

**Proceeds of Crime (Jersey) Law 1999 – Schedule 2 (Article 36(1) and (2)) – Financial Services Business****Part A: Business regulated by the Commission under Regulatory Laws**

1. Any deposit-taking business as defined in Article 1 of the Banking Business (Jersey) Law 1991 except the doing of anything described in Article 8(2)(a) to (c) of that Law.
2. Any long-term business as defined in Article 1(1) of the Insurance Business (Jersey) Law 1996 except –
  - (a) insurance business described in Article 5(5)(a) of that Law;
  - (b) insurance business described in Article 1 of the Insurance Business (General Provisions) (Jersey) Order 1996.
3. (1) Any of the following within the meaning of the Collective Investment Funds (Jersey) Law 1988 –
  - (i) the business of being a functionary;
  - (ii) the business of a recognized fund;
  - (iii) the business of an unclassified fund.
 (2) However, business referred to in sub-paragraph (1) does not include the business of a company, being a company issuing units that is within Article 1A of the Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994.
4. Financial service business as defined in Article 1(1) of the Financial Services (Jersey) Law 1998 –
  - (a) including the activities described in Schedule 2 to that Law except those mentioned in –
    - (i) paragraphs 1, 3B, 3C, 4, 9, 10, 14, 15, 18A and 21,
    - (ii) paragraph 7 where a person accepts or becomes a party to an instrument as principal,
    - (iii) paragraph 8 (other than the activities of persons referred to in paragraph 8(1)(c), (2)(c) or (3)(c)),
    - (iv) paragraph 16 except where a person is acting as a protector of a trust by way of business,
    - (v) paragraph 18, where the relevant special purpose vehicle is provided with any service that falls within Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 by a person registered under that Law to carry on trust company business;
  - (b) excluding general insurance mediation business;
  - (c) excluding investment business carried on by an overseas person mentioned in Article 1 of the Financial Services (Investment Business (Overseas Persons – Exemption)) (Jersey) Order 2001 where that business is carried on in the circumstances described in that Order;
  - (ca) excluding special purpose investment business carried on in accordance with the exemption set out in the Financial Services (Investment Business (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001 by a person who –
    - (i) is acting as a functionary within the meaning of that Order, and
    - (ii) is provided with any service that falls within Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 by a person registered under that Law to carry on trust company business or is provided with any service within fund services business (within the meaning of that Law) by a person who is registered under that Law to carry on fund services business;
  - (cb) excluding restricted investment business carried on in accordance with the exemption set out in the Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001 by a person who –
    - (i) is acting as a functionary within the meaning of that Order, and
    - (ii) is provided with any service that falls within Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 by a person registered under that Law to carry on trust company

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- business or is provided with any service within fund services business (within the meaning of that Law) by a person who is registered under that Law to carry on fund services business;
- (d) excluding trust company business carried on by a person specified in any of the paragraphs in the Schedule to the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000 specified below where the business is carried on in the circumstances described in that paragraph –
    - (i) paragraph 4 (private trust company business),
    - (ia) paragraph 7 (incidental providers of services),
    - (ii) paragraph 8 (address providers),
    - (iii) paragraph 11 (connected company),
    - (iv) paragraph 12 (introducer),
    - (v) paragraph 13 (director),
    - (vi) paragraph 15 (director – registered person),
    - (vii) paragraph 16 (liquidators and trustees in bankruptcy of persons other than registered persons),
    - (viii) paragraph 18 (recruitment agents);
  - (e) excluding trust company business carried on by a person specified in any of the paragraphs in the Schedule to the Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000 specified below where that business is carried on in the circumstances described in that paragraph –
    - (i) paragraph 1 (overseas persons),
    - (ii) paragraph 2 (unit holding nominee company),
    - (iii) paragraph 3 (electronic communications service providers);
  - (f) excluding trust company business carried on by a person specified in any of the paragraphs of the Schedule to the Financial Services (Trust Company Business (Exemptions No. 3)) (Jersey) Order 2001 specified below where that business is carried on in the circumstances described in that paragraph –
    - (i) paragraph 1 (private protector company),
    - (ii) paragraph 2 (general partner),
    - (iii) paragraph 4 (investment company subsidiary);
  - (g) excluding trust company business carried on by a person specified in paragraph 1 (connected persons) of the Schedule to the Financial Services (Trust Company Business (Exemptions No. 4)) (Jersey) Order 2001 where that business is carried on in the circumstances mentioned in that paragraph;
  - (h) excluding trust company business carried on in accordance with the exemption set out in the Financial Services (Trust Company Business (Exemptions No. 5)) (Jersey) Order 2001 by a person who –
    - (i) is specified in the Schedule to that Order, and
    - (ii) is provided with any service that falls within Article 2(3) and (4) of the Financial Services (Jersey) Law 1998 by a person registered under that Law to carry on trust company business;
  - (i) excluding money service business specified in Article 3 of the Financial Services (Money Service Business) (Exemptions) (Jersey) Order 2007.

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**Part B: Other businesses**
**1. Lawyers**

- (1) The business of providing services by independent legal professionals.
- (2) In this paragraph “independent legal professionals” means those who by way of business provide legal or notarial services to third parties when participating in financial, or immovable property, transactions concerning any of the following –
  - (a) the buying and selling of immovable property or business entities;
  - (b) the buying and selling of shares the ownership of which entitles the owner to occupy immovable property;
  - (c) the managing of client money, securities or other assets;
  - (d) the opening or management of bank, savings or securities accounts;
  - (e) the organization of contributions necessary for the creation, operation or management of companies; or
  - (f) the creation, operation or management of trusts, companies or similar structures.
3. Sub-paragraph (2) does not include legal professionals employed by public authorities or undertakings which do not by way of business provide legal services to third parties.
4. For the purposes of this paragraph, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a third party in the transaction.

**2. Accountants**

- (1) The business of providing any of the following –
  - (a) external accountancy services;
  - (b) advice about the tax affairs of another person;
  - (c) audit services; or
  - (d) insolvency services.
- (2) “External accountancy services” means accountancy services provided to third parties and excludes services provided by accountants employed by public authorities or by undertakings which do not by way of business provide accountancy services to third parties.
- (3) “Audit services” are audit services provided by way of business pursuant to any function under any enactment.
- (4) “Insolvency services” are services provided by a person if, by way of business, that person accepts appointment as –
  - (a) a liquidator under Chapter 4 of Part 21 of the Companies (Jersey) Law 1991;
  - (b) an insolvency manager appointed under Part 5 of the Limited Liability Partnerships (Jersey) Law 1997 as that Law has effect in its application to insolvent limited liability partnerships pursuant to the Limited Liability Partnerships (Insolvent Partnerships) (Jersey) Regulations 1998; or
  - (c) as agent of an official functionary appointed in the case of a *remise de biens*, *cession*, or *désastre*.

**3. Estate agency services**

- (1) The business of providing estate agency services for or on behalf of third parties concerning the buying or selling of freehold (including flying freehold) or leasehold property (including commercial and agricultural property), whether the property is situated in Jersey or overseas.
- (2) The business of providing estate agency services for or on behalf of third parties concerning the buying or selling of shares the ownership of which entitles the owner to occupy immovable property, whether the property is situated in Jersey or overseas.

#### 4. Services provided by high value dealers

- (1) "High value dealers" means persons who, by way of business, trade in goods when they receive, in respect of any transaction, a payment or payments in cash of at least 15,000 Euros (or sterling equivalent) in total, whether the transaction is executed in a single operation or in several operations which appear to be linked.
- (2) In this paragraph, "cash" means any of the following in any currency – notes, coins, travellers' cheques, bearer negotiable instruments.

#### 5. Casinos (including internet casinos)

- (1) The business of operating a casino.
- (2) For the purposes of this Law, a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games.
- (3) "Casino game" means a game of chance –
  - (a) that involves playing or staking against a bank (whether described as a "bank" and whether or not controlled or administered by a player); and
  - (b) where the chances are not equally favourable to all participants.
- (4) For the avoidance of doubt, the provision of the game commonly known as Crown and Anchor in the circumstances permitted under Regulation 9 of the Gambling (Gaming and Lotteries) (Jersey) Regulations 1965 does not fall within sub-paragraph (1).

#### 6. Unregulated funds business

The business of an unregulated fund, being an unregulated fund within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.

#### 7. Other services

- (1) The business of providing any of the following services to third parties, where the business is not otherwise included in this Schedule –
  - (a) acceptance of deposits and other repayable funds from the public;
  - (b) lending, including consumer credit, mortgage credit, factoring (with or without recourse), financing of commercial transactions (including forfeiting);
  - (c) financial leasing;
  - (d) money transmission services;
  - (e) issuing and administering means of payment (such as credit and debit cards, cheques, travellers' cheques, money orders and bankers' drafts, and electronic money);
  - (f) guarantees and commitments;
  - (g) trading for the account of third parties in –
    - (i) money market instruments (cheques, bills, certificates of deposit, derivatives etc.),
    - (ii) foreign exchange,
    - (iii) futures and options (financial and commodity),
    - (iv) exchange, interest rate and index instruments,
    - (v) transferable securities;
  - (h) participation in securities issues (and the provision of services related to such issues) except in the course of business excluded by the operation of paragraph 4(ca), (cb) or (h) of Part A;
  - (i) advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings;
  - (j) money broking;
  - (k) portfolio management and advice;

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- (l) safekeeping and administration of securities;
  - (m) safe custody services;
  - (n) otherwise investing, administering or managing funds or money on behalf of third parties.
- (2) A reference in this paragraph to providing services to third parties shall not include a company's providing a service to a connected company.
- (3) For the purposes of this paragraph, a company is connected with another company if –
- (a) the companies are in the same group;
  - (b) one is entitled, either alone or with any other company in the same group, to exercise or control the exercise of a majority of the voting rights (other than as nominee shareholder) which are attributable to the share capital and are exercisable in all circumstances at any general meeting of the other company or of its holding company; or
  - (c) the first-mentioned company holds, or a company in the same group as the first-mentioned company holds, an interest in the equity share capital of the other company carrying rights to vote in all circumstances at general meetings for the purpose of securing a contribution to the activities of the first-mentioned company or the company in the same group as that company respectively by the exercise of control or influence arising from that interest.
4. In this paragraph, “group” and “holding company” have the same meanings as in the Financial Services (Jersey) Law 1998.

#### 8. The business of forming and administering legal persons or arrangements

The business of providing services to or in respect of types of legal person or arrangement other than those described in Article 2(5)(a) and (b) of the Financial Services (Jersey) Law 1998, in the course of which services are provided that are similar or equivalent to those described in Article 2(4) of that Law as if Article 2(4) referred to that type of legal person or arrangement.

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**PROCEEDS OF CRIME (JERSEY) LAW 1999 (“POCL”) - SCHEDULE 2  
RATIONALE FOR EXEMPTIONS THEREFROM**

**Abbreviations for the regulatory laws:**

BBJL: Banking Business (Jersey) Law 1991

IBJL: Insurance Business (Jersey) Law 1996

FSJL: Financial Services (Jersey) Law 1998

CIFL: Collective Investment Funds (Jersey) Law 1988

**Key (column 5):**

The rationale for the exemptions from Schedule 2 POCL can be broken down into four broad categories:

Category 1 (Blue):	The activity is inherently low-risk/not subject to FATF coverage.
Category 2 (Red):	There is no person in Jersey to attach AML/CFT obligations to.
Category 3: (Green):	To avoid a duplication of AML/CFT obligations.
Category 4 (Orange):	The person carrying on the activity exempted from Schedule 2 POCL is acting only as principal or for a connected person or connected company.

All exemptions are without prejudice to other financial services business that may be carried on by a person.



No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
1	1	BBJL: Article 8(2)(a)	Deposit-taking business: States of Jersey	The general exemption excludes any deposit-taking business that may be carried on by the Island's government – where it provides services to residents (in its capacity as government).	1
2	1	BBJL: Article 8(2)(b)	Banking business: Central EU banks	Central banks have no physical presence in Jersey, though they may have depositors here (in which case they would be conducting business in Jersey).	2
3	1	BBJL: Article 8(2)(c)	Banking business: National Savings Bank (the "NSB")	The NSB has no physical presence in Jersey, though it does offer its services in Jersey and has customers here. The NSB's activities are carried on in the UK where it is covered by the UK Money Laundering Regulations 2007.	2
4	2	IBJL: Article 5(5)(a)	Certain insurance business carried on by Lloyds of London	Lloyds companies have no physical presence in Jersey, though they do offer services in Jersey and do have customers here (conducting business in Jersey). Their activities are carried on in the UK where they are covered by the UK Money Laundering Regulations 2007.	2
5	2	IBJL: Article 5(5)(a)	Union or employers' associations providing insurance for provident or strike benefits	The business activity is not provided to the general public.	1
6	2	IBJL: Article 1 of the Insurance General Provisions Order	Long term business conducted by an individual solely for that individual and the individual's dependants	Funds are managed by an individual in order to provide a pension for that individual and his/her family.	4





No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
7	3(2)	CIFJL:  The business of a company referred to in Article 1A of the CIF (Permits) (Exemptions) (Jersey) Order 1994	Certain non-Jersey domiciled companies issuing units	The CIFJL is very widely drawn and can catch a non-Jersey company that is a fund product even where the only activity in Jersey is that the directors meet here or a manager, director or administrator is ordinarily resident in Jersey. Article 1A of the CIF (Permits) (Exemptions) (Jersey) Order 1994 therefore exempts such companies with a tenuous link to Jersey from the CIFJL.  Note that any service provider that is based in Jersey that provides services to the fund will be covered by the Money Laundering (Jersey) Order 2008.	2
8	4(a)(i)	FSJL:  Schedule 2: Paragraph 1	Investment business: Newspapers, broadcasting and information services	The definition of "investment business" in the FSJL is extremely wide and catches the activities of journalists when making "buy/sell" suggestions in the course of writing an article. Advice provided is not a fee-earning business activity.	1
9	4(a)(i)	FSJL:  Schedule 2: Paragraph 3B	Certain overseas distributors of funds	The carrying on of "investment business" is drafted extremely widely in the FSJL and catches any person, wherever located in the world, that has any investment business interaction whatsoever with a person in Jersey. In practical terms, this means that persons that have no connection with the Island (other than to have a customer here or to solicit business in Jersey) will be covered by the FSJL. An exemption is therefore granted to these "overseas distributors" of fund products subject to certain safeguards (e.g. the overseas person is regulated in their home jurisdiction).  The home jurisdiction of the distributor will be responsible for requiring the company to meet AML/CFT obligations.	2



No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
10	4(a)(i)	FSJL: Schedule 2: Paragraphs 3C, 18A, and 21	Company that is general partner or trustee of unregulated fund, when conducting investment business (3C), trust company business (18A), and fund services business (21)	<p>The <u>general partner or trustee</u> - acting as an <b>operator to a fund</b> - must <u>have its registered office</u> provided by a fund services <u>provider</u> that is <u>registered with, and supervised by, the Commission and is</u> itself subject to AML/CFT obligations. The fund services <u>provider must hold at least the class of manager of a managed entity</u></p> <p><u>The fund services provider</u>, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on:</p> <ul style="list-style-type: none"> <li>• the <u>general partner or trustee (i.e. the customer of the fund services provider)</u>; and</li> <li>• <u>the third party</u> for which the customer is acting (<u>the fund and its investors</u>).</li> </ul> <p>For this reason, the <u>general partner or trustee</u> - in its capacity as an <b>operator to a fund</b> - has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations <u>at operator level</u>.</p> <p><u>In the absence of an exemption, the general partner or trustee would be expected to carry out the same CDD on the investors as the fund services provider.</u></p> <p>Note, however, that the <b>fund itself</b> is subject to a separate obligation to conduct CDD on <u>all its investors, under paragraph 6 of Part B of Schedule 2 of the POCL</u>. In the case of a fund that is a limited partnership, CDD will be conducted <u>for the fund</u> by the general partner and, in the case of a unit trust, CDD will be conducted <u>for the fund</u> by the trustee. <u>So the effect of this exemption is negligible.</u></p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
11	4(a)(i)	FSJL: Schedule 2: Paragraph 4	Dealing as principal	The definition of “investment business” in the FSJL is extremely wide and catches the activities of a person when dealing with own assets.	4
12	4(a)(i)	FSJL: Schedule 2: Paragraph 9	Employees’ share schemes	The “investment business” being carried on relates to the award of securities in a company (or a group company) of which a person is an employee (or relative of such an employee)	1
13	4(a)(i)	FSJL: Schedule 2: Paragraph 10	Issuing of shares, debentures, etc	The definition of “investment business” in the FSJL is extremely wide and catches the issuing of a principal’s own securities.	4
14	4(a)(i)	FSJL: Schedule 2: Paragraph 14	Discretionary investment management by company directors	The definition of “investment business” in the FSJL is extremely wide and catches the activities of a director <u>when deciding whether to purchase, sell, subscribe for, or underwrite investments</u> of the company of which he <u>or she</u> is a director, <u>(or another company in the same group)</u> .  <u>In the absence of an exemption, the concern is that many directors would inadvertently be considered to be carrying on investment business through the performance of their fiduciary responsibilities.</u>	4
15	4(a)(i)	FSJL: Schedule 2: Paragraph 15	Investment advice between directors	The definition of “investment business” in the FSJL is extremely wide and catches the activities of a director giving advice to another director for the purpose of the company they are directors of.	4

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
16	4(a)(ii)	FSJL: Schedule 2: Paragraph 7	Instruments creating or acknowledging indebtedness	The definition of “investment business” in the FSJL is extremely wide and includes becoming party to any instrument that creates or acknowledges indebtedness.  Note that lending is covered by Part B – paragraph 7(1)(b).	1
17	4(a)(iii)	FSJL: Schedule 2: Paragraph 8 (other than the activities of persons referred to in paragraph 8(1)(c), 2(c) or 3(c))	Connected companies and joint enterprises	The definition of “investment business” in the FSJL is extremely wide and catches services provided to connected companies and joint enterprises.	4
18	4(a)(iv)	FSJL: Schedule 2: Paragraph 16	Investment advice given by protectors  (except where a person is acting as a protector of a trust by way of business)	A protector has certain powers under the Trusts (Jersey) Law 1984 to protect the interests of beneficiaries (effectively, a form of oversight of the actions of the trustee).  Despite this activity of a protector being one that is done on a non-public basis, the wide definition of “investment business” in the FSJL can catch the provision of advice by a protector to a trustee.	4
19	4(a)(v)	FSJL: Schedule 2: Paragraph 18	Special purpose vehicle (“SPV”) that is carrying on trust company business - where provided with a regulated service by a registered trust company business	The <u>definition of “trust company business” in the FSJL is extremely wide and can catch the activities of a special purpose vehicle. A typical example would be where the SPV arranges for another to act as trustee to hold collateral on trust for the security of holders of bonds issued by the SPV.</u>  <u>For the purpose of this exemption, a SPV is defined as an entity whose sole purpose involves:</u>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<ul style="list-style-type: none"> <li>• <u>making a loan, giving a guarantee, entering into derivatives transaction;</u></li> <li>• <u>issuing securities;</u></li> <li>• <u>securitising, acquiring or repackaging assets;</u></li> <li>• <u>a capital market transaction; or</u></li> <li>• <u>any transaction in connection with any of the above.</u></li> </ul> <p><u>This exemption applies where the SPV is provided with a trust company business service by a trust company that is registered with, and supervised by the Commission, and itself subject to AML/CFT obligations.</u></p> <p>The trust company, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the SPV (i.e. its customer), owners and controllers of the SPV, and any third parties for which the SPV is acting. <u>In the context of a SPV, the owner and controller will be the originator or instigator of the scheme.</u> For this reason, the SPV - in its capacity as a person carrying on trust company business - has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p> <p><u>In the absence of an exemption, the trust company would be expected to carry out (on behalf of the SPV) the same CDD on the originator or instigator.</u></p>	
20	4(b)	FSJL: General insurance mediation business	General insurance mediation business	General insurance activities are not covered by FATF Recommendations.	1

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
21	4(c)	FSJL: Financial Services (Investment Business (Overseas Persons – Exemption)) (Jersey) Order 2001	Investment business carried on by an overseas person	<p>The carrying on of “investment business” is drafted extremely widely in the FSJL and catches any person, wherever located in the world, that has any investment business interaction whatsoever with a person in Jersey. In practical terms, this means that persons that have no connection with the Island (other than to have a customer here or to solicit business in Jersey) will be covered by the FSJL. An exemption is therefore granted to these “overseas persons” subject to certain safeguards (e.g. the overseas person is regulated in their home jurisdiction when contracting with private individuals).</p> <p>The home jurisdiction of the business (where the business is carried on) will be responsible for requiring the company to meet AML/CFT obligations.</p>	2
22	4(ca)	FSJL: Financial Services (Investment Business (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001	Special purpose investment business carried on by a person who acts as a functionary and is provided with a regulated service by a registered trust company or fund services business (the “ <b>functionary</b> ”)	<p>The <b>functionary acts in respect of a type of fund by virtue of dealing in investments, providing discretionary investment management and giving investment advice (investment business).</b></p> <p><b>The functionary is</b> provided with a <b>trust company business</b> service by a <b>trust company that is registered with, and supervised by, the Commission</b> or <b>is provided with a fund services business service by a fund services provider that is registered with, and supervised by, the Commission</b> that is itself <b>is</b> subject to AML/CFT obligations.</p> <p>The <b>trust company or fund services provider</b>, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the <b>functionary (i.e. its customer)</b>, owners and controllers of the <b>functionary</b>, and the third party for whom the <b>functionary</b> is acting (<b>i.e. the fund and its investors</b>). For this reason, the <b>functionary</b> has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<p><u>In the absence of an exemption, the functionary would be expected to carry out the same CDD on the fund as the trust company or the fund services provider would do.</u></p> <p><u>Note, however, that the fund itself is subject to a separate obligation to conduct CDD on all its investors.</u></p>	
23	4(cb)	FSJL: Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001	Restricted investment business carried on by a person who acts as a functionary and is provided with a regulated service by a registered trust company or fund services business (the “ <b>functionary</b> ”)	<p>The <u>functionary acts in respect of a type of fund by virtue of dealing in investments, providing discretionary investment management and giving investment advice (investment business).</u></p> <p><u>The functionary is provided with a trust company business service by a trust company that is registered with, and supervised by, the Commission, or is provided with a fund services business service by a fund services provider that is registered with, and supervised by, the Commission</u> that is itself subject to AML/CFT obligations.</p> <p>The <u>trust company or fund services provider</u>, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the <u>functionary (i.e. its customer)</u>, owners and controllers of the <u>functionary</u>, and the third party for whom the <u>functionary</u> is acting (<u>i.e. the fund and its investors</u>). For this reason, the <u>functionary</u> has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p> <p><u>In the absence of an exemption, the functionary would be expected to carry out the same CDD on the fund as the trust company or the fund services provider would do.</u></p> <p><u>Note, however, that the fund itself is subject to a separate obligation to conduct CDD on all its investors.</u></p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
24	4(d)(i)	FSJL: Trust Company Business Exemption Order: Paragraph 4	Private trust company business (the "PTC")	<p><u>A PTC is a company established solely to provide services to a specific trust or trusts or specific foundation or foundations, does not also provide these services to the public, and is administered by a trust company that is registered with, and supervised by, the Commission.</u></p> <p><u>The PTC operates as an integral part of the trust company.</u></p> <p><u>PTCs tend to be used by wealthy families that wish their structures to be administered by a separate trust company in order to segregate or "ring fence" the family assets in trust from the large number of other trusts that may be administered by a regulated trust company. PTCs have also been used for structuring purposes in relation to real estate transactions, again for ring fencing purposes.</u></p> <p><u>The trust company, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the PTC (i.e. its customer), owners and controllers of the exempted PTC, and the third parties (i.e. trusts and foundations) for whom the PTC is acting. For this reason, the PTC has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations. <u>Otherwise the same person (the trust company) will apply the same CDD measures to the trusts and foundations.</u></u></p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
25	4(d)(ia)	FSJL: Trust Company Business Exemption Order: Paragraph 7	Incidental providers of services	<p>The definition of “trust company business” in the FSJL is drawn very widely and catches a person who is not carrying on trust company business as their sole or main profession and who is not remunerated for the trust company business service they provide.</p> <p><u>This exemption excludes those persons who hold advance deposits in connection with the supply of goods or the supply of services, e.g. a retailer selling “white goods” who takes a deposit from a customer pending delivery of those goods.</u></p>	1
26	4(d)(ii)	FSJL: Trust Company Business Exemption Order: Paragraph 8	Address providers	<p>The definition of “trust company business” in the FSJL is drawn very widely and catches a person <u>(such as a law firm)</u> who provides, <u>for a client</u>, an address <u>solely</u> for the service of any process or contractual notice.</p> <p><u>For example:</u></p> <ul style="list-style-type: none"> <li><u>It is very common in Jersey and elsewhere for a commercial contract to include an address (usually of a law firm) to which the agreement (once signed) is to be delivered, notice is to be given of a breach, and to which changes in terms are notified.</u></li> <li><u>Article 4(2)(b)(ii) of the Motor Traffic (Third-Party Insurance) (Jersey) law 1948 requires an authorized insurer to appoint one or more persons residing permanently in Jersey to be its attorney with full power and authority to accept service of all and every form of legal process for and on behalf of the company in all actions, suits and affairs instituted or to be instituted in all Courts of Law in Jersey and before all Judges, Commissioners and Arbitrators in Jersey.</u></li> </ul> <p><u>This is considered to be distinct from the provision of a registered office, correspondence or administrative address.</u></p>	1



No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
27	4(d)(iii)	FSJL: Trust Company Business Exemption Order: Paragraph 11	Connected company	<p>The definition of “trust company business” in the FSJL is drawn very widely and catches services that are provided to a connected company.</p> <p><u>In the absence of an exemption, the concern is that a company that acts as company secretary to one or more other companies within the same financial group would be considered to be carrying on trust company business.</u></p>	4
28	4(d)(iv)	FSJL: Trust Company Business Exemption Order: Paragraph 12	Introducer	<p>The definition of “trust company business” in the FSJL is drawn very widely and catches a person who introduces business to a trust company.</p> <p><u>“Introduce” in this sense is to be understood as the referral of a potential customer by one person to another. The person making the referral has no further involvement in the relationship that may be established with a trust company business.</u></p> <p><u>It is not to be confused with circumstances that are covered by Article 16 of the Money Laundering Order (reliance on an obliged person).</u></p> <p><u>In the absence of such an exemption, the concern is that a local trading company that uses a trust company to provide its registered office (not uncommon) and that recommends the provision of this service to another trading company will be considered to be carrying on trust company business. This is not the Commission’s intention.</u></p>	1

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
29	4(d)(v)	FSJL: Trust Company Business Exemption Order: Paragraph 13	Director	<p>The definition of “trust company business” in the FSJL is drawn widely and catches a director that acts in the course of employment by a trading company (that is not administered by a trust company).</p> <p><u>In the absence of an exemption, the concern is that acting as director to any company, e.g. a plumbing or electrical contractor, would be considered to be carrying on trust company business. This is not the Commission’s intention.</u></p> <p><u>The exemption now also includes an individual, when acting as a director of a company, if the individual acts for not more than 6 companies.</u></p>	1
30	4(d)(vi)	FSJL: Trust Company Business Exemption Order: Paragraph 15	Director – registered person	<p>The definition of “trust company business” in the FSJL is drawn widely and catches a director that acts in the course of employment by a prudentially supervised business, e.g. a bank (that is not administered by a trust company business).</p> <p><u>In the absence of an exemption, the concern is that acting as a director to any financial institution (or subsidiary thereof) would be considered to be carrying on trust company business. This is not the Commission’s intention.</u></p>	1
31	4(d)(vii)	FSJL: Trust Company Business Exemption Order: Paragraph 16	Liquidators and trustees in bankruptcy of persons other than registered persons	<p>The definition of “trust company business” in the FSJL is drawn widely and catches a liquidator or trustee in bankruptcy of non-regulated (e.g. ordinary trading) companies.</p> <p>Note, however, that the provision of insolvency services is covered by Part B – paragraph 2(1)(d).</p>	1

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
32	4(d)(viii)	FSJL: Trust Company Business Exemption Order: Paragraph 18	Recruitment agents	The definition of “trust company business” in the FSJL is drawn widely and catches a recruitment agent (since recruitment agents are in the business of arranging for persons to act as directors).	1
33	4(e)(i)	FSJL: Trust Company Business Exemption Order No. 2: Paragraph 1	Overseas persons	The carrying on of “trust company business” is drafted extremely widely in the FSJL and catches any person, wherever located in the world, that has any trust company business interaction whatsoever with a person in Jersey. In practical terms, this means that persons that have no connection with the Island (other than to have a customer here or to solicit business in Jersey) will be covered by the FSJL. An exemption is therefore granted to these “overseas persons” subject to certain safeguards (e.g. the overseas person is regulated in their home jurisdiction when contracting with private individuals).	2
34	4(e)(ii)	FSJL: Trust Company Business Exemption Order No. 2: Paragraph 2	Unit holding nominee company	<p>The nominee company <u>is an investor in a fund that holds a permit or certificate under the CIFL (permit holder or certificate holder).</u></p> <p><u>The nominee company is a wholly-owned and managed subsidiary of the permit holder or certificate holder, and is an integral part of the permit holder or certificate holder.</u></p> <p><u>The permit holder or certificate holder, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the nominee company (i.e. its customer) and the third parties (i.e. investors) for whom the nominee company is acting.</u> For this reason, the nominee company has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<u>In the absence of an exemption, the permit holder or certificate holder would be expected to carry out exactly the same CDD on investors (on behalf of the nominee company).</u>	
35	4(e)(iii)	FSJL: Trust Company Business Exemption Order No. 2: Paragraph 3	Electronic communications service providers	The definition of “trust company business” in the FSJL is drawn widely and catches an internet service provider who offers and services email addresses.	1
36	4(f)(i)	FSJL: Trust Company Business Exemption Order No. 3: Paragraph 1	Private protector company	A private protector company has certain powers under the Trusts (Jersey) Law 1984 to protect the interests of beneficiaries (effectively, a form of oversight of the actions of the trustee). One role of the protector may be to arrange for another person to act as trustee of an express trust.  Despite this activity of a private protector company being one that is done on a non-public basis, the wide definition of “trust company business” in the FSJL catches the activity.  The exemption is conditional on the private protector company or trust being administered by a registered trust company business.	4
37	4(f)(ii)	FSJL: Trust Company Business Exemption Order No. 3: Paragraph 2	General partner	The general partner, <u>who must not solicit from or provide services to the public, is the general partner of a fund - acting as an operator to the fund. As part of its services, the general partner will arrange for others to act as a limited partner in a partnership.</u>  <u>The general partner is administered by a trust company that is registered with, and supervised by, the Commission. The general partner acts as an integral part of the trust company.</u>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<p><u>The trust company</u>, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the general partner (<u>i.e.</u> its customer) and the third party for which the general partner is acting (<u>i.e. the fund and its</u> investors). For this reason, the general partner - in its capacity as an operator to a fund - has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p> <p><u>Otherwise, the same person (the trust company) will apply the same CDD measures to the investors.</u></p> <p>Note, however, that the fund <u>itself</u> is subject to a separate obligation to conduct CDD on its investors. In the case of a fund that is a limited partnership, CDD will be conducted <u>for the fund</u> by the general partner. <u>So the effect of this exemption is negligible.</u></p>	
38	4(f)(iii)	FSJL: Trust Company Business Exemption Order No. 3: Paragraph 4	Investment company subsidiary	<p>The subsidiary has to be owned and managed by a person that is registered to carry on investment business - the latter being subject to AML/CFT obligations in respect of the customers to which the subsidiary acts as nominee.</p> <p>For this reason, the subsidiary has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p>	3
39	4(g)	FSJL: Trust Company Business Exemption Order No. 4: Paragraph 1	Connected persons	<p>The definition of “trust company” in the FSJL is extremely wide and catches the activities of a person providing a trust company business service to a connected person.</p> <p><u>The exemption from registration under the FSJL that this Order provides was originally introduced to benefit anyone who is a director of a company that he or she beneficially owns. This was subsequently extended to apply also to associates, to enable, for example, the husband or wife or the owner of a</u></p>	4

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<p><u>company to enjoy the exemption.</u></p> <p><u>In the absence of an exemption, the concern is that:</u></p> <ul style="list-style-type: none"> <li><u>An individual acting as director to a company that he or she beneficially owns would be considered to be carrying on trust company business.</u></li> <li><u>An individual acting as director to a company that is beneficially owned by the individual's spouse would be considered to be carrying on trust company business.</u></li> </ul>	
40	4(h)	FSJL: Trust Company Business Exemption Order No. 5	Professional investor regulated schemes, restricted funds, and functionaries thereto	<p><u>This exemption is linked to item 22 and relates to the case of a functionary who carries on trust company business by virtue of its arranging for a director or partner to act for a fund, or a nominee to act as a shareholder or unit holder for an investor in the fund.</u></p> <p>The <u>functionary is</u> provided with a <u>trust company business</u> service by a <u>trust company that is</u> registered <u>with, and supervised by, the Commission</u> that is itself <u>is</u> subject to AML/CFT obligations. <u>Unlike exemption 22, the exemption does not apply in a case where a service is provided by a fund services provider.</u></p> <p>The trust company, will, by virtue of Articles 3 and 13 of the Money Laundering (Jersey) Order 2008, have to carry out customer due diligence on the <u>functionary (i.e. its customer)</u>, owners and controllers of the <u>functionary</u>, and the third party for whom the <u>functionary</u> is acting (<u>i.e. the fund and its investors</u>). For this reason, the <u>functionary</u> has been taken out of the scope of Schedule 2 of the POCL to avoid an unnecessary duplication of AML/CFT obligations.</p> <p><u>In the absence of an exemption, the functionary would be</u></p>	3

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No.	Schedule 2: Part A Para No.	Regulatory Law reference	Activity exempted from Schedule 2 of the POCL	Rationale for exempting the activity from Schedule 2 of the POCL	Exemption category
				<p><u>expected to carry out the same CDD on the fund as the trust company would do.</u></p> <p><u>To the extent that the fund itself (in the case of a legal person) is considered to carry on trust company business by virtue of its arranging for a director or partner to act for the fund, or a nominee to act as a shareholder or unit holder for an investor in the fund, the exemption also applies to that fund. Note, however, that the fund itself is subject to a separate obligation to conduct CDD on all its investors.</u></p>	
41	4(i)	FSJL: Article 3 of the Money Service Business (Exemptions) (Jersey) Order 2007	Certain bureaux de change and personal money service business	The definition of “money service business” in the FSJL is drawn very widely and will (amongst other activities) catch: (i) a shop that takes payment in one currency and gives the change in another; (ii) a person providing a funds or money transfer service where the sole purpose is to enable a person to pay for goods or services, or enable a person to access their own money; and (iii) a person that cashes a cheque drawn by another person on the latter’s own bank account.	1

**Note:**

Exemptions numbered 21, 22 and 38 do not currently work. This is because a person in the exempted category (except where the person is a fund or securities ‘product’) would be brought back within the scope of Schedule 2 of the POCL because it is likely to be deemed to be carrying on an activity that falls with Part B, paragraph 7(1)(h) of Schedule 2 of the POCL – “participation in securities issues and the provision of services related to such issues”.