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EVALUATION OF ANTI-MONEY
LAUNDERING MEASURES AND THE
FINANCING OF TERRORISM
(MONEYVAL)

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Report on Fourth Assessment Visit

Executive Summary

Anti-Money Laundering and Combating
the Financing of Terrorism

JERSEY

9 DECEMBER 2015

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LIST OF ACRONYMS USED

AIF	Alternative investment fund
AIFMD	Alternative Investment Fund Managers Directive
Al-Qa'ida Order	Al-Qa'ida and Taliban (United Nations Measures) (Channel Islands) Order 2002
AML/CFT	Anti-money laundering/combating the financing of terrorism
AML/CFT Handbooks	<ul style="list-style-type: none"> • Handbook for Estate Agents and High Value Dealers • Handbook for the Accountancy Sector • Handbook for the Legal Sector • Handbook for Regulated Financial Services Business
Banking Business Law	Banking Business (Jersey) Law 1991
Basel Committee	Basel Committee on Banking Supervision
CARIN	Camden Asset Recovery Inter-Agency Network
Cash Seizure Law	Proceeds of Crime (Cash Seizure) (Jersey) Law 2008
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
Civil Asset Recovery (International Cooperation) Law	Civil Asset Recovery (International Cooperation) (Jersey) Law 2007
Collective Investment Funds Law	Collective Investment Funds (Jersey) Law 1988
Commission / JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998
Companies Law	Companies (Jersey) Law 1991
Control of Borrowing Law	Control of Borrowing (Jersey) Law 1947
Control of Borrowing Order / COBO	Control of Borrowing (Jersey) Order 1958
Criminal Justice (International Cooperation) Law	Criminal Justice (International Co-operation) (Jersey) Law 2001
Customs	Customs and Immigration Service
DNFBP	Designated Non-Financial Businesses and Professions

Drug Trafficking Offences Law	Drug Trafficking Offences (Jersey) Law 1988
EEA	European Economic Area
Enforcement of Confiscation Orders Regulations	Proceeds of Crime (Enforcement of Confiscation Orders) (Jersey) Regulations 2008
Enhanced risk state	A country or territory in relation to which the FATF has called for the application of enhanced CDD measures
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
EU Implementation Law	European Union Legislation (Implementation) (Jersey) Law 2014
Existing customer	A customer with whom a relevant person has a business relationship that started before the Money Laundering Order came into force
FATF	Financial Action Task Force
Financial Services Law	Financial Services (Jersey) Law 1998
FIU	Financial Intelligence Unit
Foundations Law	Foundations (Jersey) Law 2009
FT / TF	Financing of terrorism
Gambling Law	Gambling (Jersey) Law 2012
GIFCS	Group of International Financial Centre Supervisors (formerly OGBS)
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
Handbook for Estate Agents and High Value Dealers	Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Estate Agents and High Value Dealers
Handbook for the Accountancy Sector	Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for the Accountancy Sector
Handbook for the Legal Sector	Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for the Legal Sector
Handbook for Regulated Financial Services Business	Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Regulated Financial Services Business

IAIS	International Association of Insurance Supervisors'
ICC	Incorporated Cell Company
ILP	Incorporated limited partnership
IMF	International Monetary Fund
Insurance Business Law	Insurance Business (Jersey) Law 1996
Investigation of Fraud Law	Investigation of Fraud (Jersey) Law 1991
IOSCO	International Organisation of Securities Commissions
Jersey Finance	Jersey Finance Limited
JFCU	Joint Financial Crimes Unit
JGC	Jersey Gambling Commission
LEA	Law Enforcement Agency
Limited Liability Partnerships Law	Limited Liability Partnerships (Jersey) Law 1997
Limited Partnerships Law	Limited Partnerships (Jersey) Law 1994
LLP	Limited liability partnership
Misuse of Drugs Law	Misuse of Drugs (Jersey) Law 1978
ML	Money laundering
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
MLCO	Money Laundering Compliance Officer
MLRO	Money Laundering Reporting Officer
Money Laundering Order	Money Laundering (Jersey) Order 2008
MOU	Memorandum of Understanding
MSB Exemptions Order	Financial Services (Money Service Business) (Exemptions))Jersey) Order 2007
NPO	Non-profit organisation
NPO Law	Non Profit Organizations (Jersey) Law 2008
Obliged person	A person who the relevant person knows or has reasonable grounds

	for believing is a relevant person in respect of whose financial services business the Commission discharges supervisory functions, or is a person carrying on equivalent business
OGBS	Offshore Group of Banking Supervisors (now GIFCS)
PCC	Protected cell companies
PEP	Politically Exposed Person
Police	States of Jersey Police Force
Proceeds of Crime and Terrorism Law	Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014
Proceeds of Crime Law	Proceeds of Crime (Jersey) Law 1999
PTC	Private Trust Company
Qualified member	With respect to a foundation, at least one council member is a regulated person being a trust company services provider based in Jersey and registered with the Commission
Registrar	Registrar of companies
Regulated business	Means a financial services business in respect of which a person – (a) is registered under the Banking Business Law; (b) holds a permit or is a certificate holder under the Collective Investment Funds Law; (c) is registered under the Financial Services Law; or (d) is authorized by a permit under the Insurance Business Law;
Regulatory laws	Is a generic term which covers the following individuals laws: (a) Collective Investment Funds (Jersey) Law 1988; (b) Banking Business (Jersey) Law 1991; (c) Insurance Business (Jersey) Law 1996; and (d) Financial Services (Jersey) Law 1998.
Relevant person	Any person who is carrying on financial services business (a term that is defined in Schedule 2 to the Proceeds of Crime Law) in or from within Jersey, and any legal person established under Jersey law carrying on financial services business (wherever in the world that activity is carried on)
SAR	Suspicious activity report
SLP	Separate limited partnerships
SRO	Self-Regulatory Organisation

STR	Suspicious transaction report
Strategy	Island Strategy to Counter Money Laundering and the Financing of Terrorism
Strategy Group	Jersey Financial Crime Strategy Group
the States	Assembly of the States of Jersey
Supervisory Bodies Law / SBL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
Tax Law	Income Tax (Jersey) Law 1961
TCB	Trust Company Business / Trust and Company Service Providers
TCSP / T&CSP	
Terrorism Law	Terrorism (Jersey) Law 2002
Terrorism Order	Terrorism (United Nations Measures) (Channel Islands) Order 2001
Terrorist Asset-Freezing Law	Terrorist Asset-Freezing (Jersey) Law 2011
Tipping Off Exceptions Regulations	Proceeds of Crime and Terrorism (Tipping Off – Exceptions) (Jersey) Regulations 2014
Trust Company Business Exemption Order	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000
Trust Company Business Exemption Order No. 2	Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000
Trust Company Business Exemption Order No. 3	Financial Services (Trust Company Business (Exemptions No. 3)) (Jersey) Order 2001
Trusts Law	Trusts (Jersey) Law 1984
Type A	Relevant person who intends to carry on a specified financial services business (specified in the Schedule to the SBL) must register under Article 13 or 15 of the SBL e.g. a person carrying on lending business
Type B	Type A person that is carrying on regulated business e.g. a person carrying on deposit-taking and leasing business
Type C	A person carrying on regulated business that does not also carry on a specified financial services business e.g. a person carrying on investment business
UK	United Kingdom
UN	United Nations

UNR	United Nations report
UNSCC	United Nations Security Council Committee
UNSCR	United Nations Security Council Resolution
Wire Transfer Regulations	Community Provisions (Wire Transfers) (Jersey) Regulations 2007

4th Round Mutual Evaluation of Jersey

EXECUTIVE SUMMARY

1. Background Information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in the United Kingdom Crown Dependency of Jersey at the time of the 4th on-site visit (19 to 24 January 2015) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which Jersey received non-compliant (NC) or partially compliant (PC) ratings in its IMF report. This report is not, therefore, a full assessment against the FATF 40 Recommendations 2003 and 9 Special Recommendations 2004 but is intended to update readers on major issues in the AML/CFT system of Jersey.

2. Key findings

2. **As a well-established international financial centre, with a mature and sophisticated AML/CFT regime, Jersey is nevertheless confronted with a range of money laundering risks**, stemming from the nature of its financial sector business conducted in or from Jersey, which creates a material vulnerability to being used in the layering and integration stages of money laundering schemes. These generally involve proceeds generated outside the island. ML risks arising from the very low and falling domestic criminality rate are generally not considered as high. With respect to TF risks, Jersey's vulnerability arises from its global connections rather than local criminal/terrorist activity. The authorities, through the Financial Crime Strategy Group, monitor ML/TF risks on an on-going basis and have taken a number of measures aimed at mitigating identified risks.
3. **Jersey has made significant progress since its last evaluation by the IMF, by bringing its AML/CFT regime more closely in line with the FATF 40 Recommendations (2003) and 9 Special Recommendations (2004) recommendations**, and by taking measures to consolidate its legal and institutional framework for combating money laundering (ML) and terrorist financing (TF). These reforms reflect the authorities' political commitment to counter money laundering and the financing of terrorism, which is also embodied in the AML/CFT strategy and action plan which were developed since the last evaluation. A number of important legal changes were implemented shortly before or days after the on-site visit, bringing the legal framework to a high level of compliance with the global standards assessed in this report.
4. **Jersey has amended its legislation to bring both the money laundering and the financing of terrorism offences in line with the relevant international standards**. Most of the previously identified shortcomings have been addressed prior to or shortly after the visit. While the FT offence has so far not been tested before the courts in Jersey, there have been several important convictions for money laundering.
5. **The legal framework governing provisional measures and confiscation** is comprehensive and has been efficiently used in several cases regarding both proceeds of

predicate offences and in respect of money laundering. However, the total confiscated sums are considered to be low.

6. **Several legal and operational changes have been implemented since the previous evaluation, which impact positively on the effectiveness of the work carried out by the FIU.** Jersey has yet to address the remaining issues with respect to the autonomy of the FIU, by reviewing its legal status and its positioning within the Police's overall structure.
7. **The AML/CFT preventive measures to which financial institutions and DNFBPs are subject have been strengthened and updated and are largely in line with the international standard,** although some technical deficiencies remain. Reporting entities have a good understanding of their AML/CFT risks and obligations. Most financial institutions are adequately regulated and supervised, on a risk sensitive basis, with securities and insurance sector having received relatively little supervisory attention in terms of on-site visits. The Commission has adequate powers, and has applied effectively sanctions and other measures available in its supervisory function.
8. **Jersey has very well-functioning AML/CFT coordination processes at both policy and operational levels.**
9. **With respect to international co-operation, Jersey authorities have adopted a proactive approach.** This is reflected by the active FIU information exchanges with foreign counterparts, as well as, in the context of mutual legal assistance, by several positive examples of assistance provided to assist foreign countries to locate and confiscate the proceeds of crime and to prosecute the associated predicate and money laundering offences, either in Jersey or abroad.

3. Legal Systems and Related Institutional Measures

10. Previously, there were three separate pieces of legislation: the Proceeds of Crime (Jersey) Law 1999 (Proceeds of Crime Law), the Drug Trafficking Offences (Jersey) Law 1988 (Drug Trafficking Offences Law) and money laundering provisions in the Terrorism (Jersey) Law 2002 (Terrorism Law). Jersey repealed the Drug Trafficking Offences Law and consolidated in August 2014 the provisions dealing with proceeds of crime of all kinds, including the proceeds of crime relating to drug trafficking into the Proceeds of Crime Law through the Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014 (hereinafter the Proceeds of Crime and Terrorism Law). The text has been further amended by the Proceeds of Crime (Amendment of Law) (Jersey) Regulations 2015, with effect on 17th of March 2015 to further address shortcomings in the definitions of "property" and of "items subject to legal professional privilege".
11. **The money laundering offence (previously criminalised in the three above pieces of legislation), as criminalized in Articles 29 to 31 of the Proceeds of Crime Law, has been brought largely in line with the relevant requirements of the convention and FATF standards, with few minor technical deficiencies, some of which may impact on the effective implementation of the ML offence.**
12. Overall, the continuing number of ML investigations, prosecutions and convictions in Jersey courts demonstrate the commitment of the Jersey authorities to pursue ML cases. There are some characteristics of an effective system, with different types of ML cases prosecuted and convicted, some of which involve third party laundering, successful prosecutions of gatekeepers, and also two significant landmark cases in 2010 involving very large proceeds of corruption and fraud committed overseas and significant confiscation orders. At the same time, several cases resulting in conviction involve relatively small proceeds, generated by domestic drugs offences. It is thus important for more suspicions of money laundering to be investigated and subsequently more cases to be prosecuted where there is evidence of

- domestic abuse (including when predicate offences are committed abroad) of complex legal arrangements and structures, arising from proactive parallel financial investigations in Jersey.
13. Jersey's legal framework, as set out in the Terrorism Law, as subsequently amended, adequately implements the CFT standards. The FT Convention treaties have been extended to Jersey. The use of lawful property for terrorist financing purposes is an offence under Jersey law but not a predicate offence to money laundering when not involving "criminal property" as defined. The FT offence has never been tested before the courts in Jersey.
 14. **The legal framework governing provisional measures and confiscation is comprehensive, although shortcomings remain** in the confiscation powers, especially with regard to the value confiscation of criminal assets given as gifts or settled (both before and after the criminal conduct) in complex legal structures to which offenders are beneficially entitled. There were also concerns as to whether the current provisional measures regime is fully geared to deal with all potential money laundering in the local situation. The measures in place have been efficiently used in several cases regarding both proceeds of predicate offences and in respect of money laundering. However, there remained overall effectiveness concerns given the relatively limited amounts of property seized and confiscated and considering the size and characteristics of Jersey's financial sector and its status as an international financial centre. The shortcomings may impact also in the context of the provision of international cooperation and asset freezing.
 15. **Jersey has significantly improved the legal framework governing the terrorist asset freezing regime**, with the adoption of the Terrorist Asset-Freezing (Amendment of Law) (Jersey) Regulations 2015 and of a formal procedure governing the receipt and assessment of requests based on a foreign request to designate/freeze terrorist assets in order to comply with obligations under UNSCR 1373. Arrangements for dealing with requests for listing and de-listing designated persons, including requests for unfreezing funds and economic resources that have been frozen, are set out in a Memorandum of Understanding between the UK Foreign and Commonwealth Office (FCO) and the Minister for External Relations, signed on 11 March 2015. All financial institutions and DNFBPs met were familiar with Jersey sanctions published on the Commission website (consolidation of financial sanctions targets listed by the UN, EU, and UK), and of their duty to freeze assets. There were actual cases of asset freezing under the relevant UN lists.
 16. **Jersey has implemented several legal and operational changes since the previous evaluation, which impact positively on the effectiveness of the work carried out by the FIU. However, concerns remained that domestically, FIU outputs seemed to be underutilised.** The FIU's power to obtain additional information from any reporting entity was strengthened after the onsite visit. Jersey has also enacted FIU regulations on 11th of March 2015, which formally identify the JFCU as the FIU. During 2013, a new secure online facility for the submission of SARs was put in place and over 90% of the SARs were being received electronically at the time of the on-site visit. Jersey's authorities have demonstrated with case examples the added value of FIU's analytical product. Jersey has yet to address the remaining issues with respect to the autonomy of the FIU, by reviewing its legal status and its positioning within the Police's overall structure. It should also make additional efforts to ensure that reports identifying money laundering and terrorist financing trends and patterns are issued on a more frequent basis.

4. Preventive Measures – financial institutions

17. **The AML/CFT legal framework for preventive measures has been strengthened and updated, demonstrating a high degree of technical compliance with the majority of assessed FATF standards, with minor shortcomings in certain areas and its effectiveness hampered by certain characteristics.**

18. The definition of financial institution in Jersey legislation is very broad, which results in the fact that some of the activities that do not fall under the scope of the FATF Methodology are exempted from AML/CFT obligations. There are a small number of exempted activities whose risk was not always proved to be low, therefore such activities should not be out of the scope of the AML/CFT provisions.
19. The CDD requirements are largely in line with the FATF requirements. The Money Laundering (Jersey) Order 2008 (Money Laundering Order) and the AML/CFT Handbook for Regulated Financial Services Business impose requirements on relevant persons to prevent money laundering and terrorist financing. These obligations include corporate governance, risk assessment, identification and other due diligence measures, monitoring of transactions and activity, the reporting of suspicion, employee screening, training, and record keeping. Furthermore, following the recommendation made previously, financial institutions are required to apply enhanced CDD measures to non-resident customers, private banking, legal persons and arrangements that are personal asset holding vehicles or companies with nominee shareholders or formed by bearer shares. According to the assessment team the effectiveness of the ECDD measures is highly subject to proper supervision by the Commission.
20. The definition of beneficial ownership meets the criteria of the FATF Standards in general terms. Nevertheless, at the time of the onsite visit, guidance on the term “beneficial owner” in the Handbook for Regulated Financial Services Business did not include a person exercising ultimate effective control over a trust where that person was not also the settlor, the beneficiary or the protector. Nor was it clear, in the case where such a person is a legal person, that identification measures should extend also to any person controlling that legal person through means other than ownership. This deficiency was remedied within the period of two months after the onsite visit, thus its effective implementation could not be demonstrated.
21. Furthermore, the Money Laundering Order provides for the discretion to refrain entirely from the application of certain CDD measures in defined circumstances, whereas simplified CDD in terms of the FATF Recommendations only allows for adjusting the amount or type of each or all of the CDD measures in a way that is commensurate to the low risk identified. This is particularly relevant in business relationships with collective investment schemes with a limited number of investors.
22. The financial institutions met during the on-site visit clearly demonstrated that they are highly knowledgeable in respect of their AML/CFT obligations. However for customers that are trustees the assessors noted that financial institutions do not always request a copy of the trust deed/letter of wishes, or take any other appropriate measures.
23. Although there is no law of financial institution secrecy in Jersey, there is a Common Law principle of confidentiality that applies to financial institutions. Financial institutions did not report any concerns that they might be in breach of the Common Law principle of confidentiality by disclosing information to the FIU when filing a SAR. Sharing of information where required by R. 7 and R.9, as implemented under Money Laundering Order, does not raise any particular issues.
24. A large part of the international business in Jersey (which accounts for a significant portion of financial business) is introduced to banks and other financial institutions by domestic and foreign intermediaries and introducers. As a result, financial institutions quite often rely on other financial institutions or DNFBPs for the fulfilment of their CDD obligations. The effective implementation of Recommendation 9 is therefore of particular relevance in Jersey. The authorities have introduced amendments after the previous evaluation, addressing the technical shortcomings previously identified. A number of implementation concerns have nevertheless been noted, which require amendments to be made to guidance in the Handbook for Regulated Financial Services Business.
25. The record keeping requirements are fully in line with the FATF Methodology. All financial institutions demonstrated a good comprehension of the legal provisions related to record

keeping. Furthermore, no specific issues of concerns have been detected regarding the ability to provide information to the competent authorities in a timely manner.

26. The suspicious activity reporting regime, as set out in the Proceeds of Crime Law and the Terrorism Law, complies with the technical requirements of R.13 and Special Recommendation IV. Guidance in the Handbook for Regulated Financial Services Business now sets out various measures to address timeliness of reporting, both internal and for SAR processing. The FIU has had a constructive approach in assisting reporting entities in the implementation of their reporting obligations, and addressed quality concerns. The performance of the SAR regime was thus considered to be impacted by issues related to quality of SARs received and reporting patterns, where not all reports are initiated by institutions during detection of suspicious activities. FT reports appear to be triggered mainly by sanction list matches and information from media. The authorities should also thus address gaps in guidance and training for reporting entities, including also on FT related aspects, seeking to improve the performance and value of the SAR reporting regime.
27. All financial institutions are authorised and supervised by the Commission and there are sufficient powers to enable the effective supervision of AML/CFT requirements. Jersey has also recently introduced the possibility to apply administrative fines, strengthening the proportionality of its sanctioning regime. The staff of the Commission appears to be adequate and very professional. Supervision is conducted on a risk-sensitive basis which enables the Commission to prioritise regulatory work and focus on higher risk entities. This approach appears to be functioning effectively in practice. The Commission has set a higher assurance level for AML/CFT risks in the banking and TCSP sectors which results in more frequent and intensive onsite and offsite supervision. Some concerns were nevertheless expressed regarding the focus devoted in the supervisory approach to the use of some exemptions from the AML/CFT framework and cases of application of simplified identification measures. The level of the threshold and associated supervision conducted with regard to the MSBs whose turnover is less than £300,000 should be reviewed. Finally, the authorities were recommended to ensure that the Commission's existing policy statement on cross-border supervision of banks is effectively implemented, in turn to ensure that the supervision of any Jersey banks with operations off the island is appropriately calibrated to the ML/FT risks assessed, including those posed by the relative equivalence of the host jurisdiction.

5. Preventive Measures – Designated Non-Financial Businesses and Professions

28. As regards DNFBPs generally, at the time of the on-site visit there were no casinos operating in Jersey. With the recent introduction of the Gambling (Jersey) Law 2012, it is possible to set up and operate a casino on the Island. Remote gambling, including online casinos, can be licensed in Jersey, although at the time of the assessment, no license had been issued.
29. **The CDD and reliance requirements applicable to designated non-financial businesses and professions are largely the same as for financial institutions. Hence, concerns noted in respect to FIs equally applying to DNFBPs for those recommendations that are assessed in the current report, namely R.5 and 9. Overall, Jersey has addressed the technical shortcomings previously identified.** It was noted that some DNFBP activities are exempted from the application of AML/CFT measures although the risk is not always proved to be low, and this matter should be reviewed. Further measures should be taken by the authorities to ensure that DNFBPs effectively apply the recently amended ECDD measures according to the degree of risk in each business relationship.
30. The representatives of the TCSP sector demonstrated a good understanding of the inherent risks that the industry is exposed to and the internal rules and procedures that the assessment team has seen generally implemented clear customer acceptance policies and procedures.

However, it was noted at the time of the visit, that some TCSPs limited the scope of identifying the beneficial owner of a company to the individual(s) having a material controlling ownership interest only.

31. In relation to real estate agents, the assessment concluded that the AML/CFT risks of this sector are considered to be low, due to the domestic nature of its business. Awareness of AML/CFT obligations by real estate agents should be increased through awareness raising initiatives. Further measures were also considered necessary to strengthen the understanding by the auditor and accountants sector of enhanced due diligence measures with respect to certain higher risk categories of customers.
32. DNFBPs have demonstrated a good understanding of their reporting requirements and the level of cooperation with the JFCU was positively assessed. The levels of reporting have remained rather stable, with relatively low levels of SAR reporting by the legal and accountancy profession, while TCSPs remain the primary source of SARs. The comments made earlier in respect of the performance of the reporting regime and issues of concern are equally valid in the context of the DNFBPs' implementation of their reporting obligations, particularly as regards the quality of SARs received and the understanding of FT. Jersey authorities are recommended to continue their efforts to increase the effectiveness of the reporting regime by DNFBPs and the level of awareness of reporting entities, including by undertaking sectoral reviews of the performance of the reporting regime, and developing further sectoral guidance and red flags to support SAR reporting, as appropriate.

6. Legal Persons and Arrangements

33. **Company registration and the establishment of trusts remain significant activities in Jersey and are subject to strong AML/CFT requirements.** Jersey has put in place various measures to prevent and mitigate the risks of unlawful use of legal persons, through strict controls applied by the Registry, at the time of incorporation, and in certain cases on an on-going basis, as well as through requirements on TCSPs to collect and hold accurate and up to date information on beneficial ownership and checks by the supervisor that TCSPs comply with these requirements. Since the previous evaluation, and following judiciary scrutiny identifying legal gaps, the authorities have also amended the Foundation (Jersey) Law 2009 on 24th of March 2015, clarifying obligations with respect to accounting records.
34. Additional measures were considered necessary to be taken by the authorities to prevent unlawful use of a small number of incorporated associations, in particular with respect to specific obligations regarding direct or indirect ultimate beneficial owners. Awareness raising needs to be further conducted regarding specifically the control element of beneficial ownership to ensure that institutions do not solely focus on the material ownership element. The Companies (Jersey) Law 1991 should explicitly prohibit the issuance of bearer shares. Finally, authorities should consider a more frequent update of the publically available register of shareholders i.e. more than once a year.
35. With respect to trusts, the authorities have introduced changes to the Money Laundering Order and the AML/CFT Handbooks to address the fact that guidance did not clearly explain that the trustee should also identify and verify the identity of any person exercising ultimate effective control over the trust who was not a settlor, protector or beneficiary. The recent entry into force of these changes as of 24th March 2015 did not enable an assessment of their application. Some concerns relate to the adequacy of measures to ensure that accurate, complete and current beneficial ownership information is available for family trusts (where the trustee may not be regulated) or trusts administered by regulated TCSPs through private trust companies.
36. Recent court cases revealed the importance that the 'letter of wishes' could have in determining who might in practice be the controller. We would recommend therefore that the

Jersey authorities require financial institutions to either ask for documents, such as the letter of wishes, to corroborate who the ultimate controlling beneficial owner is or to receive appropriate assurance and to keep evidence that relevant documents (such as the letter of wishes) do not contain information that is contradictory to the letter of wishes (or similar), both at the start of the relationship and during the process of ongoing due diligence. Jersey authorities should also provide guidance on this issue.

7. National and International Co-operation

37. **Jersey has very well-functioning AML/CFT coordination processes at both policy and operational levels.** The Financial Crime Strategy Group, which includes the major AML/CFT stakeholders, drives the main strategic improvements that are being made to Jersey's AML/CFT system. It ensures that the competent authorities at both policy - making and operational level have effective mechanisms in place to cooperate and, where appropriate, coordinate with each other. It may also recommend changes in the allocation and prioritisation of AML/CFT resources, where needed, to ensure that risks identified are mitigated effectively. Jersey should continue enhancing inter-agency cooperation in support of AML/CFT efforts, notably between the FIU and the Commission, with a view to developing further the information sharing and exchanges related to ML/TF risks within the jurisdiction and the level of compliance with AML/CFT requirements by the supervised entities. Given that a number of legal changes have taken place recently, a stronger focus should be devoted to reviewing comprehensively the effectiveness of the AML/CFT system.
38. **The United Kingdom, which is ultimately responsible for Jersey's international relations and for extending, upon Jersey's request, the UK's ratification of relevant conventions, has done so with respect to ten relevant international and European conventions since 2009, including the United Nations Convention against Transnational Organized Crime (Palermo Convention) on 17 December 2014.** Jersey has adequately implemented the requirements of the Terrorist Financing Convention and the large majority of the provisions of the Palermo and Vienna Conventions. Measures to provisionally restrain and confiscate proceeds of crime and instrumentalities used/intended for use in the crime are not fully in line with the international standard, and impact also on the effectiveness of action to be taken with respect to funds in the context of the application of measures for the implementation of SR.III, whenever this involves criminal proceedings regarding assets belonging to terrorist organisations.
39. **International co-operation is fundamental in the context of an international financial centre, such as Jersey. The Jersey law officers, the FIU and the Commission have adopted a generally responsive approach and co-operated constructively with foreign counterparts.**
40. Mutual legal assistance is rendered on the basis of the Criminal Justice (International Co-operation) (Jersey) Law 2001, which applies to all offences for which the maximum sentence in Jersey is not less than one year's imprisonment ("serious offences") and therefore applies to all money laundering offences, regardless of the predicate offence, as well as to terrorism financing offences. MLA is also provided based on the Investigation of Fraud (Jersey) Law 1991 if the case for which assistance has been requested involves fraud related money laundering, production, search and seizure of information, document or evidence. In addition, the Proceeds of Crime (Enforcement of Confiscation Orders) (Jersey) Regulations 2008 (Enforcement of Confiscation Orders Regulations), and the Terrorism (Enforcement of External Orders) (Jersey) Regulations 2008 contain specific provisions dealing with the seizing of property upon request by a foreign jurisdiction to secure funds or property that is or may become subject to foreign confiscation orders. Guidelines regarding Mutual Legal Assistance have also been published by the Attorney General to assist co-operation.

41. International judicial co-operation, both in mutual legal assistance (incoming and outgoing) and extradition, has been actively provided, and though over focused on fiscal matters, the authorities have demonstrated having adopted a proactive approach by seeking to assist foreign countries to locate and confiscate the proceeds of crime as well as prosecute the associated predicate and money laundering offences either in Jersey or abroad. Although refusals on the ground of falling below the threshold figures set out in the Attorney General's Guidelines¹, have been very rare, it is not excluded that these monetary thresholds could have inhibited countries from requesting MLA assistance.
42. The FIU and the Commission have also demonstrated that they have cooperated constructively and in a timely manner with foreign counterparts, and this was supported by feedback received from other countries. The Commission has received and responded to several requests for investigatory assistance from overseas regulatory authorities in the period under review, and has shared on a regular basis information with foreign supervisory authorities for the purpose of assisting with licensing and other supervisory functions. So far, the Commission did not very often request information from foreign supervisors related to AML/CFT, which triggered effectiveness questions.
43. The FIU is authorised to make disclosures to foreign FIUs on the basis of a delegated authority from the Attorney General. The latter can and has been occasionally involved in the decision-making process for approving information sharing with foreign counterparts. As this may restrict the FIU's powers to exchange information, Jersey should take measures to analyse the current set up in order to ensure that the FIU has a clear mandate to decide solely on information sharing, without any involvement of other counterparts, in order to ensure effective and prompt information sharing.

8. Resources and statistics

44. Jersey gathers comprehensive statistics on matters relating to the criminalisation of money laundering, the financing of terrorism, the operation of the FIU (including receipt and dissemination of SARs), the supervision of financial institutions and DNFBPs, as well as on national and international cooperation.
45. The Jersey competent authorities are staffed with experienced and well-trained staff members. Jersey is nevertheless recommended to review on a regular basis the adequacy of the FIU's resources, and to further enhance the capacity of the relevant authorities to successfully investigate suspicions of domestic money laundering originating from SARs, foreign FIU inquiries or MLA requests.

¹ The Attorney General has abolished on 13 August 2015 the Guideline MLA figures of £10,000 (*Criminal Justice (International Co-operation) (Jersey) Law 2001*) and £2,000,000 (*Investigation of Fraud (Jersey) Law 1991*), with each case being decided on its individual merits.

RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to the UK Crown Dependency of Jersey. *It includes ratings for FATF Recommendations from the IMF report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.*

Forty Recommendations	Rating	Summary of factors underlying rating ²
Legal systems		
1. Money laundering offence	LC	Effectiveness: <ul style="list-style-type: none"> ML cannot be tried together with a customary law offence; Overall effectiveness concerns given the relatively limited number of money laundering cases (especially third party ML of proceeds generated from foreign criminality) considering the size and characteristics of Jersey's financial sector as an international financial centre.
2. <i>Money laundering offence Mental element and corporate liability</i>	C	
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> "value confiscation" of criminal assets given as gifts is limited; Gaps identified with respect to the confiscation/provisional measures regime. Effectiveness: <ul style="list-style-type: none"> Overall effectiveness concerns given the relatively limited amounts of property seized and confiscated and considering the size and characteristics of Jersey's financial sector and its status as an international financial centre.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	LC	<ul style="list-style-type: none"> Some activities are exempted to be considered financial activities although the risk is not

² These factors are only required to be set out when the rating is less than Compliant.

		<p>always proved to be low.</p> <p><u>Recommendation 5</u></p> <ul style="list-style-type: none"> • While applying simplified measures, under some circumstances, certain elements of the CDD can be exempted, rather than reduced. This is especially relevant in business relations with collective investment schemes with limited number of investors. • No obligation to verify authorisation of the person acting on behalf of the customer while applying simplified identification measures. (Article 18 case 3). <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> • At the time of the onsite visit, some FIs limited the scope of identifying the beneficial owner to the person having a material interest only; • Notwithstanding the mitigating measures, application of SCDD when the customer is a DNFBP from another jurisdiction has a risk given that the latter may not be subject to the same degree of regulation and supervision; • FIs are not required, in relevant circumstances, to obtain a copy of the trust deed and/or letter of wishes, or take any other appropriate measure.
6. Politically exposed persons	LC	<ul style="list-style-type: none"> • Implementation of latest requirements for PEPs not yet fully effective in some financial institutions.
7. Correspondent banking	C	
8. New technologies and non face-to-face business	LC	<ul style="list-style-type: none"> • Limited guidance on specific ML and FT risks of new technologies, including in relation to e-money and e-commerce.
9. Third parties and introducers	PC	<p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> • Where the controlling element concerning the identification of BO is limited by certain Jersey financial institutions that are placing reliance on other financial institutions, this has a negative impact on the effective application of

		<p>Recommendation 9;</p> <ul style="list-style-type: none"> • The risks posed by appendix B³ listed jurisdictions, where the obliged person is situated, is not always taken into consideration before placing reliance; • The collection of CDD information and documentation through third parties (especially through a chain of third parties) without applying the formal reliance requirements raises concerns.
10. Record keeping	C	
11. Unusual transactions	C	
12. DNFBPS – R.5, 6, 8-11 ⁴	LC	<ul style="list-style-type: none"> • Some DNFBP activities are exempted from the application of AML/CFT measures although the risk is not always proved to be low. <p><i>Applying Recommendation 5</i></p> <ul style="list-style-type: none"> • Deficiencies related to simplified identification measures described under Recommendation 5 are also applicable to DNFBPs. <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> • At the time of the visit, some TCSP limited the scope of identifying the beneficial owner to the person having a material interest only; • Awareness of the real estate agencies was not found to be adequate; • Awareness of potential high value dealers in respect to their potential AML/CFT obligations was not assessed by the evaluation team. <p><i>Applying Recommendation 9</i></p> <ul style="list-style-type: none"> • Deficiencies identified under Recommendation 9 are also applicable to DNFBPs.

³ Appendix B of the AML/CFT Handbook provides for a non-exhaustive list of countries and territories that are considered to be “equivalent jurisdictions” and that the Commission considers to have set requirements that are consistent with those in the FATF Recommendations - for the purposes of applying simplified identification measures under Articles 17 and 18 and for placing reliance on third parties under Article 16. The list in place at the time of the evaluation visit included:

-FATF Members: Australia, Japan, Austria, Luxembourg, Belgium Netherlands (excluding Aruba, Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten), Canada, New Zealand, Denmark, Norway, Finland, Portugal, France, Singapore, Germany, South Africa, Greece, Spain, Hong Kong, Sweden, Iceland, Switzerland, Ireland, United Kingdom, Italy, United States:

-EU/EEA Members (which are not also FATF members): Bulgaria, Lithuania, Cyprus, Malta, Czech Republic, Poland, Estonia, Romania, Hungary, Slovakia, Latvia, Slovenia, Liechtenstein, Gibraltar (through the UK)

-Crown Dependencies and overseas territories: Guernsey, Isle of Man, Cayman Islands.

⁴ The review of Recommendation 12 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on Recommendations 6, 8 and 11.

13. Suspicious transaction reporting	LC	<u>Effectiveness:</u> <ul style="list-style-type: none"> The performance of the SAR regime is impacted by issues related to quality of SARs received and reporting patterns where not all reports are initiated by institutions during detection of suspicious activities.
14. Protection and no tipping-off	C	
15. <i>Internal controls, compliance and audit</i>	LC	<ul style="list-style-type: none"> <i>There is no requirement in law, regulation, or other enforceable means expressly covering AML/CFT to maintain an adequately resourced and independent audit function (having regard to the size and nature of the business);</i> <i>The current requirement for timely information access for compliance officers, though drafted in broad terms, is not sufficiently detailed.</i>
16. DNFBPS – R.13-15 & 21 ⁵	LC	<u>Effectiveness:</u> <ul style="list-style-type: none"> The performance of the SAR regime is impacted by issues related to the quality of SARs received and level of awareness of reporting entities on the scope of the FT reporting; Low level of understanding of reporting requirements in the real estate sector.
17. Sanctions	LC	<u>Effectiveness:</u> <ul style="list-style-type: none"> Administrative fines have recently been added to the range of sanctions available. Its effective use could not be assessed.
18. <i>Shell banks</i>	C	
19. <i>Other forms of reporting</i>	C	
20. <i>Other DNFBPS and secure transaction techniques</i>	C	
21. <i>Special attention for higher risk countries</i>	LC	<ul style="list-style-type: none"> <i>Power to use countermeasures restricted by its dependence on FATF actions.</i>
22. <i>Foreign branches and subsidiaries</i>	LC	<ul style="list-style-type: none"> <i>No explicit requirement in law, regulation, or other enforceable means for particular attention to the need to apply AML/CFT measures at least equivalent to those in Jersey in the cases of branches or subsidiaries in</i>

⁵ The review of Recommendation 16 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on Recommendations 15 and 21.

		<i>countries that do not or insufficiently apply the FATF Recommendations.</i>
23. Regulation, supervision and monitoring	LC	<p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> • Certain exemptions and cases of SDD did not attract sufficient attention in the supervisory approach of the Commission; • The £300,000 threshold applied to the MSBs is considered to be high in light of the supervisory activity applied so far to these entities; • In one particular case the supervision carried out by the Commission appeared to have been unduly reliant on the supervision carried out by a foreign supervisor.
24. DNFBPS - Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> • <i>Requirements for certain DNFBPs are new and their implementation was incomplete at the time of the assessment.</i>
25. Guidelines and Feedback	C	
Institutional and other measures		
26. The FIU	LC	<ul style="list-style-type: none"> • Concerns regarding the autonomy of the FIU within the Police, given its recognition in law, its current positioning within the Police's overall structure and its rotational practice, and the AG's role with respect to disclosures to foreign FIUs; • Only two reports on typologies and trends have been issued in a timeframe of 7 years. <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> • the FIU's power to obtain new information from reporting entities, rather than additional information from those that had submitted a SAR, was introduced after the visit and the effectiveness of its implementation could not be demonstrated.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> • <i>The JFCU should be adequately staffed to perform its investigative function effectively.</i>
28. Powers of competent authorities	C	
29. Supervisors	C	

30. Resources, integrity and training ⁶	LC (consolidated rating)	For the FIU <ul style="list-style-type: none"> The allocation of resources within the Police has impacted from time to time the FIU's implementation of its core functions.
31. National co-operation	C	
32. Statistics ⁷	LC (consolidated rating)	<ul style="list-style-type: none"> It was not demonstrated that the review of the effectiveness of the AML/CFT system has covered all aspects of the AML/CFT system.
33. Legal persons – beneficial owners	LC	<ul style="list-style-type: none"> The information collected on UBOs in respect of customary law partnerships is not fully in line with the definition of UBO in the Money Laundering Order; Measures to prevent unlawful use of incorporated associations that do not fall under the Companies Law, other product laws, COBO and the Financial Services Law. This risk though is partly mitigated by Loi 1862 but does not have adequate specific obligations regarding direct or indirect UBOs. <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> The information collected on UBOs in the COBO is focussing on the material element, not on the control element. The guidance to the application form was also not fully clear in this respect but has been changed and issued as of 24 March 2015; Judiciary scrutiny of the Foundations Law has revealed legal gaps, which have led to legal changes by 24 March 2015, although their effectiveness cannot be demonstrated.
34. Legal arrangements – beneficial owners	LC	<ul style="list-style-type: none"> Inadequate measures to ensure that accurate, complete and current beneficial ownership information is also available for trusts administered by any trustees not covered for family trusts or administered by PTCs; <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> At the time of the visit, there was no obligation for the trustee to identify and verify the identity of any person exercising ultimate effective

⁶ The review of Recommendation 30 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on resources integrity and training of law enforcement authorities.

⁷ The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on Recommendations 20, 27, 38,39 and SR.IX.

		control over the trust who was not a settlor, protector or beneficiary. The recent changes in the Money Laundering Order and the Handbook for Regulated Financial Services Business to address this aspect have recently entered into force (24 March 2015) and its effectiveness could not be assessed.
International Co-operation		
35. Conventions	LC	<ul style="list-style-type: none"> Not all provisions of the Palermo and Vienna Conventions are fully implemented. (shortcomings with respect to R 3.)
36. Mutual legal assistance (MLA) ⁸	LC	<ul style="list-style-type: none"> Deficiencies with regard to seizure and confiscation of corresponding value identified with regard to R.3 may hamper effective MLA. <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> The monetary threshold could have inhibited countries from requesting MLA assistance
37. Dual criminality	C	
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> For certain money laundering offenses, seizing and confiscation measures are not available for all types of property as required by the FATF Recommendations. Deficiencies in the ML criminalization affect the MLA capacity where the dual criminality principle applies.
39. Extradition	LC	<ul style="list-style-type: none"> Deficiencies in the ML criminalization affect the extradition capacity due to the application of the dual criminality principle.
40. Other forms of co-operation	LC (consolidated rating)	<ul style="list-style-type: none"> the FIU is authorised to make disclosures to foreign FIUs on the basis of a delegated authority from the AG. <p><u>Effectiveness:</u></p> <ul style="list-style-type: none"> The Commission did not very often request information from foreign supervisors related to AML/CFT. This is an effectiveness concern for a jurisdiction where clients are mainly overseas, and considering the ML and FT risks involved, though these are partly mitigated by the fact that information related to tax is frequently requested and shared, which also includes information regarding beneficial ownership.

⁸ The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on Recommendation 28.

Nine Special Recommendations				
SR.I	Implement UN instruments		LC	<ul style="list-style-type: none"> The shortcomings identified with regard to R.3, especially with regard to the scope of provisional measures, could hamper action taken against funds with regard to SR.III whenever this involves criminal proceedings regarding assets belonging to terrorist organisation designated under UNSCR 1373 or mutual legal assistance requests regarding such assets.
SR.II	Criminalise terrorist financing		LC	<ul style="list-style-type: none"> The use of lawful property for Terrorist financing purposes is an offence under Jersey law but not a predicate offence to money laundering when not involving “criminal property” as defined. <p>Effectiveness:</p> <ul style="list-style-type: none"> As it has not been tested in practice, it remains unclear whether financing a “proscribed organization” (Part 2 of the Terrorism Law) would be covered under Article 15 of the Terrorism Law.
SR.III	Freeze and confiscate terrorist assets		LC	<p>Effectiveness:</p> <ul style="list-style-type: none"> Shortcomings identified with regard to R.3 might hamper effectiveness; Concerns about the immediate communication of UN designations and thus the effectiveness of the freezing regime.
SR.IV	Suspicious transaction reporting		LC	<p>Effectiveness:</p> <ul style="list-style-type: none"> The performance of the SAR regime is impacted by gaps in guidance and training for reporting entities on the scope of the FT reporting.
SR.V	International co-operation ⁹		C (consolidated rating)	
SR.VI	AML requirements for money/value transfer services		LC	<ul style="list-style-type: none"> <i>Additional training and experience needed for full effective implementation.</i>
SR.VII	Wire transfer rules		LC	<ul style="list-style-type: none"> <i>Liberal interpretation by financial institutions of the risk-based approach in dealing with</i>

⁹ The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the IMF report on Recommendations 37, 38 and 39.

		<i>incoming wire transfers that lack full originator information.</i>
<i>SR.VIII Non-profit organisations</i>	<i>C</i>	
<i>SR.IX Cross Border declaration and disclosure</i>	<i>LC</i>	<ul style="list-style-type: none"> • <i>Not yet possible to demonstrate effectiveness of newly-established system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing.</i>