JERSEY FINANCIAL SERVICES COMMISSION

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

FOR REGULATED FINANCIAL SERVICES BUSINESSES

Part 1
Statutory and Regulatory Requirements and Guidance Notes

Section 2
Corporate governance

Issued July 2007
Contents

2 Corporate governance

2.1 Overview of section

2.2 Obligation to have procedures and controls

2.3 Board responsibilities

2.3.1 Business risk assessment

2.4 Systems and controls, training and awareness

2.4.1 Oversight of the effectiveness of risk management systems and controls

2.4.2 Oversight of compliance

2.4.3 Consideration of cultural barriers

2.4.4 Outsourcing

2.4.5 Overseas branches and subsidiaries

2.5 The money laundering compliance officer (MLCO)

2.6 The money laundering reporting officer (MLRO)
2 CORPORATE GOVERNANCE

2.1 OVERVIEW OF SECTION

1. The Cadbury Report on corporate governance states that corporate governance is the system by which businesses are directed and controlled. The Cadbury Report adds that the responsibilities of the Board include setting strategic aims, providing the leadership to put them into effect and supervising the management of the business. The Organisation for Economic Co-operation and Development builds on this definition by stating that the corporate governance structure specifies the distribution of rights and responsibilities among different participants, such as the Board, managers and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs.

2. Under the general heading of corporate governance, this section considers:
   - Board responsibilities for the prevention and detection of money laundering and the financing of terrorism;
   - requirements for risk management systems and controls, and for training; and
   - the appointment of a Money Laundering Compliance Officer (the “MLCO”) and Money Laundering Reporting Officer (the “MLRO”).

3. This Handbook describes a financial services business’ general framework to combat money laundering and terrorist financing as a business’ systems and controls. The Handbook refers to the way in which those systems and controls are implemented into the day-to-day operation of the business as the business’ policies and procedures.

4. Where a financial services business is not a company, but is, for example, a branch or partnership, references in this section to “the Board” should be read as meaning the senior management function of that business.

2.2 OBLIGATION TO HAVE PROCEDURES AND CONTROLS

STATUTORY REQUIREMENTS

5. In accordance with Article 37 of the Proceeds of Crime Law, a financial services business must have in place procedures to forestall and prevent money laundering. Failure to establish and maintain such procedures will result in the commission of a criminal offence by a financial services business and, where such an offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director or manager or officer of the business, he too shall be deemed to have committed a criminal offence.

6. Article 37 enables the Treasury and Resources Minister to prescribe by Order the procedures that must be put in place by a financial services business. These procedures are established in the Money Laundering Order.
2.3 BOARD RESPONSIBILITIES

OVERVIEW

7. The key responsibilities of the Board, set out in further detail below, are to identify the business’ money laundering and terrorist financing risks, to ensure that a financial services business’ systems and controls are appropriately designed and implemented to manage those risks, and to ensure that sufficient resources are devoted to achieving these objectives. The Board is assisted in fulfilling these responsibilities by a MLCO and MLRO. Larger or more complex financial services businesses may also require dedicated risk and internal audit functions to assist in the assessment and management of money laundering and terrorist financing risk.

STATUTORY REQUIREMENTS

8. Article 10(4) of the Money Laundering Order requires a financial services business to establish and maintain procedures of internal control and communication as may be appropriate for the purposes of forestalling, detecting and preventing money laundering.

9. Article 10(9) of the Money Laundering Order requires a financial services business to establish and maintain procedures for monitoring and testing the effectiveness of its systems and internal controls, including the effectiveness of awareness raising and training for relevant employees (see Section 7).

REGULATORY REQUIREMENTS

10. The Board must establish a formal strategy to counter money laundering and terrorist financing. For a Jersey financial services business forming part of a group operating outside the Island, that strategy must protect both its global reputation and its Jersey business.

11. The Board must conduct and document a business risk assessment. In particular, the Board must consider, on an ongoing basis, the extent of its exposure to risks by reference to its organisational structure, its customers, the jurisdictions with which its customers are connected, its products and services, and how it delivers those products and services. The Board’s assessment must be kept up to date.

12. Taking into account the conclusions of the business risk assessment, the Board must organise and control its affairs effectively and be able to demonstrate the existence of adequate risk management systems and controls (including policies and procedures) to counter money laundering and terrorist financing.

13. The Board must document its systems and controls (including policies and procedures) and clearly apportion responsibilities for countering money laundering and terrorist financing, and, in particular, responsibilities of the MLCO and MLRO (see Sections 2.5 and 2.6).

14. The Board must oversee both the effectiveness of and compliance with risk management systems and controls and take prompt action necessary to address any deficiencies.

15. The Board must consider what barriers (including cultural barriers) exist to prevent the operation of effective systems and controls to counter money laundering and the financing of terrorism, and must take effective measures to address them.

16. The Board must notify the Commission immediately in writing of any material failures to comply with the requirements of the Money Laundering Order or of this Handbook. Refer to Part 3 of the Handbook for further information.
2.3.1 Business risk assessment

GUIDANCE NOTES

17. The Board of a financial services business may demonstrate that it has considered the business’ exposure to money laundering and terrorist financing risk by:

- Involving all members of the Board in determining the risks posed by money laundering and terrorist financing within those areas for which they have responsibility.
- Considering organisational factors that may increase the level of exposure to the risk of money laundering and terrorist financing, e.g. business volumes and outsourced aspects of regulated activities or compliance functions.
- Considering the nature, scale and complexity of its business, the diversity of its operations (including geographical diversity), the volume and size of its transactions, and the degree of risk associated with each area of its operation.
- Considering who its customers are and what they do.
- Considering whether any additional risks are posed by the jurisdictions with which its customers (including intermediaries and introducers) are connected. Factors such as high levels of organised crime, increased vulnerabilities to corruption and inadequate frameworks to prevent and detect money laundering and the financing of terrorism will impact the risk posed by relationships connected with such jurisdictions.
- Considering the characteristics of the products and services that it offers and assessing the associated vulnerabilities posed by each product and service, including delivery channels. For example:
  - The use of third parties such as group entities, introducers and intermediaries to conduct elements of the customer due diligence process.
  - Pooled relationships with intermediaries will tend to be more vulnerable - because of the anonymity provided by the co-mingling of assets or funds belonging to several customers by the intermediary.
  - Products such as standard current accounts are more vulnerable because they allow payments to be made to and from third parties, including cash transactions.
  - Conversely, those products that do not permit third party transfers or where redemption is permitted only to an account from which the investment is funded will be less vulnerable.
- Considering how it establishes and delivers products and services to its customers. For example, risks are likely to be greater whether relationships may be established remotely (non-face-to-face), or may be controlled remotely by the customer (straight-through processing of transactions).

18. The Board must record and retain its business risk assessment. An annual, formal reassessment might be appropriate for a dynamic, growing business, but too often in some other cases, e.g. an established business with stable products and services.

2.4 SYSTEMS AND CONTROLS, TRAINING AND AWARENESS

STATUTORY REQUIREMENTS

19. Article 10(4) of the Money Laundering Order requires a financial services business to establish and maintain specific procedures in relation to that business concerning identification, record-keeping, and internal reporting, and such other procedures of internal control and communication as may be appropriate for the purposes of forestalling, detecting and preventing money laundering.
20. Article 10(5) requires procedures established and maintained under Article 10(4) to provide for an assessment of risk that any business relationship or one-off transaction will involve money laundering, and to reflect such assessment of risk.

21. Article 10(7) of the Money Laundering Order requires a financial services business to take appropriate measures for the purpose of making employees whose duties relate to the provision of financial services aware of procedures required under Article 10(4) and of Jersey’s anti-money laundering legislation. Article 10(8) of the Money Laundering Order requires a financial services business to provide employees whose duties relate to the provision of financial services with training in the recognition and handling of transactions carried out by or on behalf of persons who are, or appear to be, engaged in money laundering.

22. Article 10(9) of the Money Laundering Order requires a financial services business to establish and maintain procedures for monitoring and testing the effectiveness of its systems and internal controls, including the effectiveness of awareness raising and training for relevant employees.

23. Articles 6 and 7 of the Money Laundering Order require that a financial services business appoints a MLCO and a MLRO.

### REGULATORY REQUIREMENTS

24. A financial services business must establish and maintain systems and controls to prevent and detect money laundering and terrorist financing, that enable the financial services business to:

- Apply appropriate customer due diligence policies and procedures that take into account vulnerabilities and risk (in line with Sections 3, 4, and 5), which must include:
  - the development of clear customer acceptance policies and procedures;
  - identifying and verifying the identity of the applicant for business;
  - identifying the beneficial owners and controllers of an applicant that is not an individual and taking reasonable measures to verify the identity of the beneficial owners and controllers;
  - identifying any third parties on whose behalf the applicant acts (and the beneficial owners and controllers of the third party) and taking reasonable measures to verify the identity of any third parties (and their beneficial owners and controllers);
  - for express trusts and legal bodies, taking reasonable measures to also understand the ownership (legal and beneficial) and control structure;
  - understanding the nature of the business that the applicant expects to conduct and the rationale for the business relationship;
  - conducting ongoing customer due diligence and monitoring of activity and transactions; and
  - applying enhanced customer due diligence and monitoring policies and procedures to higher risk customers, such as transaction limits and management approvals.

- Monitor and review instances where exemptions are granted to a financial services business’ policies and procedures, or where controls are overridden.

- Report to the JFCU when it knows or has reasonable grounds to suspect another person is involved in money laundering or terrorist financing, including attempted transactions - in line with Section 6.

- Ensure that relevant employees are adequately screened when they are initially employed, aware of the risks of becoming concerned in arrangements involving criminal money and terrorist financing, aware of their personal obligations and internal policies and procedures concerning measures to combat money laundering and terrorist financing, and provided with training - in line with Section 7.
• Keep records - in line with Section 8.
• Liaise closely with the Commission and the JFCU on matters concerning vigilance, systems and controls.

25. In maintaining the required systems and controls, a financial services business must ensure that the systems and controls are implemented and operating effectively.

26. A financial services business must have systems and controls in place, or take appropriate measures, to guard against the use of technological developments in money laundering or terrorist financing schemes.

27. A financial services business must have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions, which should be applied when establishing customer relationships and when conducting ongoing due diligence.

2.4.1 Oversight of the effectiveness of risk management systems and controls

GUIDANCE NOTES

28. For systems and controls (including policies and procedures) to be effective, they will need to be both appropriate to the circumstances of the financial services business and complied with. Guidance on means of overseeing compliance is set out in the section below.

29. It is the responsibility of the Board to ensure that the systems and controls implemented by a financial services business are effective. While it is the responsibility of the Board to reach an independent conclusion, the Board may wish to use the MLCO and MLRO to provide information and advice to assist the Board to assess the effectiveness of the business’ systems and controls. Alternatively, independent assessments could be commissioned from time to time from external experts. Larger or more complex financial services businesses may require separate risk management and internal audit functions to assist in the assessment and management of risk.

30. The Board may demonstrate that it has considered the effectiveness of the financial services business’ risk management systems and controls where it, for example:

• Receives regular and timely information relevant to the management of the business’ money laundering and terrorist financing risk.
• Considers the adequacy of the management information received by the Board relevant to the management of money laundering and terrorist financing risk.
• Monitors the ongoing competence and effectiveness of the MLCO and the MLRO.
• Considers the adequacy of resources to ensure effective compliance with the Proceeds of Crime Law, Drug Trafficking Offences Law, Terrorism Law, United Nations Measures and the Money Laundering Order (and by extension, also the Handbook).
• Considers the adequacy of policies and procedures for higher risk customers.
• Considers the adequacy of policies and procedures in place where customer due diligence information and documentation is held by third parties such as group entities, outsourcing service providers, introducers and intermediaries.
• Considers the adequacy of the financial services business’ approach to the management of money laundering and terrorist financing risk posed by its existing customer base.
• Considers whether the incidence of suspicious activity reports (or absence of such reports) has highlighted any deficiencies in the financial services business’ customer due diligence, monitoring or internal or external suspicious activity reporting policies and procedures, and whether changes are required to address any such deficiencies.
**2.4.2 Oversight of compliance**

**GUIDANCE NOTES**

31. Whilst it is a matter for the Board to determine the depth and frequency with which it reviews a financial services business’ compliance with the Money Laundering Order and Handbook (so that the Board’s responsibilities are properly discharged), the Board may demonstrate that it has addressed compliance where it periodically commissions and considers a report from the MLCO that covers compliance by the business with the Money Laundering Order and Handbook, and records and retains the report. The frequency of such reports should be determined by its business risk assessment and consideration of cultural barriers.

32. Areas which the periodic report may cover include:

- The means by which compliance with the business’ systems and controls have been monitored and tested.
- Compliance deficiencies identified and details of action taken or proposed to address any such deficiencies.
- The number and scope of exemptions granted to the financial services business’ policies and procedures.
- The number of internal suspicious activity reports received and the number of subsequent external suspicious activity reports submitted to the JFCU, by business area, if appropriate.
- Whether inquiries have been made by the JFCU, or production orders received, without issues having previously being identified by the financial services business’ customer due diligence, monitoring or suspicious activity reporting policies and procedures.
- Information concerning the training programme: which staff have received training, the methods of training and the nature of any significant issues arising from the training.
- Consideration of the financial services business’ policies and procedures concerning compliance with terrorist and financial sanctions legislation.
- Changes made or proposed in respect of new legislation, regulatory requirements or guidance, or as a result of changes in business activities.
- The nature of actions taken in response to notices highlighting jurisdictions which do not or insufficiently apply the FATF Recommendations or which are the subject of international countermeasures, and the measures taken to manage and monitor business relationships connected with such jurisdictions.

33. To assist the MLCO in preparing the report, a financial services business may wish to provide the MLCO with support from its internal audit or compliance function, as appropriate, or to use external resources.

**2.4.3 Consideration of cultural barriers**

**OVERVIEW**

34. The implementation of systems and controls for the prevention and detection of money laundering and the financing of terrorism does not obviate the need for a financial services business to address cultural barriers that can prevent effective control. Human factors, such as the inter-relationships between different employees within a financial services business, and between employees and customers, can result in the creation of damaging barriers.

35. Unlike systems and controls, the prevailing culture of an organisation is intangible. As a result, its impact on the business can sometimes be difficult to measure.
GUIDANCE NOTES

36. The risk that cultural barriers might prevent the operation of effective systems and controls to prevent and detect money laundering and the financing of terrorism may be minimised by the Board considering the prevalence of the following factors:

- An assumption on the part of more junior employees that their concerns or suspicions are of no consequence.
- Negative handling by managerial staff of queries raised by more junior employees regarding unusual, complex or higher risk activity and transactions.
- An unwillingness on the part of employees to subject high value (and therefore important) customers to effective customer due diligence checks.
- Pressure applied by management or customer relationship managers outside Jersey upon employees in Jersey to transact without first conducting all relevant customer due diligence.
- Excessive pressure applied on employees to meet aggressive revenue-based targets, or where employee or management remuneration or bonus schemes are exclusively linked to revenue-based targets.
- The familiarity of employees with certain customers resulting in unusual, complex, or higher risk activity and transactions within such relationships not being identified as such.
- The inability of employees to understand the commercial rationale for customer relationships, resulting in a failure to identify non-commercial and therefore potential money laundering and terrorist financing activity.
- A tendency for line managers to discourage employees from raising concerns due to lack of time and/or resources, preventing any such concerns from being addressed satisfactorily.
- An excessive desire on the part of employees to provide a confidential and efficient customer service.
- Non-attendance of senior employees at anti-money laundering and terrorist financing training sessions on the basis of mistaken belief that they cannot learn anything new or because they have too many other competing demands on their time.

2.4.4 Outsourcing

OVERVIEW

37. In all instances of outsourcing, it is the delegating financial services business that bears the ultimate responsibility for the duties undertaken in its name. This will include the requirement to ensure that the third party has in place satisfactory systems and controls, and to ensure that those systems and controls are kept up to date to reflect changes in requirements.

38. Depending on the nature and size of a financial services business, the roles of MLCO and MLRO may require additional support and resourcing. Where a business elects to bring in additional support, or to delegate areas of the MLCO or MLRO functions to third parties, the MLCO or MLRO will remain directly responsible for his respective role, and the Board will remain responsible for overall compliance with the Proceeds of Crime Law, Drug Trafficking Offences Law, Terrorism Law, United Nations Measures and the Money Laundering Order (and by extension, also the Handbook).

REGULATORY REQUIREMENTS

39. A financial services business must follow the Commission’s policy statement and guidance notes on outsourcing (current issue dated 19 August 2002).
40. A financial services business must consider the effect that outsourcing has on money laundering and terrorist financing risk, in particular where a MLCO or MLRO is provided with additional support from third parties, either from within group or externally.

41. A financial services business must assess possible money laundering or terrorist financing risk associated with outsourced functions, record its assessment, and monitor any risk on an ongoing basis.

42. Where an outsourced activity is a financial services business activity, then a financial services business must ensure that the provider of the outsourced services has in place procedures that are consistent with those required under the Money Laundering Order and by this Handbook.

43. In particular, a financial services business must ensure that knowledge, suspicion, or reasonable grounds for knowledge or suspicion of money laundering or terrorist financing activity are reported by the third party to the financial services business’ MLRO (or deputy MLRO).

2.4.5 Overseas branches and subsidiaries

OVERVIEW

44. Section 1.4 describes the responsibility of a financial services business where it has branches, offices or majority owned subsidiaries overseas. The overriding objective of the requirements for overseas operations is to ensure that the operations are applying measures to combat money laundering and terrorist financing at least equivalent to those applied by the Jersey financial services business. The Board should be aware of its statutory obligation to communicate its policies and procedures to combat money laundering and the financing of terrorism to its overseas branches and subsidiaries. The Board is responsible for ensuring that its overseas branches are complying with the requirements of the Money Laundering Order (a direct obligation, as an overseas branch or office is directly subject to the requirements of the Money Laundering Order as it is part of the Jersey corporate body) and that its overseas subsidiaries are complying with measures at least equivalent to those of the Handbook (an indirect obligation).

45. As a result, the Board must ensure that its obligations established under this section extend to incorporate any overseas branches and offices; in respect of overseas branches and offices, these measures will include ensuring that procedures to require the reporting of suspicious activity also encompass the overseas operations.

46. The Board must also ensure that it considers the adequacy of the measures to combat money laundering and the financing of terrorism implemented by any majority owned subsidiaries based overseas, and that it requires the subsidiary to take action where the measures in place are not equivalent to those of the Handbook. Additionally, the Board must ensure that it receives adequate risk management information concerning overseas operations to inform its strategy to manage money laundering and terrorist financing risk.

2.5 THE MONEY LAUNDERING COMPLIANCE OFFICER (MLCO)

OVERVIEW

47. The Money Laundering Order requires a financial services business to maintain effective policies and procedures, and to ensure the business’ compliance with those policies and procedures. The Money Laundering Order requires that the business appoint an individual as MLCO, and task that individual with the function of monitoring the business’ compliance, and reporting thereon to the Board. The objective of this requirement is to require businesses to clearly demonstrate the means by which they ensure compliance with the requirements of the Money Laundering Order.
48. These requirements do not preclude the Board from using other resources, whether internal or external, to support the business with its responsibilities. Additionally, while the Jersey based financial services business must ensure that the MLCO reports directly to its Board, this does not preclude the MLCO also having a functional reporting line, to a group compliance function, for example.

STATUTORY REQUIREMENTS

49. Article 6 of the Money Laundering Order requires a financial services business to appoint a MLCO to assist the Board to meet its statutory obligation to comply with the Money Laundering Order. The same person may be appointed as both MLCO and MLRO.

50. Article 6 of the Money Laundering Order requires a financial services business to notify the Commission in writing within 21 days when a person is appointed as, or ceases to be, a MLCO. However, Article 9 provides that the Commission may grant exemptions from this requirement.

51. [From the date of implementation of the Money Laundering Order, the Commission will require only financial services businesses that are regulated and supervised by the Commission under regulatory legislation to notify the Commission of the identity of their MLCO.]

REGULATORY REQUIREMENTS

52. A financial services business must ensure that the MLCO:
   - is employed by the financial services business;\(^1\);  
   - is based in Jersey;\(^2\);  
   - has sufficient experience and skills;  
   - has appropriate independence;  
   - has sufficient resources, including sufficient time and (if appropriate) a deputy MLCO and support staff;  
   - has regular contact with the Board to ensure that the Board is able to satisfy itself that statutory obligations are being met and that the business is taking sufficiently robust measures to protect itself against the risk of money laundering and terrorist financing;  
   - reports directly to the Board;  
   - has a sufficient level of seniority and authority within the business to ensure that the Board reacts to and acts upon any recommendations made;  
   - has unfettered access to all business lines, support departments and information necessary to appropriately perform the function; and  
   - is fully aware of both his and the business' obligations under the Proceeds of Crime Law, Drug Trafficking Offences Law, Terrorism Law, United Nations Measures and the Money Laundering Order (and by extension, also the Handbook), and take reasonable steps to ensure compliance.

---

\(^1\) In the case of a financial services business that: is a functionary of a collective investment fund, a Category B insurance permit holder, a managed bank, or other managed entity; has no staff of its own; and is administered by a regulated financial services business, it is acceptable for an employee of the administrator to be appointed by the financial services business as its MLCO.

\(^2\) In the case of a financial services business that: is a Category A or Category B insurance permit holder or a money service business; has no staff of its own in Jersey; and is administered by a business that is either regulated by the Commission or satisfies the definition of an equivalent business in Article 4 of the Money Laundering Order (refer to Section 1.7), it is acceptable for the permit holder or regulated person to appoint an employee of the administrator or equivalent business as its MLCO.
53. In the event that the position of MLCO is expected to fall vacant, to comply with the statutory requirement to have an individual appointed to the office of MLCO at all times, a financial services business must take action to appoint a member of the Board (or other appropriate member of senior management) to the position on a temporary basis.

54. Where temporary circumstances arise where the financial services business has a limited or inexperienced compliance resource, the financial services business must ensure that this resource is supported as necessary.

55. When considering whether it is appropriate to appoint the same person as MLCO and MLRO, a financial services business must have regard to:
   • the respective demands of the two roles, taking into account the size and nature of the financial services business' activities; and
   • whether the individual will have sufficient time and resources to fulfil both roles effectively.

56. A financial services business that is regulated and supervised by the Commission under regulatory legislation must inform the Commission of any proposed change of the MLCO, and arrange for a personal questionnaire to be forwarded to the Commission accordingly.

57. A financial services business may demonstrate that it has clearly apportioned responsibilities for countering money laundering and the financing of terrorism, where the MLCO (or other audit, compliance or review function):
   • Develops and maintains systems and controls (including policies and procedures) in line with evolving requirements.
   • Undertakes regular reviews (including testing) of compliance with policies and procedures to counter money laundering and the financing of terrorism.
   • Advises the Board on anti-money laundering and terrorist financing compliance issues that need to be brought to its attention.
   • Reports periodically, as appropriate, to the Board on compliance with the Money Laundering Order and this Handbook.
   • Responds promptly to requests for information made by the Commission and the JFCU.

2.6 THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

OVERVIEW

58. Whilst the Money Laundering Order requires one individual to be appointed as MLRO, it recognises that, given the size and complexity of operations of many financial services businesses, it may be appropriate to designate additional persons (“deputy MLROs”) to whom suspicious activity reports may be made.

STATUTORY REQUIREMENTS

59. Article 7 of the Money Laundering Order requires a financial services business to appoint a MLRO. The same person may be appointed as both MLCO and MLRO.

60. Article 7 of the Money Laundering Order requires a financial services business to notify the Commission in writing within 21 days when a person is appointed as, or ceases to be, a MLRO. However, Article 9 provides that the Commission may grant exemptions from this requirement.
61. [From the date of implementation of the Money Laundering Order, the Commission will require only financial services businesses that are regulated and supervised by the Commission under regulatory legislation to notify the Commission of the identity of their MLRO.]

62. Article 8 allows a financial services business to designate one or more persons ("deputy MLROs"), in addition to the MLRO, to whom suspicious activity reports may be made.

63. Under Article 26(1), if a deputy MLRO concludes that a report does not give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion, he need not forward the report to the MLRO. Under Article 26(2), if a deputy MLRO, on considering a report, concludes that it does give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion, then either the deputy MLRO or the MLRO may disclose that matter to the JFCU.

64. Under Article 25(1)(h) procedures must be established and maintained which allow the MLRO and any deputy MLROs to have access to all relevant information which may be of assistance to them when considering a suspicious activity report.

**REGULATORY REQUIREMENTS**

65. A financial services business must ensure that the MLRO:
   - is employed by the financial services business;
   - is based in Jersey;
   - has sufficient experience and skills;
   - has appropriate independence;
   - has a sufficient level of seniority and authority within the business;
   - has sufficient resources, including sufficient time, and (if appropriate) is supported by deputy MLROs;
   - is able to raise issues directly with the Board;
   - maintains a record of all enquiries received from law enforcement authorities and records relating to all internal and external suspicious activity reports (Section 8);
   - is fully aware of both his and the business' obligations under the Proceeds of Crime Law, Drug Trafficking Offences Law, Terrorism Law, United Nations' Measures and the Money Laundering Order (and by extension, also the Handbook);
   - ensures that relationships are managed effectively post disclosure to avoid tipping off any third parties; and
   - acts as the liaison point with the Commission and the JFCU and in any other third party enquiries in relation to money laundering or terrorist financing.

---

3 In the case of a financial services business that: is a functionary of a collective investment fund, a Category B insurance permit holder, a managed bank, or other managed entity; has no staff of its own; and is administered by a regulated financial services business, it is acceptable for an employee of the administrator to be appointed by the financial services business as its MLRO.

4 In the case of a financial services business that: is a Category A or Category B insurance permit holder or a money service business; has no staff of its own in Jersey; and is administered by a business that is either regulated by the Commission or satisfies the definition of an equivalent business in Article 4 of the Money Laundering Order (refer to Section 1.7), it is acceptable for the permit holder or money service business to appoint an employee of the administrator or equivalent business as its MLRO.
66. Where a financial services business has appointed one or more deputy MLROs, the business must ensure that the requirements set out above for the MLRO are also applied to any deputy MLROs.

67. Where a financial services business has appointed one or more deputy MLROs, the business must ensure that the MLRO:
   - keeps a record of all deputy MLROs;
   - provides support to and routinely monitors the performance of any deputy MLROs; and
   - ensures that suspicious activity reports are considered and determined in an appropriate and consistent manner.

68. In the event that the position of MLRO is expected to fall vacant, to comply with the statutory requirement to have an individual appointed to the office of MLRO at all times, a financial services business must take action to appoint a member of the Board (or other appropriate member of senior management) to the position on a temporary basis.

69. Where temporary circumstances arise where the financial services business has a limited or inexperienced reporting resource, the financial services business must ensure that this resource is supported as necessary.

70. A financial services business that is regulated and supervised by the Commission under regulatory legislation must inform the Commission of any proposed change of the MLRO, and arrange for a personal questionnaire to be forwarded to the Commission accordingly.

GUIDANCE NOTES

71. A financial services business may demonstrate routine monitoring of the performance of any deputy MLROs by requiring the MLRO to review:
   - samples of records containing internal suspicious activity reports and supporting information and documentation;
   - decisions of the deputy MLRO concerning whether to make an external suspicious activity report; and
   - the bases for decisions taken.