

# 1 INTRODUCTION

Please Note:

- › Whilst no regulatory requirements are set within this section, there are references to Jersey legislation which may be accessed through the [JFSC website](#).
- › Where terms appear in the Glossary this is highlighted through the use of italic text. The Glossary is available from the [JFSC website](#).

1. The continuing ability of Jersey's finance industry to attract legitimate customers with funds and assets that are clean and untainted by criminality depends, in large part, upon the Island's reputation as a sound, well-regulated jurisdiction. Any business that assists in laundering the proceeds of crime, or financing of terrorism, whether:
  - › with knowledge or suspicion of the connection to crime; or
  - › acting without regard to what it may be facilitating through the provision of its products or serviceswill face the loss of its reputation, risk the loss of its *licence*<sup>1</sup> or other regulatory sanctions (where regulated and supervised), damage the integrity of Jersey's finance industry as a whole, and may risk prosecution for criminal offences.
2. Jersey has had in place a framework of anti-money laundering legislation since 1988, and for the countering of terrorism since 1990. This legislation has continued to be updated as new threats have emerged, including legislation to extend the definition of criminal conduct for which a *money laundering* offence can be committed and to combat international terrorism.
3. Jersey's defences against the laundering of criminal funds and terrorist financing rely heavily on the vigilance and co-operation of the finance sector. Specific financial sector legislation (the Money Laundering (Jersey) Order 2008 (the "**Money Laundering Order**")) is therefore also in place covering a person carrying on a *financial services business* in or from within Jersey, and a Jersey body corporate or other legal person registered in Jersey carrying on a *financial services business* anywhere in the world (a "**relevant person**").
4. Each *relevant person* in Jersey must recognise the role that it must play in protecting itself, and its employees, from involvement in *money laundering* and the *financing of terrorism*, and also in protecting the Island's reputation of probity.
5. The Jersey Financial Services Commission (the "**Commission**") strongly believes that the key to the prevention and detection of *money laundering* and the *financing of terrorism* lies in the implementation of, and strict adherence to, effective *systems and controls*, including sound customer due diligence ("**CDD**") measures based on international standards. The *AML/CFT*<sup>2</sup> *Handbook* therefore establishes standards which match international standards issued by the Financial Action Task Force (the "**FATF**"). The *AML/CFT Handbook* also has regard to the standards promoted by the *Basel Committee* on Banking Supervision (the "**Basel Committee**"), International Organisation of Securities Commissions ("**IOSCO**") and the International Association of Insurance Supervisors (the "**IAIS**"). The *AML/CFT Handbook* takes account of the

<sup>1</sup> In this handbook "**licence**" is being used as a generic term to cover: a registration granted under the Banking Business (Jersey) Law 1991 (the "**BB(J) Law**"); a permit or certificate granted pursuant to the Collective Investment Funds (Jersey) Law 1988 (the "**CIF(J) Law**"); a registration granted under the Financial Services (Jersey) Law 1998 (the "**FS(J) Law**"); and a permit granted pursuant to the Insurance Business (Jersey) Law 1996 (the "**IB(J) Law**").

<sup>2</sup> AML/CFT means Anti-money Laundering / Countering the Financing of Terrorism

requirements of European Union (the “EU”) legislation to counter *money laundering* and the *financing of terrorism* and its application of standards set by the FATF.

6. The *Commission* is also mindful of the importance of financial services being generally available to all Jersey residents and, where necessary, the *AML/CFT Handbook* incorporates measures to guard against the financial exclusion of Jersey residents from financial services and products.
7. Throughout this *AML/CFT Handbook*, references to:
  - › **Customer** include, where appropriate, a prospective customer (an applicant for business). A customer is a person with whom a business relationship has been formed or one-off transaction conducted.
  - › **Financing of terrorism** means:
    - › conduct which is an offence under any provision of Articles 15 (use and possession etc. of property for purposes of terrorism) and 16 (dealing with terrorist property) of the Terrorism (Jersey) Law 2002 (the “**Terrorism Law**”); or
    - › conduct outside Jersey, which, if occurring in Jersey, would be an offence under Articles 15 and 16.
  - › **Money laundering** means:
    - › conduct that is an offence under any provision of Articles 30 (dealing with criminal property) and 31 (concealment etc. of criminal property) of the Proceeds of Crime (Jersey) Law 1999 (the “**Proceeds of Crime Law**”)
    - › conduct that is an offence under Articles 34A and 34D of the *Proceeds of Crime Law*;
    - › ~~conduct that is an offence under Article 7 (making funds available to a terrorist), Article 8 (failure to freeze terrorist funds) and Article 10 (failing to make a disclosure to the Chief Minister’s Department) of the Al-Qa’ida and Taliban (United Nations Measures) (Channel Islands) Order 2002 (the “UN Order”);~~
    - › conduct that is an offence under Articles 10 to 14 (failing to freeze terrorist funds and making things available to a terrorist) and 16 (licencing offences) of the Sanctions and Asset-Freezing (Jersey) Law 2019; or
    - › conduct outside Jersey, which, if occurring in Jersey, would be an offence under any of the above.

## 1.1 Objectives of the AML/CFT Handbook

8. The objectives of the *AML/CFT Handbook* are as follows:
  - › to outline the requirements of: the *Proceeds of Crime Law*; the *Terrorism Law*; the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012 (the “**Directions Law**”); and the ~~“**Terrorist Sanctions Measures**”~~ (Sanctions and Asset-Freezing (Jersey) Law 2019; ~~the UN Order~~; ~~the Sanctions and Asset-Freezing (Implementation of External Sanctions) Regulations~~ (Jersey) Order 2021 (the “**Terrorist Sanctions Measures**”)); ~~EU Legislation (Sanctions – Afghanistan) (Jersey) Order 2014; and the EU Legislation (Sanctions – Al Qaida) (Jersey) Order 2014);~~
  - › to outline the requirements of the Money Laundering Order which supplements the above legislation by placing more detailed requirements on *relevant persons*;

- › to outline the requirements of the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017 (the “**Wire Transfers Regulations**”) which introduce additional obligations for those remitting or receiving wire transfers;
  - › to set out the *Commission’s* requirements - to be followed by all *relevant persons* that are regulated by the *Commission* under the *CIF(J) Law*, the *BB(J) Law*, the *IB(J) Law*, and the *FS(J) Law* (referred to as the “**regulatory laws**”) and that hold a *Licence* (“**relevant persons carrying on regulated business**”);
  - › to assist a *relevant person* to comply with the requirements of the legislation described above and the *Commission’s* requirements through practical interpretation;
  - › to provide a base from which a *relevant person* can design and implement *systems and controls* and tailor their own *policies and procedures* for the prevention and detection of *money laundering* and the *financing of terrorism* (and which may also help to highlight identity fraud);
  - › to ensure that Jersey matches international standards to prevent and detect *money laundering* and the *financing of terrorism*;
  - › to emphasise the responsibilities of the Board of a *relevant person* in preventing and detecting *money laundering* and the *financing of terrorism*;
  - › to promote the use of a proportionate, risk based approach to *CDD* measures, which directs resources towards higher risk customers;
  - › to provide more practical guidance on applying *CDD* measures, including finding out identity and obtaining evidence of identity;
  - › to emphasise the particular *money laundering* and *financing of terrorism* risks of certain financial services and products; and
  - › to provide an information resource to be used in training and raising awareness of *money laundering* and the *financing of terrorism*.
9. The *AML/CFT Handbook* will be reviewed on a regular basis and, where necessary following consultation, amended in light of experience, changes in legislation, and the development of international standards.
10. The *AML/CFT Handbook* is intended for use by senior management and compliance staff in the development of a *relevant person’s systems and controls*, and detailed *policies and procedures*. The *AML/CFT Handbook* is not intended to be used by a *relevant person* as an internal procedures manual.

## 1.2 Structure of the AML/CFT Handbook

11. Part 1 of the *AML/CFT Handbook* describes Statutory Requirements, sets out principles and detailed requirements (AML/CFT Code of Practice), and presents ways of complying with Statutory Requirements and the AML/CFT Code of Practice (Guidance Notes).
12. **Statutory Requirements** describe the statutory provisions that apply to a *relevant person* (natural or legal) when carrying on a *financial services business*, in particular requirements set out in the *Money Laundering Order*. Failure to follow a Statutory Requirement is a criminal offence and may also attract regulatory sanction.
13. The AML/CFT **Code of Practice** sets out principles and detailed requirements for compliance with Statutory Requirements. In particular, the AML/CFT Code of Practice comprises of a number of individual *AML/CFT Codes of Practice*: (i) to be followed in the area of corporate governance which it is considered must be in place in order for a *relevant person* to comply

with Statutory Requirements; and (ii) that explain in more detail how a Statutory Requirement is to be complied with. Failure to follow any *AML/CFT Codes of Practice* may attract regulatory sanction<sup>3</sup>.

14. **Guidance Notes** present ways of complying with the Statutory Requirements and *AML/CFT Codes of Practice* and must always be read in conjunction with these. A *relevant person* may adopt other appropriate measures to those set out in the Guidance Notes, including *policies and procedures* established by a group that it is part of, so long as it can demonstrate that such measures also achieve compliance with the Statutory Requirements and *AML/CFT Codes of Practice*. This allows a *relevant person* discretion as to how to apply requirements in the particular circumstances of its business, products, services, transactions and customers. The soundly reasoned application of the provisions contained within the Guidance Notes will provide a good indication that a *relevant person* is in compliance with the Statutory Requirements and *AML/CFT Codes of Practice*.
15. The provisions of the Statutory Requirements and of the *AML/CFT Codes of Practice* are described using the term **must**, indicating that these requirements are mandatory. However, in exceptional circumstances, where strict adherence to any of the *AML/CFT Codes of Practice* would produce an anomalous result, a *relevant person* may apply in advance in writing to the *Commission* for a variance from the requirement. For further information refer to Part 3, Section 1.3. Paragraph 46 also explains that an obligation to do something outside Jersey may be met through applying measures that are at least equivalent to *AML/CFT Codes of Practice*.
16. In contrast, the Guidance Notes use the term **may**, indicating ways in which the requirements may be satisfied, but allowing for alternative means of meeting the Statutory Requirements or *AML/CFT Codes of Practice*. References to must and may elsewhere in the *AML/CFT Handbook* should be similarly construed.
17. The *AML/CFT Handbook* also contains Overview text which provides some background information relevant to particular sections or sub-sections of the *AML/CFT Handbook*.
18. The *AML/CFT Handbook* is not intended to provide an exhaustive list of *systems and controls* to counter *money laundering* and the *financing of terrorism*. In complying with Statutory Requirements and *AML/CFT Codes of Practice*, and in applying the Guidance Notes, a *relevant person* should (where permitted) adopt an appropriate and intelligent risk based approach and should always consider what additional measures might be necessary to prevent its exploitation, and that of its products and services, by persons seeking either to launder money or to finance terrorism.
19. The Statutory Requirements text necessarily paraphrases provisions contained in the *Proceeds of Crime Law*, *Terrorism Law*, *Directions Law*, *Terrorist Sanctions Measures*, *Wire Transfers Regulations* and *Money Laundering Order* and should always be read and understood in conjunction with the full text of each law. Statutory Requirements are presented 'boxed' and in italics, to distinguish them from other text.
20. Unless otherwise specified, references to sections in Part 1 of the *AML/CFT Handbook* are to sections contained within Part 1.
21. Part 2 of the *AML/CFT Handbook* contains an information resource to be used in training and raising awareness of *money laundering* and the *financing of terrorism*. Part 3 of the *AML/CFT Handbook* sets out the *Commission's* policy for the supervision of compliance of a *relevant person carrying on regulated business* with the Statutory Requirements and *AML/CFT Codes of*

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<sup>3</sup> *AML/CFT Codes of Practice* and the Guidance Notes shall also be relevant in determining whether or not requirements contained in the *Money Laundering Order* or in Article 23 of the *Terrorism Law* have been complied with.

*Practice of Part 1. Regulated business* is defined in Article 1 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the “**Supervisory Bodies Law**”).

## 1.3 Legal Status and Sanctions for Non-compliance

### 1.3.1 AML/CFT Handbook

22. The *AML/CFT Handbook* is issued by the *Commission*:
  - › pursuant to its powers under Article 8 of the Financial Services Commission (Jersey) Law 1998,
  - › in accordance with Article 22 of the *Supervisory Bodies Law* (which provides for an AML/CFT Code of Practice to be prepared and issued for the purpose of setting out principles and detailed requirements), and
  - › in light of Article 37 of the *Proceeds of Crime Law* (which provides for the *Money Laundering Order* to prescribe measures to be taken).
23. The *AML/CFT Codes of Practice* in this *AML/CFT Handbook* cover *relevant persons carrying on regulated business*<sup>4</sup>.
24. Separate handbooks have been published for *relevant persons* in the accountancy and legal sectors, and estate agents and high value dealers.
25. *Relevant persons* that are not carrying on *regulated business* or are not covered by other handbooks should refer to paragraph 27 to better understand the status of this *AML/CFT Handbook*.

### 1.3.2 Money Laundering Order

26. The *Money Laundering Order* is made by the Chief Minister under Article 37 of the *Proceeds of Crime Law*. The Order prescribes measures to be taken (including measures not to be taken) by persons who carry on a *financial services business* (a term that is defined in Article 36 of the *Proceeds of Crime Law*), for the purposes of preventing and detecting *money laundering* and the *financing of terrorism*.
27. Failure to comply with the *Money Laundering Order* is a criminal offence under Article 37(4) of the *Proceeds of Crime Law*. In determining whether a *relevant person* has complied with any of the requirements of the *Money Laundering Order*, the Royal Court is, pursuant to Article 37(8) of the *Proceeds of Crime Law*, required to take account of any guidance provided (for this purpose guidance will include the AML/CFT Code of Practice read in conjunction with overview text and the Guidance Notes), as amended from time to time. The sanction for failing to comply with the *Money Laundering Order* may be an unlimited fine or up to two years imprisonment, or both. Where a breach of the *Money Laundering Order* by a body corporate is proved to have been committed with the consent of, or to be attributable to any neglect on the part of, a director, manager or other similar officer, that individual, as well as the body corporate shall be guilty of the offence and subject to criminal sanctions.
28. Similarly, in determining whether a person has committed an offence under Article 21 of the *Terrorism Law* (the offence of failing to report), the Royal Court is required to take account of the contents of the *AML/CFT Handbook*. The sanction for failing to comply with Article 21 of the *Terrorism Law* may be an unlimited fine or up to five years imprisonment, or both.

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<sup>4</sup> Except an unclassified fund that is a *relevant person* but not hold a certificate under the *CIF(I) Law*.

### 1.3.3 AML/CFT Code of Practice

29. A Code of Practice is prepared and issued by the *Commission* under Article 22 of the *Supervisory Bodies Law*. The Code of Practice sets out the principles and detailed requirements that must be complied with in order to meet certain requirements of the *Supervisory Bodies Law*, *Proceeds of Crime Law*, *Terrorism Law*, *Directions Law*, *Terrorist Sanctions Measures*, the *Wire Transfers Regulations*, and the *Money Laundering Order* by persons in relation to whom the *Commission* has supervisory functions. The AML/CFT Code of Practice comprises a number of individual *AML/CFT Codes of Practice*.
30. Article 5 of the *Supervisory Bodies Law* states that the *Commission* shall be the supervisory body to exercise supervisory functions in respect of a “**regulated person**” (a term that is defined in Article 1 of the *Supervisory Bodies Law*). The *Commission* is also designated under Article 6 of the *Supervisory Bodies Law* to exercise supervisory functions in respect of any other person carrying on a “**specified Schedule 2 business**” (a term that is defined in Article 1 of the *Supervisory Bodies Law*). The effect of these provisions is to give the *Commission* supervisory functions in respect of every *relevant person*.
31. Compliance with the AML/CFT Code of Practice will be considered by the *Commission* in the conduct of its supervisory programme, including on-site examinations.
32. The consequences of non-compliance with any *AML/CFT Codes of Practice* could include an investigation by or on behalf of the *Commission*, the imposition of regulatory sanctions, and criminal prosecution of the *relevant person* and its employees. Regulatory sanctions available under the *Supervisory Bodies Law* include:
  - › issuing a public statement; and
  - › imposing a direction and making this public, including preventing an individual from working in a *relevant person*.
33. The ability of a *relevant person carrying on regulated business* to demonstrate compliance with *AML/CFT Codes of Practice* will also be directly relevant to its regulated status and any assessment of fitness and propriety of its principals. Non-compliance with any *AML/CFT Codes of Practice* may be regarded by the *Commission* as an indication of:
  - › a lack of fitness and propriety under Articles 7 or 8B of the *CIF(J) Law*, Article 10 of the *BB(J) Law*, Article 7 of the *IB(J) Law*, and Article 9 of the *FS(J) Law*; and/or
  - › a failure to follow certain fundamental principles within a Code of Practice issued under each of the *regulatory laws*.
34. In addition to the regulatory sanctions that are available under the *Supervisory Bodies Law*, consequences of non-compliance with the *regulatory laws* could also include imposing a *licence* condition, objecting to the appointment, or continued appointment, of a principal person (or equivalent controller or manager of the *relevant person*) or key person, revocation of a *licence* and appointment of a manager.

## 1.4 Jurisdictional Scope of the Money Laundering Order and AML/CFT Codes of Practice

### 1.4.1 Application of the Money Laundering Order and AML/CFT Codes of Practice to Financial Services Business Carried on in Jersey

35. By virtue of the definition of *relevant person* in Article 1(1) the *Money Laundering Order* applies to any person who is carrying on a *financial services business* in or from within Jersey.

This will include Jersey-based branches of companies incorporated outside Jersey conducting *financial services business* in Jersey.

36. By virtue of Articles 5, 6 and 22 of the *Supervisory Bodies Law, AML/CFT Codes of Practice* apply to any person who is carrying on a *financial services business* in or from within Jersey. This will include Jersey-based branches of companies incorporated outside Jersey conducting *financial services business* in Jersey.

#### **1.4.2 Application of the Money Laundering Order to Financial Services Business Carried on Outside Jersey (overseas)**

37. Article 10A of the *Money Laundering Order* explains and regulates the application of the *Money Laundering Order* to *financial services business* carried on outside Jersey.
38. Article 10A(2)(a) of the *Money Laundering Order* explains that a Jersey body corporate or other legal person registered in Jersey that carries on a *financial services business* through an overseas branch must comply with the *Money Laundering Order* in respect of that business, irrespective of whether it also carries on *financial services business* in or from within Jersey.
39. Article 10A(3) of the *Money Laundering Order* requires a person who: (i) is registered, incorporated or otherwise established under Jersey law<sup>5</sup>, but who is not a legal person; and (ii) carries on a *financial services business* in or from within Jersey, to apply measures that are at least equivalent to the requirements of the *Money Laundering Order* in respect of any *financial services business* carried on by that person through an overseas branch. This requirement will apply to a limited partnership registered under the Limited Partnerships (Jersey) Law 1994 and general partnership established under Jersey customary law.
40. Article 10A(2)(b) of the *Money Laundering Order* requires a Jersey body corporate or other legal person registered in Jersey to ensure that any legal person that is majority owned or controlled by that person (referred to in the *Money Laundering Order* as a “**subsidiary**”) applies measures that are at least equivalent to the requirements of the *Money Laundering Order* in respect of any *financial services business* carried on outside Jersey by that subsidiary.
41. Article 10A(4) of the *Money Laundering Order* requires a person who: (i) is registered, incorporated or otherwise established under Jersey law, but who is not a legal person; and (ii) carries on a *financial services business* in or from within Jersey, to ensure that any subsidiary applies measures that are at least equivalent to the requirements of the *Money Laundering Order* in respect of any *financial services business* carried on outside Jersey by that subsidiary. This requirement will apply to a limited partnership registered under the Limited Partnerships (Jersey) Law 1994 and general partnership established under Jersey customary law.
42. In summary, Jersey companies and other legal persons registered in Jersey are covered by Article 10A(2) in relation to their overseas branches and subsidiaries. Other types of entity who do not have legal personality but who are constituted under Jersey law fall into Article 10A(3) and (4) in relation to their overseas branches and subsidiaries.
43. Article 10A (6) of the *Money Laundering Order* requires a *relevant person* to take reasonable steps to comply with paragraphs (2), (3) and (4) to the extent that the law of the country or territory in which that person carries on a financial services business, or has a subsidiary carrying on such a business, does not have the effect of prohibiting or preventing the *relevant*

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<sup>5</sup> Note that the term “registered, incorporated or otherwise established” in Article 10A(5) of the *Money Laundering Order* is intended to be understood only to refer to the creation of a legal arrangement. In particular, it is not intended that “registered” be understood in the more general sense of registering under commercial or other legislation, or that “established” be understood in the more general sense of establishing a branch or representative office.



*person* from taking such steps. If the *relevant person* does not comply with paragraphs (2), (3) and (4), the following steps must be taken by the *relevant person*: (i) the *Commission* must be informed that this is the case; (ii) other reasonable steps to deal effectively with the risk of *money laundering* and *financing of terrorism* must be taken.

44. If a *relevant person* carries on a *financial services business* or has a subsidiary carrying on such a business overseas that has more stringent requirements than those set out in the *Money Laundering Order*, Article 10A(10) of the *Money Laundering Order* requires that the *relevant person* ensure that the more stringent requirements are complied with.

#### **1.4.3 Application of AML/CFT Codes of Practice to Financial Services Business Carried on Outside Jersey (overseas)**

45. By virtue of Articles 5, 6 and 22 of the *Supervisory Bodies Law*, a company incorporated in Jersey that carries on a *financial services business* through an overseas branch must comply with the AML/CFT Code of Practice in respect of that business, irrespective of whether it also carries on *financial services business* in or from within Jersey.
46. By concession, measures that are at least equivalent to AML/CFT Codes of Practice may be applied as an alternative to complying with the AML/CFT Codes of Practice.
47. By virtue of the AML/CFT Codes of Practice set in Section 2.7, a person who (i) is registered, incorporated or otherwise established under Jersey law<sup>6</sup>, but who is not a Jersey incorporated company; and (ii) carries on a *financial services business* in or from within Jersey, must apply measures that are at least equivalent to AML/CFT Codes of Practice in respect of any *financial services business* carried on by that person through an overseas branch. This requirement will apply to a foundation or partnership established under Jersey law.
48. By virtue of the AML/CFT Codes of Practice set in Section 2.7, a person that is a Jersey incorporated company must ensure that any subsidiary applies measures that are at least equivalent to AML/CFT Codes of Practice in respect of any *financial services business* carried on outside Jersey by that subsidiary.
49. By virtue of the AML/CFT Codes of Practice set in Section 2.7, a person who (i) is registered, incorporated or otherwise established under Jersey law, but who is not a Jersey incorporated company; and (ii) carries on a *financial services business* in or from within Jersey, must ensure that any subsidiary applies measures that are at least equivalent to AML/CFT Codes of Practice in respect of any *financial services business* carried on outside Jersey by that subsidiary. This requirement will apply to a foundation or partnership established under Jersey law.
50. Where overseas provisions prohibit compliance with one or more of the AML/CFT Codes of Practice (or measures that are at least equivalent), then by virtue of the AML/CFT Codes of Practice set in Section 2.7, requirements do not apply and the *Commission* must be informed that this is the case. In such circumstances, the AML/CFT Codes of Practice require a person to take other reasonable steps to effectively deal with the risk of *money laundering* and the *financing of terrorism*.

<sup>6</sup> Note that the term “registered, incorporated or otherwise established” is intended to be understood only to refer to the creation of a legal person or legal arrangement. In particular, it is not intended that “registered” be understood in the more general sense of registering under commercial or other legislation, or that “established” be understood in the more general sense of establishing a branch or representative office.



## 1.5 Definition of Financial Services Business

51. Article 36 of the *Proceeds of Crime Law* defines “*financial services business*” through Schedule 2 of the *Proceeds of Crime Law*.
52. Included in Part 4 is a document explaining the rationale for exempting certain activities from Schedule 2.

## 1.6 Risk Based Approach

53. To assist the overall objective to prevent *money laundering* and the *financing of terrorism*, the *AML/CFT Handbook* adopts a risk based approach. Such an approach:
  - › recognises that the *money laundering* and *financing of terrorism* threat to a *relevant person* varies across customers, countries and territories, products and delivery channels;
  - › allows a *relevant person* to differentiate between customers in a way that matches risk in a particular *relevant person*;
  - › while establishing minimum standards, allows a *relevant person* to apply its own approach to *systems and controls*, and arrangements in particular circumstances; and
  - › helps to produce a more cost effective system.
54. *Systems and controls* will not detect and prevent all *money laundering* or the *financing of terrorism*. A risk based approach will, however, serve to balance the cost burden placed on a *relevant person* and on its customers with a realistic assessment of the threat of it being used in connection with *money laundering* or the *financing of terrorism* by focusing effort where it is needed and has most impact.
55. Inter alia, Part 3 of the *AML/CFT Handbook* sets out in further detail the *Commission’s* expectations of a soundly reasoned risk based approach.

## 1.7 Equivalence of Requirements in Other Countries and Territories

### 1.7.1 Equivalent Business

56. Articles 16 and Part 3A of the *Money Laundering Order* respectively permit reliance to be placed on an *obliged person* (a term that is defined in Article 1(1)) and exemptions from customer due diligence requirements to be applied to a customer carrying on a *financial services business* that is overseen for *AML/CFT* compliance in Jersey or carrying on business that is “**equivalent business**”. Sections dealing with the acquisition of a business or block of customers and verification of identity concession also provide concessions from *AML/CFT Codes of Practice* on a similar basis.
57. Article 5 of the *Money Laundering Order* defines *equivalent business* as being overseas business that:
  - › if carried on in Jersey would be *financial services business*;
  - › may only be carried on in the country or territory by a person registered or otherwise authorised under the law of that country or territory to carry on that business;
  - › is subject to requirements to forestall and prevent *money laundering* and the *financing of terrorism* consistent with those in the *FATF Recommendations* in respect of that business; and
  - › is supervised for compliance with those requirements by an overseas regulatory authority.

58. The condition requiring that the overseas business must be subject to requirements to combat *money laundering* and the *financing of terrorism* consistent with those in the *FATF Recommendations* will be satisfied, inter alia, where a person is located in an equivalent country or territory ~~(see Section 1.7.2).~~

### 1.7.2 Equivalent Countries and Territories

59. With effect from 31 May 2021 the Commission no longer maintains a list of Equivalent Countries and Territories in Appendix B. Guidance to assist relevant persons to determine equivalence is set out in Section 1.7.3.

60. A country or territory may be considered to be equivalent where:

a. financial institutions and designated non-financial businesses and professions are required to take measures to forestall and prevent *money laundering* and the *financing of terrorism* that are consistent with those in the *FATF Recommendations*.

~~a.b. financial institutions and designated non-financial businesses and professions are supervised for compliance with those requirements by a regulatory or supervisory authority. provides guidance and links to appropriate information sources to assist a list of countries and territories that are considered by the Commission to have set requirements for measures to be taken by their domestic financial institutions and designated non-financial businesses and professions to forestall and prevent *money laundering* and the *financing of terrorism* that are consistent with those in the *FATF Recommendations*.~~

- ~~59. Appendix B is not intended to provide an exhaustive list of such countries and territories resources, and no conclusions should be drawn from the omission of a particular country or territory from the list.~~

### 1.7.3 Determining Equivalence

- ~~60.61.~~ Requirements for measures to be taken by an *obliged person* or customer will be considered to be consistent with the *FATF Recommendations* only where those requirements are established by law, regulation, or other enforceable means.

- ~~61.62.~~ In determining whether or not the requirements for measures to be taken in a country or territory are consistent with the *FATF Recommendations*, ~~the Commission~~ a relevant person will should have regard for the following:

- › Generally - whether or not the country or territory is a member of the *FATF*, a member of a *FATF* Style Regional Body ("*FSRB*") or subject to its assessment and follow up process, a Member State of the *EU* (including Gibraltar), or a member of the European Economic Area ("*EEA*").
- › Specifically - whether a country or territory is compliant or largely compliant with those *FATF Recommendations* that are directly relevant to the application of available concessions. These are Recommendations 10-13, 15-21 and 26. Where a person with a specific connection to a customer is a designated non-financial business or profession (a term that is defined by the *FATF*), then Recommendations 22, 23 and 28 will be relevant.
- › Specifically – the extent to which a country or territory is achieving the Immediate Outcomes that are directly relevant to the application of available concessions, namely whether Immediate Outcomes 3 and 4 are assessed at a high or substantial level of effectiveness.
- › The following sources may be used to determine whether a country or territory is compliant or largely compliant or achieving the Immediate Outcomes:

- a. the laws and instruments that set requirements in place in that country or territory;
- b. recent independent assessments of that country's or territory's framework to combat *money laundering* and the *financing of terrorism*, such as those conducted by the FATF, FATF Style Regional Bodies, the International Monetary Fund (the "*IMF*") and the World Bank (and published remediation plans); and
- c. other publicly available information concerning the effectiveness of a country's or territory's framework.

63. Where a *relevant person* ~~seeks itself to~~ assesses whether a country or territory ~~not listed by the Commission~~ is an equivalent country or territory, the *relevant person* must conduct an assessment process comparable to that described above, and must be able to demonstrate on request the process undertaken and the basis for its conclusion.

64. Hyperlinks to where additional information may be located are included below. These are not intended to be exhaustive, nor are they placed in any order of priority. Independent research and judgement will be expected in order to cater for the requirements in the individual case.

- › Financial Action Task Force ratings table: <http://www.fatf-gafi.org/media/fatf/documents/4th-Round-Ratings.pdf>
- › Financial Action Task Force – High jurisdictions and other monitored jurisdictions: [http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc\(fatf\\_releasedate\)](http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc(fatf_releasedate))
- › Financial Action Task Force - Mutual Evaluation Reports: [http://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc\(fatf\\_releasedate\)](http://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc(fatf_releasedate))
- › *Financial Action Task Force*–style summary evaluations are published in FATF Annual Reports: [www.fatf-gafi.org](http://www.fatf-gafi.org)
- › International Monetary Fund: [www.imf.org](http://www.imf.org)
- › The World Bank: [www.worldbank.org](http://www.worldbank.org)
- › MONEYVAL: [www.coe.int/Moneyval](http://www.coe.int/Moneyval)
- › The Offshore Group of Banking Supervisors (OGBS): [www.ogbs.net](http://www.ogbs.net)
- › The Caribbean Financial Action Task force (CFATF): [www.cfatf.org](http://www.cfatf.org)
- › The Asia/Pacific Group on Money laundering (APG): [www.apgml.org](http://www.apgml.org)
- › The Intergovernmental Action Group against Money-Laundering in Africa (GIABA): [www.giabasn.org](http://www.giabasn.org)
- › The Middle East and North Africa Financial Action Task Force (MENAFATF): [www.menafatf.org](http://www.menafatf.org)
- › The Financial Action Task Force in South America: [www.gafisud.org](http://www.gafisud.org)
- › The Eastern and Southern Africa Anti-Money Laundering Group (EASSMLG): [www.esaamlg.org](http://www.esaamlg.org)
- › The Eurasian Group (EAG): [www.euroasiangroup.org](http://www.euroasiangroup.org)