can place reliance on, confirming residence of the applicant.
 - A letter from a Jersey employer, which a relevant person is satisfied that it can place reliance on, that confirms residence at a stated Jersey address, and indicates the expected duration of employment. In the case of a seasonal worker, the worker's principal residential address in his country of origin should also be obtained.
 - A letter from a principal of a university or college, which a relevant person is satisfied that it can place reliance on, that confirms residence at a stated address. In the case of a Jersey student studying outside the Island, a residential address in Jersey should also be obtained.
47. Confirmatory letters should be written on appropriately headed notepaper.

4.3.5 Verification of residential address of overseas residents

OVERVIEW

48. On occasions, an individual that resides abroad may be unable to provide evidence of his principal residential address using the verification methods set out at [Section 4.3.2](#). Examples of such individuals include residents of countries without postal deliveries and few street addresses, who rely upon post office boxes or employers for delivery of mail, and residents of countries where, due to social restraints, private addresses may not be verified by personal visits.
49. It is essential for law enforcement purposes that a record of an individual's residential address (or details of how that individual's place of residence may be reached) be recorded. As a result, it is not acceptable only to record a post office box number as an address, or to fail to take steps to verify that a residential address is valid where required by this Handbook.

Deleted: , so that an individual may be located by law enforcement if necessary during an investigation

REGULATORY REQUIREMENTS

50. A relevant person must determine that there is a valid reason for an applicant for business being unable to satisfy its more usual verification of address requirements, and must document that reason.
51. Where alternative methods to verify address are relied on, a relevant person must consider whether enhanced monitoring of activity and transactions is appropriate.

GUIDANCE NOTES

52. Where an individual has a valid reason for being unable to produce more usual documentation to verify residential address, satisfactory verification of address may be established by:
 - Verification of a “locator” address - a locator address is an address at which it would normally be possible to physically meet or contact an individual (with or without prior arrangement), for example, an individual's place of work.
 - A written confirmation received from an individual satisfying the criteria for a suitable certifier - [Section 4.8.1](#) - that confirms residential address and that the certifier has visited the individual at that address.

4.4 IDENTIFICATION AND VERIFICATION: TRUSTEES AND EXPRESS TRUSTS

OVERVIEW

53. There is a wide variety of trusts ranging from large, nationally and internationally active organisations subject to a high degree of public scrutiny and transparency, through to trusts set up under testamentary arrangements and trusts established for wealth management purposes.
54. Express trusts cannot form business relationships or carry out one-off transactions themselves. It is the trustee of the trust who will enter into a business relationship or carry out the one-off transaction on behalf of the trust and who will be considered to be the applicant for business (i.e. the trustee is acting on behalf of a third party – the trust and the individuals concerned with the trust).
55. In forming a relationship or carrying out a one-off transaction with a trustee, a relevant person will be dependent on information supplied by the trustee relating to the trust and the individuals concerned with the trust. When determining the risk assessment for an express trust ([Section 3.3](#)), the risk factors set out in [Section 3.3.4.1](#) and [Section 4.10.1](#) will be relevant. In addition, the monitoring ~~measures~~ maintained by a relevant person ([Section 5](#)) may provide additional comfort that relevant and up to date identification and relationship information has been provided. Deleted: procedures
56. The following requirements are relevant to situations where a trustee of an express trust is the applicant for business. Where the trustee of an express trust is a relevant person that is a regulated person (~~defined in Article 1 of the of the Money Laundering Order~~) or is a person who carries on equivalent business to any category of regulated business, the concession ~~set out~~ in [Section 4.9.1](#) will be relevant. Where the trustee of an express trust is a relevant person that is overseen for AML/CFT compliance in Jersey or is a person who carries on an equivalent business (see [Section 1.7](#)), the concession ~~set out~~ in [Section 4.10](#) (for the individuals concerned with the trust) will also be relevant. Deleted: provided
57. These requirements also apply to situations where a trustee is a beneficial owner or controller of an applicant for business, or is a third party (underlying customer) on whose behalf an applicant for business is acting. Deleted: provided
58. The requirements where an applicant for business is wishing to settle a trust will be covered in a sector specific section for trust company business.

59. Notwithstanding the requirement to obtain and verify information in relation to the trustee, the trust and those individuals who are concerned with the trust, a relevant person is not expected to establish the detailed terms of the trust, nor rights of the beneficiaries.

4.4.1 Establishing identity

REGULATORY REQUIREMENTS

60. A relevant person must collect relevant identification information on the trustee(s) and on the express trust (and any subsequent changes).
61. A relevant person must collect relevant identification information on the individuals who are concerned with the trust (and any subsequent changes).

GUIDANCE NOTES

62. A relevant person may demonstrate the collection of relevant identification information where it requests from the trustee(s): (i) the following information; and (ii) certain assurances.

All customers
<ul style="list-style-type: none"> Name of trust. Date of establishment. Official identification number (e.g. tax identification number of registered charity or non-profit organisation number). Identification information of trustee(s) - in line with guidance for individuals and legal bodies. Mailing address of trustee(s). Identification information of settlor(s)¹ - in line with guidance for individuals and legal bodies. Identification information of protector(s) - in line with guidance for individuals and legal bodies.
Standard and higher risk – additional information
<ul style="list-style-type: none"> Identification information on beneficiaries with a vested right - in line with guidance for individuals and legal bodies. Identification information on any other beneficiaries and persons who are the object of a power and that have been identified as presenting higher risk - in line with guidance for individuals and legal bodies. <p>Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</p>

63. ~~The assurances are that~~ the trustee(s) has provided all of the information requested, and that the trustee(s) will update the information provided in the event of subsequent change.

4.4.2 Verifying identity

REGULATORY REQUIREMENTS

64. A relevant person must verify the name and date of establishment of the express trust. Whilst there is no requirement to review an existing trust instrument (or similar instrument) as a whole, satisfactory evidence of the appointment of the trustee(s), and the nature of his duties must be obtained.

¹ The settlors of a trust include the initial settlors and any persons subsequently settling funds into a trust.

65. A relevant person must verify the identity of the trustee(s) of the express trust and any subsequent change in trustee(s) (in line with guidance for individuals and legal bodies).
66. A relevant person must take reasonable measures to verify the identity of the individuals who are concerned with the express trust (as set out at Section 4.4.1) and any subsequent changes (in line with guidance for individuals and legal bodies).
67. In the case of a standard or higher risk relationship, a relevant person must take reasonable measures to verify the identity of a beneficiary with a vested right at the time of or before distribution of trust property or income.
68. In the case of a standard or higher risk relationship, a relevant person must take reasonable measures to verify the identity of any other beneficiaries and persons who are the object of a power and that have been identified as presenting higher risk, at the time that the risk is identified.
69. All key documents (or parts thereof) used to verify identity must be understandable (i.e. in a language understood by the employees of the business), and must be translated into English at the request of the JFCU or the Commission.

GUIDANCE NOTES

70. Where a relevant person seeks to verify the identity of individuals who are concerned with a trust on a non-face to face basis, for example, through copy documentation provided by the trustee(s), reference should be made to the requirements and guidance set out in Section 4.8 for non-face to face identification and verification.
71. For higher risk relationships, also refer to Section 3.4 for enhanced due diligence requirements.
72. Where a relevant person is not familiar with the form of the evidence obtained to verify identity, appropriate measures may be necessary to satisfy itself that the evidence is genuine.

4.5 IDENTIFICATION AND VERIFICATION: LEGAL BODIES

OVERVIEW

73. The following requirements are relevant to situations where a legal body is the applicant for business.
74. The requirements also apply to situations where a legal body is a beneficial owner or controller of an applicant for business, or is a third party (underlying customer) on whose behalf an applicant for business is acting.
75. For the purpose of this section, a legal body includes companies and foundations (both of which are bodies corporate when incorporated in Jersey), anstalts, partnerships, associations, or any similar bodies that can establish a business relationship with a relevant person or otherwise own property. For the purposes of this section, it also includes incorporated and unincorporated clubs, societies, charities, church bodies, institutes, mutual and friendly societies, co-operative and provident societies.
76. Where identification information relating to a legal body is not available from a public source, a relevant person will be dependent on the information that is supplied by the legal body. When determining the risk assessment for a legal body (Section 3.3), the risk factors set out in Section 3.3.4.1 will be relevant. The risk factors set out in Section 4.10.1 are also relevant to the risk assessment for a legal body where information and evidence of identity are obtained through a trust and company service provider. In addition, the monitoring measures maintained by a relevant person (Section 5) may provide additional comfort that relevant and up to date identification and relationship information has been provided.

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77. Where a director (~~or equivalent~~) of a legal body holds this role by virtue of his employment by (or position in) a ~~business that is a regulated Jersey trust company, the concession set out in paragraph 94 of Section 4.5.2~~ (verification of director's identity) will be relevant. ~~Similar provision is made for a council member of a foundation at paragraph 107 of Section 4.5.4.~~
78. [Article 2](#) of the Money Laundering Order, which describes those persons to be considered to be beneficial owners ~~of a legal body, provides that no individual is to be treated as a~~ beneficial owner, ~~of a person that is a body corporate, the securities of which are listed on a regulated market. Guidance published by the UK's Joint Money Laundering Steering Group on what may be considered to be a regulated market can be found under Guidance on Equivalent Markets.~~
- ~~79. The requirements where an applicant for business is wishing to incorporate a company or foundation will be covered in a sector specific section for trust company business.~~

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4.5.1 Establishing identity ~~(except foundations)~~

REGULATORY REQUIREMENTS

80. A relevant person must collect relevant identification information on a legal body (and any subsequent changes).
81. A relevant person must collect relevant identification information on the beneficial owners and controllers of the legal body (and any subsequent changes).

GUIDANCE NOTES

82. A relevant person may demonstrate collection of relevant identification ~~information~~ where it requests from the legal body: (i) the following information; and (ii) certain assurances.

All customers
<ul style="list-style-type: none"> Name of body. Any trading names. Date and country of incorporation/registration. Official identification number. Registered office address. Mailing address (if different). Principal place of business/operations (if different). Names of all directors (or equivalent). Identification information of directors (or equivalent) who have authority to operate a relationship or to give the relevant person instructions concerning the use or transfer of funds or assets - in line with guidance for individuals. Identification information of individuals ultimately holding a 25% or more interest in the capital of the legal body - in line with guidance for individuals and trustees.
Standard and higher risk – additional information
<ul style="list-style-type: none"> Identification information of individuals with ultimate effective control over the legal body's assets, including the individuals comprising the mind and management of the legal body, e.g. directors - in line with guidance for individuals. Identification information of individuals ultimately holding a material interest in the capital of the legal body - in line with guidance for individuals and trustees.
Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.

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83. ~~Where~~ information is not available from public sources, ~~the assurances are that~~ the directors (or equivalent) of the legal body ~~have provided all of the information requested,~~ and that the directors (or equivalent) will update the information provided in the event of subsequent change.
84. For lower risk relationships, a general threshold of 25% is considered to indicate a material interest in the capital of a legal body. Whilst this principle may also apply to standard and higher risk relationships, where the distribution of interests is uneven the percentage where effective control may be exercised (a material interest) may be less than 25% when the distribution of other interests is taken into account, i.e. interests of less than 25% may be material interests.

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4.5.2 Verifying identity (except foundations)

REGULATORY REQUIREMENTS

85. A relevant person must verify the identity of the legal body.
86. A relevant person should take reasonable measures to verify the beneficial owners and controllers of the legal body and any subsequent changes in beneficial ownership and control (in line with guidance for individuals and trustees).
87. All key documents (or parts thereof) used to verify identity must be understandable (i.e. in a language understood by the employees of the business), and must be translated into English at the request of the JFCU or the Commission.

GUIDANCE NOTES

88. A relevant person may demonstrate that it has verified the identity of a legal body where it verifies the following components:

All customers
<ul style="list-style-type: none"> Name <u>of body</u>. <u>Date and country of incorporation/registration</u>. Official identification number.
Standard and higher risk – additional verification
<ul style="list-style-type: none"> Registered office address. Principal place of business/<u>operations</u> (where different to registered office).

89. Components of identity may be verified using one or more of the following verification methods:

Lower risk – minimum one verification method
Standard and higher risk – minimum two verification methods
<ul style="list-style-type: none"> Certificate of incorporation (or other appropriate certificate of registration or licensing). Memorandum and Articles of Association (or equivalent). Company registry search, including confirmation that body is not in the process of being dissolved, struck off, wound up or terminated. Latest audited financial statements. Independent data sources, including electronic sources, e.g. business information services. Personal visit to principal place of business (standard or higher risk only). <p>Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</p>

90. A relevant person may demonstrate that it has taken reasonable measures to verify the beneficial owners and controllers of the legal body where it verifies the identity of the following:

All customers
<ul style="list-style-type: none"> Those directors (or equivalent) who have authority to operate a relationship or to give the relevant person instructions concerning the use or transfer of funds or assets - in line with guidance for individuals.
Standard and higher risk
<ul style="list-style-type: none"> Individuals with ultimate effective control over the legal body's assets, including the individuals comprising the mind and management of the legal body, e.g. directors - in line with guidance for individuals. Individuals ultimately holding a material interest in the capital of the legal body - in line with guidance for individuals and trustees. <p>Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</p>

91. Individuals having ultimate effective control over a legal body will often include directors or equivalent. In the case of partnerships, associations, clubs, societies, charities, church bodies, institutes, mutual and friendly societies, co-operative and provident societies, this will often include members of the governing body or committee plus executives.
92. Where a relevant person is not familiar with the form of the evidence obtained to verify identity, appropriate measures may be necessary to satisfy itself that the evidence is genuine.
93. Where a relevant person verifies the identity of beneficial owners and controllers on a remote basis, reference should be made to the requirements and guidance set out in [Section 4.8](#) for non-face to face identification and verification.
94. Where a director (or equivalent) holds this role by virtue of his employment by (or position in) a business that is a regulated Jersey trust company, a relevant person may demonstrate that it has taken reasonable measures to identify that person and to verify his identity where it obtains the following:
- the full name of the director; and
 - an assurance from the trust company that the individual is an officer or employee.

Deleted: In the case of foundations, this will include members of the governing council of a foundation and any supervisors.

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4.5.3 Establishing identity – foundations (except charities)

REGULATORY REQUIREMENTS

95. A relevant person must collect relevant identification information on a foundation (and any subsequent changes).
96. A relevant person must collect relevant identification information on the persons who are concerned with the foundation (and any subsequent changes).

GUIDANCE NOTES

97. A relevant person may demonstrate collection of relevant identification information where it requests from the foundation: (i) the following information; and (ii) certain assurances.

<u>All customers</u>
<ul style="list-style-type: none">• <u>Name of foundation.</u>• <u>Date and country of incorporation.</u>• <u>Official identification number.</u>• <u>Business address. In the case of a foundation incorporated under the Foundations (Jersey) Law 200-, this will be the business address of the qualified member of the council.</u>• <u>Mailing address (if different).</u>• <u>Principal place of business/operations (if different).</u>• <u>Names of all council members and, if any decision requires the approval of any other person, the name of that person.</u>• <u>Identification information for all council members who have authority to operate a relationship or to give the relevant person instructions concerning the use or transfer of funds or assets - in line with guidance for individuals and legal bodies.</u>• <u>Identification information for the founder, a person (other than the founder of the foundation) who has endowed the foundation, and, if any rights a founder of the foundation had in respect of the foundation and its assets have been assigned to some other person, that person - in line with guidance for individuals and legal bodies.</u>• <u>Identification information for the guardian - in line with guidance for individuals and legal bodies.</u>
<u>Standard and higher risk – additional information</u>
<ul style="list-style-type: none">• <u>Identification information for all council members and, if any decision requires the approval of any other person, that person - in line with guidance for individuals and legal bodies.</u>• <u>Identification information on any beneficiary entitled to a benefit under the foundation in accordance with the charter or the regulations of the foundation - in line with guidance for individuals and legal bodies.</u>• <u>Identification information on any other person who may become entitled to a benefit under the foundation in accordance with the charter or regulations of the foundation and that have been identified as presenting higher risk - in line with guidance for individuals and legal bodies.</u> <p><u>Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</u></p>

98. Where information is not available from public sources, the assurances are that the council members have provided all of the information requested and that the council members will update the information provided in the event of subsequent change.

4.5.4 Verifying identity – foundations (except charities)**REGULATORY REQUIREMENTS**

99. A relevant person must verify the identity of the foundation.
100. A relevant person should take reasonable measures to verify the identity of persons who are concerned with the foundation and any subsequent changes of persons who are concerned with the foundation (in line with guidance for individuals and legal bodies).
101. All key documents (or parts thereof) used to verify identity must be understandable (i.e. in a language understood by the employees of the business), and must be translated into English at the request of the JFCU or the Commission.

GUIDANCE NOTES

102. A relevant person may demonstrate that it has verified the identity of a foundation where it verifies the following components:

<u>All customers</u>
<ul style="list-style-type: none"> • <u>Name of foundation.</u> • <u>Date and country of incorporation.</u> • <u>Official identification number.</u>
<u>Standard and higher risk – additional verification</u>
<ul style="list-style-type: none"> • <u>Business address.</u> • <u>Principal place of business/ operations (if different).</u>

103. Components of identity may be verified using one or more of the following verification methods:

<u>Lower risk – minimum one verification method</u>
<u>Standard and higher risk – minimum two verification methods</u>
<ul style="list-style-type: none"> • <u>Charter (or equivalent).</u> • <u>Registry search.</u> • <u>Latest audited financial statements.</u> • <u>Independent data sources, including electronic sources.</u> • <u>Commission website (for the business address of the qualified member of the council).</u> <p><u>Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.</u></p>

104. A relevant person may demonstrate that it has taken reasonable measures to verify the identity of persons who are concerned with the foundation where it verifies the identity of the following:

<u>All customers</u>
<ul style="list-style-type: none"> • <u>Council members who have authority to operate a relationship or to give the relevant person instructions concerning the use or transfer of funds or assets - in line with guidance for individuals and legal bodies.</u> • <u>Founder, a person (other than the founder of the foundation) who has endowed the foundation, and, if any rights a founder of the foundation had in respect of the foundation and its assets have been assigned to some other person, that person - in line with guidance for individuals and legal bodies.</u> • <u>Guardian - in line with guidance for individuals and legal bodies.</u>

Standard and higher risk

- All council members and, if any decision requires the approval of any other person, that person - in line with guidance for individuals and legal bodies.
 - Any beneficiary entitled to a benefit under the foundation in accordance with the charter or the regulations of the foundation - in line with guidance for individuals and legal bodies (at the time of or before distribution).
 - Any other person who may become entitled to benefit under the foundation in accordance with the charter or regulations of the foundation and that have been identified as presenting higher risk - in line with guidance for individuals and legal bodies (at the time that the risk is identified).
- Refer to Section 3.4 for enhanced due diligence requirements for higher risk relationships.

105. Where a relevant person is not familiar with the form of the evidence obtained to verify identity, appropriate measures may be necessary to satisfy itself that the evidence is genuine.
106. Where a relevant person verifies information on a remote basis, reference should be made to the requirements and guidance set out in Section 4.8 for non-face to face identification and verification.
107. Where a council member who is an individual holds this role by virtue of his employment by (or position in) a business that is a regulated Jersey trust company, a relevant person may demonstrate that it has taken reasonable measures to identify that person and to verify their identity where it obtains the full name of the council member and an assurance from the trust company that the individual is an officer or employee.

4.6 IDENTIFICATION AND VERIFICATION: AUTHORISED AGENT OF APPLICANTS FOR BUSINESS

OVERVIEW

108. [Article 13](#) of the Money Laundering Order requires a relevant person to identify persons purportedly authorised to act on behalf of an applicant for business that is not an individual and to take reasonable measures to obtain satisfactory evidence of identity of such persons. This will include account signatories and those to whom powers of attorney have been granted. In addition, Article 13 requires a relevant person to verify the authority of any person purporting to act.
109. [Article 18\(7\) and \(8\)](#) of the Money Laundering Order provides an exception to this requirement where a person authorised to act on behalf of an applicant for business is acting in the course of employment by a person that:
- is regulated by the Commission; or
 - carries on equivalent business to any category of business that is regulated by the Commission (see [Article 5](#) of the Money Laundering Order and [Section 1.7](#)). Refer to [Section 4.9.4](#).

REGULATORY REQUIREMENTS

110. A relevant person must obtain a copy of the power of attorney (or other authority or mandate) that provides the individuals representing the applicant for business with the right to act on its behalf.

GUIDANCE NOTES

111. For lower risk relationships a relevant person may demonstrate that it has taken reasonable measures to obtain satisfactory evidence where it verifies the identity of a minimum of two individuals that have purported authority to act on behalf of an applicant for business.

112. For standard or higher risk relationships, a relevant person should take into account factors such as the risk posed by the relationship and the materiality of the authority delegated to individuals.

4.7 IDENTIFICATION AND VERIFICATION: APPLICANTS ACTING FOR THIRD PARTIES (INTERMEDIARY RELATIONSHIPS)

OVERVIEW

113. This section covers the scenario where the applicant for business is acting on behalf of a third party (e.g. on behalf of an underlying customer(s)). Where that applicant for business meets the criteria detailed in [Articles 16](#) or [17](#) of the Money Laundering Order, then a relevant person may be able to benefit from concessions provided by those articles ([Section 4.10](#)). Otherwise, the requirements detailed in this section apply.
114. The specific situation of a trustee acting on behalf of a third party (the trust), where the trustee is not a business that is a regulated person or does not carry on an equivalent business to any category of regulated business, is addressed in [Section 4.4](#).

Deleted: financial services

STATUTORY REQUIREMENTS

115. [Article 13](#) of the Money Laundering Order requires a determination as to whether an applicant is acting for a third party or parties.
116. Whenever an applicant is acting for a third party or parties, [Article 13](#) requires a relevant person to identify each third party and the individuals who are its beneficial owners and controllers and to take reasonable measures to verify the identity of each third party and its beneficial owners and controllers, in addition to undertaking measures to identify and verify the identity of the applicant.
117. Where there is a subsequent change of the third party or the beneficial owners or controllers of a third party, [Article 13](#) requires that the new third party or new beneficial owners or controllers are identified and that reasonable measures are taken to verify their identity.

4.8 NON-FACE TO FACE IDENTIFICATION AND VERIFICATION

OVERVIEW

118. Frequently, relationships will be established where there is no face to face contact with the individuals to be identified, for example:
- relationships established by individuals through the post, by telephone or via the internet; and
 - where identification information is provided through a trustee on persons who are concerned with a trust, or by a company on the persons who are its beneficial owners and controllers.
119. There may also be circumstances where there is face to face contact with an individual, but where documentary evidence is to be provided at a time when the individual is not present.
120. [Article 15\(3\)](#) of the Money Laundering Order requires that enhanced customer due diligence measures be applied where a customer has not been physically present for identification purposes.

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121. This section contains requirements that are relevant where there has been no face to face contact with a person, and where documentary evidence is to be provided at a time when the individual is not present.

REGULATORY REQUIREMENTS

122. Where a relationship is established or transaction conducted remotely, or where the identity of an individual is to be verified using documentary evidence when the individual is not physically present, a relevant person must perform an additional check to reduce the risk of identity fraud.

GUIDANCE NOTES

123. A relevant person may demonstrate that the specific additional check undertaken is appropriate where it takes into account the customer risk assessment, matching the level of assurance given by the check to the risk presented by the customer.

124. Additional checks to reduce the risk of identity fraud include:

- Verification of identity using a further verification method listed at [Section 4.3.2](#).
- Obtaining copies of identification documents certified by a suitable certifier.
- Requiring the first payment for the financial services product or service to be drawn on an account in the customer's name at a bank that is a regulated person or carries on equivalent business (refer to [Section 1.7](#)).
- Verifying additional aspects of identity or other customer due diligence information from independent sources.
- Telephone contact with the applicant for business prior to establishing a relationship on a home or business number which has been verified, or a “welcome call” to the customer before transactions are permitted, using the call to verify additional aspects of identification information that have been previously provided.
- Internet sign-on following verification **measures**, where the customer uses security codes, tokens, and/or other passwords which have been set up during account opening and provided by mail (or secure delivery) to the named individual at an independently verified address.
- Specific card or account activation **measures**.

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125. For higher risk customers where suitable certification is relied upon, a relevant person may demonstrate that it has obtained appropriate verification of identity where it takes steps to check that the suitable certifier is real, or alternatively, performs a further check to reduce the risk of identity fraud.

4.8.1 Suitable certifiers

OVERVIEW

126. Use of a certifier guards against the risk that copy documentation provided is not a true copy of the original document and that the documentation does not correspond to the applicant whose identity is to be verified. For certification to be effective, the certifier will need to have seen the original documentation and, where documentation is to be used to provide satisfactory evidence of identity for an individual, have met the individual (where certifying evidence of identity containing a photograph). A suitable certifier will also be subject to professional rules (or equivalent) providing for the integrity of his conduct.

REGULATORY REQUIREMENTS

127. A suitable certifier must be subject to professional rules of conduct, which provide comfort as to the integrity of the certifier.

128. A suitable certifier must certify that:

- he has seen original documentation verifying identity and/ or residential address;
- the copy of the document (which he certifies) is a complete and accurate copy of that original; and
- where the documentation is to be used to verify identity of an individual and contains a photograph, the photograph contained in the document certified bears a true likeness to the individual requesting certification,

or use wording to the same effect.

129. The certifier must also sign and date the copy document, and provide adequate information so that he may be contacted in the event of a query.

130. In circumstances where the suitable certifier is located in a higher risk jurisdiction, or where a relevant person has some doubts as to the veracity of the information or documentation provided by the applicant, the relevant person must take steps to check that the suitable certifier is real.

GUIDANCE NOTES

131. Acceptable persons to certify evidence of identity (suitable certifiers) may include:

- a member of the judiciary, a senior civil servant, or a serving police or customs officer;
- an officer of an embassy, consulate or high commission of the country of issue of documentary evidence of identity;
- a lawyer or notary public who is a member of a recognised professional body;
- an actuary who is a member of a recognised professional body;
- an accountant who is a member of a recognised professional body;
- a tax advisor who is a member of a recognised professional body;
- an individual that is qualified to undertake certification services under authority of the Certification and International Trade Committee (in Jersey this service is available through the Jersey Chamber of Commerce); and
- a director, officer, or manager of a regulated financial services business which is operating in a well-regulated jurisdiction, or of a branch or subsidiary of a group headquartered in a well-regulated jurisdiction which applies group standards to subsidiaries and branches worldwide, and tests the application of and compliance with such standards.

132. A higher level of assurance will be provided where the relationship between the suitable certifier and the subject (individual, legal body or express trust) is of a professional rather than personal nature.

133. An adequate level of information to be provided by a suitable certifier would include his name, position or capacity, his address and a telephone number or email address at which he can be contacted.

134. A relevant person may apply a risk based approach to applying steps to check that a suitable certifier is real, that considers factors such as the stature and track record of the certifier, previous experience of accepting certifications from certifiers in that profession or jurisdiction, the adequacy of the framework to counter money laundering and the financing of terrorism in place in the jurisdiction in which the certifier is located and the extent to which the framework applies to the certifier.

135. In determining whether a jurisdiction is well-regulated, a relevant person may have regard to:
- the development and standing of the jurisdiction’s regulatory framework; and
 - recent independent assessments of its regulatory environment, such as those conducted and published by the IMF.
136. Where the copy document is to be used to verify identity, best efforts should be exercised by the suitable certifier to provide an adequate quality copy of the photographic evidence to be certified.

4.9 EXCEPTIONS FROM IDENTIFICATION MEASURES

OVERVIEW

137. [Article 18](#) of the Money Laundering Order provides for exceptions to the general requirement to carry out identification ~~measures that would otherwise be required under Article 13.~~
138. The exceptions set out in [Article 18](#) do not apply where a relevant person suspects money laundering ~~or in any situation which by its nature can present a higher risk of money laundering.~~
139. ~~Article 2 of the Money Laundering Order provides that no individual is to be treated as a beneficial owner of a person that is a body corporate, the securities of which are listed on a regulated market.~~

4.9.1 Regulated persons and those carrying on equivalent businesses

OVERVIEW

140. The Money Laundering Order requires a relevant person to perform identification and verification of identity ~~measures~~ in respect of an applicant for business, its beneficial owners and controllers, and any third parties (underlying customers) for whom the applicant is acting (as well as for the beneficial owners and controllers of such third parties).
141. Where the applicant for business ~~is a regulated person (or person who carries on equivalent business), then, in line with Article 18(7) of the Money Laundering Order, there is no requirement to apply identification measures~~ in respect of the applicant ~~or on~~ the beneficial owners and controllers of ~~the~~ applicant. However, these provisions do not also provide an exemption in respect of any third parties (underlying customers) for whom the applicant is acting, or for the beneficial owners and controllers of such third parties. Refer to [Section 4.10](#) for concessions concerning the underlying customers.

STATUTORY REQUIREMENTS

142. *Under [Article 18\(7\)](#) of the Money Laundering Order, a relevant person need not identify or verify the identity of an applicant for business or its beneficial owners and controllers, whether acting as principal or on behalf of third parties, where there are reasonable grounds for believing that the applicant for business is:*
- *a regulated person; or*
 - *a person carrying out an equivalent business to any category of regulated business (refer to [Section 1.7](#)).*

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[Article 2](#) of the Money Laundering Order provides

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REGULATORY REQUIREMENT

143. A relevant person must obtain and retain documentation establishing that the applicant for business is entitled to benefit from the exemption provided in [Article 18\(7\)](#) of the Money Laundering Order.

4.9.2 Companies with listed securities

OVERVIEW

144. Where an applicant for business is a body corporate ~~the securities of which are listed~~ on a regulated market, then, in line with [Article 18\(6A\)](#) of the Money Laundering Order, there is no requirement to ~~apply identification measures on that body corporate, or on the beneficial owners and controllers~~ of the body.

145. Guidance published by the UK's Joint Money Laundering Steering Group on what may be considered to be a regulated market can be found on: [Guidance on Equivalent Markets](#)

REGULATORY REQUIREMENT

146. ~~A relevant person must obtain and retain documentation establishing that the applicant for business is entitled to benefit from the concession in Article 18(6A) of the Money Laundering Order.~~

4.9.3 Jersey public authorities

OVERVIEW

147. Where ~~an~~ applicant for business is a Jersey public authority, ~~then, in line with Article 18(2) of the Money Laundering Order, there is no requirement to apply~~ identification ~~measures on that public authority or on the beneficial owners and controllers of the authority~~

REGULATORY REQUIREMENTS

148. A relevant person must obtain and retain documentation establishing that the applicant for business is entitled to benefit from the concession in [Article 18\(2\)](#) of the Money Laundering Order.

GUIDANCE NOTES

149. The following may be considered to be public authorities in Jersey:
- A department of the States of Jersey;
 - A majority States-owned company;
 - An agency established by a law of the States of Jersey; or
 - A parish authority.

4.9.4 Persons authorised to act on behalf of an applicant

STATUTORY REQUIREMENTS

150. *Under [Article 18\(7\)](#) of the Money Laundering Order, a relevant person need not identify or verify the identity of persons authorised to act on behalf of an applicant for business, where that applicant is a regulated person, or carries on equivalent business to any category of regulated business. See [Section 1.7](#).*

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<#>Where a subsidiary of a body corporate admitted to trading on a regulated market is not wholly owned, identification and verification procedures must be carried out in accordance with [Section 4.5](#) in respect of beneficial owners and controllers not connected with the traded parent.¶

<#>Jersey public authorities¶
overview¶

<#>Where the applicant for business is a Jersey public authority, [Article 18\(2\)](#) of the Money Laundering Order does not require identification procedures to be applied in respect of the public authority or its beneficial owners and controllers. ¶

regulatory requirements¶

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151. Under [Article 18\(8\)](#) of the Money Laundering Order, a relevant person need not identify or verify the identity of persons **purporting to be** authorised to act on behalf of an applicant for business where the person who is so authorised acts in the course of employment by a **business that is a regulated person, or carries on equivalent business to any category of regulated business.**

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GUIDANCE NOTES

152. Where a person authorised to act on behalf of an applicant for business holds this role by virtue of his employment by (or position in) a **business that is a regulated person**, a relevant person may demonstrate that this exception applies where it obtains:

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

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4.9.5 Identification **measures** for **pension schemes**

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STATUTORY REQUIREMENTS

153. Under [Article 18\(3\)](#) of the Money Laundering Order, a relevant person need not apply identification **measures**, where the business relationship or one-off transaction relates to a pension, superannuation, or similar scheme:

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- where contributions are made **by an employer or** by way of a deduction from wages, and
- the scheme rules do not permit the assignment of members' interests under the scheme.

4.9.6 Other exceptions

STATUTORY REQUIREMENTS

154. Under [Article 18\(4\), \(5\) and \(6\)](#) of the Money Laundering Order, a relevant person need not apply identification **measures**, when the application is for an insurance business policy:

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- taken out in connection with a pension scheme relating to the customer's employment or occupation, if the policy contains no surrender clause and cannot be used as security for a loan; or
- where the premium is a single payment of no more than £1,750; or
- where the premium payments do not exceed £750 in any calendar year.

4.10 IDENTIFICATION AND VERIFICATION OF IDENTITY IN INTERMEDIARY AND INTRODUCED RELATIONSHIPS

OVERVIEW

155. [Article 13](#) of the Money Laundering Order requires a relevant person to determine whether the applicant for business is acting for any third party (underlying customer), and if so, requires the relevant person to identify and take reasonable measures to verify the identity of the third party (underlying customer) and its beneficial owners and controllers. Such relationships are referred to as **intermediary relationships**, as no direct relationship between the relevant person and the underlying customer arises; the business relationship is instead between the relevant person and the intermediary. Intermediary relationships differ from **introduced (also known as referred) relationships**, as with introduced relationships, the underlying customer does form a direct relationship with the relevant person.

156. However, in certain circumstances where the risk of money laundering and the financing of terrorism may be lower, such as where the intermediary (or introducer) itself is subject to legal

requirements to combat money laundering and financing of terrorism equivalent to those in place in Jersey, and is supervised for compliance with those requirements, the Money Laundering Order permits reduced or simplified customer due diligence measures to be carried out on the intermediary, or reliance to be placed on the intermediary or introducer to have conducted aspects of customer due diligence.

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157. This section sets out the circumstances where reduced or simplified measures may be applied or where reliance may be placed:

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- Where the applicant for business - an intermediary - is a certain type of regulated person or carries on an equivalent business to certain categories of regulated business (covered by Article 17 of the Money Laundering Order); and
- Where the relationship involves either an intermediary or an introducer that is carrying on a financial services business that is overseen for AML/CFT compliance in Jersey, or a person who carries on equivalent business (covered by Article 16 of the Money Laundering Order).

Intermediary relationships

158. Intermediary relationships may cover a single underlying customer or more than one customer, including a pool of customers. Relationships established by an intermediary on behalf of a single customer, including relationships involving sub-accounts for each underlying customer, are described in the Handbook as **designated relationships**. A relationship established by an intermediary on behalf of more than one customer is described in the Handbook as a **pooled relationship**.

159. Examples of intermediary relationships may include:

- Trustees establishing relationships with other persons carrying on a financial services business on behalf of express trusts.
- Stock-brokers and investment management firms acting as nominees for underlying investors.

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160. Some examples of pooled relationships include:

- Overseas banks (typically Swiss banks) that place pooled deposits on a fiduciary basis with Jersey banks.
- Open-ended or closed-ended investment companies, trustees of unit trusts, and general partners of limited partnerships that wish to establish banking facilities for a collective investment fund.
- Client accounts operated by trust companies, investment managers, lawyers and accountants.

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Introduced relationships

161. An introduced relationship is where an **introducer** has an established relationship with a customer and wishes to introduce that customer to another person carrying on a financial services business. Here, it is the customer who is the applicant for business, and who seeks to form a direct relationship with a relevant person. The customer will therefore have two direct relationships, one with the introducer and one with the relevant person to which he has been introduced.

162. Examples of introducers include:

- Investment advisors who arrange for their customers to invest in a financial product provided by another person carrying on a financial services business, where the investment is held in the name of the customer and not that of the investment advisor.

- Company service providers who arrange for a bank or investment account, for example, to be established in the name of a client company, and not in the name of the company service provider.
- The qualified member of a foundation that is incorporated under the Foundations (Jersey) Law 200-, to the extent that the foundation wishes to form a business relationship or carry out a one-off transaction with another relevant person, e.g. to open a bank account.

Outsourcing

163. Outsourcing arrangements are not included within the scope of this section, as these are distinct from introduced and intermediary relationships. In an outsourcing arrangement, the customer will have a direct relationship with a relevant person and not with the delegate carrying on the outsourced activity. Although the delegate may have substantial contact with the customer, the customer is a customer of the relevant person and not of the delegate. The delegate will be carrying on the outsourced activity for the relevant person according to the terms of a contract with the relevant person. An example of a typical outsourcing arrangement is where a trustee of a collective investment fund outsources the management of the fund to a third party.

4.10.1 Assessment of risk where reliance placed on intermediaries and introducers

OVERVIEW

164. Where it is possible to avoid applying identification measures, because these have already been conducted by an intermediary, or to place reliance on measures that have already been conducted by an intermediary, this introduces an additional risk that must be considered. A similar risk is introduced where reliance is placed on an introducer to have conducted identification measures. This section considers this additional risk.

165. The risk factors that are set out in this section will also be relevant to a customer risk assessment that is conducted under Section 3.3.4.1 in the cases highlighted at Sections 4.4 (paragraph 55) and 4.5 (paragraph 76).

STATUTORY REQUIREMENTS

166. In certain cases, Article 16 of the Money Laundering Order provides for reliance to be placed on intermediaries and introducers to have applied identification measures in order to meet a relevant person's obligations under Article 13 of the Money Laundering Order. In order to place such reliance, a relevant person must have conducted an assessment as to whether it is appropriate to place reliance.

167. In certain cases, Article 17 of the Money Laundering Order provides that a relevant person need not apply the requirement in Article 13 of the Money Laundering Order to identify and verify the identity of the intermediary's underlying customer. Article 17 may be applied only where a relevant person has conducted an assessment as to whether it is appropriate to apply the concession.

REGULATORY REQUIREMENTS

168. In order to avoid applying identification measures, under Article 17 or to rely on measures that have been conducted by an intermediary or introducer under Article 16, a relevant person must first assess the risk in avoiding applying such measures, or placing reliance. Where appropriate, it should take additional measures to manage its risk.

- Deleted: <#>One of the factors to be taken into account in undertaking any risk assessment for a customer is whether or not the applicant or customer is acting for a third party - as an intermediary. **The risk factors that are set out in this section will also be relevant to a risk assessment that is conducted under Section 3.3.4.1.**¶ <sp>
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GUIDANCE NOTES

Risk assessment – factors to consider

169. One or more of the following factors will be relevant when conducting a risk assessment for an introducer or intermediary:

- The stature and regulatory track record of the intermediary or introducer.
- The adequacy of the framework to combat money laundering and financing of terrorism in place in the jurisdiction in which the intermediary or introducer is based and the period of time that the framework has been in place.
- The adequacy of the supervisory regime to combat money laundering and terrorist financing to which the intermediary or introducer is subject.
- The adequacy of the measures to combat money laundering and financing of terrorism in place at the intermediary or introducer.
- Previous experience gained from existing relationships connected with the intermediary or introducer.
- The nature of the business conducted by the intermediary or introducer. Relevant factors include:
 - a. the geographic location of the customer base;
 - b. the general nature of the customer base, e.g. whether institutional or private client;
 - c. the risk appetite of the intermediary or introducer; and
 - d. the nature of the services which the intermediary or introducer provides to its customers.
- Whether relationships are conducted by the intermediary or introducer on a face to face basis.
- Whether specific relationships are fully managed by an introducer.
- The extent to which the intermediary or introducer itself relies on third parties to identify its customers and to hold evidence of identity or to conduct other due diligence ~~measures, and whether such third parties are relevant persons, or carry out an equivalent business.~~
- Whether or not specific intermediary or introduced relationships involve PEPs or other higher risk relationships.

Additional measures

170. Where, having assessed risk, a relevant person determines that additional measures are required, these may include all, or some, of those listed below:

- Making specific enquiries of the intermediary or introducer to determine the adequacy of measures to combat money laundering and financing of terrorism in place.
- Reviewing the policies and procedures to combat money laundering and financing of terrorism in place at the intermediary or introducer.
- Where the intermediary or introducer is a member of a financial services group, making enquiries concerning the extent to which group standards are applied to and assessed by the intermediary's or introducer's compliance function or internal audit function.
- Conducting (or commissioning from an external expert) periodic sample testing of the adequacy of the intermediary's or introducer's policies and procedures to combat money laundering and financing of terrorism, whether through onsite visits, or through requesting specific customer due diligence information and/or copy documentation to be provided.

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- Requesting specific customer due diligence information and/or copy documentation to be provided, to confirm that the intermediary or introducer is able to satisfy any requirement for such information and documentation to be available without delay at the request of the ~~relevant person~~.
- Where an intermediary or introduced relationship presents higher money laundering or financing terrorism risk, considering whether it is appropriate to rely solely upon the information provided by the intermediary or introducer, and whether additional customer due diligence information and/or documentation is required.
- Requiring that pooled relationships must not be used for higher risk customers, and that designated relationships with increased disclosure of information be put in place for such customers.

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4.10.2 Intermediary relationships – Article 17

OVERVIEW

171. Where an intermediary meets the criteria outlined in [Article 17](#) of the Money Laundering Order, a relevant person need not identify or verify the identity of the intermediary's underlying customers, whether pooled or designated relationships. However, the relevant person's risk assessment of the intermediary may necessitate the relevant person taking additional measures, as set out in [Section 4.10.1](#), above.
172. The capacity in which the intermediary is acting will be relevant. Where an intermediary is acting other than in the course of: (a) deposit-taking business; (b) ~~insurance business~~; (c) investment business; or ~~(d) fund services business, or is a permit holder or a certificate holder~~, then a relevant person may not rely on [Article 17](#).

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STATUTORY REQUIREMENTS

173. Under [Article 17](#) of the Money Laundering Order a relevant person need not identify and verify the identity of third parties (underlying customers) for whom an intermediary is acting (or any beneficial owners and controllers of those third parties) where it establishes that there are reasonable grounds for believing that:
- the intermediary is ~~acting in the course of: deposit-taking business, insurance business, investment business, fund services business, or is a permit or certificate holder~~; or
 - the intermediary carries on equivalent business to the above categories of regulated business (refer to [Section 1.7](#)).
174. A relevant person may not rely on the concession in the Money Laundering Order where it has suspicion of money laundering.

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REGULATORY REQUIREMENTS

175. A relevant person must be able to demonstrate that the conditions required by the Money Laundering Order are met.

4.10.3 Intermediary and introduced relationships – Article 16

OVERVIEW

176. Where an intermediary or introducer meets the requirements outlined in [Article 16](#) of the Money Laundering Order, a relevant person is permitted to place reliance on the intermediary or introducer to have conducted identification ~~measures, in respect of the relevant person's~~ underlying or introduced customers. This means that a relevant person does not need to duplicate identification ~~measures~~ that will have already been conducted by the intermediary or introducer.

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177. Whilst a customer information profile containing necessary customer due diligence information on the underlying customer and ~~its~~ beneficial owners and controllers must be obtained for both designated and pooled relationships with intermediaries, and applicants introduced by introducers, the relevant person accepting the relationship is not also required to obtain evidence of ~~identity~~. Evidence of identity may be held by the intermediary or introducer, so long as the relevant person is satisfied that the intermediary or introducer will provide the evidence ~~that it holds~~ on request and without delay.
178. In the case of a trustee that is an intermediary for a trust, the underlying customer is considered to be the individuals concerned with the trust ([Section 4.4](#)).
179. When considering the relevant requirements to apply to intermediary relationships, provisions concerning lower risk products ([Section 4.10.5](#)) may also be relevant.
180. Where customer due diligence information is passed by an intermediary to a relevant person in order to comply with requirements to counter money laundering and the financing of terrorism, the Data Protection (Jersey) Law 2005 restricts the use of the information to that purpose, except where another condition for processing personal data applies.

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STATUTORY REQUIREMENTS

181. [Article 16](#) of the Money Laundering Order permits a relevant person to rely upon an intermediary or introducer to have applied specified identification ~~measures~~, where it obtains a confirmation from an intermediary or introducer on certain matters. It may do so where:
- the applicant for business is an intermediary (i.e. is acting on behalf of underlying customers) that meets the conditions set out below; or
 - the applicant for business is introduced by an introducer that meets the conditions set out below.
182. The relevant person must have reasonable grounds for believing that:
- the intermediary or introducer is a ~~relevant person, that is overseen for AML/CFT compliance in Jersey~~; or
 - the intermediary or introducer is a person who carries on equivalent business (refer to [Section 1.7](#)).
183. The relevant person must obtain a confirmation from the intermediary or introducer that:
- is in writing;
 - confirms that the applicant for business is an established customer of the introducer (where the customer relationship is introduced);
 - contains adequate assurance that the intermediary or introducer has undertaken the necessary customer identification ~~measures~~;
 - for intermediary relationships, contains sufficient information about the third parties (underlying customers) for whom the intermediary is acting (and of any beneficial owners and controllers of the third parties);
 - for introduced relationships, ~~in line with Articles 13 and 3 of the Money Laundering Order~~ contains sufficient information about the applicant for business and any beneficial owners and controllers of the applicant, and also any third parties that the introduced customer may be acting for, and any person purporting to act on behalf of the introduced customer – where reliance is placed on the introducer;
 - contains adequate assurance that the intermediary or introducer is required to keep and does keep records containing the evidence of identity of:

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- a. *for intermediary relationships, the third parties (underlying customers) for whom the intermediary is acting (and of any beneficial owners and controllers of the third parties); or*
 - b. *for introduced relationships, the applicant for business and any beneficial owners and controllers of the applicant, and also any third parties that the introduced customer may be acting for, and any person purporting to act on behalf of the introduced customer – where reliance is placed on the introducer; and*
 - *contains adequate assurance that the intermediary or introducer will provide the evidence of the identity without delay at the request of the relevant person.*
184. *A relevant person may not rely on this concession where it suspects money laundering.*
185. *The ultimate responsibility for ensuring that customer identification measures are adequate remains with the relevant person. In order to place reliance on an introducer or intermediary, the introducer or intermediary must have provided its consent to do so.*

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REGULATORY REQUIREMENTS

186. A relevant person must be able to demonstrate that the conditions required by the Money Laundering Order are met.
187. In order to demonstrate that a relevant person has obtained sufficient information about the underlying customer, or introduced customer, a relevant person must:
- Obtain customer information profiles from the intermediary or introducer on each of the intermediary's underlying customers, or introduced customers - in line with guidance for individuals, trustees, and legal bodies – set out in [Sections 4.3 to 4.5](#). The information provided in the customer information profile will depend upon the relevant person's assessment of the risk presented by a particular individual, trustee or legal body.
 - Be satisfied that the intermediary or introducer will notify the relevant person of any material changes to the customer information profile provided.
188. All evidence of identity passed by the intermediary or introducer to a relevant person (on request) must be confirmed by the intermediary or introducer as being a true copy of either an original or copy document held on its file.
189. In the event that an introducer terminates its relationship with a customer introduced to a relevant person, the relevant person must require the introducer to provide the relevant person with:
- copies of the ~~evidence of identity held~~; or
 - an assurance that the introducer will ~~continue to~~ hold the necessary ~~evidence~~ on behalf of the relevant person until ~~such time as is agreed~~.

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GUIDANCE NOTES

Access to customer due diligence information and documentation

190. A relevant person may demonstrate that an intermediary or introducer will provide customer due diligence information and documentation in relation to underlying customers, and introduced customers, without delay where it requires relevant customer due diligence information and documentation to be made available within 5 working days of a request.
191. Where an intermediary or introducer is located in a jurisdiction known to have restrictive secrecy provisions, a relevant person may demonstrate that it has adequate access to customer due diligence information and documentation where it periodically requests such information or documentation to be provided (and it is provided), or otherwise obtains access to review the relevant information and documentation held by the intermediary or introducer.

Responsibility for failures in identification measures

192. A relevant person will remain responsible for the satisfactory performance of all elements of identification measures. However, where the measures taken are reasonable, it will have a defence should the intermediary or introducer fail to have performed satisfactory measures.

Template customer information profiles

193. Refer to Appendix C for template customer information profiles setting out customer information to be collected for intermediary and introduced relationships.

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4.10.4 Group intermediaries and introducers in certain jurisdictions – Article 16

OVERVIEW

194. Where the following criteria are met, then, under Article 16 of the Money Laundering Order, a relevant person may rely on an intermediary or introducer that is in the same group as the relevant person to have obtained and to hold evidence of identity on its behalf in the way described in Section 4.10.3, notwithstanding that the intermediary or introducer itself may not be directly subject to legal requirements to combat money laundering and financing of terrorism that are consistent with the FATF Recommendations or subject to direct supervision.

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195. As for other intermediary or introduced relationships, a customer information profile containing necessary customer due diligence information on the underlying customer and its beneficial owners and controllers or introduced customer must be obtained for each group intermediary or group introduced relationship. Evidence of identity may be held by the intermediary or introducer, so long as the relevant person is satisfied that the group intermediary or introducer will provide the evidence on request and without delay.

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GUIDANCE NOTES

196. A group intermediary or introducer may demonstrate that it has met the criteria established in Article 5 of the Money Laundering Order where:

- The intermediary or introducer carries on a category of business equivalent to a category outlined in Schedule 2 of the Proceeds of Crime Law and is a branch or subsidiary in the same group as the relevant person;
- The intermediary or introducer is registered or otherwise authorised in another country;
- The intermediary or introducer is subject to group requirements to combat money laundering and financing of terrorism;
- The conduct of the intermediary's or introducer's business is subject to supervision for compliance with group requirements to combat money laundering and financing of terrorism by an overseas regulatory authority; and
- The group's parent meets the conditions required by Article 5 of the Money Laundering Order for equivalent businesses (refer to Section 1.7).

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4.10.5 Intermediary customers and lower risk products

OVERVIEW

197. Where an intermediary is covered by Article 16 (but not also Article 17), a customer information profile will be required for each underlying customer. However, the following section sets out circumstances where a relevant person provides a lower risk product, or where the product that is controlled or administered by the intermediary itself presents lower risk, where it may be appropriate to operate a relationship without a customer information profile for each underlying customer.

GUIDANCE NOTES

198. A relevant person may demonstrate that it has satisfied the requirement of the Money Laundering Order for sufficient customer information to be obtained under [Article 16 of the Money Laundering Order](#), where the relationship is established on an undisclosed basis with an intermediary (that is covered by [Article 16](#)) for one or more of the following:

- Investment products controlled or administered by the intermediary which are closed-ended, where there is no liquid market for shares, units, or interests in the investment product, and where the funds for investment and the proceeds of the investment are received from and returned to the investor, and not third parties.
- Employee benefit schemes (including pension schemes) controlled or administered by the intermediary, which are funded either by the sponsor or by deductions from employee remuneration, and which are for the benefit only of the sponsor's employees, or the employees' immediate family.
- The limited pooling of funds by an intermediary for one of the following purposes:
 - a. the facilitation of immovable Jersey property transactions;
 - b. pending the transfer to a designated account for an underlying customer, where the funds are not to be held on an undisclosed basis for longer than 40 days;
 - c. pending the receipt of instructions when exiting a customer relationship, where the funds are not to be held on an undisclosed basis for longer than 40 days;
 - d. to facilitate ad hoc (not routine) cheque payments where designated accounts do not otherwise have this facility;
 - e. to provide underlying customers with access to low cost banking facilities where customers' liquid assets are of insufficient value and volume for the establishment of a designated relationship (eg. balances of £1,000 or less per relationship, with little activity);
 - f. to facilitate the aggregation of statutory fees for onward payment;
 - g. to receive fees payable to the intermediary which have been paid in advance; and
 - h. to receive customer money on an ad hoc basis paid to the intermediary in error.

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199. A relevant person may also demonstrate that it has satisfied the requirements of the Money Laundering Order, without obtaining customer due diligence information in the form of a customer information profile, where it accepts an aggregated deposit of customer funds (or funds for investment) from a bank account held in the name of a person carrying on financial services business that is a regulated person (or is regulated by the Guernsey Financial Services Commission or the Isle of Man Financial Supervision Commission), where the funds (and any income or profit generated) will only be returned to the bank account from which the funds originated.

4.11 REDUCED OR SIMPLIFIED MEASURES: VERIFICATION OF IDENTITY CONCESSION FOR VERY LOW RISK PRODUCTS/SERVICES

OVERVIEW

200. Where funds involved in a relationship:

- have been received from a bank that is a regulated person or carries on equivalent business to deposit-taking (refer to [Section 1.7](#)); and
- have come from an account in the sole or joint name of the applicant for business,

then the receipt of funds from such an account will be considered to provide a satisfactory means of verifying the identity of an applicant for business, where: (i) the product or service requested by the applicant for business is considered to present a very low money laundering risk, and (ii) where the applicant for business is not considered to present higher risk.

Deleted: A relevant person may demonstrate that it has satisfied the requirements of [Article 13](#) of the Money Laundering Order to identify and take reasonable measures to verify the identity of persons on whose behalf an applicant for business is acting, without obtaining customer due diligence information in the form of a customer information profile, where the customer is a Jersey law firm, and where the relevant person confirms that the funds relate to immovable Jersey property transactions.[¶]

201. The basis for this concession is that funds may only be received from and paid to an account in the customer's name, i.e. a product or service where funds may not be paid in by, or paid out to, third parties.

REGULATORY REQUIREMENTS

202. In considering whether it is appropriate for verification of a customer's identity to be carried out using this concession, a relevant person must be able to demonstrate that an applicant for business does not present higher risk and that it is reasonable for the concession to apply. Particular care must be taken in circumstances where an applicant is not an individual.

203. To benefit from this concession, the product or service must satisfy the following conditions:

- all initial and future payments must be received from an account at a bank that is a regulated person or carries on an equivalent business to deposit-taking (refer to [Section 1.7](#)), where the account can be confirmed as belonging to the applicant for business;
- no initial or future payments may be received from third parties;
- cash withdrawals are not permitted, with the exception of face to face withdrawals by the customer, where he is required to produce evidence of identity before the withdrawal can be made;
- no payments may be made, other than to an account at a bank that is a regulated person or carries on an equivalent business to deposit-taking (refer to [Section 1.7](#)), where the account can be confirmed as belonging to the customer, or on the death of the customer to a personal representative named in the grant of probate or the letters of administration; and
- no future changes must be made to the product or service that enable funds to be received from or paid to third parties.

204. In the event that the above conditions are breached, the identity of the customer must be verified at that time in accordance with [Section 4.3](#), [Section 4.4](#), or [Section 4.5](#).

205. A relevant person must obtain and retain evidence confirming that payment has been received from an account at a bank that is a regulated person or carries on an equivalent business to deposit-taking (refer to [Section 1.7](#)), and, where a request for a withdrawal or transfer to another bank account is received, confirmation that this account is also in the customer's name and held at a bank that is a regulated person or carries on an equivalent business to deposit-taking (refer to [Section 1.7](#)).

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

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4.12 TIMING OF INITIAL IDENTIFICATION AND VERIFICATION OF IDENTITY

STATUTORY REQUIREMENTS

207. *Article 13(1) of the Money Laundering Order requires identification **measures** to be applied before the establishment of a relationship or before carrying out a one-off transaction.*

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208. *However, Article 13(4) of the Money Laundering Order permits verification of identity, to be completed as soon as reasonably practicable after the establishment of a business relationship if:*

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- *it is **necessary not** to interrupt the normal conduct of business; and*

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- *there is little risk of money laundering occurring as a result of completing such verification after establishing the relationship.*

GUIDANCE NOTES

209. Funds may be received from an applicant during the course of establishing a business relationship. A relationship is established once a relevant person acts on instructions as to the operation of that relationship, for example, invests funds in a financial product on behalf of a customer.
210. Guidance as to appropriate steps to take where a relevant person is unable to complete identification measures, is provided in [Section 4.14](#).

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4.12.1 Delayed completion of verification requirements

OVERVIEW

211. [Article 13\(4\) of the Money Laundering Order](#) allows, in certain circumstances, a relevant person a reasonable timeframe to undertake the necessary enquiries for the completion of verification measures, after the initial establishment of a relationship. Where a reasonable excuse for the continued non-completion of verification measures cannot be provided, in order to comply with [Article 14\(2\)](#) of the Money Laundering Order, a relevant person must terminate the relationship ([Section 4.14](#)).

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REGULATORY REQUIREMENTS

212. A relevant person may complete verification of identity after the initial establishment of a relationship if the following conditions are met:
- all other necessary customer due diligence information (including information on identity) has been obtained;
 - the need to perform verification of identity at a later stage is essential not to interrupt the normal conduct of business;
 - verification of identity is carried out as soon as is reasonably practicable;
 - it highlights to its customer its obligation to terminate the relationship at any time on the basis of non-completion of verification measures; and
 - money laundering risk is effectively managed.
213. In any event, a relevant person must not pay away funds to a third party, other than to invest or deposit the funds on behalf of the customer, until such time as identity has been verified.

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GUIDANCE NOTES

214. A relevant person may demonstrate that it has a right to terminate a relationship where terms of business which govern its relationships with its customers encompass the termination of relationships due to non-completion of verification measures. Terms and conditions should clearly state that termination may lead to an applicant suffering losses – where, e.g. funds have been invested in a collective investment fund.
215. Money laundering risk may be effectively managed where:
- policies and procedures establish timeframes for the completion of verification measures;
 - the establishment of any relationship benefiting from this concession has received appropriate authorisation and such relationships are appropriately monitored so that verification of identity is carried out as soon as is reasonably practicable; and

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- appropriate limits or prohibitions are placed on the number, type and amount of transactions over an account.

4.13 SUBSEQUENT IDENTIFICATION AND VERIFICATION OF IDENTITY

OVERVIEW

STATUTORY REQUIREMENTS

216. [Article 13\(1\)\(c\)\(i\) of the Money Laundering Order](#) requires a relevant person to carry out identification ~~measures~~, where it suspects money laundering, whether or not an exemption or concession from identification ~~measures~~ had previously been applied.
217. In addition, where a relevant person has doubts about the veracity or adequacy of documents, data or information previously obtained under customer due diligence ~~measures~~, [Article 13\(1\)\(c\)\(ii\) of the Money Laundering Order](#) requires the business to take steps to carry out identification ~~measures~~.
218. [Article 14\(6\) of the Money Laundering Order](#) provides that identification ~~measures~~ need not be applied where a relevant person is acting with the consent of the JFCU ~~and where an existing relationship is terminated, relationship is not established, or one-off transaction not completed or carried out~~.

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GUIDANCE NOTES

219. [A relevant person may demonstrate that it has carried out the identification measures required under Article 13\(1\)\(c\)\(ii\) of the Money Laundering Order where it does so in cases where a trustee, legal body, foundation, intermediary or introducer advises of a change to identification information that it has provided to the relevant person under Sections 4.4.1, 4.5.1, 4.5.3, and 4.10.3 respectively.](#)

4.14 FAILURE TO COMPLETE IDENTIFICATION OR VERIFICATION OF IDENTITY

OVERVIEW

220. Where identification ~~measures~~ cannot be completed, a relevant person must not proceed or continue with a relationship or one-off transaction. The ease with which a relationship may be terminated will depend upon how funds have been invested. For example, whereas a bank can close an account relatively easily and returns funds to a customer, it may be less straightforward for a fund to ~~affect~~ a compulsory redemption, particularly where it is closed ended, or where valuation dates are infrequent.
221. Wherever possible, when terminating a relationship where customer money or other assets have been received, a relevant person should return the assets directly to the customer, for example by returning money to the account from which it was received.
222. Where the customer requests that money or other assets be transferred to third parties, or to a different account in the customer's name, the relevant person should assess whether this provides grounds for knowledge or suspicion, or reasonable grounds for knowledge or suspicion, of money laundering or financing of terrorism.

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STATUTORY REQUIREMENTS

- 223. *If a relevant person is unable to apply identification ~~measures~~ before the establishment of a relationship or before carrying out a one-off transaction (except in the circumstances provided for in [Article 13\(4\) of the Money Laundering Order](#)), [Article 14\(1\) of the Money Laundering Order](#) requires that a relevant person shall not establish that business relationship or carry out that one-off transaction.*
- 224. *[Article 14\(2\) of the Money Laundering Order](#) provides that if a relevant person is unable to apply identification ~~measures~~ in the circumstances described in [Article 13\(4\)](#), it shall terminate the relationship.*
- 225. *[Article 14\(4\) of the Money Laundering Order](#) provides that a relevant person must terminate a business relationship where it cannot apply ongoing identification ~~measures~~.*
- 226. *[Article 14\(11\) of the Money Laundering Order](#) provides that a business relationship or one-off transaction may proceed ~~or~~ continue where ~~relevant person is acting with the consent of the JFCU~~.*

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