

## 7 ENHANCED AND SIMPLIFIED CDD MEASURES AND EXEMPTIONS

### 7.1 Overview of section

1. This section explains the circumstances in which *CDD* measures must be enhanced under Articles 15, 15A and 15B of the Money Laundering Order and explains the exemptions from *CDD* requirements under 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 *supervised person* determines that a *customer* presents a higher risk of *money laundering* or the *financing of terrorism*, Articles 15, 15A and 15B of the Money Laundering Order also *requires* enhanced *CDD* measures to be applied in the following specified scenarios:

- › *customer, or some other person, is not physically present for identification purposes* – Section 7.4
- › *customer has a relevant connection to an enhanced risk state* – Section 7.5
- › *customer, or some other prescribed person, is a PEP* – Section 7.6
- › *customer is a non-resident* – Section 7.7
- › *customer is provided with private banking services* – Section 7.8
- › *customer is a personal asset holding vehicle* – Section 7.9
- › *customer is a company with nominee shareholders or issues bearer shares* – Section 7.10
- › *correspondent Banking or similar relationships* – Section 7.11

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 *customers* (for instance identification of *beneficial owner(s)* and understanding the nature and purpose of the relationship) and significantly reduce the risk of *money laundering* and the *financing of terrorism*. Therefore any additional *measures* may be quite limited.

4. Nevertheless, the enhanced measures required under 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 Section 4 and Section 6 of the *AML/CFT Handbook* and must address the particular risk presented. This section provides some (non-exhaustive) examples for each category of *customer*.

5. As noted in the Glossary above, a *customer* may be an individual (or group of individuals) or a legal person. Section 4.3 of this Handbook deals with a *customer* who is an individual (or group of individuals), Section 4.4 deals with a *customer* (an individual or legal person) who is acting for a legal arrangement, and Section 4.5 deals with a *customer* who is a legal person.

6. As noted in the Glossary above, references to a *customer* include, where appropriate, a prospective *customer* (an applicant for business) with whom a *business relationship is to be established* or a *one-off transaction carried out*.

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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 through the use of italic text. The Glossary is available from the [JFSC website](#). ...

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## 7.2 Requirement to apply enhanced CDD measures

### Statutory requirements (paraphrased wording)

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 customer

(ii) a beneficial owner or controller of a customer;

(iii) a third party for whom a customer is acting;

(iv) a beneficial owner or controller of a third party described in (iii);

(v) a person acting, or purporting to act, on behalf of a customer 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 apply, or insufficiently applies, the FATF Recommendations.

9. Article 15(1) of the Money Laundering Order requires a relevant person to apply enhanced CDD measures on a risk-sensitive basis in the following circumstances:

a) if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the relevant person and the relevant person 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;

b) if a customer has not been physically present for identification purposes;

c) if the relevant person 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;

d) if the customer of the relevant person is a company with nominee shareholders or that issues shares in bearer form;

e) if the customer of the relevant person is:

i) a legal person established by an individual for the purpose of holding assets for investment purposes; or

ii) a person acting on behalf of a legal arrangement established for an individual for the purpose of holding assets for investment;

f) if the relevant person provides or proposes to provide a customer with private banking services;

g) any situation which by its nature can present a higher risk of money laundering.

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## 7.3 Higher risk customer

### Overview

10. Section 3.3 of [this Handbook](#) explains the risk-based approach to *identification measures*. It explains that a supervised person must, on the basis of information collected, assess the risk that a *business relationship* or *one-off transaction* will involve *money laundering* or *financing of terrorism*.
11. Enhanced *CDD* measures must be applied where a supervised person'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*).
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

13. A supervised person may demonstrate that it has applied enhanced *identification measures* to an individual who is a higher risk customer under Article 15 of the *Money Laundering Order* where it obtains evidence that verifies a:
  - › former name (if applicable) or
  - › passport or national identity card number.
14. A supervised person may demonstrate that it has applied enhanced *identification measures* to a higher risk customer under Article 15(1)(g) 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 customer's source of wealth,
  - › where a supervised person 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 customer's source of wealth,
  - › where a supervised person 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 customer has a connection about the *source of funds* involved and/or customer's source of wealth,
  - › obtaining reliable information directly from the customer 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

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- › 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 *customer* has the connection about the *source of funds* involved and/or *customer'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 *customer'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 *customer'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.

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15. Where a connection is established during the course of an existing relationship, a *supervised person* 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.

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16. Where the measures set out in Paragraph 13 to 15 above are not sufficient to mitigate the risk associated with the *customer*, a *supervised person* 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:

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- › in a case where a document that has been used to obtain evidence of identity for a higher risk *customer*, e.g. a passport, subsequently expires, a *supervised person* 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 *business 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).

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17. A *supervised person* may demonstrate that it has applied enhanced on-going monitoring to a higher risk *customer* where it:

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- › 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*.

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## 7.4 Customer not physically present for Identification Measures

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### Overview

18. Frequently, business relationships will be established and one-off transactions carried out where there is no face to face contact with the customer to be identified or its beneficial owners or controllers, for example:

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- › relationships established with individuals by mail, telephone or via the internet where external data sources are used to obtain evidence of identity
- › 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.

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

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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 supervised person. They may also increase the risk of impersonation or identity fraud being used to establish a business relationship or conduct a one-off transaction for illegitimate purposes.

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

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### 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 relevant person must apply enhanced CDD measures on a risk-sensitive basis.

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23. A supervised person 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 customer, or is a person who must otherwise be identified under Article 3 of the Money Laundering Order is not physically present for identification purposes.

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### Guidance notes

24. A supervised person may demonstrate that it has applied enhanced identification measures:

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- › under Article 15 of the Money Laundering Order and
- › under the AML/CFT Code of Practice set in Paragraph 23 above

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Part 1: Section 7 - Enhanced and simplified CDD measures¶

Where it finds out further information on a person (in this example, "Person A"), obtains an additional form of evidence of identity for Person A, or carries out some other additional measure in respect of Person A.

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

26. Other additional measures may include:

- › where a supervised person is part of a group, confirmation from another part of that group that Person A has been met face-to-face
- › confirmation from a supervised person that carries on a regulated business or a person who carries on an equivalent business that Person A has been met face to face
- › confirmation from a supervised person that carries on Trust Company Business or a person who carries on an equivalent business that Person 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 supervised person's risk assessment for Person A, including:
  - requiring the first payment for the product or service to be drawn on an account in the customer's name at a bank that is a regulated person or carries on equivalent business (refer to Section 1.8)
  - telephone contact with the customer prior to establishing a relationship on a home or business number which has been verified, or a "welcome call" to the customer before transactions are permitted, using the call to verify additional components of identity found out
  - internet sign-on following verification measures where the customer 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.

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## 7.5 Customer with relevant connection to an enhanced risk state

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### Overview

27. The FATF has identified a number of countries and territories which have failed to address their own money laundering and 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 and that definition is reflected in the Glossary above. A person with a relevant 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.

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28. For the purpose of applying Article 15(1)(c) of the Money Laundering Order, enhanced risk states are those listed in Appendix D1 of this Handbook.

### 7.5.1 Application of enhanced CDD measures to a customer with a relevant connection to an enhanced risk state

#### Statutory requirements

29. Under Article 15(1)(c) of the Money Laundering Order, if the relevant person 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 relevant person must apply enhanced CDD measures on a risk-sensitive basis.

30. Under Article 15(2)(a) of the Money Laundering Order, for the purpose of the Article 15(1)(c), a “customer” includes any of the following:

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

31. 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:

- the government or a public authority of that state
- in relation to that state, a foreign PEP (within the meaning of Article 15A)
- a person resident in that state
- a person having an address for business in that state
- 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 of Practice

32. The enhanced CDD measures applied to a customer 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 the senior management function
- where there is a *relevant connection* because a customer’s source of funds is, or derives, from:
  - assets held in the state by the customer or by any person on behalf of the customer or
  - income arising in the state

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## Guidance notes

33. A *supervised person* may demonstrate that it has taken reasonable measures to find out the *source of wealth* at the time that a *business relationship* is established or *one-off transaction* carried out, where *the* measures taken are commensurate with risk and include one or more of the measures listed in Paragraph 14 above.
34. Where a *relevant connection* is established during the course of an existing relationship, a *supervised person* 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.
35. A *supervised person* 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 *customer*, e.g. a passport, subsequently expires, a *supervised person* 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 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*.

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## 7.6 *Customer* who is a Politically Exposed Person (PEP)

### Overview

36. Corruption by *PEPs* will inevitably *involve* 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.
37. 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 *the* businesses and *countries/territories* concerned. *This is* in addition to the possibility of criminal charges.
38. Indications that a *customer* 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.

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39. 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.

40. 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 *supervised person* 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
- › *as another example*, 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*.

41. *As a result*, there is no “one-size fits all” approach to applying *enhanced CDD measures* for *PEPs*.

42. *Whilst PEP status does not in itself incriminate individuals or entities, it will mean that the customer may be subject to enhanced CDD measures*. The nature and scope of a *supervised person's* activities will generally determine whether the existence of *PEPs* in its *customer* base is a practical issue for the *supervised person*.

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#### 7.6.1 Determining whether a *customer* is a *PEP*

##### Statutory requirements

43. 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
- › 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
- › 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.

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“immediate family member” includes any of the following:

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

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“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.

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

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## 7.6.2 Enhanced customer due diligence measures in relation to PEPs

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### Statutory requirements

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45. Article 15A of the Money Laundering Order applies to a relevant person:

- › 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
- › 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
- › 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:

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i) a beneficial owner or controller of the customer of the relevant person

ii) a third party for whom the customer of the relevant person is acting

iii) a beneficial owner or controller of a third party described in clause (ii) above

iv) a person acting or purporting to act on behalf of the customer of the relevant person.

46. A relevant person to whom Article 15A applies must apply enhanced customer due diligence measures on a risk-sensitive basis including:

- › unless the relevant person 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 relevant person
- › 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

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- › 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.

In Article 15A:

**“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 the 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 Codes of Practice

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

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## Guidance notes – Foreign PEPs

48. Where the existence of foreign PEPs is considered to be a practical issue, a supervised person may demonstrate that it has appropriate policies and procedures for determining whether a customer or prescribed person is a PEP where it:

- › assesses those countries and territories to which customers are connected, which pose the highest risk of corruption. See Section 3.3.4.1 of this Handbook
- › finds out who the current and former holders of prominent public functions are within those higher risk countries and territories and determines, as far as is reasonably practicable, whether or not customers have any connections with such individuals (including through immediate family or close associates). In determining who the current and former holders of prominent public functions are, it may have regard to information already held by the supervised person and to external information sources such as the UN, the European Parliament, the UK Foreign, Commonwealth & Development Office, the Group of States against Corruption, and other external data sources (see Section 3.3.4.2 of this Handbook) and
- › exercises vigilance where customers are involved in business sectors that are vulnerable to corruption such as (but not limited to) oil or arms sales.

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49. Where a supervised person runs the details of all its customers and prescribed persons through an external data source (e.g. a screening package) to determine whether any of them are PEPs, it should nevertheless also assess those countries and territories to which customers are connected, which pose the highest risk of corruption, and exercise particular vigilance where customers are involved in business sectors that are vulnerable to corruption.

50. In a case where a PEP is a director (or equivalent) of a customer, or person acting or purporting to act for a customer, and where no property of that PEP is handled in the particular business relationship or one-off transaction, a supervised person may demonstrate that it applies specific and adequate measures under Article 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.

51. Similarly, where a *PEP* is a trustee or a general partner that is a [customer](#), 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 [supervised person](#) may demonstrate that it applies specific and adequate measures under Article 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.

#### Guidance notes – Domestic PEPs

52. In determining whether someone is a domestic *PEP*, a [supervised person](#) should consider the criterion set out at Article 15A(3) [of the Money Laundering Order](#) – 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

53. In the context of Jersey, this will include (but is not limited to) the following [positions](#):

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

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

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### 7.6.2.1 Higher Risk Domestic PEPs

55. As set out in Article 15A(1)(b) of the Money Laundering Order, mandatory enhanced CDD measures are only required in relation to business relationships or one-off transactions with domestic PEPs which are assessed as higher risk.

56. Individuals entrusted with a prominent public function in Jersey may be considered to pose a low risk, unless a supervised person 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.

57. 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 supervised person 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 customer

### Overview

58. Customers 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 supervised person in that country or territory will typically have legitimate reasons for doing so. Some customers 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.

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## Statutory requirements

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59. 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 relevant person and the relevant person 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 relevant person must apply enhanced customer due diligence measures on a risk-sensitive basis.

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## Guidance notes

60. A supervised person 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:

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- › determining the reasons why the customer is looking to establish a *business relationship* or carry out a *one-off transaction* other than in their home country or territory and/or
- › the use of external data sources to collect information on the customer and the country risk of the customer's home country or territory (see Section 3.3.4.1) in order to build a customer business and risk profile similar to that available for a resident customer.

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## 7.8 Customer provided with private banking services

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

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62. For the avoidance of doubt, a trustee who may from time to time facilitate such banking or investments 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

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63. Under Article 15(1)(f) of the Money Laundering Order, if the relevant person provides or proposes to provide a customer with private banking services, a relevant person must apply enhanced CDD on a risk-sensitive basis.

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64. 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

65. A supervised person may demonstrate that it has applied enhanced CDD measures under Article 15(1)(f) of the Money Laundering Order in respect of a private banking relationship, 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
- › 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.

## 7.9 Customer that is a personal asset holding vehicle

#### Overview

66. 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.

67. Article 15(1)(e) of the Money Laundering Order is intended to apply in two specific scenarios:

- › where the personal asset holding vehicle is the customer or
- › where the personal asset holding vehicle is the third party for whom a trustee or general partner (the customer) is acting.

#### Guidance notes

68. A supervised person 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:

- › understanding the structure of the vehicle, determining the purpose and rationale for making use of such a vehicle, and being satisfied that the customer’s use of such an investment vehicle has a genuine and legitimate purpose

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- › taking reasonable measures to find out and document the *source of funds* and *source of wealth*.

## 7.10 **Customer** that is a company with nominee shareholders or issues bearer shares

### Overview

69. 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.
70. **Nevertheless**, 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.
71. Where one or more of the following circumstances apply, the **customer** should not be considered to be a **customer** that issues bearer for the purpose of Article 15(1) 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 **supervised person**, the **customer** or trusted external party along with an undertaking from that trusted external party or **customer** to inform the **supervised person** of any transfer or change in ownership.

### Statutory requirements

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

### Guidance notes

73. A **supervised person** 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.
74. In the case of **customers** who are companies with nominee shareholders, additional measures may include:

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Part 1: Section 7 - Enhanced and simplified CDD measures¶

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- › determining and being satisfied with the reasons why the customer is making use of nominees
- › 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.

75. In the case of customers 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 customer has issued bearer shares or retains the ability to do so
- › ensuring that any new or continued business relationship or any one-off transaction is approved by the senior management of the supervised person
- › 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.

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## 7.11 Correspondent banking and similar relationships

### Overview

76. “Correspondent banking” is a term given to the provision of banking services by a supervised person (i.e. the correspondent) to another overseas financial institution (i.e. the respondent) for the benefit of the customers of the respondent. As a result, the correspondent indirectly makes its services available to the customers of the respondent. In doing so, the correspondent potentially exposes itself to additional risk. This section sets out the additional CDD measures required where a correspondent enters into a correspondent relationship with a respondent to appropriately manage the risk presented by that relationship.

77. FATF standards also require financial institutions to apply enhanced measures in relation to other similar relationships, for example, those established for securities transactions or funds transfers, whether for the cross-border financial institution as principal or for its customers.

78. Supervised persons that are registered under the BB(J)L are prohibited by the Money Laundering Order from entering into banking relationships with “shell banks”.

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### Statutory requirements

79. Article 15B of the Money Laundering Order applies 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. Under Article 15B(2) of the Money Laundering Order a relevant person must apply enhanced customer due diligence measures on a risk-sensitive basis including:

- › gathering sufficient information about the institution to understand fully the nature of its business

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Part 1: Section 7 - Enhanced and simplified CDD measures¶

- › determining the reputation of the institution and the quality of its supervision, including whether it has been subject to any money laundering investigation or regulatory action
- › assessing the institution's systems and controls to combat money laundering in order to determine whether they are consistent with the requirements of the FATF recommendations and their effectiveness
- › requiring any new relationship to be approved by the senior management of the relevant person
- › ensuring that both the relevant person and the institution clearly understand their respective responsibilities to prevent and detect money laundering and recording those responsibilities
- › being satisfied that, in respect of customers of the institution who have services provided directly by the relevant person, that the institution has applied customer due diligence measures at least equivalent to those set out in this Order and is able to provide a copy, at the request of the relevant person, of the evidence, documents, data and information obtained when applying such measures.

81. Article 23A(1) of the Money Laundering Order provides that a relevant person that is a correspondent bank must not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a respondent that is a shell bank.

82. Article 23A(2) of the Money Laundering Order provides that a relevant person that is a correspondent bank must take appropriate measures to ensure that it does not enter into a correspondent banking relationship, or continue an existing correspondent banking relationship, with a bank that is known to permit its accounts to be used by a shell bank.

83. Article 23A(4)(b) defines "shell bank" as a bank incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is not subject to supervision by the JFSC or by an overseas regulatory authority by reason of that bank's connection with any other institution or person.

#### Guidance notes

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84. This part applies to all supervised persons that have banking or similar relationships with an overseas Institution.

85. Banking or similar relationships include:

- a) the provision of banking services by a supervised person to an Overseas Financial Institution including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the Institution with direct access to accounts with the supervised person (and vice versa) and providing foreign exchange services; or
- b) other relationships whereby similar services are provided by a supervised person to an Institution, including relationships established for securities transactions or funds transfer.

86. An institution's address for this purpose should be considered to be overseas unless the transaction is with the Jersey office of a business.

87. A supervised person may demonstrate that it has gathered sufficient information about the institution to fully understand the nature of its business where it obtains information concerning the following:

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→ Part 1: Section 7 - Enhanced and simplified CDD measures¶

- › [the geographic location of its customer base](#)
- › [the general nature of its customer base](#)
- › [the nature of the services which the Institution provides to its customers](#)
- › [whether relationships are conducted by the Institution on a non-face to face basis](#)
- › [the extent to which the Institution relies on third parties to identify and hold evidence of identity or to conduct other CDD measures on customers.](#)

88. [A supervised person may determine the institution's reputation by assessing its stature from publicly-available information from credible sources on the reputation of the institution and the quality of the supervision to which the institution is subject.](#)

89. [A supervised person may determine that an institution's systems and controls are consistent with the requirements of the FATF Recommendations where the institution carries on equivalent business \(see Section 1.8 of this Handbook\).](#)

90. [Where customers of the Institution have direct access to the services of the supervised person, a supervised person may satisfy itself as to the adequacy of an institution's CDD measures, and its ability to provide relevant CDD information and documents on request where either:](#)

- a) [It obtains a written assurance from the institution to this effect; or](#)
- b) [The correspondent bank may also satisfy itself as to the adequacy of the CDD measures of the respondent and its ability to produce information and documentation on request by periodically requesting relevant CDD information and documents from the institution.](#)

91. [Regarding the definition of a shell bank, "physical presence" means meaningful mind and management located within a country. The existence simply of a local agent or low level staff does not constitute physical presence.](#)

## 7.12 Enhanced CDD measures – transitional arrangements

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### Overview

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92. [Where amendments to the Money Laundering Order introduce new CDD requirements applicable to business relationships and one-off transactions, these requirements do not apply retrospectively and no remediation project is required.](#)

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93. However, Article 13(1)(c)(ii) of the Money Laundering Order requires a supervised person to apply identification measures where the supervised person has doubts about the veracity or adequacy of documents, data or information previously obtained. [In the context of this section, this would include where documents, data or information previously obtained for a business relationship do not satisfy additional new CDD requirements, such as those set out in the Money Laundering \(Amendment No.10\) \(Jersey\) Order 2019 \(the No.10 Amendment Order\).](#)

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94. 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 [this Handbook](#)) a *supervised person* becomes aware that documents, data or information previously obtained do not satisfy the additional CDD requirements set out in the [No.10 Amendment Order \(or any other subsequent amendments\)](#), the *supervised person* will need to apply CDD measures to that *customer* at that time, in line with the requirement in Article 13(1)(c)(ii) of the *Money Laundering Order*.

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## 7.13 Exemptions from CDD Requirements – Overview

### Overview

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95. Part 3A of the *Money Laundering Order* provides for exemptions from CDD requirements that apply in some strictly limited circumstances, as set out in Articles 17B -D and 18.

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96. Article 17A of the *Money Laundering Order* provides circumstances in which exemptions under Part 3A do not apply. See the table below:

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<#>the relevant customer is a person in respect of whom Article 15(1)(c) applies. ¶  
<#>In addition to 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. ¶  
<#>For the purpose of Part 3A, "relevant customer"¶

Circumstances in which exemptions under Part 3A do not apply (Article 17A)	
Exemptions under Articles 17 B-D	Exemptions under Article 18
> the <i>supervised person</i> suspects money laundering	> the <i>supervised person</i> suspects money laundering
> the <i>supervised person</i> considers that there is a higher risk of money laundering, including the risk of money laundering if fail to apply appropriate identification measures or keep records.	> the <i>supervised person</i> considers that there is a higher risk of money laundering
> the <i>customer</i> is resident in a country that is not compliant with the FATF recommendations	> the <i>customer</i> is resident in a country that is not compliant with the FATF recommendations
> the <i>customer</i> is a person in respect of whom Article 15(1)(c) applies [specified persons having a relevant connection to country/territory in relation to which FATF has called for enhanced customer due diligence]	> the <i>customer</i> is a person in respect of whom Article 15(1)(c) applies [specified persons having a relevant connection to country/territory in relation to which FATF has called for enhanced customer due diligence]
> the <i>customer</i> is a person in respect of whom Article 15B(1) applies [certain deposit taking businesses with a banking or similar relationship with an institution whose address for that purpose is outside Jersey]	

97. Definitions for various terms used within Part 3A of the *Money Laundering Order* and this section are set out below (save that relevant person is replaced with supervised person):

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- › **Relevant customer** means a customer of a *supervised person* that the *supervised person* knows or reasonably believes is:
- a *supervised person* in respect of whose *financial services business* the *JFSC* discharges supervisory functions, or a person carrying on *equivalent business*; or
  - a person wholly owned by a *supervised person described in the above point* (the “parent”), but only if:
    - the person is incorporated or registered in the same jurisdiction as the parent;
    - the person has no customers who are not customers of the parent;
    - the person’s activity is ancillary to the business in respect of which the *JFSC* discharges supervisory functions, or to *equivalent business* carried on by the parent; and
    - in relation to that activity, the person maintains the same policies and procedures as the parent.
- › **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).
- › **non-public fund** means a scheme falling within the definition of “collective investment fund” in Article 3 of the *CIF(U) Law*, except that the offer of units in the scheme or arrangement is not an offer to the public within the meaning of that Article.

98. Exemptions from *identification measures* may only be applied in appropriate circumstances. Where specified, this will require an assessment of the risk of applying the exemption, in addition to a customer risk assessment.

#### Guidance notes

99. Articles 18 and 17B-D can be applied to the same *customer relationship*, as they apply to separate *identification requirements*, however there are some aspects of *customer due diligence* that the *supervised person* will always be obliged to undertake – see the table below:

CDD	Identification measures	Risk assessment	
		ID customer	
		ID third parties	
		ID person acting for customer	Verify authority to act
		Where customer not individual:	Understand ownership/control structure
			ID beneficial owners/controllers
		Obtain information on purpose/nature	
	On-going monitoring	Scrutinising transactions/activity	
		Keep documents/information up-to-date	

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Part 1: Section 7 - Enhanced and simplified CDD measures¶

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	Articles 17B-D provide an exemption from this obligation
	Article 18 provides an exemption from this obligation (N.B. does not apply to third parties)

100. Article 18 only applies to the *customer* and does not extend to third parties. For example, Article 18 would apply to a general partner of a limited partnership or a trustee of a trust, but not to the limited partnership or trust itself. Articles 17B-D can be applied to third parties which would, for example, encompass the investors in a limited partnership or a unit trust.

## 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

101. Under Article 17B(1) of the Money Laundering Order, a *relevant person* is exempt from applying third party identification requirements in relation to a third party for which a relevant customer is acting where the relevant customer is acting in the course of a business:

- › that falls within Paragraph (a), (b) or (d) in the definition of “regulated business” in Article 1, or equivalent business; or
- › that is an investment business or fund services business registered under the FS(U) Law, or equivalent business.

102. Under Article 17B(2) of the Money Laundering Order, a *relevant person* must record the reasons for applying the exemption, having regard to the risk of money laundering inherent in the relevant customer’s business and the higher risk of money laundering associated with that type of business should the relevant customer fail to:

- a) apply the identification measures specified in Article 3(2)(b) or if the relevant customer is not in Jersey, similar identification measures required to be applied to satisfy the requirements in Recommendation 10 of the FATF recommendations; or
- b) keep records, or keep them for the period required to be kept.

### AML/CFT Codes of Practice

103. A *supervised person* must be able to demonstrate that the exemption conditions required by the Money Laundering Order and summarised in the statutory requirements above are being met.

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## 7.15 Exemption from applying third party identification requirements in relation to certain relevant customers involved in unregulated or non-public funds, trust company business or the legal profession

### Statutory requirements

104. Under Article 17C(1) of the Money Laundering Order a **relevant person** 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 **Proceeds of Crime Law**, or equivalent business;
- c) carries on trust company business and is registered to carry on such business under the **FS(J) Law**, or equivalent business, but only if the **relevant person** 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 **Proceeds of Crime Law**; or
  - iii. an accountant carrying on a business described in Paragraph 2 of Part B of Schedule 2 to the **Proceeds of Crime Law**; or
- d) is an independent legal professional carrying on a business described in Paragraph 1 of Part B of Schedule 2 to the **Proceeds of Crime Law** and is registered to carry on such business under the **Supervisory Bodies Law**, but only if the **relevant person** is carrying on deposit-taking business.

105. Under Article 17C(2) of the Money Laundering Order, a **relevant person** who, by virtue of **Article 17C(1)**, 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 **relevant person**, without delay and in writing, with the information obtained from applying the identification measures, if so requested by the **relevant person**.

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iii. will keep the evidence obtained during the course of applying the identification measures and

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iv. will provide the relevant person with that evidence without delay, if requested to do so by the relevant person.

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106. Under Article 17C(3) of the Money Laundering Order 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.

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b) assurance may be given in relation to one or more business relationships and for more than one transaction and

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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 relevant person in relation to a business relationship or transaction.

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107. Article 17C(4) of the Money Laundering Order provides that a relevant person (including a person who was formerly a relevant person) who has given an assurance to another person under Article 17C(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 Article 17C(2)(b)(i). (See Paragraph 105 above).

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#### Guidance notes

108. In relation to the exemption set out at Article 17C(1)(a) or (b) of the Money Laundering Order, a supervised person 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.

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109. In relation to the exemption set out at Article 17C(1)(c)(i) of the Money Laundering Order, a supervised person may be satisfied that there is little risk of *money laundering* or the *financing of terrorism* occurring where:

› deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, pending the transfer to a designated account for a third party, where the funds are not to be held on an undisclosed basis for longer than 40 days

› deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, pending the receipt of instructions when exiting a customer relationship, where the funds are not to be held on an undisclosed basis for longer than 40 days

› deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, to facilitate *ad hoc* (not routine) cheque payments where designated accounts do not otherwise have this facility

› deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, to facilitate the aggregation of statutory fees for onward payment

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- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, to receive fees payable to the customer which have been paid in advance
- › deposited funds are held only temporarily for one or more third parties in a client account operated by a person carrying on trust company business, to receive customer money on an *ad hoc* basis paid to the customer in error
- › deposited funds are held for one or more third parties in a client account operated by a person carrying on trust company business, where the number and value of third party transactions effected is low, e.g. to provide third parties with access to low-cost banking facilities where third parties' liquid assets are of insufficient value and volume for the establishment of a designated relationship (e.g. balances of £1,000 or less per relationship, with little activity) or
- › deposited funds are aggregated by a person carrying on trust company business in order to attract a better return on investment for third parties, and where the aggregated deposit is received from and paid back (including income or profit generated) to an account held with another person carrying on deposit-taking business who is registered to do so by the JFSC, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority.

110. In relation to the exemption set out at Article 17C(1)(d) of the Money Laundering Order, a supervised person may be satisfied that there is little risk of money laundering or the financing of terrorism occurring where the deposit is in respect of a third party's registered contract within the meaning of the Control of Housing and Work (Jersey) Law 2012.

111. In relation to the exemptions set out at Article 17C(1)(c)(ii) and (iii) of the Money Laundering Order, guidance on when a supervised person may be satisfied that there is little risk of money laundering or the financing of terrorism occurring is provided in Section 15.4 and Section 16.5 of this Handbook.

## 7.15.1 Assessment of risk

### Overview

112. The risk factors that are set out in this section will also be relevant to a customer risk assessment that is conducted under Section 3.3.4.1 in the cases highlighted at Section 4.4 and Section 4.5 of this Handbook.

### Statutory requirements

113. Immediately before applying the exemptions set out in Part 3A, Article 17B(2) and 17D(2) of the Money Laundering Order require a relevant person to conduct an assessment as to whether it is appropriate to do so, having regard to the relevant customer's business and the higher risk of money laundering should the relevant 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.

114. Article 17B(2) and 17D(2) of the Money Laundering Order require a relevant person to prepare a written record of the reason why it is appropriate to apply CDD exemptions.

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<#>In respect of trusts (except employee benefit schemes) administered by a client carrying on trust company business:¶  
<#>a trust deed;¶  
<#>a supplemental trust deed of: appointment; advancement; disclaimer; indemnity or release; appointment, retirement and indemnity; addition; exclusion; amendment; change of proper law; revocation or termination;¶  
<#>a loan agreement or loan assignment or novation;¶  
<#>factual confirmations covering matters such as the existence and status of a trust and its trustee's capacity to enter into transactional documentation.¶  
<#>In respect of companies or partnerships administered by a client carrying on trust company business:¶  
<#>incorporation documents;¶  
<#>a loan agreement or loan assignment or novation;¶  
<#>minutes and other corporate authorisations;¶  
<#>stock transfer forms and share certificates;¶  
<#>memoranda and articles of association;¶  
<#>factual confirmations covering matters such as the existence and status of a company or partnership and its capacity to enter into transactional documentation.¶  
<#>In respect of employee benefit schemes (including pension schemes) controlled or administered by a client carrying on trust company business:¶  
<#>a trust deed;¶  
<#>a supplemental trust deed of: appointment; advancement; disclaimer; indemnity or release; appointment, retirement and indemnity; addition; exclusion; amendment; change of proper law; revocation or termination;¶  
<#>a loan agreement or loan assignment or novation;¶  
<#>factual confirmations covering matters such as the existence and status of a trust (or other vehicle by which the scheme is structured) and its capacity to enter into transactional documentation.¶  
<#>In respect of a foundation administered by a client carrying on trust company business:¶  
<#>statutory forms;¶  
<#>charters and regulations;¶

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115. Article 17D(3) of the Money Laundering Order also **sets out** 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)
- 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.

In conducting such tests, **the relevant person must** consider whether the relevant customer may be prevented, by application of a law, from providing that information or evidence.

116. **If**, as a result of conducting **the tests referenced above**, the relevant person is unable to establish that the relevant customer complies with the above requirements under Article 17D (3)(b), (c) or (d) **of the Money Laundering Order**, the relevant person must immediately apply the identification measures specified in **Article 13(1)(a) and 13(1)(c)(ii)**.

#### AML/CFT **Codes of Practice**

117. In a case where, for a particular **business relationship**, testing under Article 17D(3) of the Money Laundering Order highlights that a **relevant customer** 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 **supervised person** must review the basis upon which it has applied CDD exemptions to other relationships with that particular **relevant customer** (if any) in order to determine whether it is still appropriate to apply those measures.

#### Guidance notes

118. Immediately before applying the **exemptions set out in Part 3A of the Money Laundering Order**, a **supervised person** may demonstrate that it has had regard to a **relevant customer's** business where it considers the following factors:

- › the general risk appetite of **the relevant customer**
- › the geographic location of **the relevant customer's** client base
- › the general nature of the **relevant customer's** client base, e.g. whether institutional or private client
- › the nature of the services that the **relevant customer** provides to its clients
- › the extent to which **the relevant customer** carries on business with its clients on a non-face to face basis or clients are otherwise subject to **enhanced CDD measures** and

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- the extent to which clients of **relevant customer** may be *PEPs* or present a higher risk of *money laundering* or the *financing of terrorism*, and the *sources of funds* of such *PEPs*.

119. Immediately before applying the **exemptions set out in Part 3A of the Money Laundering Order**, a **supervised person** may demonstrate that it has had regard for the higher risk of *money laundering* and the *financing of terrorism* should a **relevant customer** 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 **the relevant customer**
- the adequacy of the framework to combat *money laundering* and the *financing of terrorism* (including financial sanctions) in place in the country or territory in which **the relevant customer** 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 **the relevant customer** is subject
- the adequacy of *identification measures* applied by **the relevant customer** to combat *money laundering* and the *financing of terrorism*
- the extent to which the **relevant customer** itself relies on *other* obliged parties to identify its clients and to hold evidence of identity, and whether such parties are *supervised persons* or carry on an equivalent business.

120. A **supervised person** may demonstrate that it has considered the adequacy of *identification measures* applied by a **relevant customer** where it takes one or more of the following steps:

- reviews *its* previous experience (if any) with the **relevant customer**
- makes specific enquiries, e.g. through use of a questionnaire
- reviews relevant *policies and procedures of the relevant customer*
- where the **relevant customer** 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 **relevant customer'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.

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## 7.16 Further exemptions from applying identification requirements

### Statutory requirements

121. Article 18 of the Money Laundering Order provides **further specific** circumstances where exemptions from applying identification **measures may be used**.

### Insurance Business

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122. Under Article 18(1) of the Money Laundering Order, a relevant person is exempt from applying the identification measures specified in Article 13 in respect of insurance business if:

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a) in the case of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation, the policy contains no surrender clause and may not be used as collateral security for a loan,

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b) a premium is payable in one instalment of an amount not exceeding £1,750 or

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c) a periodic premium is payable and the total amount payable in respect of any calendar year does not exceed £750.

**Pension, superannuation, employee benefit, share option or similar scheme**

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123. Under Article 18(2) of the Money Laundering Order, a relevant person is exempt from applying the identification measures specified in Article 13 if:

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a) the business relationship or one-off transaction relates to a pension, superannuation, employee benefit, share option or similar scheme,

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b) the contributions to the scheme are made by an employer or by way of deductions from wages,

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c) the rules of the scheme do not permit the assignment of an interest of a member of the scheme except after the death of the member and

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

**Regulated person and those carrying on equivalent business**

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124. Under Article 18(3) of the Money Laundering Order, 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 if the customer is:

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a) a regulated person,

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b) a person who carries on equivalent business to any category of regulated business or

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c) a person wholly owned by a person (the "parent") mentioned in sub-Paragraph (a) or (b), but only if:

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i. the person is incorporated or registered in the same jurisdiction as the parent,

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ii. the person has no customers who are not customers of the parent, the person's activity is ancillary to the regulated business or equivalent business carried on by the parent,

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iii. in relation to that activity, the person maintains the same policies and procedures as the parent.

**Public authority or body corporate with listed securities**

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125. Under Article 18(4) of the Money Laundering Order, 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 3(2)(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:

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a) a public authority acting in that capacity,

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b) a body corporate the securities of which are listed on an IOSCO-compliant market or on a regulated market or

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

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#### Person authorised to act on behalf of customer

126. Under Article 18(5) of the Money Laundering Order, 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
- d) the financial services business is a regulated business or an equivalent business to a regulated business.

#### Schedule 2 Business (Lawyers and Estate Agents)

127. Under Article 18(6) of the Money Laundering Order, a relevant person is exempt from applying the identification requirements in Article 13 to the extent that the measures require identification of a person within the meaning of Article 3(4)(b) if:

- a) the relevant person's business falls within Paragraph 1 [Lawyers] or 3 [Estate Agents] of Part B of Schedule 2 to the Proceeds of Crime Law; and
- b) that person enters into a business relationship or carries out 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).

#### AML/CFT Codes of Practice

128. For each case described in Article 18 of the Money Laundering Order, a supervised person must obtain information on the purpose and intended nature of the business relationship or one-off transaction.

129. A supervised person must obtain and retain documentation establishing that the customer is entitled to benefit from an exemption in Article 18 of the Money Laundering Order.

### 7.16.1 Pension, superannuation, employee benefit, share option or similar schemes

#### Overview

130. Where a supervised person 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. However, the exemption cannot be applied if a supervised person considers that there is a higher risk of money laundering or the financing of terrorism.

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## Guidance notes

132. A *supervised person* may demonstrate that it considers whether there is a higher risk of money laundering or the financing of terrorism when, *among other things*, it considers the reputation of the sponsoring employer and adequacy of controls in place over membership.

### 7.16.2 Jersey Public Authority

#### Overview

133. Where a *customer* is a public authority in Jersey (*meaning a person holding a public office in Jersey*), then, in line with Article 18(4)(a) of the *Money Laundering Order*, there is no requirement to apply *identification measures* on that *customer*, on the *beneficial owners and controllers* of the *customer*, or those purporting to act on behalf of the *customer*.
134. However, *in the above scenario* the obligation to apply *identification measures* to any third party for which the *customer* may be acting and to verify the authority of persons acting on behalf of the *customer* remain in force.
135. 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
  - › a parish authority.

### 7.16.3 Body Corporate with Listed Securities

#### Overview

136. Where a *customer* 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*, then in line with Article 18(4)(b) of the *Money Laundering Order*, there is no requirement to apply *identification measures* on that *customer* (or any wholly owned subsidiary), on the *beneficial owners and controllers* of the *customer* (or any wholly owned subsidiary), or those purporting to act on behalf of the *customer* (or any wholly owned subsidiary).
137. However, *in the above scenario* the obligation to apply *identification measures* to any third party for which the *customer* (or wholly owned subsidiary) may be acting and to verify the authority of persons acting on behalf of the *customer* (or wholly owned subsidiary) remain in force.
138. 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

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- › material changes in such ownership and other required information to be disclosed in a timely manner.

139. Whilst there is not a [global](#) list of countries and territories that “fully implement” or “broadly implement” *IOSCO* Principles 16 and 17, reference may be made to [IMF Financial System Stability Assessment reports, prepared as part of the IMF Financial Sector Assessment Program](#).

140. Guidance published by the UK’s [Joint Money Laundering Steering Group](#) addresses what may be considered to be a *regulated market*. [The only list of exchanges currently available is for EU-regulated markets \(follow the link provided in the glossary entry for regulated market\)](#).

#### 7.16.4 Regulated [persons](#) and those carrying on equivalent business

##### Overview

141. Where a [customer](#) is:

- › a *regulated person* (defined in Article 1(1) of the Money Laundering Order)
- › a person who carries on *equivalent business* to any category of *regulated business* or
- › wholly owned by a person listed [above](#) and which fulfils certain conditions (see Article 18(3)(c) 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 [customer](#), the *beneficial owners and controllers* of the [customer](#), or those purporting to act on behalf of the [customer](#). Nor is there a requirement to verify the authority of any person purporting to act for the [customer](#).

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

#### 7.16.5 Person authorised to act on behalf of a [customer](#)

##### Guidance notes

143. Where a person authorised to act on behalf of a [customer](#) holds [their](#) role by virtue of [their](#) employment by (or position in) a business that is a *regulated person* or an equivalent *regulated business*, a [supervised person](#) may demonstrate that this [exemption](#) applies where it obtains:

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

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## 7.17 Simplified Identification Measures – Obtaining evidence of identity for very low risk products/services

### Overview

144. Where funds involved in a *business relationship*:

- › have been received from a bank that is a *regulated person* or carries on *equivalent business* to deposit-taking (see Section 1.8 regarding *equivalent business* and
- › have come from an account in the sole or joint name of the *customer* 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 *they are* said to be where the product or service requested by the *customer* is considered to present a very low *risk of money laundering* or the *financing of terrorism*. This will be the case where funds may only be received from, and paid to, an account in the *customer's* name, i.e. a product or service where funds may not be paid in by, or paid out to, external parties.

145. In the event that any of the conditions set below are breached, evidence of identity for the *customer* must be obtained at that time in accordance with Section 4 and Section 7 of this Handbook.

### AML/CFT Codes of Practice

146. The concession *referred to above* must not be applied in the following circumstances:

- › where a *supervised person* 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*;
- › where the *customer* has a *relevant connection* to *an enhanced risk state*; or
- › where the *customer* is resident in a country or territory that is not compliant with the *FATF Recommendations*.

147. To benefit from *the* 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 (see Section 1.8), where the account can be confirmed as belonging to the *customer*;
- › no initial or future payments may be received from external parties;
- › cash withdrawals are not permitted, with the exception of face-to-face withdrawals by the *customer*, where *they are* required to produce evidence of identity before the withdrawal can be made;

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Part 1: Section 7 - Enhanced and simplified CDD measures¶

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<#>Article 18(6) of the *Money Laundering Order* provides that a firm which enters into a business relationship or carries on a one-off transaction for the purpose of enabling a client directly or indirectly to enter into a registered contract within the meaning of the Control of Housing and Work (Jersey) Law 2012 (i.e. where it is to be passed before the Royal Court and registered in the Public Registry of Contracts), need not obtain evidence of identity of its client. ¶  
<#>AML/CFT Code of Practice¶  
<#>A firm must obtain and retain documentation establishing that its client is entitled to benefit from the concession in Article 18(6) of the *Money Laundering Order*. ¶

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- › 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 (see Section 1.8), where the account can be confirmed as belonging to the *customer*, or on the death of the *customer* 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.

148. A *supervised person* 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 (see Section 1.8), and, where a request for a withdrawal or transfer to another bank account is received, confirmation that this account is also in the *customer's* name and held at a bank that is a regulated person or carries on an equivalent business to deposit-taking.

149. If a *supervised person* has reason to suspect *that* the motive behind a particular transaction, or the *way a* business is being structured, *is* to avoid standard identification measures, it must not use this concession.

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