

7 ENHANCED AND SIMPLIFIED CDD MEASURES

Please Note:

- › Regulatory requirements are set within this section as *AML/CFT Codes of Practice*.
- › This section contains references to Jersey legislation which may be accessed through the JFSC website.
- › Where terms appear in the Glossary this is highlighted by the use of italic text. The Glossary is available from the JFSC website.

7.1 Overview of Section

1. This section explains the circumstances in which *CDD* measures must be enhanced under ~~Article~~Articles 15, 15A and 15B of the *Money Laundering Order* and ~~identification measures may (but need not) be simplified~~explains the exemptions from customer due diligence requirements under ~~Articles 17 and 18~~Part 3A of the *Money Laundering Order*. It also sets out circumstances where simplified measures can be applied in relation to low risk products or services.
2. In addition to any case where a firm determines that a client presents a higher risk of *money laundering* or the financing of terrorism, ~~Article~~Articles 15, 15A and 15B of the *Money Laundering Order* also ~~requires~~require enhanced *CDD* measures to be applied in the following specified scenarios:

| Scenario | Section |
|---|------------|
| Client, or some other person, is not physically present for identification purposes | 7.4 |
| Client has a “relevant connection” to an “enhanced risk state” | 7.5 |
| Client, or some other prescribed person, is a <i>PEP</i> | 7.6 |
| Client is a non-resident | <u>7.7</u> |
| Client is provided with private banking services | <u>7.8</u> |
| Client is a personal asset holding vehicle | <u>7.9</u> |
| Client is a company with nominee shareholders or issues bearer shares- | 7.10 |

3. It may be that *CDD* measures routinely applied under Article 13 of the *Money Laundering Order* already address some of the risk characteristics of these clients (for instance identification of beneficial owner(s) and understanding the nature and purpose of the relationship) and significantly reduce the risk that criminals may hide behind “shell” companies or that the basis for the relationship is not considered or understood. Therefore any additional ~~measure~~measures may be quite limited.
4. Nevertheless, the enhanced measures required under ~~Article~~Articles 15, 15A and 15B must be in addition to the measures to be taken in circumstances presenting a lower or standard risk, as set out in Sections 4 and 6 of this Handbook and must address the particular risk presented. This section provides some (non-exhaustive) examples for each category of client.

5. A client may be an individual (or group of individuals) or legal person. Section 4.3 deals with a client who is an individual (or group of individuals), Section 4.4 deals with a client (an individual or legal person) who is acting for a legal arrangement, and Section 4.5 deals with a client who is a legal person.
6. Throughout this section, references to “client” include, where appropriate, a prospective client (an applicant for business). A client is a person with whom a business relationship has been formed or one-off transaction conducted.

7.2 Requirement to apply enhanced CDD measures

Statutory Requirements

7. Article 11(3)(c) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures to determine whether: (i) a client; (ii) a beneficial owner or controller of a client; (iii) a third party for whom a client is acting; (iv) a beneficial owner or controller of a third party described in (iii); ~~or (v) a person acting, or purporting to act, on behalf of a client, is a PEP; or (vi) a beneficiary under a life insurance policy.~~
8. Article 11(3)(d) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures to determine whether a business relationship or one-off transaction is with a person connected with a country or territory that does not or insufficiently applies the FATF Recommendations.
- ~~9. Article 15(1)(b) of the Money Laundering Order requires a relevant person firm to apply enhanced CDD measures in any situation which by its nature can present on a higher risk of money laundering.~~
- ~~10.9. Article 15(1)(a) of sensitive basis in the Money Laundering Order requires that a relevant person apply enhanced CDD measures using a risk-based approach where following circumstances:~~
 - ~~➤ if a customer is resident in another country or territory (Article 15(2A)).~~
 - ~~➤ A customer is not physically present for identification purposes (Article 15(3)).~~
 - ~~➤ The relevant person has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with a customer (or other prescribed person) having a “relevant connection” with the firm and the firm is not resident in the customer’s country of residence or in the same country or territory in relation to as the country from which, or from within which the FATF has called for the application of enhanced CDD measures (Article 15(3A))., the customer is carrying on business;~~
 - ~~➤ The relevant person holds a deposit-taking licence and has or proposes to have a correspondent banking relationship with a bank that is outside Jersey (Article 15(4)). See Section 12 of the AML/CFT Handbook.~~
 - ~~➤ The relevant person if a customer has not been physically present for identification purposes;~~
 - ~~➤ if the firm has or proposes to have a business relationship or proposes to carry out a one-off transaction with a customer who is a PEP or where any of the following is a PEP: (i) beneficial owner or controller of the customer; (ii) third party on whose behalf the customer acts; (iii) beneficial owner or controller of the third party described in (ii); or (iv) person acting, or purporting to act, on behalf of the customer (Article 15(5)). having a relevant connection with a country or territory (an “enhanced risk state”) in relation to which the FATF has called for the application of enhanced customer due diligence measures;~~
 - ~~➤ A relevant person provides or proposes to provide a customer with private banking services (Article 15(8)).~~

- › ~~Aif the customer of the firm is a company with nominee shareholders or that issues shares in bearer form;~~
 - › ~~if the customer of the firm is –~~
 - › ~~a legal person established by an individual for the purpose of holding assets for investment purposes; or is acting on behalf of a legal arrangement established for the purpose of holding assets for an individual for investment purposes (Article 15(10)); or~~
 - › ~~A customer is a company with nominee shareholders or that issues bearer shares (Article 15(11)).~~
3. ~~Article 15(2) of the Money Laundering Order explains that enhanced CDD measures means measures that involve specific or adequate measures to compensate for the higher risk of money laundering and financing of terrorism.~~
4. ~~Article 15(3B) of the Money Laundering Order explains what is meant by the term “relevant connection”. It states that a person has a relevant connection with an enhanced risk state if the person is:~~
- › ~~The government or a public authority of the state;~~
 - › ~~In relation to the state, a PEP;~~
 - › ~~A person resident in the state;~~
 - › ~~A person having an address in the state; or~~
 - › ~~A client, where the source of the client’s funds is or derives from: (i) assets held in the state by the client or by any person acting on behalf of the client; or (ii) income arising in the state.~~
10. ~~of the Money Laundering Order requires that a relevant person that has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with a PEP (or relationship or transaction that has a prescribed connection to a PEP) must have specific and adequate measures that: (i) require any new business relationship or continuation of such a relationship or any new one-off transaction to be approved by the senior management of the relevant person; and (ii) establish the source of the wealth of the PEP and the source of the funds involved in the business relationship or one-off transaction.~~
11. ~~of the Money Laundering Order requires that a relevant person that has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with a PEP (or relationship or transaction that has a prescribed connection to a PEP) must have specific and adequate measures that: (i) require any new business relationship or continuation of such a relationship or any new one-off transaction to be approved by the senior management of the relevant person; and (ii) establish the source of the wealth of the PEP and the source of the funds involved in the business relationship or one-off transaction.~~
12. ~~Article 15(5B) explains that “source of wealth” means the source generating the total net worth of funds of the PEP, whether or not those funds are used in the business relationship or one-off transaction.~~
13. ~~Article 15(6) explains that a “politically exposed person” means a person who is:~~
- › ~~a legal arrangement established for an individual who is or has been entrusted with a prominent public function in a country or territory outside Jersey or by an international organization outside Jersey, e.g.:~~
 - ~~heads of state, heads of government, and senior politicians;~~
 - ~~senior government, judicial or military officials; senior executives of state owned corporations; and~~
 - ~~important political party officials;~~

- ~~➤ an immediate family member of an individual entrusted with a prominent public function including any of the following: a spouse; a partner, that is someone considered by his or her national law as equivalent or broadly equivalent to a spouse; children and their spouses or partner; parents; grandparents and grandchildren; and siblings;~~
 - ~~➤ a close associate of an individual entrusted with a prominent public function, including any person who is known to maintain a close business relationship with such a person, including a person who is in a position to conduct substantial financial transactions on his or her behalf.~~
20. ~~Article 15(7) states that, for the purposes of determining whether a person is a close associate of an individual entrusted with a prominent public function, a relevant person need only consider information that it holds or is publicly known.~~
- ~~➤ Article 15(9) of the Money Laundering Order states that, purpose of holding assets for the purposes of Article 15(8), a service shall be regarded as a private banking service if: investment;~~
 - ~~➤ if the firm provides or proposes to provide a customer with private banking services;~~
 - ~~➤ Any situation which by its nature can present a higher risk of money laundering.~~

7.3 Higher risk client

Overview

- ~~➤ the service is offered, or it is proposed to offer the service, only to persons identified by the service provider as being eligible for the service, having regard to the person's net worth; and~~
- ~~➤ the service:~~
 - ~~○ involves a high value investment;~~
 - ~~○ is a non-standard banking or investment service tailored to the person's needs, or uses corporate or trust investment structures, tailored to the person's need; or~~
 - ~~○ offers opportunities for investment in more than one country or territory.~~

16.0 HIGHER RISK CLIENT

overview

- ~~18.10.~~ Section 3.3 explains the risk based approach to *identification measures*. It explains that a firm must, on the basis of information collected, assess the risk that a business relationship or one-off transaction will involve *money laundering* or the financing of terrorism.
- ~~19.11.~~ Enhanced CDD measures must be applied where a firm's assessment is that there is a higher risk of *money laundering* or the financing of terrorism (i.e. a situation which by its nature can present a higher risk of *money laundering* or the financing of terrorism).
- ~~20.12.~~ There are a number of reasons why a business relationship or one-off transaction might be assessed as presenting a higher risk. For this reason, there are a number of possible measures listed in this section to address that risk.

Guidance Notes

- ~~21.13.~~ A firm may demonstrate that it has applied enhanced *identification measures* to an individual who is a higher risk client under Article 15(1)(b) of the *Money Laundering Order* where it obtains evidence that verifies a:
- former name (such as maiden name); or
 - passport or national identity card number.

~~22.14~~ A firm may demonstrate that it has applied enhanced *identification measures* to a higher risk client ~~under Article 15(1)(b) of the Money Laundering Order~~ where it takes reasonable measures to find out the *source of funds* and *source of wealth* at the time that a business relationship is established or one-off transaction carried out which are commensurate with risk and include one or more of the following:

- › commissioning an independent and reliable report from a specialist security agency about the *source of funds* involved and/ or client's *source of wealth*.
- › where a firm is part of a group, obtaining reliable information from the group's internal security department or business intelligence unit (or equivalent) about the *source of funds* involved and /or client's *source of wealth*.
- › where a firm is part of a group, obtaining reliable information from a part of the group which has an office in the country or territory with which the client has a connection about the *source of funds* involved and/ or client's *source of wealth*.
- › obtaining reliable information directly from the client concerned, for instance during (or subsequent to) a face to face meeting inside or outside Jersey, or via a telephone "welcome call" on a home or business number which has been verified or by obtaining certified copies of corroborating documentation such as contracts of sale, property deeds, salary slips, etc.
- › obtaining reliable information from an external party (for instance a solicitor, accountant or tax advisor) which has an office in the country or territory with which the client has the relevant connection about the *source of funds* involved and/or client's *source of wealth*.
- › obtaining reliable information from a person eligible to be an *obliged person* (for instance a solicitor, accountant or tax advisor) about the *source of funds* involved and/ or client's *source of wealth*.
- › where information is publicly available or available through subscription databases, obtaining reliable information from a public or private source about the *source of funds* involved and/or client's *source of wealth*.
- › obtaining reliable information through financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards.

~~23.15~~ Where a relevant connection is established during the course of an existing relationship, a firm may also demonstrate that it has taken reasonable measures to find out the *source of funds* and/or *source of wealth* where it reviews the relationship information that it already holds and concludes that it is reliable.

~~24.16~~ Where the measures set out in paragraph ~~22.13~~ to ~~24.15~~ above are not sufficient to mitigate the risk associated with the client, a firm may demonstrate that it has applied enhanced *identification measures* where it does one or more of the following in a way that is commensurate with risk:

- › In a case where a document that has been used to obtain evidence of identity for a higher risk client, e.g. a passport, subsequently expires, a firm may demonstrate that documents, data or information obtained under *identification measures* are kept up to date and relevant where a copy of the document that replaces that originally used to obtain evidence of identity is requested and obtained.
- › In a case where a relationship is to be established making use of a suitable certifier, it obtains confirmation that a photograph contained in the document certified bears a true likeness to the individual requesting certification (or words to that effect).

~~25.17~~ A firm may demonstrate that it has applied enhanced on-going monitoring to a higher risk client ~~under of the Money Laundering Order~~ where it:

- › reviews the business relationship on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up to date and relevant;
- › where monitoring thresholds are used, sets lower thresholds for transactions connected with the business relationship.

7.37.4 Client not physically present for identification measures

Overview

26.18. Frequently, relationships will be established where there is no face to face contact with the client to be identified or its beneficial owners or controllers, for example:

- › relationships established by individuals through the post, by telephone or via the internet where external data sources are used to obtain evidence of identity; and
- › where identity is found out on persons who fall within Article 3(7) of the *Money Laundering Order* through a trustee or general partner, or on beneficial owners and controllers of a legal person through that legal person.

27.19. There may also be circumstances where there is face to face contact with a client, but where documentary evidence is to be provided at a time when the client is not present.

28.20. Such circumstances may increase the risk of *money laundering* or *the financing of terrorism* as it may be easier for criminals to conceal their true identity when there is no face to face contact with the firm. They may also increase the risk of impersonation or identity fraud being used to establish a relationship or conduct a one-off transaction for illegitimate purposes.

29.21. For the avoidance of doubt, this section does not cover a person whose identity has been verified through a suitable certifier, where the certifier has met the person at the time the documents are certified.

Statutory requirements

22. Under Article 15(1)(b) of the Money Laundering Order, if a customer has not been physically present for identification purposes, a firm must apply enhanced CDD measures on a risk-sensitive basis.

AML/CFT Code of Practice

30.23. A firm must apply enhanced *CDD* measures on a risk-sensitive basis where a person who falls within Article 3(7) of the *Money Laundering Order*, or who is the beneficial owner or controller of a client, or is a person who must otherwise be identified under Article 3 of the *Money Laundering Order* is not physically present for identification purposes.

Guidance Notes

31.24. A firm may demonstrate that it has applied enhanced *identification measures*: (i) under Article 15(1)(b) of the *Money Laundering Order*; and (ii) under the *AML/CFT Code of Practice* set in paragraph **23** above, where it finds out further information on a person (A), obtains an additional form of evidence of identity for A, or carries out some other additional measure in respect of A.

32.25. Additional forms of evidence of identity may include use of a further source listed in Section 4 (including independent data sources).

33.26. Other additional measures may include:

- › Where a firm is part of a group, confirmation from another part of that group that A has been met (face to face).

- › Confirmation from a *relevant person* that carries on a *regulated business* or a person who carries on an *equivalent business* that A has been met (face to face).
- › Confirmation from a firm that carries on trust company business or a person who carries on an *equivalent business* that A is known to the trust and company services provider, and the trust and company services provider is satisfied that the particular individual is the person whose identity is to be found out.
- › A combination of other checks that adequately take into account the firm's risk assessment for A, including:
 - › requiring payment of funds to be drawn on an account in the client's name at a bank that is a *regulated person* or carries on an *equivalent business* (refer to Section 1.7 of this Handbook);
 - › telephone contact with the client prior to establishing a relationship on a home or business number which has been verified, or a "welcome call" to the client before transactions are permitted, using the call to verify additional components of identity found out;
 - › internet sign-on following verification measures where the client uses security codes, tokens, and/or other passwords which have been set up during account opening and provided by mail (or secure delivery) to the named individual at an independently verified address;
 - › specific card or account activation measures.

7.47.5 Client with a relevant connection to an "enhanced risk state"

Overview

34.27. The FATF has identified a number of countries and territories which have failed to address their own *money laundering* and the *financing of terrorism* risks and/or have in place insufficient AML/CFT regimes, in relation to which it has called for the application of countermeasures. These countries or territories are referred to in the *Money Laundering Order* as "enhanced risk states". A person with a connection to these countries or territories presents a higher risk of being involved in *money laundering* or the *financing of terrorism* and doing business with such a person also poses an increased risk.

35.28. For the purpose of applying Article 15(~~3A1~~)(c) of the *Money Laundering Order*, countries or territories in relation to which the FATF has called for the application of enhanced CDD measures are those listed in Appendix D1.

7.5.1 Application of enhanced CDD measures to a client with a relevant connection

Statutory Requirements

29. Under Article 15(1)(c) of the Money Laundering Order, if the firm has or proposes to have a business relationship or proposes to carry out a one-off transaction with a customer having a relevant connection with a country or territory (an "enhanced risk state") in relation to which the FATF has called for the application of enhanced customer due diligence measures, a firm must apply enhanced CDD measures on a risk-sensitive basis.

For the purpose of Article 15(1)(c), a **customer** includes any of the following –

- a) a beneficial owner or controller of the customer,
- b) a third party for whom the customer is acting,
- c) a beneficial owner or controller of a third party described above,
- d) a person acting, or purporting to act, on behalf of the customer; and

under Article 15(2)(b) of the Money Laundering Order a person has a relevant connection with an enhanced risk state if the person is –

- a) the government or a public authority of that state,
- b) in relation to that state, a foreign PEP (within the meaning of Article 15A),
- c) a person resident in that state,
- d) a person having an address for business in that state,
- e) a customer, where the source of the customer's funds is or derives from assets held in that state by the customer or by any person on behalf of the customer or income arising in that state.

AML/CFT ~~CODES~~Code of Practice

36-30. The enhanced CDD measures applied to a client with a relevant connection to an enhanced risk state must include:

- › requiring any new business relationship (and continuation thereof) or one-off transaction to be approved by senior management; and
- › where there is a relevant connection because a client's *source of funds* is, or derives, from: (i) assets held in the state by the client or by any person on behalf of the client; or (ii) income arising in the state, taking reasonable measures to find out the *source of the funds involved in wealth of* the client.

Guidance Notes

37-31. A firm may demonstrate that it has taken reasonable measures to find out the *source of wealth* at the time that a relationship is established or one-off transaction carried out, where measures taken are commensurate with risk and include one or more of the measures listed in paragraph ~~23~~ **14** above.

38-32. Where a relevant connection is established during the course of an existing relationship, a firm may also demonstrate that it has taken reasonable measures to find out the *source of wealth* where it reviews the relationship information that it already holds and concludes that it is reliable.

39-33. A firm may demonstrate that it has otherwise applied enhanced CDD measures where it does all of the following:

- › In a case where a document that has been used to obtain evidence of identity for a higher risk client, e.g. a passport, subsequently expires, a firm may demonstrate that documents, data or information obtained under *identification measures* are kept up to date and relevant where a copy of the document that replaces that originally used to obtain evidence of identity is requested and obtained.
- › In a case where a relationship is to be established making use of a suitable certifier, it obtains confirmation that a photograph contained in the document certified bears a true likeness to the individual requesting certification (or words to that effect).
- › Reviews of the business relationship on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up to date and relevant.
- › Where monitoring thresholds are used, sets lower thresholds for transactions connected with the business relationship.

7.5.7.6 Client who is a Politically Exposed Person (PEP)

Overview

- 40.34.** Corruption by some high profile individuals, generally referred to as *PEPs*, inevitably involves serious crime, such as theft or fraud, and is of global concern. The proceeds of such corruption are often transferred to other countries and territories and concealed through private companies, trusts or foundations, frequently under the names of relatives or close associates of the perpetrator.
- 41.35.** By their very nature, *money laundering* investigations involving the proceeds of corruption generally gain significant publicity and are therefore very damaging to the reputation of both businesses and jurisdictions concerned, in addition to the possibility of criminal charges.
- 42.36.** Indications that a client may be connected with corruption include excessive revenue from “commissions” or “consultancy fees” or involvement in contracts at inflated prices, where unexplained “commissions” or other charges are paid to external parties.
- 43.37.** The risk of handling the proceeds of corruption, or becoming engaged in an arrangement that is designed to facilitate corruption, is greatly increased where the arrangement involves a *PEP*. Where the *PEP* also has connections to countries or business sectors where corruption is widespread, the risk is further increased.
- 44.38.** The nature of enhanced *CDD* measures applied will be commensurate with the risk that is identified and nature of the *PEP* connection. In particular, the measures to be applied by a firm to a *PEP*:
- › Who is the Minister of Finance in a country that is prone to corruption may be very different to the measures to be applied to a senior politician with a limited portfolio in a country or territory that is not prone to corruption.
 - › The measures to be applied to a company that is a *collective investment scheme*, the securities of which are traded on a recognised market, and which has an investor who is a *PEP* with a 1% holding in the scheme, may be very different to a private company established exclusively to hold investments for a *PEP*.
- 45.39.** There is no “one-size fits all” approach to applying enhanced *CDD* measures for *PEPs*.
- 46.40.** The nature and scope of a firm’s activities will generally determine whether the existence of *PEPs* in its client base is a practical issue for the business.

7.5.17.6.1 Determining whether a client is a Politically Exposed Person (PEP)

Statutory requirements

- 41.** Article 15A(3) of the Money Laundering Order provides the following definitions of PEP categories, which include an immediate family member or a close associate of the person:
- “domestic politically exposed person” means a person who is an individual who is or has been entrusted with a prominent public function in Jersey including but not limited to –
- heads of state, heads of government, senior politicians;
 - senior government, judicial or military officials;
 - senior executives of state owned corporations; and
 - important political party officials.
- “foreign politically exposed person” means a person who is an individual who is or has been entrusted with a prominent public function in a country or territory outside Jersey including but not limited to –
- heads of state, heads of government, senior politicians;
 - senior government, judicial or military officials;

- senior executives of state owned corporations; and
- important political party officials.

“prominent person” means a person who is an individual who is or has been entrusted with a prominent public function by an international organisation.

“immediate family member” includes any of the following –

- a spouse;
- a partner, that is someone considered by his or her national law as equivalent or broadly equivalent to a spouse;
- children and their spouses or partners (as defined above);
- parents;
- grandparents and grandchildren;
- siblings.

“close associate” of a person includes any person who is known to maintain a close business relationship with the person, including a person who is in a position to conduct substantial financial transactions on behalf of the person.

42. Under Article 15A(4) for the purpose of deciding whether a person is a close associate of a person, a firm need only have regard to information which is in that person’s possession or is publicly known.

7.6.2 Enhanced CDD measures in relation to PEPs

Statutory requirements

43. Article 15A of the Money Laundering Order applies to a firm:

- a) who has or proposes to have a business relationship with, or proposes to carry out a one-off transaction with, a foreign politically exposed person; or
- b) who has or proposes to have a high risk business relationship, or proposes to carry out a high risk one-off transaction with, a domestic politically exposed person or prominent person; or
- c) if any of the following is a foreign politically exposed person or, in the case of a high risk business relationship or one-off transaction, a domestic politically exposed person or prominent person –
 - i) a beneficial owner or controller of the customer of the firm
 - ii) a third party for whom the customer of the firm is acting,
 - iii) a beneficial owner or controller of a third party described in clause (ii),
 - iv) a person acting or purporting to act on behalf of the customer of the firm.

44. A firm to whom this Article applies must apply enhanced customer due diligence measures on a risk-sensitive basis including –

- › unless the firm is a sole trader, measures requiring a new business relationship or continuation of a business relationship or a new one-off transaction to be approved by the senior management of the firm;
- › measures to establish the source of the wealth of the politically exposed person and source of the funds involved in the business relationship or one-off transaction;
- › measures to conduct the enhanced ongoing monitoring of that relationship; and
- › if the relevant business relationship relates to a life insurance policy, measures requiring the senior management to be informed before any payment is made under the policy or any right vested under the policy is exercised.

enhanced ongoing monitoring means ongoing monitoring that involves specific and adequate measures to compensate for the higher risk of money laundering.

high risk in relation to a business relationship or one-off transaction, means any situation which by its nature can present a higher risk of money laundering.

source of wealth means the source generating the total net worth of funds of the politically exposed person, whether those funds are used in the business relationship or one-off transaction.

AML/CFT Code of Practice

47.45 Policies and procedures maintained in line with Article 11 of the *Money Laundering Order* must recognise that clients may subsequently acquire *PEP* status.

Guidance Notes – foreign PEPs

48.46 Where the existence of *PEPs* is considered to be a practical issue, a firm may demonstrate that it has appropriate *policies and procedures* for determining whether a client or prescribed person is a *PEP* where it:

- › assesses those countries and territories with which clients are connected, which pose the highest risk of corruption. See Section 3.3.4.1.
- › finds out who are the current and former holders of prominent public functions within those higher risk countries and territories and determines, as far as is reasonably practicable, whether or not clients have any connections with such individuals (including through immediate family or close associates). In determining who are the current and former holders of prominent public functions, it may have regard to information already held by the firm and to external information sources such as the *UN*, the European Parliament, the UK Foreign and Commonwealth Office, the Group of States Against Corruption, and other external data sources.
- › exercises vigilance where clients are involved in business sectors that are vulnerable to corruption such as, but not limited to, oil or arms sales.

49.47 Where a firm runs the details of all its clients and prescribed persons through an external data source to determine whether any is a *PEP*, it should nevertheless assess those countries and territories which pose the highest risk of corruption and exercise particular vigilance where clients are involved in business sectors that are vulnerable to corruption such as, but not limited to, oil or arms sales.

50.48 In a case where a *PEP* is a director (or equivalent) of a client, or person acting, or purporting to act for a client, and where no property of that *PEP* is handled in the particular business relationship or one-off transaction, a firm may demonstrate that it applies specific and adequate measures under Article ~~15(5A)~~**15A(2)** of the *Money Laundering Order* where it considers the nature of the *PEP*'s role and reason why the *PEP* has such a role.

51.49 Similarly, where a *PEP* is a trustee or a general partner that is a client, or is a beneficiary or object of a power of a trust, and where no property of that *PEP* is handled in the particular business relationship or one-off transaction, a firm may demonstrate that it applies specific and adequate measures under Article ~~15(5A)~~**15A(2)** of the *Money Laundering Order* where it considers the nature of the *PEP*'s connection and reason why the *PEP* has such a connection.

NON-RESIDENT CLIENT Guidance Notes - domestic PEPs

50. In determining whether someone is a domestic *PEP*, a firm should consider the criterion set out at Article 15A(3) – namely that a *PEP* is an individual who is or has been entrusted with a prominent public function; for example –

- › heads of state, heads of government, senior politicians,

- › senior government, judicial or military officials,
- › senior executives of state owned corporations,
- › important political party officials.

51. In the context of Jersey, this will include (but is not limited to) the following:

- › Lieutenant-Governor
- › Ministers (but not necessarily deputy Ministers)
- › Chief Executive of the States of Jersey
- › Director-Generals of the States of Jersey
- › Attorney-General
- › Solicitor-General
- › Commissioners of the Jersey Financial Services Commission
- › Director General of the Jersey Financial Services Commission
- › Registrar of Companies
- › Information Commissioner
- › Comptroller and Auditor-General
- › Bailiff
- › Deputy Bailiff
- › Judicial Greffier
- › Comptroller of Revenue
- › HM Receiver General
- › Senior Executives of State Owned Body Corporates (or similar)

52. Note that this will also include immediate family members and close associates of individuals listed above.

Higher Risk Domestic PEPs

53. Mandatory enhanced measures are only required in relation to higher risk relationships or transactions with domestic PEPs, as set out in Article 15A(1)(b).

54. Individuals entrusted with a prominent public function in Jersey may be considered to pose a low risk, unless a firm considers that other specific risk factors indicate a higher risk. Particular consideration should be given to the following characteristics that might indicate a higher risk:

- › responsibility for, or ability to influence, large public procurement exercises;
- › responsibility for, or ability to influence, allocation of government licenses (or similar);
- › personal wealth or lifestyle inconsistent with known legitimate sources of income or wealth;
- › credible allegations of financial misconduct.

55. Similarly, immediate family or close associates of individuals entrusted with a prominent public function in Jersey may be considered to pose a low risk, unless a firm considers that other specific risk factors indicate a higher risk. Particular consideration should be given to the following characteristics that might indicate a higher risk:

- › wealth or lifestyle inconsistent with known legitimate sources of income or wealth;

- › credible allegations of financial misconduct;
- › wealth derived from the granting of government licences (or similar);
- › wealth derived from preferential access to the privatisation of former state assets.

7.7 Non –resident client

Overview

52-56. Clients who are not resident in a country or territory but who nevertheless seek to form a business relationship or conduct a one-off transaction with a firm in that country or territory will typically have legitimate reasons for doing so. Some clients will, however, pose a risk of *money laundering* or the financing of terrorism and may be attempting to move illicit funds away from their country or territory of residence or attempting to further conceal funds sourced from that country or territory.

Statutory Requirements

57. Under Article 15(1)(a) of the Money Laundering Order, if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the firm and the firm is not resident in the customer's country of residence or in the same country as the country from which, or from within which, the customer is carrying on business, a firm must apply enhanced CDD measures on a risk-sensitive basis.

Guidance Notes

53-58. A firm may demonstrate that it has applied enhanced CDD measures under Article 15(1)(a) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk. Additional measures may include one or more of the following:

- › determining the reasons why the client is looking to establish a business relationship or carry out a one-off transaction other than in their home country or territory;
- › the use of external data sources to collect information on the client and the particular country risk in order to build a client business and risk profile similar to that available for a resident client.

7.67.8 Client provided with private banking services

Overview

54-59. Private banking is generally understood to be the provision of banking and investment services to high net worth clients in a closely managed relationship. It often involves complex, bespoke arrangements and high value transactions across multiple countries and territories. Such clients may therefore present a higher risk of *money laundering* or the financing of terrorism.

55-60. For the avoidance of doubt, a trustee who may from time to time facilitate such banking or ~~investments~~investment services as part of carrying on trust company business is not considered to be providing private banking services, where such facilitation is ancillary to the core business of acting as a trustee.

Statutory Requirements

- 61.** Under Article 15(1)(f) of the Money Laundering Order if the firm provides or proposes to provide a customer with private banking services, a firm must apply enhanced CDD on a risk sensitive basis.
- 62.** Under Article 15(3), a service is a **private banking service** if the service is offered, or it is proposed to offer the service, only to persons identified by the service provider as being eligible for the service, having regard to the person's net worth, and the service –

- a) involves a high value investment;
- b) is a non-standard banking or investment service tailored to the person's needs, or uses corporate or trust investment structures, tailored to the person's needs; or
- c) offers opportunities for investment in more than one jurisdiction.

Guidance Notes

56-63. A firm may demonstrate that it has applied enhanced CDD measures under Article 15(1)(f) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk. Additional measures may include:

- › taking reasonable measures to find out the *source of funds* and *source of wealth* ~~in line with paragraphs 23 and 24 above;~~
- › reviewing the business relationship on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up to date and relevant;
- › where monitoring thresholds are used, setting lower thresholds for transactions connected with the business relationship.

7.77.9 Client that is a personal asset holding vehicle

OVERVIEW

Overview

57-64. Personal asset holding vehicles are legal persons or legal arrangements established by individuals for the specific purpose of holding assets for investment. The use of such persons or arrangements may make identification of ultimate beneficial owners more difficult since layering of ownership may conceal the true source or controller of the investment.

Statutory Requirements

- 65.** ~~Article 15(101)(e) of the Money Laundering Order is intended to apply in two specific scenarios:~~
- ~~Firstly, where:~~
- › ~~the personal asset holding vehicle is the client.~~ ~~Secondly, where:~~
 - › the personal asset holding vehicle is the third party for whom a trustee or general partner (the client) is acting.

Guidance Notes

58-66. A firm may demonstrate that it has applied enhanced CDD measures under Article 15(1)(e) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk. Additional measures may include:

- › determining the purpose and rationale for making use of such a vehicle, and being satisfied that the client's use of such an investment vehicle has a genuine and legitimate purpose.
- › taking reasonable measures to find out the *source of funds* and *source of wealth* ~~in line with paragraphs 23 and 24 above.~~

7.87.10 Client that is a company with nominee shareholders or issues bearer shares

Overview

59-67. Companies with nominee shareholders or bearer shares (or the ability to issue bearer shares in the future) may present a higher risk because such arrangements make it possible to hide the

identity of the beneficial owner(s) and/or changes in beneficial ownership by separating legal and beneficial ownership, or because there is no trail of ownership, which introduces a degree of anonymity.

60-68. Notwithstanding this, nominee shareholders are often used for good and legitimate reasons, e.g. to ease administration and reduce client costs by enabling a nominee to take necessary corporate actions, such as the passing of resolutions, in the day to day administration of a corporate structure.

61-69. Where one or more of the following circumstances apply, the client should not be considered to be a client that issues bearer shares for the purpose of Article 15(~~11~~)(d) of the *Money Laundering Order*:

- › the bearer shares are issued by a company in a country or territory that has fully enacted appropriate legislation to require bearer shares to be registered in a public registry and the bearer shares are so registered; or
- › the bearer shares are traded on an approved stock exchange; or
- › all issued bearer shares are held in the custody of the firm, the client or trusted external party along with an undertaking from that trusted external party or client to inform the firm of any transfer or change in ownership.

Statutory Requirements

70. Under Article 15(1)(d) of the Money Laundering Order, if a customer of a firm is a company with nominee shareholders or that issues shares in bearer form, a firm must apply enhanced CDD measures on a risk-sensitive basis.

Guidance Notes

62-71. A firm may demonstrate that it has applied enhanced CDD measures under Article 15(1)(d) of the *Money Laundering Order*, where it has applied additional measures that are commensurate with risk.

63-72. In the case of clients who are companies with nominee shareholders, additional measures may include:

- › determining and being satisfied with the reasons why the client is making use of nominees; and
- › using external data sources to collect information on the fitness and propriety of the nominee (such as its regulated status and reputation) and the particular country risk.

64-73. In the case of clients who are companies with bearer shares (or the ability to issue bearer shares in the future), additional measures may include:

- › determining and being satisfied with the reasons why the client has issued bearer shares or retains the ability to do so;
- › ensuring that any new or continued relationship or any one-off transaction is approved by the senior management of the firm; and
- › reviewing the business relationship on at least an annual basis, including all documents, data and information obtained under *identification measures* in order to ensure that they are kept up to date and relevant.

7.97.11 Enhanced CDD measures - transitional arrangements

OVERVIEW

Overview

~~65.74.~~ Where amendments to the *Money Laundering Order* introduce new CDD requirements applicable to client relationships and one-off transactions, these requirements do not apply retrospectively and no remediation project is required.

~~66.75.~~ However, Article 13(1)(c)(ii) of the *Money Laundering Order* requires a firm to apply *identification measures* where the firm has doubts about the veracity or adequacy of documents, data or information previously obtained.

~~67.76.~~ This means that where, during the course of its regular review of a business relationship (pursuant to Article 3(3)(b) of the *Money Laundering Order* and discussed at Section 3.4 of the *AML/CFT Handbook*) a firm becomes aware that documents, data or information previously obtained do not satisfy the additional CDD requirements ~~added to Article 15 by set out in~~ the *Money Laundering (Amendment No. 710) (Jersey) Order 2014/2019*, the firm will need to apply enhanced CDD measures to that customer at that time, in line with the requirement in Article 13(1)(c)(ii) of the *Money Laundering Order*.

7.1 APPLICATION OF SIMPLIFIED identification measures

Overview

7.12 Exemptions from CDD requirements

Overview

~~77.~~ Part 3A of the *Money Laundering Order* ~~provide~~provides for the ~~identification measures~~exemptions from CDD requirements that ~~must be applied under to be~~ simplified~~apply~~ in some strictly limited circumstances. ~~Simplification is limited to some or all of the identification measures, as set out in Article 3(2)(a) to (c) of the Money Laundering Order. A combination of Articles 1717B -17D and 18 and AML/CFT Codes.~~

~~68.78.~~ Article 17A provides circumstances in which exemptions under this Part do not permit simplified measures to be applied to the requirement to obtain information on the purpose and intended nature of a business relationship or one-off transaction (Article 3(2)(d) of the *Money Laundering Order*), nor to on-going monitoring (Article 3(3)). ~~apply, namely where:~~

- ~~a)~~ Simplified identification measures cannot be applied in any case where a the firm suspects money laundering ~~or financing of terrorism, in any case where a firm;~~
- ~~b)~~ the firm considers that there is a higher risk of money laundering ~~or financing of terrorism (see Section 7.13.1), where the client has a;~~
- ~~a)c)~~ the relevant ~~connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures (see Section 7.5), or where the client customer~~ is resident in a country ~~or territory~~ that is not compliant with the FATF Recommendations; ~~or~~

~~69.~~ A country or territory is not complaint with the FATF Recommendations where it is listed in ~~or~~ sources 1 and 2 in Appendix D2.

7.2 SIMPLIFIED IDENTIFICATION MEASURES — ARTICLE 17

overview

~~70.~~ of the *Money Laundering Order* requires a firm to determine whether the client is acting for any third party (or parties), and if so, requires the firm to find out the identity of, and obtain evidence for, the identity of the third party (or parties) and beneficial owners and controllers.

71. ~~However, where a client meets the criteria outlined in (1) of the Money Laundering Order, Article 17 provides that a firm need not find out the identity of, or obtain evidence of identity for, a third party (or parties), so long as: (i) certain conditions are complied with (and, in some cases, assurances provided are tested by the firm); and (ii) the firm collects basic identity information concerning any significant third party (or parties).~~
72. ~~In practice, a client may be acting for one or more third parties. A relationship established by a client on behalf of one third party, including a relationship involving sub-accounts for each third party, may be described as a **designated relationship**. A relationship established by a client on behalf of more than one third party may be described as a **pooled relationship**.~~
73. ~~Examples of pooled relationships include:~~
- ~~➤ Stock brokers and investment management firms acting as nominees for underlying investors.~~
 - ~~➤ Trustees unit trusts, and general partners of limited partnerships that wish to establish banking facilities for a collective investment fund.~~
 - ~~➤ Client accounts operated by trust companies, investment managers, lawyers and accountants.~~
74. ~~A relationship may also be established by a client with the intention that it be used to carry out transactions on behalf of one or more third parties, where no assets are held by the client when acting for that third party. In this case, referred to as an **executionary relationship**, there may be no third parties to identify at the time that the relationship is established and simplified identification measures are applied.~~
75. ~~In the case of a **designated relationship**, the firm must collect basic identity information concerning the third party immediately before applying simplified measures, i.e. before the establishment of a business relationship or before carrying out a one-off transaction or when Article 13(1)(c)(ii) applies (because there are doubts about the veracity or adequacy of documents, data or information previously obtained).~~
76. ~~In the case of a **pooled relationship**, the determination of significant third parties and collection of basic identity information concerning all third parties with significant holdings must be carried out immediately before applying simplified identification measures, i.e. before the establishment of a business relationship or before carrying out a one-off transaction, or when Article 13(1)(c)(ii) applies (because there are doubts about the veracity or adequacy of documents, data or information previously obtained).~~
77. ~~It will be for a firm to decide to what extent simplified identification measures may be applied. For example, following an assessment of risk, a firm may still wish to obtain information that is additional to basic information, and evidence of identity for a third party, or may rule out the use of pooling in certain cases.~~
78. ~~Where CDD information or evidence of identity is passed by a client to a firm in order to comply with requirements to counter money laundering and the financing of terrorism, the Data Protection (Jersey) Law 2005 restricts the use of the information to that purpose, except where another condition for processing personal data applies.~~

statutory requirements

79. ~~In some strictly limited cases, Article 17 of the Money Laundering Order provides that a relevant person need not apply the requirement in Article 13 of the Money Laundering Order to find out the identity of, and obtain evidence of identity for, the third party (or parties) for which the customer acts before a relationship is established or one-off transaction is carried out, so long as it collects basic identity information concerning any significant third party (or parties).~~

- ~~80. Article 17 of the Money Laundering Order permits a relevant person to apply simplified identification measures in **five cases** where it has reasonable grounds for believing that its customer is:~~
- ~~d) A ~~relevant person~~ the relevant customer is a person in respect of whom Article 15(1)(c) applies.~~
79. In addition to the above a firm is not exempt under Articles 17B - 17D from applying third party identification requirements if the relevant customer is a person in respect of whom Article 15B(1) applies with regards to a relevant person who has or proposes to have a banking or similar relationship with an institution whose address for that purpose is outside Jersey.
80. For the purpose of Part 3A, **relevant customer** means a customer of a firm that the firm knows or reasonably believes is –
- a) a firm in respect of whose *financial services business* the Commission discharges supervisory functions, or a person carrying on *equivalent business*; or
- b) a person wholly owned by a firm specified in sub-paragraph (a) (the “parent”), but only if –
- i) the person is incorporated or registered in the same jurisdiction as the parent,
- ii) the person has no customers who are not customers of the parent,
- ~~iii) the person’s activity is ancillary to the business in respect of which the Commission discharges supervisory functions in respect of the financial services, or to equivalent business that it carries~~ carried on; by the parent, and
- ~~iv) A person who carries on equivalent business (refer in relation to Section 1.7); or~~
- ~~iv) A person who is wholly owned by a person listed above and: (i) is incorporated or registered in the same country or territory as its parent; (ii) has no customers who are not also customers of its parent; (iii) carries on activities that are ancillary to the business of its parent; and (iv) in respect of that activity, the person maintains the same policies and procedures as the parent;~~
- ~~a) Under **Case 1** (Article 17(3) of the Money Laundering Order), a relevant person need not, if that person thinks appropriate, comply with the obligation under Articles 13 and 15 **third party identification requirements** means the requirements of Article 13 or 15, 15A, 15B to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting, where its customer (or the parent of its customer):~~
- ~~carries on deposit-taking business, insurance business, funds services business, investment business, and is registered by the Commission to do so; or~~
- ~~holds a permit or certificate under the **non-public fund** means a scheme falling within the definition of “collective investment fund” in Article 3 of the Collective Investment Funds (Jersey) Law 1988 (1984, except that the “**CIF(J) Law**”); or~~
- ~~carries on equivalent business to any category described in this paragraph~~
81. Under **Case 2** (Article 17(5) offer of units in the Money Laundering Order), a relevant person need not, if that person thinks appropriate and is satisfied by reason of the nature of the relationship that there is little risk of money laundering occurring, comply with the obligation under Articles 13 and 15 to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting, where its customer:
- ~~b) d) is, or acts in respect of, an unregulated fund (as defined in the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008), or scheme or arrangement that would be a collective investment scheme (as defined in the CIF(J) Law) but for the fact that there is not an offer to the public within the meaning of units; or that Article.~~
- ~~carries on equivalent business to any category described in this paragraph.~~

7.13 Exemption from applying third party identification requirements in relation to relevant customers acting in certain regulated, investment or fund services business

Statutory Requirements

81. ~~Under **Case 3** (Article 17(6) of the Money Laundering Order), a firm is exempt from applying third party identification requirements in relation to a third party for which a relevant person who is carrying on deposit-taking business is acting where the relevant customer is acting in the course of a business need not, if –~~
- ~~› that person thinks appropriate and is satisfied by reason of the nature of the relationship falls within paragraph (a), (b) or (d) in the definition of the relationship “regulated business”, or equivalent business; or~~
 - ~~› that there is little risk of money laundering occurring, comply with the obligation under Articles 13 and 15 to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting where that type of business should the relevant customer fail to –~~
82. ~~Under Article 17B(2) of the Money Laundering Order, a firm must record the reasons for applying the exemption, having regard to the risk of money laundering occurring, comply with the obligation under Articles 13 and 15 to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting where:~~
- ~~› its customer is carrying on trust company business, and is registered to do so by the Commission; or~~
 - ~~› its customer is carrying on equivalent business to the category described in this paragraph.~~
83. ~~Under **Case 4** (Article 17(7) of the Money Laundering Order), a relevant person that is carrying on deposit-taking business need not, if that person thinks appropriate and is satisfied by reason of the nature of the relationship that there is little risk of money laundering occurring, comply with the obligation under Articles 13 and 15 to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting where:~~
- ~~› its customer is a lawyer carrying on business that is described in Paragraph 1 of Part B of Schedule 2 of the Proceeds of Crime Law, and is registered to do so by the Commission; or~~
 - ~~› its customer is carrying on equivalent business to the category described in this paragraph.~~
84. ~~Under **Case 5** (Article 17(8) of the Money Laundering Order), a relevant person that is a lawyer or accountant carrying on business that is described in Paragraphs 1 or 2 (respectively) of Part B of Schedule 2 of the Proceeds of Crime Law need not, if that person thinks appropriate and is satisfied by reason of the nature of the relationship that there is little risk of money laundering occurring, comply with the obligation under Articles 13 and 15 to apply the identification measures specified in Article 3(2)(b) to the third party (or parties) for which its customer is acting where:~~
- ~~› its client is carrying on trust company business, and is registered to do so by the Commission; or~~
 - ~~› its client is carrying on equivalent business to the category described in this paragraph.~~
85. ~~The application of simplified Jersey, similar identification measures is always subject to one or more conditions (depending on the particular case).~~
86. ~~One condition (Article 17(4) and (9)(a) of the Money Laundering Order) must be satisfied for all of Cases 1 to 5 in order for simplified identification measures required to be applied. The condition is that, immediately before applying simplified identification measures, the relevant person assesses and makes a written record as to the reason why it is appropriate to apply~~

| | |
|-----|--|
| | simplified measures having regard to the client's business and the risk of money laundering. See Section 7.13.1 below. |
| 87. | Two further conditions must be satisfied for Cases 2 to 5 in order for simplified identification measures to be applied. These are explained in paragraphs 91 to 93 below. |
| 88. | The second condition (Article 17(9)(b) of the Money Laundering Order) for Cases 2 to 5 is that, immediately before applying simplified identification measures, the relevant person obtains adequate assurance in writing that, in furtherance of its obligations under Article 13(1)(a) and 13(1)(c)(ii) and Article 15 of the Money Laundering Order, the client has applied the identification measures specified in Article 3(2)(b) of the Money Laundering Order to the third party (or parties) for which it is acting. |
| | a) Where a client is a person who carries on equivalent business, the assurance should confirm instead that the customer has applied CDD measures that <u>to satisfy former the requirements in Recommendation 10 of the FATF recommendations 5 and 6;</u> or |
| 89. | The third condition (Article 17(9)(c) of the Money Laundering Order) for Cases 2 to 5 is that, immediately before applying simplified identification measures, the relevant person obtains adequate assurance in writing that the customer will: |
| | ➤ Provide in writing to the relevant person, at its request and without delay, the information found out by the client as a result of it having applied the necessary identification measures; |
| | ➤ Keep evidence obtained under those identification measures; and |
| | ➤ Provide to the relevant person at its request, and without delay, that evidence. |
| 90. | For Cases 2 to 5, the application of simplified identification measures must also be subject to testing of assurances provided under Article 17(9)(b) and (c). Under Article 17(10)(a) of the Money Laundering Order, a relevant person must conduct tests in such manner and at such intervals as the relevant person deems appropriate in order to establish whether the client: |
| | ➤ has appropriate policies and procedures in place to apply the identification measures set out in Article 13(1)(a) and 13(1)(c)(ii) and Article 15 of the Money Laundering Order (or, in the case of a client that is outside Jersey, similar identification measures that satisfy the FATF Recommendations); |
| | ➤ finds out information about the third party (or parties); |
| | ➤ keeps the information found out or evidence of identity obtained during the course of applying identification measures in respect of the third party (or parties); and |
| | ➤ provides the information found out or evidence without delay when requested to do so. |
| 91. | Under Article 17(10)(b) of the Money Laundering Order, testing should take into consideration whether a customer may be prevented, by application of law, from providing the information or evidence, e.g. secrecy legislation. |
| 92. | Where, as a result of a test carried out, a relevant person is not satisfied that the customer has found out information in relation to the third party (or parties), keeps information or evidence, or will provide it without delay if requested to do so, Article 17(11) of the Money Laundering Order requires that it must apply identification measures in line with Article 13(1)(a) and 13(1)(c)(ii) of the Money Laundering Order. |
| 93. | Article 17(13) of the Money Laundering Order provides that written assurances may be provided each time that simplified identification measures are applied or through a more general arrangement with a customer that has an element of duration, e.g. terms of business. |
| 94. | When relying on this Article, Article 17(9A) of the Money Laundering Order provides that, before applying simplified identification measures, a relevant person must do the following: |

- ~~➤ Consider the value and extent of each third party's financial interest in the product, arrangement, account or other investment vehicle offered to the client by the relevant person, and~~
- ~~➤ Where the relevant person considers that the value or financial interest of the third party is significant, find out the identity of that person.~~
- ~~b) Article 17(14) of the Money Laundering Order states that a relevant person may not apply simplified identification measures where it suspects money laundering, in any situation which by its nature can present a higher risk of money laundering, where the client has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures, or where the customer is resident in a country that is not compliant with FATF Recommendations. keep records, or keep them for the period required to be kept.~~

AML/CFT Code of Practice

95-83. A firm must be able to demonstrate that the conditions required by the *Money Laundering Order* are met.

7.14 Exemption from applying third party identification requirements in relation to relevant customers acting in certain regulated, investment or fund services business

Statutory Requirements

- 84.** Under Article 17C(1) of the Money Laundering Order a firm is exempt from applying third party identification requirements in relation to a third party for which a relevant customer is acting if the relevant customer –
- a) is, or carries on business in respect of, an unregulated fund, within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008, or equivalent business;
 - b) is, or carries on business in respect of, a fund that is a non-public fund, being a fund in respect of which a service is provided that is described in paragraph 7(1)(h) of Part B of Schedule 2 to the Law, or equivalent business;
 - c) carries on trust company business and is registered to carry on such business under the Financial Services (Jersey) Law 19987, or equivalent business, but only if the firm is –
 - i) carrying on deposit-taking business,
 - ii) a lawyer carrying on business described in paragraph 1 of Part B of Schedule 2 to the Law, or
 - iii) an accountant carrying on a business described in paragraph 2 of Part B of Schedule 2 to the Law; or
 - d) is an independent legal professional carrying on a business described in paragraph 1 of Part B of Schedule 2 to the Law and is registered to carry on such business under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, but only if the firm is carrying on deposit-taking business.
- 85.** Under Article 17C(2), a firm who does not apply third party identification requirements must –
- a) be satisfied, by reason of the nature of the relationship with the relevant customer, that there is **little risk** of money laundering occurring; and

- b) obtain adequate assurance in writing from the relevant customer that the relevant customer –
- i) has applied the identification measures specified in Article 3(2)(b) to the third party, or if the relevant customer is not in Jersey, has applied similar identification measures that would satisfy the requirements in Recommendations 10 and 12 of the FATF recommendations,
 - ii) will provide the firm, without delay and in writing, with the information obtained from applying the identification measures, if so requested by the firm,
 - iii) will keep the evidence obtained during the course of applying the identification measures, and
 - iv) will provide the firm with that evidence without delay, if requested to do so by the firm.

86. Under Article 17C(3) the following requirements to adequate assurance apply:

- a) assurance is adequate if it is reasonably capable of being regarded as reliable and the person who relies on it is satisfied that it is reliable;
- b) assurance may be given in relation to one or more business relationships and for more than one transaction; and
- c) assurance need not be given before deciding not to comply with third party requirements if an assurance has previously been given by that customer to the firm in relation to a business relationship or transaction.

87. Article 17C(4) provides that a relevant person (including a person who was formerly a relevant person) who has given an assurance to another person under paragraph (2)(b) (or under an equivalent provision that applies outside Jersey) may, if requested by the other person, provide the person with the information or evidence obtained from applying the identification measures referred to in paragraph (2)(b)(i) (see paragraph 97 above).

Guidance Notes

88. In relation to the exemption set out at Article 17C(1)(a) or (b) of the Money Laundering Order, a firm may be satisfied that there is little risk of money laundering or the financing of terrorism occurring where a particular fund is closed-ended, has no liquid market for its units, and permits subscriptions and redemptions to come from and be returned only to unitholders.

~~96-99.~~ A firm may demonstrate that it has found out the identity of a significant third party where:

- › for lower risk relationships, it has found out the identity of each third party whose financial interest is over a general threshold of 25%.

~~97-90.~~ For the purposes of Article ~~17~~17C(9A) of the Money Laundering Order, a firm may demonstrate that it has found out the identity of a third party where:

- › For third parties who are natural persons - it finds out the name, address and date of birth of the third party.
- › For third parties who are legal persons or legal arrangements – it finds out the name, date and country of incorporation (or equivalent) and registered office address (or equivalent) of the third party.

~~98. For Case 2, a firm may be satisfied that there is little risk of money laundering or finance of terrorism occurring where a particular fund is closed-ended, has no liquid market for its units, and permits subscriptions and redemptions to come from and be returned only to unitholders~~

~~99. Case 3 cannot be applied by an accountancy firm.~~

~~100. Case 4 cannot be applied by an accountancy firm.~~

~~101.91.~~ For ~~Case 5~~, provided the requirements of exemption set out at Article ~~17~~17C(1)(c)(iii) of the Money Laundering Order ~~are met~~, a firm may demonstrate that by reason of the nature of the relationship with the client that there is little risk of money laundering or ~~terrorist~~the financing of terrorism occurring where the service provided to a trust company business client is the provision of:

~~the service is the provision of:~~

- › generic information on Jersey accounting requirements for the preparation of financial statements; or
- › generic information on Jersey tax requirements; and
- › it considers the extent of the service provided.

~~102.92.~~ A firm may demonstrate that it has considered the extent of the service provided when it considers:

- › the extent of any further explanation of the Jersey accounting or tax requirements that may subsequently be needed; and
- › the fee that is to be charged.

~~103.93.~~ For example, the provision of generic information on Jersey accounting or tax requirements, to a person carrying on trust company business, that requires no more than an explanation of a Jersey accounting or tax requirement and which attracts a nominal fee, may be illustrative of a service which presents little opportunity for money laundering to occur. Whereas, by contrast, the provision of detailed and complex tax structuring services that requires detailed information of the person or arrangement in question to be collected and which attracts more than a nominal fee, may not.

~~104.~~ A firm may demonstrate that a client will provide information or evidence of identity in relation to a third party without delay where it is made available within 5 working days of a request.

7.9.17.14.1 Assessment of risk

overview

Overview

~~105.94.~~ The risk factors that are set out in this section will also be relevant to a client risk assessment that is conducted under Section 3.3.4.1 in the cases highlighted at Section 4.4 (paragraph 67) and Section 4.5 (paragraph 116).

Statutory requirements

~~106.95.~~ Immediately before applying ~~simplified identification measures~~, ~~(4the exemptions set out in Part 3A, Article 17B(2) and 17(9)(a)17D(2) of the Money Laundering Order requires a relevant person, a firm is required~~ to conduct an assessment as to whether it is appropriate to do so, having regard to the customer's business and the higher risk of money laundering and the financing of terrorism, should the customer fail to:

- › apply the necessary identification measures to its customer(s); or
- › keep records, or keep them for the period required to be kept.

~~96.~~ Article ~~17(4)17B(2) and 17(9)(17D(2) require a)requires a relevant person- firm~~ to prepare a written record of the reason why it is appropriate to apply simplified CDD exemptions.

~~97.~~ Article 17D(3) of the Money Laundering Order also provides testing requirements for application of CDD exemptions under Article 17C. Under Article 17D(3) a relevant person must, in the manner, and as often as, the relevant person considers appropriate in all the circumstances, conduct tests in order to establish whether the relevant customer –

- a) has appropriate policies and procedures in place to apply the identification measures described in Articles 13(1)(a), 13(1)(c)(ii) and 15 (or if the relevant customer is not in Jersey, similar identification measures that satisfy the FATF recommendations in respect of identification measures);

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- b) obtains information in relation to the third party;
- c) keeps the information or evidence that has been obtained in relation to the third party; and
- d) provides the relevant person with that information or evidence without delay, if requested to do so by the relevant person, and in conducting such tests, consider whether the relevant customer may be prevented, by application of a law, from providing that information or evidence.

98. As a result of conducting tests, if the relevant person is unable to establish that the relevant customer complies with the above requirements under Article 17D (3)(b), (c) or (d), the relevant person must immediately apply the identification measures specified in Article 13(1)(a) and 13(1)(c)(iii).

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~~107.~~99. In a case where, for a particular business relationship, testing under Article ~~17(1017D(3))~~ of the *Money Laundering Order* highlights that a client has not found out information or obtained evidence of identity for a third party (or parties), does not keep that information or evidence of identity, or will not provide it on request and without delay when requested to do so, a firm must review the basis upon which it has applied ~~simplified identification measures~~CDD exemptions to other relationships with that particular client (if any) in order to determine whether it is still appropriate to apply those measures.

Guidance Notes

~~108.~~100. Immediately before applying ~~simplified identification measures~~the exemption under this Part, a firm may demonstrate that it has had regard to a client's business where it considers the following factors:

- › the general risk appetite of its client;
- › the geographic location of its client's customer base;
- › the general nature of the client's customer base, e.g. whether institutional or private client;
- › the nature of the services that the client provides to its customers;
- › the extent to which its client carries on business with its own customers on a non-face to face basis or customers are otherwise subject to enhanced CDD measures; and
- › the extent to which customers of its client may be PEPs or present a higher risk of money laundering or the financing of terrorism, and the ~~source~~source of funds of such PEPs.

~~109.~~101. Immediately before applying ~~simplified identification measures~~the exemption under this Part, a firm may demonstrate that it has had regard for the higher risk of money laundering and the financing of terrorism should its client fail to apply *identification measures*, keep records, or keep records for the required period where it considers the following factors:

- › The stature and regulatory track record of its client.
- › The adequacy of the framework to combat money laundering and the financing of terrorism (including for the avoidance of doubt, financial sanctions) in place in the country or territory in which its client is based and the period of time that the framework has been in place.

- › The adequacy of the supervisory regime to combat *money laundering* and the financing of terrorism to which its client is subject.
- › The adequacy of *identification measures* applied by its client to combat *money laundering* and the financing of terrorism.
- › The extent to which the client itself relies on obliged parties (however described) to identify its customers and to hold evidence of identity, and whether such obliged parties are *relevant persons* or carry on an *equivalent business*.

110.102. A firm may demonstrate that it has considered the adequacy of *identification measures* applied by its client where it takes one or more of the following steps:

- › Reviews previous experience (if any) with the client.
- › Makes specific enquiries, e.g. through use of a questionnaire or series of questions.
- › Reviews relevant *policies and procedures*.
- › Where the client is a member of a financial group, makes enquiries concerning the extent to which group standards are applied to and assessed by the group's internal audit function.
- › Conducts (or commissions from an external expert) sample testing of the adequacy of the client's *policies and procedures* to combat *money laundering* and the financing of terrorism, whether through onsite visits, or through requesting specific CDD information and/or copy documentation to be provided.

7.15 Further exemptions from applying identification requirements

Overview

~~7.3 Simplified CDD Measures Transitional Arrangements~~

~~OVERVIEW~~

- ~~111. Article 17(9A) of the Money Laundering Order introduces a new requirement to be fulfilled in order to apply simplified identification measures under Article 17. This requirement does not apply retrospectively, so no remediation project is required.~~
- ~~112. However, Article 13(1)(c)(ii) of the Money Laundering Order requires a firm to apply identification measures where the firm person has doubts about the veracity or adequacy of documents, data or information previously obtained.~~
- ~~113. This means that where, during the course of its regular review of a business relationship (pursuant to Article 3(3)(b) of the Money Laundering Order and discussed at Section 3.4 of the AML/CFT Handbook) a firm becomes aware that documents, data or information previously obtained (and relied upon to determine that the application of simplified identification measures was appropriate) are not accurate, adequate or current, the firm will need to apply identification measures in line with the requirement in Article 13(1)(c)(ii) of the Money Laundering Order. This will include collecting basic information on each significant third party at that time, i.e. immediately before formally resolving to continue to apply simplified identification measures.~~
- ~~114. In relation to a **designated relationship**, this means that a firm will need to collect basic information on the third party once (except where basic information held changes).~~
- ~~115. In relation to a **pooled or executionary relationship**, this means that a firm will need to determine which third parties are significant each time it formally resolves to continue to apply simplified identification measures and collect basic information on each.~~

~~116. Where a firm reviews a business relationship (pursuant to Article 3(3)(b) of the Money Laundering Order and discussed at Section 3.4 of the AML/CFT Handbook) and continues to be satisfied at that time about the veracity or adequacy of documents, data or information previously obtained (and relied upon to determine that the application of simplified identification measures was appropriate), there is no need to apply identification measures, so no need to collect basic identity information on significant third parties.~~

Overview

~~117-103.~~ of the Money Laundering Order provides ~~for~~ specified circumstances where exemptions from applying identification measures required under Article 13 to requirements may be simplified in some prescribed cases used.

Statutory Requirements

Case ~~B~~1. Insurance business

~~118. Under Article 18(3) of the Money Laundering Order, 1), a relevant person need not apply identification measures where the business relationship or one-off transaction relates to a pension, superannuation, employee benefit, share option or similar scheme:~~

- ~~→ where contributions are made by an employer or by way of a deduction from wages; and~~
- ~~→ the scheme rules do not permit the assignment of members' interests under the scheme except after the death of the member.~~

~~119. However, where it is proposed to assign the interest of a deceased member, the trustee of that scheme must first apply identification measures is exempt from applying the identification measures specified in Article 13 in respect of the proposed assignee.~~

Cases C to E

~~104. Under Article 18(4), (5) and (6) of the Money Laundering Order, a relevant person need not apply identification measures when the application is for an insurance business if –~~

~~120. in the case of a policy~~

- ~~a) taken out of insurance in connection with a pension scheme relating to the customer's taken out by virtue of a person's contract of employment or occupation, if the policy contains no surrender clause and cannot may not be used as collateral security for a loan; or~~
- ~~b) where the premium is a single payment of no more than payable in one instalment of an amount not exceeding £1,750; or~~
- ~~c) where the periodic premium payments do not exceed £750 in is payable and the total amount payable in respect of any calendar year does not exceed £750.~~

Other

Case 2. Pension, superannuation, employee benefit, share option or similar scheme

~~105. Under Article 18(6A) of the Money Laundering Order, 2), a relevant person need is exempt from applying the identification measures specified in Article 13 if –~~

- ~~a) the business relationship or one-off transaction relates to a pension, superannuation, employee benefit, share option or similar scheme;~~
- ~~b) the contributions to the scheme are made by an employer or by way of deductions from wages;~~
- ~~c) the rules of the scheme do not find out the identity of, or obtain evidence permit the assignment of identity for, an interest of a member of the scheme except after the death of the member; and~~

d) the interest of a deceased member of the scheme is not being assigned.

Case 3. Regulated person and those carrying on equivalent business

~~121.~~ **106.** Under Article 18(3), a relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(a), (aa) and (c) in relation to a customer, its beneficial owners and controllers, or any person purporting to act on its behalf, where if the customer is a Jersey public authority acting in that capacity.

~~122.~~ Under Article 18(6A) of the Money Laundering Order, a relevant person need not identify or obtain evidence for the identity of a customer, its beneficial owners and controllers, or any person purporting to act on its behalf, where the customer is a body corporate the securities of which are listed on

~~→ an IOSCO-compliant market; or~~

a) a regulated market (as defined); person;

~~123.~~ An IOSCO-compliant market is a market which, in line with standards set by IOSCO, requires that:

~~→ for traded securities, there must be full, accurate and timely disclosure of financial results, risk and other information which is material to investors' decisions; and~~

~~→ holders of traded securities should be treated in a fair and equitable manner.~~

~~124.~~ Article 18(6A) applies also to a customer that is wholly owned by a body corporate with listed securities.

~~125.~~ Under of the Money Laundering Order, a relevant person need not find out the identity of, or obtain evidence of identity for, a customer, its beneficial owners and controllers, or any person purporting to act on its behalf (including authority to do so), where the customer is:

~~→ a regulated person;~~

b) a person carrying out an a person who carries on equivalent business to any category of regulated business (refer to Section 1.7); or

c) a person wholly owned by a regulated person or person carrying on an equivalent business and: (i) (the "parent") mentioned in sub-paragraph (a) or (b), but only if –

i) the person is incorporated or registered in the same country or territory jurisdiction as its the parent; (ii)

ii) the person has no customers who are not also customers of its the parent; (iii) carries on activities that are,

iii) the person's activity is ancillary to the regulated business or equivalent business of its carried on by the parent; and (iv)

iv) in respect of relation to that activity, its the person maintains the same policies and procedures as its the parent.

~~Under Article 18(8) of the Money Laundering Order a relevant person need not find out the identity of, or obtain evidence of identity for, persons purporting to be~~
Case 4. Public authority or body corporate with listed securities

107. Under Article 18(4), a relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(a) and (aa) (in so far as those measures require identifying any person purporting to act on behalf of the customer), 3(2)(c)(ii) and 3(2)(c)(iii) in relation to a customer if the customer is –

a) a public authority acting in that capacity;

b) a body corporate the securities of which are listed on an IOSCO-compliant market or on a regulated market (within the meaning of Article 2(5)); or

c) a person wholly owned by a person mentioned in sub-paragraph (b).

Case 5. Person authorised to act on behalf of a customer ~~where the person who is so authorised acts~~

108. Under Article 18(5), a relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(aa) (in so far as those measures require identifying any person purporting to act on behalf of a customer) in relation to a person if –

a) the person is authorised to act on behalf of the customer;

b) the customer is not a relevant person;

c) the person acts on behalf of the customer in the course of employment by a person carrying on a financial services business; and

~~a)d) the financial services business that is is a regulated business or an equivalent business to a regulated person, or carries on equivalent business to any category of regulated business.business.~~

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~~126. Under Article 18(8A) of the Money Laundering Order a relevant person whose business falls within paragraph 1 or 3 of Part B of Schedule 2 to the Proceeds of Crime Law and that person enters into a business relationship or carries on a one-off transaction for the purpose of enabling a customer directly or indirectly to enter into a registered contract within the meaning of the Control of Housing and Work (Jersey) Law 2012, the relevant person need not obtain evidence of identity of its customer.~~

~~127. Article 18(9) of the Money Laundering Order states that a relevant person may not apply simplified identification measures where it suspects money laundering, in any situation which by its nature can present a higher risk of money laundering, where the customer has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures, or where the customer is resident in a country that is not compliant with FATF Recommendations.~~

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~~128.~~**109.** For ~~Cases B to E~~Each case described in Article 18 of the Money Laundering Order, a firm must obtain information on the purpose and intended nature of the business relationship or one-off transaction.

~~129.~~**110.** A firm must obtain and retain documentation establishing that the client is entitled to benefit from ~~a concession~~an exemption in Article 18 of the Money Laundering Order.

7.9.27.15.1 Pension, superannuation, employee benefit, share option or similar schemes

Overview

~~130.~~**111.** Where a firm enters into a business relationship or carries out a one-off transaction relating to a pension, superannuation, employee benefit, share option or similar scheme, in some limited circumstances there is no requirement to apply *identification measures*.

~~131.~~**112.** However, ~~simplified measures~~the exemption cannot be applied if a firm considers that there is a higher risk of *money laundering* or the financing of terrorism.

Guidance Note

~~132.~~**113.** A firm may demonstrate that it considers whether there is a higher risk of *money laundering* or the financing of terrorism when, inter alia, it considers the reputation of the sponsoring employer and adequacy of controls in place over membership.

7.9.37.15.2 Jersey Public Authority

Overview

Overview

~~133.~~114. Where a client is a public authority in Jersey, then, in line with Article 18(~~6A4~~)(a) of the *Money Laundering Order*, there is no requirement to apply *identification measures* on that ~~body~~ authority, on the beneficial owners and controllers of the authority, or those purporting to act on behalf of the authority.

~~134.~~115. However, the obligation to apply *identification measures* to any third party for which the authority may be acting and obligation to verify the authority of persons acting on behalf of the authority continue.

~~135.~~116. The following may be considered to be public authorities in Jersey:

- › A government department of the States of Jersey;
- › A majority States-owned company;
- › An agency established by a law of the States of Jersey; or
- › A parish authority.

7.9.47.15.3 Body corporate with listed securities

Overview

~~136.~~117. Where a client is a body corporate the securities of which are listed on a market that conforms to international standards set by *IOSCO* or on a regulated market (defined in Article 2(5)~~Article 2(5)~~ of the *Money Laundering Order*), then, in line with Article 18(4)(b) of the *Money Laundering Order*, there is no requirement to apply *identification measures* on that body corporate (or any wholly owned subsidiary), on the beneficial owners and controllers of the body (or any wholly owned subsidiary), or those purporting to act on behalf of the body corporate (or any wholly owned subsidiary).

~~137.~~118. However, the obligation to apply *identification measures* to any third party for which the body corporate (or wholly owned subsidiary) may be acting and obligation to verify the authority of persons acting on behalf of the body corporate (or wholly owned subsidiary) continue.

~~138.~~119. A market may be considered to be *IOSCO* compliant if it is operated in a country or territory that has been assessed as having “fully implemented” or “broadly implemented” *IOSCO* Principles 16 and 17. In order to be assessed as having “fully implemented” or “broadly implemented” Principle 17, a country or territory must require:

- › Information about the identity and holdings of persons who hold a substantial beneficial ownership interest to be disclosed on a timely basis.
- › Material changes in such ownership and other required information to be disclosed in a timely manner.

~~139.~~120. Whilst there is not a list of countries and territories that “fully implement” or “broadly implement” *IOSCO* Principles 16 and 17, reference may be made to *IMF* compliance assessments at: <http://www.imf.org/external/NP/fsap/fsap.aspx>.

~~140.~~121. ~~Part III of~~ Guidance published by the UK’s Joint Money Laundering Steering Group addresses what may be considered to be a regulated market.

7.9.57.15.4 Regulated person and those carrying on equivalent business

Overview

~~141.~~122. Where a client is: (i) a *regulated person* (defined in Article 1(1) of the *Money Laundering Order*); (ii) a person who carries on *equivalent business* to any category of *regulated business*; or (iii) wholly owned by a person listed in (i) or (ii) and which fulfils certain conditions (see Article 18(3)(c)~~Article 18(7A)~~ of the *Money Laundering Order*), then, in line with Article 18(3) of the *Money Laundering Order*, there is no requirement to apply *identification measures* in respect of the client, the beneficial owners and controllers of the client, or those purporting to act on behalf of the client. Nor is there a requirement to verify the authority of any person purporting to act for the client.

~~142.~~123. However, these provisions do not also provide an exemption in respect of any third party (or parties) for whom the client is acting, or for the beneficial owners and controllers of such a third party (or parties).

7.9.67.15.5 Person authorised to act on behalf of a client

Guidance Notes

~~143.~~124. Where a person authorised to act on behalf of a client holds this role by virtue of *his* employment by (or position in) a business that is a *regulated person* (or equivalent), a firm may demonstrate that this exception applies where it obtains:

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

~~7.4 INTERPLAY BETWEEN ENHANCED AND SIMPLIFIED CDD MEASURES~~

~~overview~~

~~7.107.16~~ **Articles 17 and 18 of the Money Laundering Order provide for Simplified identification measures to be simplified in the circumstances that are summarised above. — obtaining evidence of identity for very low risk products/services**

Overview

~~144.~~ Where a firm thinks it appropriate under Article 17(3), (5) to (8) of the *Money Laundering Order*, it need not find out the identity of, or obtain evidence of identity for the third parties on whose behalf its client acts. However, Article 17(14) of the *Money Laundering Order* prohibits the application of simplified identification measures by a firm in any case: where there is suspicion of money laundering or financing of terrorism; which by its nature can present a higher risk of money laundering; where the client has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures; where a correspondent banking service is provided; or where the client is resident in a country or territory that is not compliant with the FATF Recommendations.

~~145.~~ Except as provided for by Article 17(14), the effect of this may be to allow a firm to not find out the identity of, or obtain evidence of identity for a third party of a client who:

- › ~~is a PEP; or~~
- › ~~has not been physically present for identification purposes~~

~~so long as one or more enhanced CDD measures (identification measures and/or ongoing monitoring) are applied in line with Article 15 to recognise the particular risk associated with PEPs or applying identification measures where a person is not physically present.~~

~~146. For example, it may be possible for a firm to not find out the identity of, or obtain evidence of identity for, one or more third parties of a client who is a PEP (pursuant to Article 17) and also take the following action:~~

- ~~› determine whether any third parties are PEPs;~~
- ~~› require the new business relationship, the continuation of such a relationship or the one-off transaction to be approved by senior management; and~~
- ~~› obtain general information on the source of wealth of PEPs and the source of the funds involved, when assessing whether the application of simplified measures is appropriate (under Article 17(4) or 17(9)(a) of the Money Laundering Order),~~

~~in which case these actions may be considered to be enhanced CDD measures pursuant to Article 15(5A) of the Money Laundering Order.~~

~~147. It may also be possible for a firm to not find out the identity of, or obtain evidence of identity for, a third party who has not been physically present for identification purposes (pursuant to Article 17) and also take the following action:~~

- ~~› Consider the risk associated with third parties not being physically present for identification purposes, when assessing whether the application of simplified CDD measures is appropriate (Article 17(4) or 17(9)(a) of the Money Laundering Order),~~

~~in which case this action may be considered to be an enhanced measure pursuant to Article 15(2) of the Money Laundering Order.~~

125. Where a firm has collected sufficient information and/or evidence in order to consider the risk that is presented by a business relationship or one-off transaction, it need not apply identification measures in the circumstances specified in Article 18 of the Money Laundering Order. However, Article 18(9) of the Money Laundering Order prohibits the application of simplified identification measures by a firm in any case: where there is suspicion of money launderingWhere funds involved in a relationship:

- › have been received from a bank that is a *regulated person* or carries on *equivalent business* to deposit-taking (refer to Section 1.7); and
- › have come from an account in the sole or joint name of the client who is an individual (or are individuals),

then the receipt of funds from such an account may be considered to be reasonably capable of verifying that the person to be identified is who the person is said to be where the product or service requested by the client is considered to present a very low *money laundering* or the *financing of terrorism* risk. This will be the case where funds may only be received from, and paid to, an account in the client's name, i.e. a product or service where funds may not be paid in by, or paid out to, external parties.

126. In the event that any of the conditions set below are breached, evidence of identity for the client must be obtained at that time in accordance with Sections 4 and 7 of the *AML/CFT Handbook*.

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~~148.~~127. This concession must not be applied where a firm suspects *money laundering* or the *financing of terrorism*, in any situation which by its nature can present a higher risk of *money laundering* or the *financing of terrorism*; which by its nature can present a higher risk of money laundering; where the client has a relevant connection to a country or territory that is subject to a FATF call to apply ~~enhanced CDD measures;~~countermeasures, or where the client is resident in a country or territory that is not compliant with the FATF Recommendations.

128. Except as provided for by Article 18(9), the effect of To benefit from this is concession, the product or service must satisfy the following conditions:

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

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

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

- › is a PEP; or
 - › has not been physically present for identification purposes,
- so long as one or more enhanced CDD measures (identification measures and/or ongoing monitoring) are applied in line with Article 15 to recognise the particular risk associated with PEPs or applying identification measures where the client is not physically present.

150. Similarly, it may be possible to simplify identification measures (but not other CDD measures) in the way that is anticipated in Articles 17 and 18 in the case of a client who is non-resident, is a private banking client, is a customer who invests their personal wealth through legal persons or legal arrangements, or which is a legal person with nominee shareholders or which has issued bearer shares, so long as enhanced CDD measures (identification measures and/or ongoing monitoring) are applied to address the particular risks inherent in such client types. Sections 7.7 to 7.10 set out the enhanced measures that might be applied in order to address the applicable risk.

151. For example, it may be possible for a firm to not apply identification measures to a client who is a non-resident body corporate, the securities of which are listed on an IOSCO-compliant market (pursuant to Article 18(6A)), and also take the following action:

- › determine the reason(s) why the client is obtaining a service in Jersey rather than in its home country or territory,

in which case the action may be considered to be an enhanced measure pursuant to Article 15(2A).