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The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism -

MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

The fifth round mutual evaluation report on Jersey was adopted by the MONEYVAL Committee at its 67th Plenary Session (Strasbourg, 21 – 24 May 2024).

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EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating financing of terrorism (AML/CFT) measures in place in the UK Crown Dependency of Jersey as at the date of the onsite visit (27 September – 10 October 2023). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Jersey's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) Jersey has a strong understanding of its ML/TF risks informed by a variety of sources. The jurisdiction carried out national and sectorial ML/TF risk assessments, all of which provided a thorough and in-depth analysis of the country's specific risks. This well-established risk identification process is comprehensive and includes the analysis of a wide range of factors and scenarios. This notwithstanding, some specific areas of risk assessment appear to merit further improvements (virtual asset service providers (VASPs) related risks, risks emanating from transnational organised crime). National and agency-specific AML/CFT strategies address the risks identified in the NRAs. The exemptions are used in low-risk circumstances with regard to a limited number of customers. Whilst these numbers have decreased during the period under review, complete quantitative data on the value relating to these exemptions, for reasons of consistency of valuation of customers and double counting, could not be established. The objectives and activities of competent authorities are largely consistent with the ML/TF risks identified in the NRA. National co-ordination and co-operation between agencies on AML/CFT issues, as well as the private sector awareness of the NRA results are strengths of the Jersey AML/CFT system.
- b) Financial intelligence and other information are regularly used to develop evidence and trace proceeds in investigations of ML, TF, and associated predicate offences. The current trend of an increased use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations is encouraging. Concerns still remain with regard to the effective use of these throughout the review period. SARs are generally aligned with Jersey's risk profile and are of good quality. The FIU's operational independence and resources has significantly improved since the 2015 assessment. As of 2023, the FIU of Jersey is an independent and administrative FIU. Until very recently, the FIU did not have sufficient strategic analysis capabilities and its output in this context has consequently been very limited. Whilst commendable efforts are now taking place, the planning of strategic analyses is not sufficiently risk based. Jersey exhibits a substantial degree of cooperation between competent authorities.
- c) Jersey routinely identifies and investigates ML cases and the types of ML investigated by the authorities are broadly in line with the country's threats and risk profile, with the exception of ML from tax offences where the number of investigations is low. There are complex ML investigations targeting legal structures and/or asset holding vehicles underway, and a few of those are in the process of being moved to prosecution. Most of the prosecutions and convictions concern cases of self-laundering. Third-party and

autonomous ML prosecutions are rare, which is not in line with the jurisdiction's risk profile. Sanctions applied/available against natural and legal persons appear to be effective, proportionate and dissuasive. A number of alternative measures to criminal prosecution have been applied to address the country's context, including mechanisms of civil forfeiture, deferred prosecution agreements and by incriminating the failure to prevent ML. While the latter are too recent in their inception, the results obtained under the civil forfeiture legislation are convincing.

- d) The confiscation of criminal proceeds is pursued by Jersey as a policy objective and the outcome of the authorities' actions are mostly in line with the country's risks and context, with the possible exception of tax crimes. The courts routinely order the confiscation of assets previously seized during a criminal investigation. Non-conviction based confiscations (civil forfeiture) have also been routinely applied when criminal conviction could not be achieved. The overall amounts confiscated so far are adequate, considering the context of the jurisdiction. Foreign requests for confiscation are recognized, and the country has organized both the repatriation and the return of assets to and from other jurisdictions. Tainted cash (there are no cases of BNIs) is routinely detected and confiscated and the actions of the authorities in this field are broadly in line with the country's risk profile.
- e) Jersey has appropriate mechanisms in place for the identification, investigation and prosecution of TF. A variety of intelligence sources are considered when analysing the need to initiate a TF investigation. Financial investigations are conducted in terrorism-related investigations. There have been four TF investigations so far, none of which have led to prosecutions or convictions due to the absence of grounds. The absence of TF-related prosecutions and convictions is broadly in line with the Jersey's TF risk profile. Sanctions available under the Jersey legislative framework appear to be proportionate and dissuasive in the event of a conviction. In addition, Jersey authorities have different alternative measures to disrupt TF (such as non-conviction-based forfeiture, prosecution for other offences or the curtailment of leave).
- f) Jersey implements TF-related and PF-related targeted financial sanctions (TFS) without delay. Relevant mechanisms are in place to communicate amendments to the sanctions lists to the obliged entities. No funds or other assets have been frozen in Jersey to date under the UN TF or PF TFS regimes. Whilst the obliged entities are aware of TFS obligations, the identification of close associations and indirect links to sanctioned persons remains a challenge. There is room for improvement in the area of supervision with TFS requirements. In 2023, the authorities started to implement the risk-based supervisory oversight to the non-profit sector.
- g) Understanding of ML risks and AML/CFT obligations is generally good across all sectors (specially banks and larger TCSPs and law firms), while understanding of TF risk is less developed. Risk mitigating measures applied by reporting entities (REs) are mostly commensurate to risk, although effectiveness improved more recently and there is uneven implementation of measures in relation to complex structures. CDD and record-keeping obligations are generally well understood, although the assessment of low risks necessary for the application of exemptions is not always based on sufficient information. Relevant EDD measures are applied in relation to PEPs, new technologies, wire transfers, TFS and high-risk countries, although most REs only apply all relevant

measures to PEPs where there is an accumulation of risks. The number of ML-related SARs is lower than expected by the AT considering the risks Jersey faces and policies do not always ensure prompt reporting, although the quality of SARs has been improving lately. REs generally have adequate corporate governance arrangements and internal policies and controls, although this is quite recent for some DNFBPs. Availability of qualified resources in compliance functions was identified as a serious challenge.

- h) The measures aimed at preventing criminals from entering the market are in place for all sectors, however, for DNFBPs and VASPs the criminality checks were introduced very recently. The JFSC's practice of relying on a self-declaration by the applicant to report criminal convictions and screening against specific lists is a less effective control in comparison to the requirement for criminal record certificates as a routine practice. Whilst the JFSC demonstrates a good understanding of ML risks, with TF developed to lesser degree, the supervisor would nevertheless benefit from enhancement to its current institutional risk assessment model. Supervision by the JFSC concentrates on the higher-risk entities in the materially important sectors (most notably banks and TCSPs) and the number of inspections and resources has been improving over the assessed period. Full-scope and focused/targeted inspections have been in the minority for most sectors. When it comes to breaches, the JFSC's approach greatly relies on remedial actions. Imposition of sanctions has been modest, and in the case of financial penalties, minimal and not in line with the risk profiles of the entities and the number and types of breaches detected. While supervisory efforts have had some positive impact on compliance, there is still room for improvement as seen in IO.4 and the number of breaches has remained quite steady.
- i) Jersey authorities demonstrated a good understanding of the extent to which legal persons and arrangements can be misused for ML purposes. The legal persons and arrangements ('LPAs') risk assessment exercise of 2023 was detailed and comprehensive, but could have further considered the methods and schemes through which risks could materialise through different types of LPAs and their inherent vulnerabilities for TF purposes. Jersey has a fully populated Registry concerning legal persons, whose basic information is publicly available, and the BO information is accessible by competent authorities. The Registry has put in place comprehensive and thorough checks, risk assessment and vetting processes at the registration phase and on an ongoing basis. BO information of legal arrangements (mostly trusts) is collected, maintained, updated and made available to competent authorities almost exclusively by TCSPs. Supervisory actions concerning the sector have so far uncovered few shortcomings related to BO information obligations and the number of trusts covered are below those of the full trust population. A range of administrative and criminal sanctions is available for non-compliance with BO obligations of legal persons, which have mostly been used in cases related to the requirements of appointing a nominated person or submitting the annual confirmation statement, and in few cases for not updating BO information within 21 days of a change, but not for the provision of false or misleading BO information.
- j) Jersey demonstrates commendable efficiency and timeliness in addressing MLA and extradition requests. Significant efforts are also made in seeking legal assistance,

including the extradition of persons to Jersey, to pursue domestic ML. Nonetheless, shortcomings identified in IO.7 may have impacted the country's ability to seek MLA, particularly in earlier years of the review period. The competent authorities in Jersey actively seek and provide other forms of international co-operation in pursuance of ML or for regulatory purposes, particularly in recent years, as the number of outgoing requests from the FIU was notably low, and not commensurate with Jersey's risk profile. Jersey authorities consistently and proactively share BO information related to legal entities and arrangements with foreign authorities. The process of sharing this information has been notably smooth, without significant practical obstacles.

Risks and General Situation

2. Being an international financial centre (IFC), Jersey's primary money laundering (ML) threats stem from non-resident customers that may seek to transfer criminal proceeds that were generated abroad to, or through, Jersey or who may seek to use trust and company service providers (TCSPs) to facilitate their illicit activities. In that regard, different types of frauds, corruption, tax offences and drugs trafficking were identified as the most pertinent threats. The inherent risks for the financial centre result, in particular, from its international clientele and the services/products offered in the field of wealth management. Jersey financial institutions (TCSPs included) often handle mandates of considerable complexity that require a high degree of know-how. In addition, the Jersey financial centre serves as a one-stop shop for all types of financial products and services wealthy non-resident clients may seek, including the establishment of legal persons and arrangements, administration of structures, opening of bank accounts, virtual asset services, etc. These services could make the country an attractive location for ML. Incriminated assets from abroad can flow into Jersey by using the financial products and services it offers, where they can be administered and further transferred to destination countries using a wide variety of structures.

3. Jersey has not experienced any terrorist attacks to date and the likelihood that it will become a target of terrorism is low. No terrorist organisations are operating or are present in Jersey and Jersey also has no parts of the population that would be sympathetic to the terrorist cause. Still, the risk that Jersey is being misused for terrorism financing (TF) purposes is determined to be medium-low as funds may be moved through Jersey's financial system.

Overall Level of Compliance and Effectiveness

4. Jersey has taken steps since its last evaluation to remedy the deficiencies identified during that process – the jurisdiction strengthened its legal and regulatory framework and published its first comprehensive NRAs in 2020 and 2021, based on the World Bank methodology. Data used in the ML part of the 2020 NRA covered the period 2017/18 but in some specific sectors this was supplemented by 2019 data (covering the period from 2013 to 2015), which was then updated by its second iteration - finalised in July 2020. In 2023, the ML and TF NRAs were updated.

5. In most respects, the elements of an effective AML/CFT system are in place, but the practical application of the existing framework has still to be improved in some areas to reach a substantial level of compliance. These should, *inter alia*, include the improvements in the quality of the FIU products (both at operational and strategic level) and their usage for investigation and prosecution of ML/TF and predicate offences; investigations/prosecutions of complex ML

schemes which potentially include legal structures established and managed in Jersey; a more robust process for conducting criminality checks at the market entry stage and subsequent changes as well as an enhanced institutional risk assessment process by the supervisor; a more effective and dissuasive application of the sanctioning regime for AML/CFT infringements and better implementation of specific EDD measures to PEPs and of ongoing monitoring to existing customers by the private sector, as well as improvements in their systems and processes to identify and report suspicions.

6. In terms of technical compliance, the legal framework has been enhanced in many aspects, nevertheless, some issues remain, including measures applied with regard to internal controls and foreign branches and subsidiaries (R.18).

Assessment of risk, coordination, and policy setting (Chapter 2; 10.1, R.1, 2, 33 & 34)

7. The competent authorities of Jersey have a strong and detailed understanding of the jurisdiction's core ML/TF risks. The authorities have a particularly good understanding of risks in the financial and trusts and companies service providers (TCSP) sectors, whereas there is also a sufficiently broad understanding of risks in other sectors. This is assisted by the fact that the two iterations of NRA were both systemic large-scale exercises with high-level commitment and nationwide coverage.

8. A broad range of areas relevant for an IFC were analysed throughout the NRA processes. The analysis is of a good quality, with a comprehensive overview and reasonable and well-grounded conclusions on the key risk areas. Given the way the NRA process was carried out, the level of participation and the multi-agency approach, it could be concluded that the NRA reports result from a thorough and comprehensive understanding of ML/TF risks by the competent authorities of Jersey.

9. The threat analysis relied on information from the cases investigated/prosecuted so far, as well as from financial intelligence on suspicions of ML stemming from foreign predicates. The latter (i.e., use of financial intelligence) enabled the authorities to go more in-depth with the threats' analysis, given the limited number of cases prosecuted before the court. In addition, threats stemming from organised crime in foreign jurisdictions and their potential links to Jersey are also considered and assessed, although these are limited to organised crime groups from the UK and Ireland. This notwithstanding, the FIU, LEA and prosecutors demonstrated better understanding of threats than the NRA (and its update) would suggest.

10. There is strong political commitment in Jersey to address any shortcoming in relation to the overall AML/CFT system. This is very much reflected through concrete actions and continuous activities of the Financial Crime Political Steering Group (PSG) and of individual authorities.

11. Jersey has considered the risks related to a set of exemptions from CDD requirements which can be applied by a supervised person. Whereas the exemptions are used in low-risk circumstances and include a limited number of customers (which showed a decreasing trend during the period under review), the full scope materiality (through calculating a total volume of funds) relating to these exemptions could not be assessed further due to the issues relating to consistency of valuation of customers and double counting.

12. The objectives and activities of competent authorities are largely consistent with the ML/TF risks identified in the NRA and those actions outlined in the National Strategy. There is strong national co-ordination and co-operation between agencies on AML/CFT issues.

13. Jersey extensively communicates the results of risk assessments to the private sector and the private sector demonstrated a high level of awareness of the NRA findings.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

14. Jersey competent authorities regularly access and use financial intelligence and other information to develop evidence and trace proceeds in investigations for ML, TF, and associated predicate offences. The FIU Jersey is an important source of intelligence. During the period under review, the FIU changed its status from being a part of law enforcement to becoming an independent administrative body. The quality of FIU intelligence reports have varied over time, with improvements being noted in the last couple of years. Whilst the current trend of an increased use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations is encouraging, concerns remain with regard to the effective use of these throughout the review period and before the FIU related reforms were initiated.

15. Suspicious activity reports (SARs) submitted to the FIU are generally aligned with Jersey's risk profile and are of good quality, although some defensive reporting takes place. Whilst some concerns have been noted with regard to the timing of SARs, the FIU provides feedback to reporting entities on the completeness of SARs, which reporting entities have welcomed and found useful. This feedback does not include the outcome of the SAR submitted.

16. Until very recently, the FIU did not have sufficient strategic analysis capabilities and its output in this context has consequently been very limited. Commendable efforts are now taking place, although the planning of strategic analyses could be better aligned with the findings of Jersey's NRA. Jersey exhibits a substantial degree of cooperation between competent authorities, with information sharing occurring routinely.

17. Jersey investigates all types of ML cases in line with the country's threats and risk profile, with the exception of ML from tax offences committed abroad where the number of investigations is low. Authorities are generally well resourced and trained. The number of prosecutions and convictions is yet low, and they concern only cases of self-laundering. However, there are complex ML investigations underway, and a few of those are in the process of being moved to prosecution. Sanctions available against natural and legal persons are effective, proportionate and dissuasive. A number of alternative measures to criminal prosecution are available and some of them have been successfully applied.

18. The courts routinely order the confiscation of assets previously seized during a criminal investigation and non-conviction based confiscations (civil forfeiture) have been routinely applied when criminal conviction could not be achieved. The overall results from the application of different confiscation regimes (conviction and non-conviction based confiscation) are good and generally reflect the assessment of ML/TF risks and the national AML/CFT policies and priorities, with the exception of tax crimes committed abroad and ML-only offences. Jersey has also successfully demonstrated the repatriation and return of assets to and from other jurisdictions as well as detecting and confiscating tainted cash.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

19. The authorities involved in the operational analysis, criminal investigation, and prosecution of terrorism-related and TF cases are adequately qualified, experienced, empowered and enabled to identify potential terrorism and TF risks. Jersey has a sound legal and institutional framework for combating TF. The authorities involved in terrorism and TF related prevention

and investigation are aware of the TF risks and threats. There have been four TF investigations so far, none of which have led to prosecutions or convictions due to absence of grounds.

20. Jersey's policy concerning TF is integrated with the UK's national counter terrorism (CT) strategy, allowing it to be supported at all stages of TF analysis and investigation by expertise provided by the UK security services and law enforcement. There is ongoing cooperation between the prosecutorial authorities of the UK and Jersey.

21. The sanctions available for TF under the Jersey legislative framework appear to be proportionate and dissuasive in the event of a conviction. In addition, Jersey authorities have different alternative measures to disrupt TF (such as non-conviction-based forfeiture, prosecution for other offences or the curtailment of leave).

22. Jersey has a comprehensive legal framework in place that ensures automatic implementation of relevant UNSCR covering TF and PF-related TFS without delay. However, some legislative changes and new procedures (e.g., relating to NPO supervision, proposals for designation, addressing foreign requests for terrorist designations, identification of targets for designation) were introduced very recently which did not allow for their effectiveness to be fully demonstrated.

23. The island has not identified any individuals or entities for designation or proposed any designations to the 1267/1989 Committee or the 1988 Committee. Although no funds or other assets have been frozen in Jersey pursuant to UNSCRs (PF and TF-related TFS), assets were frozen based on other sanctions' regimes which is a good indicator that Jersey authorities are able to take action to deprive persons of TF/PF related assets.

24. Obligated entities are generally aware of TFS screening obligations and the requirements to freeze funds/assets, however, the implementation techniques vary across FIs and DNFBPs with difficulties reported by obliged entities to identify close associations and indirect links with sanctioned entities and individuals. Obligated entities would benefit from further guidance in this regard in order to prevent sanctions evasion risk, as well as guidance on PF as distinct from TF. Supervisory arrangements to monitor compliance with TFS requirements are in place, however, the supervisory practices should be strengthened.

25. The authorities conducted a TF risk assessment of the NPO sector and identified a subset of NPOs vulnerable to TF abuse. The risk assessment results were used to develop a risk-based regulatory and oversight framework for the NPO sector. In 2023 the authorities took the first steps concerning the risk-based supervisory oversight of NPO activities, such as conducting examinations. The AT expressed its concerns in relation to the proportionality of the legal requirements for the entire subset of NPOs vulnerable to TF abuse.

Preventive measures (Chapter 5; IO.4; R.9–23)

26. Understanding of ML risks and AML/CFT obligations is generally good across all sectors, most notably banks and larger TCSPs (which are the biggest risk drivers for Jersey) and law firms, although this has not been the case for the entire period under review. Understanding of TF risks is, overall, less developed and mostly focused on risks related to NPOs and persons subject to TFS.

27. Risk mitigating measures applied by REs are mostly commensurate with risks, although their effectiveness improved more recently. Risk mitigating measures include corroboration of source of wealth and understanding of economic substance, restriction of the risk appetite in relation to aggressive tax avoidance practices or, in the case of TCSPs, overseeing the activities of legal persons and arrangements by actively participating in their daily operations. There is,

however, uneven criteria for identifying complex structures and implementation of risk mitigating measures in this regard between REs.

28. CDD and record-keeping obligations are generally well understood, including the identification of BOs, although not all REs understand fully the concept of control through other means. Third-party reliance has been declining in the banking, TCSP and Fund Services Businesses (FSB) sectors. Certain weaknesses were identified in relation to holding up-to-date SOF/SOW information on existing customers (“legacy” customers). The use of CDD exemptions to not identify underlying customers appears to be declining overall, but some REs still using them do not always consider sufficient information when assessing risks to ensure that exemptions are only applied in low-risk situations.

29. Specific EDD measures are generally applied for PEPs, new technologies, wire transfers, TFS and higher risk countries, while the provision of correspondent banking services is very limited. However, most REs only apply all relevant EDD measures where there is an accumulation of ML/TF risks in respect of customers connected to foreign PEPs, as opposed to the PEP status being a sufficient trigger. There is also uneven understanding across all sectors of the concept of a close associate who is connected to a PEP either socially or professionally.

30. The number of ML-related SARs filed by banks and TCSPs is not fully commensurate with risks and the policies adopted by some REs do not always ensure prompt reporting. The majority of SARs relate to potential tax offences, but the reporting has been largely driven by information requests from tax authorities and customers participating in tax amnesties or self-identifying tax evasion rather than proactive identification of suspicious activity. There is considerable room for improvement for systems and processes employed for the identification and reporting of suspicious transactions. The quality of SARs has been improving lately due to proactive FIU feedback and JFSC supervision. The prohibition on tipping-off is well understood and communicated to staff.

31. REs have generally adequate corporate governance arrangements and internal policies and controls in place, although comprehensive AML/CFT programs for some DNFBPs are quite recent. Division of responsibilities between the lines of defence, oversight by senior management, quality assurance processes and compliance incentives are frequently inspired by group practices and have been found as sound. However, the availability of qualified resources in compliance functions was identified as a serious challenge.

Supervision (Chapter 6; 10.3; R.14, R.26–28, 34, 35)

32. The controls to prevent criminals from entering the regulated market have been enhanced throughout the review period, with the recent introduction of criminality checks for VASPs and DNFBPs. Whilst currently all sectors are subject to fitness and propriety checks, the criminal background checks by the JFSC need to be further enhanced.

33. At the sectorial level, the JFSC demonstrates a good understanding of the ML risks with TF risk understanding developed to a lesser degree. At the institutional level, however, the risk understanding needs to be enhanced. The current risk assessment model used by the JFSC would benefit from enhancements to further the understanding of institutional risks, especially in the key areas such as product/service, client and transactional activities risk.

34. The JFSC applies a risk-based approach to the supervision of FIs and DNFBPs, which has been revised throughout the assessed period, alongside the risk scoring model. The number of resources to assist with supervisory activities has also improved, and the JFSC staff has the skills

and expertise necessary to undertake their functions. This has translated in an increase of the number of inspections from a low base in 2018. Supervision of TCSPs, in line with the risk profile of Jersey, is on the same level as that of FIs, if not more enhanced. The rest of the DNFBP sectors, with the exception of law firms, have, comparatively, been subject to a lower degree of supervision. Compliance of the VASP sector with the full range of AML/CFT obligations is yet to be supervised.

35. The scope of inspections appears to be detailed and comprehensive. Overall, there is a clear preference for thematic inspections when compared to other types such as full-scope or focused/targeted ones. While thematic inspections generally target areas which are in line with the risk profile of Jersey, this approach can mean that some AML/CFT compliance obligations remain unassessed by the JFSC for an extended period.

36. The JFSC's approach in relation to breaches detected through supervision greatly relies on remedial actions. While the actions taken contribute to entities addressing detected shortcomings, there is a significant degree of flexibility given to the entity to propose remedial actions and timeframes. The JFSC has created a heightened risk response team (HRR team) to monitor the effectiveness of remediation in cases deemed as high-risk, but these tasks are most commonly undertaken by independent reporting professionals, with less proactive oversight by the JFSC.

37. There is a broad range of administrative and criminal sanctions available, however, there have been very few administrative sanctions issued to FIs and TCSPs and even fewer to other DNFBPs and VASPs. Although there has been a recent increase in the use of financial sanctions, they have been applied only in instances where there have been severely aggravating circumstances. Less severe sanctions are prioritised over other available sanctions, including financial penalties. The overall sanctioning approach appears incommensurate to the risk profile of Jersey, the entities and sectors inspected, and the numbers and types of breaches detected.

38. Actions undertaken by the JFSC have resulted in some improvements in compliance, such as the time taken to remediate deficiencies being reduced, improvements in the quality of SARs or greater awareness and understanding of risks and AML/CFT obligations. This notwithstanding, there are still areas with room for improvement, as observed in IO.4, such as ongoing monitoring, identification of suspicions or application of CDD/EDD measures to legacy customers. The impact of supervisory actions on compliance is modest when observing that the number of breaches detected by supervisory actions has remained quite steady during the period reviewed.

39. The JFSC utilises a broad range of mechanisms to promote the understanding of ML/TF risks and obligations. A detailed AML/CFT controls implementation guidance is available, however, further sector specific guidance aimed at assisting obliged entities to identify suspicious activities would be helpful for the private sector. In addition, some DNFBPs, such as casinos and VASPs, would benefit from sector specific AML/CFT controls implementation guidance. The training and outreach themes need to be better tailored to sectorial and individual risks.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

40. Jersey authorities have demonstrated good risk understanding of the extent to which legal persons and arrangements can be misused for ML purposes, especially authorities more directly involved in their registration and supervision. Jersey conducted a detailed and comprehensive risk assessment exercise in 2023 concerning legal persons and arrangements. The risk assessment exercise could have further explored the methods and schemes through which risks

could materialise through different types of legal persons and arrangements (“LPAs”), including through consideration of typologies of abuse by particularly complex corporate structures, and the inherent vulnerabilities of LPAs and their activities for TF purposes.

41. Jersey undertakes a multi-pronged approach to obtain accurate, adequate and up to date basic and BO information of legal persons in a timely manner. This is mainly achieved through a fully populated Central Registry, housed at the JFSC, with basic and BO information for legal persons and limited partnerships (and excluding incorporated associations, which are instead registered with the Royal Court). The Disclosure Law obliges legal persons to have a nominated person in Jersey and to submit the BO and significant persons (directors, partners, etc.) information to the Registry and update it within 21 days of a change. Basic information is publicly available, while BO information is only accessible to competent authorities, either on request or, in the case of the FIU, the Attorney General and Revenue Jersey, via direct access. These authorities have an obligation to notify any discrepancies to the Registry, of which there have been none so far. Authorities can also access BO information from REs in a timely manner (most notably banks and TCSPs).

42. Accuracy of the Registry information is mostly ensured through an annual confirmation statement and through the Registry Supervision function. The efforts of establishing a supervisory function to enhance accuracy of information held in the Registry and the number of inspections conducted so far is very commendable, although it still has room for improvement in light of the results attained so far.

43. Jersey has put in place several risk mitigating measures, including the comprehensive and thorough checks and vetting and risk assessment processes that the Central Registry conducts, especially, at the registration phase, but also on an ongoing basis. Other risk mitigating measures refer to the prohibition of bearer shares or the involvement of TCSPs in the creation, maintenance and operation of most legal persons and arrangements.

44. Trusts are by far the most material legal arrangements in Jersey (29,338 trusts, both Jersey and non-Jersey law are estimated to be administered in the jurisdiction). BO information of legal arrangements is collected, maintained, updated and made available to competent authorities almost exclusively by TCSPs (except cases where a trust is part of the ownership chain of a Jersey company, in which case there would also be information in the Registry). Therefore, there is an evident reliance on this sector as a gatekeeper, and as a source of risk mitigation and availability of information. Ascertaining the accuracy of that information is mostly done through supervision of the sector, but very few shortcomings related to BO information obligations towards legal arrangements have been uncovered so far, and the coverage of trusts by supervisory actions is below the full population of trusts operating in the island.

45. For legal persons, the authorities have established and used a progressive scale of sanctioning powers ranging from the use of increasing late fees through the strike off and ultimately criminal prosecution (which has been introduced relatively recently) and have mostly been imposed in cases related to the appointment of a nominated person or submitting the annual confirmation statement. No sanctions have been applied for serious cases of provision of false or misleading BO information and a very limited number of sanctions concerning updating BO information to the Registry within 21 days of a change.

International cooperation (Chapter 8; IO.2; R.36–40)

46. Jersey has a proactive approach and multifaceted engagement in international cooperation. The jurisdiction has consistently demonstrated a strong commitment to facilitating

international cooperation in relation to AML/CFT and predicate offences, particularly when it comes to providing formal and informal cooperation.

47. Jersey demonstrates commendable efficiency and timeliness in addressing MLA and extradition requests. However, some internal delays in processing MLA requests have occurred, particularly in the earlier years of the review period. Simplified extradition measures result in rapid proceedings. Jersey has successfully extradited its own nationals, displaying a strong commitment to international legal cooperation. Similarly, efforts to seek legal assistance has intensified, including the extradition of persons to Jersey, to pursue domestic ML. Competent authorities also frequently seek informal cooperation, and, for this purpose, engage the FIU and its channels of communication. This approach has impacted the FIU's ability to focus on its own core operations. The FIU, commendably, regularly shares information with other FIUs.

48. Jersey authorities consistently and proactively share BO information related to legal entities and arrangements with foreign authorities. The process of sharing this information has been notably smooth, without significant practical obstacles.

Priority Actions

- a) Competent authorities should continue to prioritise investigations related to the large-scale ML cases involving funds deriving from high-risk predicates committed abroad (tax crimes, corruption, fraud, etc.), including cases with complex legal structures, in order to secure more prosecutions in such cases. Continuous efforts in ensuring necessary well-trained human resources of investigators/forensic accountants and LEAs are needed, as well as ensuring that all sources of information available are harvested to identify, investigate and prosecute ML more in line with country risks.
- b) Jersey should enhance its efforts to increase the seizure and confiscation for ML offences only, and from tax offences committed abroad. Relevant authorities should receive continuous training to maintain routinely ordering the confiscation of assets previously seized during the course of a criminal investigation.
- c) Authorities should increase the use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations, in parallel with continued implementation of the FIU's transformation programme and capacity-building plans.
- d) Jersey should ensure that the quality of FIU intelligence and the turn-around times for the FIU to disseminate intelligence continues to improve. This should include, among others, an increased propensity to seek and analyse information in SARs and from domestic and international sources, including FIUs, develop intelligence, and add value in its products.
- e) The FIU should continue with its efforts to produce strategic analysis products, ensuring these are risk-based and relevant to authorities and industry in Jersey.
- f) The JFSC should ensure that periodic reviews of high-risk customers (particularly legacy customers) always include the obtaining of documentary/corroborating evidence to ascertain SOF/SOW (where evidence is lacking) and updating beneficial ownership information (except where TCSPs are providing management services).
- g) The JFSC should ensure that REs assess the risks appropriately and apply the exemptions available for customers/investors of TCSPs and unregulated or non-public funds only where risks are low.

- h) Jersey should further enhance criminal background checks for new applicants and the existing licensees whenever there is a change of control, shareholding or key function to better prevent criminals or their associates from operating in the regulated market.
- i) The application of the sanctioning regime should be revised (in particular the guidance criteria to determine the severity of the sanction) so as to ensure that, in cases of serious breaches, the imposition of a wider range of severe and proportionate penalties, including pecuniary sanctions is prioritised.
- j) The JFSC and the Registry supervision functions should continue to review and refine the scope of their supervisory activities in relation to legal persons and arrangements with a view to detecting more serious breaches, such as cases of BO concealment.
- k) Jersey should fully implement risk-based supervisory oversight measures for the non-profit sector.
- l) Jersey should strengthen TFS supervisory approach. This should include applying higher scrutiny to TFS supervision especially on-site examination checks and increasing the capability of the obliged entities to identify close associations and indirect links to sanctioned persons to better prevent sanctions evasion risks.
- m) Jersey should analyse in more depth the appropriateness of SAR/STR reporting by FIs, DNFBPs and VASPs on TF suspicion and issue relevant guidance or provide training to increase the awareness and further increase the capabilities and capacities of competent agencies to identify, prevent and combat the more recent trends and methods of TF, in particular the FIU.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings¹

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
HE	SE	ME	ME	SE	ME
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
ME	SE	SE	SE	SE	

¹ Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low - LE, level of effectiveness.

Technical Compliance Ratings²

R.1 - assessing risk & applying risk-based approach	R.2 - national cooperation and coordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions - terrorism & terrorist financing
C	C	LC	C	C	LC
R.7- targeted financial sanctions - proliferation	R.8 -non-profit organisations	R.9 - financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping	R.12 - Politically exposed persons
LC	C	C	LC	C	LC
R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries
C	LC	LC	LC	LC	PC
R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 - Transparency & BO of legal persons
C	C	C	LC	LC	LC
R.25 - Transparency & BO of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervision	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities
LC	LC	C	LC	LC	C
R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments
C	C	C	C	C	C
R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation		
C	C	C	C		

² Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

1. This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and recommends how the system could be strengthened.
2. This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 27 September to 10 October 2023.
3. The evaluation was conducted by an assessment team consisting of:
 - Ms Astghik Karamanukyan, Deputy Head, Financial Monitoring Center, Central Bank of Armenia, financial expert
 - Ms Sameera Dawood-Bhagwan, Divisional Head - AML/CFT, Financial Conglomerate Supervision Department, South Africa, financial expert
 - Mr Alfred Zammit, Director, Financial Intelligence Analysis Unit, Malta, law enforcement expert
 - Mr Michał Szermer, Head, Foreign Information Exchange, FIU Poland, law enforcement expert
 - Mr Malkhaz Narindoshvili, Advisor to the Head of the Financial Monitoring Service, Georgia, financial expert
 - Mr Olivier Lenert, National Member for Luxembourg at Eurojust, legal expert

MONEYVAL Secretariat:

 - Mr Lado Lalicic, Head of Unit
 - Ms Kotryna Filipaviciute, Administrator
 - Ms Veronika Mets, Administrator
 - Mr Gerard Prast, Administrator
4. The report was reviewed by Ms Dina Spūle, Head of Strategic Development and Communication Division, FIU Latvia, and Mr Thomas Fuereder, Senior Legal Officer from the Financial Market Authority of Liechtenstein, and the FATF Secretariat.
5. Jersey previously underwent a MONEYVAL Mutual Evaluation in 2015, conducted according to the 2004 FATF Methodology. The report has been published and is available at <https://www.coe.int/en/web/moneyval/jurisdictions/jersey>.
6. That Mutual Evaluation concluded that the country was compliant with 16 Recommendations; largely compliant with 32; partially compliant with 1; and there were no non-compliant ratings. Jersey was rated compliant or largely compliant with 16 Core and Key Recommendations.

1. ML/TF RISKS AND CONTEXT

1.1. ML/TF Risks and Scoping of Higher Risk Issues

1. The Bailiwick of Jersey (Jersey) is a self-governing island territory situated in the bay of St Malo, 14 miles (or 22km) west of the French coast and 85 miles (137 km) south of the English coast. Jersey is the largest of the Channel Islands (consisting of Jersey and the Bailiwick of Guernsey). The Island is divided into 12 administrative areas or Parishes, with each Parish being presided over by its elected head, the Connétable. Jersey has a total population of 103,267 inhabitants (2021 census).

2. Jersey is not part of the United Kingdom (UK), but rather a British Crown Dependency. As one of the Crown Dependencies, Jersey's constitutional relationship with the UK is maintained through the Crown and is not enshrined in a formal constitutional document. It is a parliamentary democracy and is self-governing, maintaining its own financial and legal systems and its own courts of law. The civic head of the Island is the Bailiff, who is the chief judge and presiding officer of the Island's Parliament, the States Assembly, which is made up of 49 elected members.

3. The executive responsibilities of the States Assembly are discharged by the Government of Jersey. The Council of Ministers is the government's decision-making body. It currently comprises 12³ ministers, including the Chief Minister.

4. Jersey is in a currency union with the UK and has its own unique Sterling notes and coins (worth equal value to the British pound). The UK Government is responsible for the defence and international relations of Jersey as a matter of international law, with the Government of Jersey acting with full autonomy in all other matters.

5. The economy of Jersey primarily comprises the Financial Services sector, accounting for 42% of the total 2022 Gross Value Added (GVA). In March 2023, Jersey was ranked 60th out of 114 centres in the world by the Global Finance Centres Index⁴. Most of Jersey's physical linkages (ships and planes) are with the UK, rather than the geographically nearer northern France. For financial services, Jersey's access to the EU market is independent from the UK's relationship to the European Union (EU), and regulated by applicable EU and national legislation. Therefore, Jersey's financial services industry continues to operate in both the UK and the EU after Brexit as it did before.

6. Jersey operates its own judicial system, which is based on common law principles derived from Norman and English sources. Jersey has a Royal Court, which is equal to the UK's Crown Court for criminal matters, and the UK's High Court for civil matters. It also runs an administrative jurisdiction similar to that in the Divisional Court and receives statutory appeals from executive committees of the States. It exercises a supervisory and an appellate jurisdiction over the Island's lower criminal and civil court. Appeals from the Royal Court are dealt with by Jersey's Court of Appeal.

³ For the period under review there were 12 ministers including the Chief Minister. Since 27 February 2024 the Council of Ministers comprises of 13 ministers rather than 12.

⁴<https://www.longfinance.net/programmes/financial-centre-futures/global-financial-centres-index/gfci-33-explore-the-data/gfci-33-rank/>

1.1.1. Overview of ML/TF Risks

7. Jersey is an international financial centre (IFC), which faces both money laundering (ML) and terrorist financing (TF) threats. As an IFC, Jersey offers all types of financial products and services, predominantly to non-resident clients that may seek to undertake business with trust and company service providers (TCSPs), the banking sector, investment businesses, lenders, and the securities sector including both public and private funds. This has the potential to make the jurisdiction an enticing location for layering criminal proceeds. Main predicate offences are identified as relating to tax evasion, fraud, and corruption by non-residents seeking to hide the proceeds of overseas crime in Jersey. ML investigations to date are linked to drug offences, larceny, fraud and corruption. As for the TF risks, Jersey has little experience of domestic terrorist activity. It is considered unlikely that the jurisdiction will become a target of such activity in the future, given its geographical and political position. There are no terrorist organisations operating in Jersey and there are no signs of sympathy to terrorist causes and the main threat is related to cross-border financial activities being used to store or move funds.

1.1.2. Country's Risk Assessment & Scoping of Higher Risk Issues

8. In 2020 and 2021 respectively, Jersey published its first comprehensive national ML and TF risk assessments (NRAs). The NRAs have highlighted that the primary ML threats originate from the TCSP sector, the banking sector, the securities sector (being funds and their service providers as well as those engaged in investment business). The leading risk is that non-resident customers could take advantage of Jersey financial services businesses to launder proceeds acquired through illicit activities that took place outside of the jurisdiction. According to the 2020 ML NRA, Jersey was identified as being most likely to be exposed to the '*layering*' stage of ML. Typologies indicate that internationally these layering offences often involve banks, TCSPs or fund products. There is less risk of ML at the '*placement*' stage. Whilst the 2020 ML NRA found the TCSPs to be the most exposed designated non-financial business or profession (DNFBP), the next most exposed was the legal sector due to its significant role in corporate legal work and the creation of complex structures in Jersey.

9. The 2020 ML NRA determined, and the 2023 ML NRA update confirmed, the ML threat posed by foreign predicate offences is medium-high and the threat posed by cross-border activities is medium. Conversely, the domestic threat of ML is assessed as medium-low. Jersey has a comparatively low crime profile in terms of general offending, and the public perception is that the jurisdiction is a low crime area. The 2020 and 2023 ML NRAs identified, based on financial intelligence, that the top criminality suspected relates to fraud, corruption and tax evasion with the greatest threat to Jersey coming from non-residents seeking to hide the proceeds of corruption and white-collar crime in Jersey. Drug offences, larceny, fraud and corruption are the crimes that, to date, have had ML investigations linked to the predicate offence.

10. Per the 2021 TF NRA and 2023 TF NRA update, the TF threat the jurisdiction faces is mainly related to the volume and nature of its cross-border financial activities. As an IFC, Jersey's services and products could be potentially used to finance terrorism abroad.

11. As further explored under IO.1, the ML NRAs have been conducted comprehensively making use of the established methodology developed by the World Bank, which was enhanced where appropriate to suit the characteristics of Jersey. The NRA reports represent a significant collaborative effort that involved numerous professionals in the local finance industry, including

the regulator (the Jersey Financial Services Commission (JFSC)), the Law Officers' Department (LOD), the States of Jersey Police (SOJP) and the Government of Jersey.

12. Jersey's TF NRAs also used the World Bank methodology, which was enhanced by guidance produced by the Financial Action Task Force (FATF) as well as a significant piece of TF work conducted by Jersey in conjunction with other IFCs. The 2021 TF NRA identified 21 TF target jurisdictions which were split into two tiers based on risk level. This position has been refined in 2023 such that there are now 14 higher risk TF jurisdictions which are listed in a published guidance note⁵. Overall, there is a medium-low risk of Jersey being used as a conduit for terrorist financing.

13. In deciding what issues to prioritise for increased focus, the assessors reviewed material provided by Jersey on their national ML/TF risks (as outlined above), and information from reliable third-party sources (e.g., reports of other international organisations and open-source reports). The assessors focused on the following priority issues:

- **National Risk Assessment and domestic cooperation and coordination:** The Assessment Team (AT) examined the comprehensiveness of the NRA process in considering threats emanating from foreign predicate offences. In addition, the AT examined domestic cooperation and coordination mechanisms in place.
- **Preventive measures:** The AT centered its efforts on the overall implementation of preventive measures, in particular in relation to customers with connections to higher risk jurisdictions, foreign PEPs, identification and verification of the source of funds and gathering of beneficial ownership information by the following higher risk sectors: banking, investment businesses, securities (funds) and TCSPs.
- **Supervision and sanctions imposed:** Supervision, application of administrative and criminal sanctions for AML breaches, as well as SAR reporting practices and compliance arrangements in smaller firms, are areas that were under the specific attention of the AT, especially in the higher-risk sectors mentioned above.
- **Transparency of legal persons and arrangements:** Legal persons and arrangements created in Jersey are attractive to criminals as their use can add credibility and can assist with integration of illicit funds into legitimate structures (particularly vulnerable to criminals trying to hide illicit funds is the creation and formation of trusts and companies which may be targeted by high-net-worth individuals in order to disguise details of the true beneficial owners). The AT focused on the measures undertaken by Jersey to ensure the transparency of legal vehicles incorporated in the jurisdiction and to mitigate the relevant risks.
- **ML investigations, prosecutions, and convictions:** The NRA identifies the challenges related to investigating and prosecuting complex cases involving the main predicate offences (tax evasion, corruption and fraud). Therefore, the AT focused on the extent to which the FIU adequately supports the identification and investigation of complex ML schemes and the capacity of the competent authorities to identify, investigate and prosecute complex large-scale ML investigations and prosecutions, including

⁵ [Guidance on countries with higher risk of facilitating terrorist financing \(gov.je\)](#)

autonomous and third-party ML. The AT also explored the methods for coordinating and requesting investigative assistance from foreign counterparts.

- **Confiscation of proceeds of crime:** Considering the risk of non-residents laundering their funds in Jersey, the AT also evaluated the seizure and confiscation regime. With this aspect the AT examined the policies in place as well as the results in light of the jurisdiction's risk and context.
- **International cooperation:** Given the international nature of financial activities in Jersey, international cooperation is essential for combating ML and TF. The effectiveness of international cooperation by competent authorities through mutual legal assistance and through other means, both formal and informal, was considered, in particular the timely and constructive exchange of beneficial ownership and financial information with foreign counterparts.

1.2. Materiality

14. Jersey is a significant global IFC which has an internationally oriented financial sector, reporting over a half a million customer relationships with a worldwide reach (250 jurisdictions reported in 2021) and managing in excess of a trillion GBP of wealth. Financial services, including the legal and accountancy sectors, account for 42% of Jersey's total GVA in 2022, as well as representing 22% of the jurisdictions employment. This is followed by public administration (8.8%), construction (7.5%), and wholesale and retail (6.2%). Jersey's economy is not cash-based. As mentioned above, Jersey was ranked 60th in the world (out of 114 IFCs) in the 2023 Global Financial Centres Index. According to the Financial Secrecy Index (2022), Jersey represented 1.35% of the global market for cross-border financial services. The 2021 Centre for Economics and Business Research (Cebr) report on Jersey's Contribution to Global Value Chains estimates that just under two-thirds of the wealth managed by Island businesses originates from ultimate investors (depositors, investors, and settlors) who are not domiciled in the UK, with Europe (excl. Jersey and UK), Asia (incl. Middle East) and North America all being major contributing regions. The Cebr report highlights that almost 40% of the combined value held in the stewardship of the Island's trusts and other structures, funds and banks is invested in assets located in the UK.

15. The full range of Financial Institutions (FIs) and a large number of DNFBBs operate in Jersey to facilitate financial activities (see 1.4.3 "*Financial sector, DNFBBs and VASPs*" below).

1.3. Structural elements

16. Jersey has all the key structural elements required for an effective AML/CFT system including political and institutional stability, a high-level commitment to address AML/CFT issues across various authorities, governmental accountability, the rule of law and a professional and independent judiciary. The jurisdiction has signed up to numerous cooperation and information sharing mechanisms.

1.4. Background and Other Contextual Factors

17. Jersey's financial sector has an international vision. At the end of 2022, Jersey's Banking sector consisted of 19 active international banks, which includes nearly half of the top 25 banks in the world (including 5 Bulge Bracket and 1 State-owned banks). Services offered by banks focus

mainly on private banking and wealth management. As of 31 December 2022⁶, Jersey is the custodian of GBP151.5 billion in banks and GBP489 billion in administered or managed collective investment funds. Total value of funds under investment management stood at GBP30.2 billion. As of 31 December 2021, the value of assets under management by the TCSP sector is estimated to be GBP1.1 trillion.

1.4.1. AML/CFT strategy

18. Following the 2020 ML NRA, Jersey adopted an updated National AML/CFT/CPF Strategy (the Strategy) after it was approved by the Political Steering Group (PSG) in 2021. The Strategy reaffirms Jersey's long-term commitment to preventing financial crime. It includes a vision statement; identifies seven strategic priorities (see IO1 for more details); and an action plan to deliver the strategic priorities. It is a dynamic document, which will be reviewed and updated at least every two years.

19. The vision statement includes three specific elements: (i) for public and private sectors to deliver a holistic plan that protects Jersey against financial crime, (ii) uphold the position of Jersey as a responsible and cooperative IFC, and (iii) support legitimate growth and prosperity.

20. The Strategy will be achieved through cooperation between industry, government, agencies, and the regulator seeking to combat financial crime together.

1.4.2. Legal & institutional framework

21. Financial crime risk has been a long-term consideration of Jersey and has been a factor in policymaking since the 1980s. This has resulted in the adoption of a number of laws and policy documents. In the late 1990s, the Proceeds of Crime (Jersey) Law 1999 (POCL) and the Money Laundering (Jersey) Order 1999 were enacted and the JFSC was established as an independent body.

22. AML/CFT preventative measures are set out in the Money Laundering (Jersey) Order 2008 (MLO) and the AML/CFT/CPF Handbook. More details on this are described under 1.4.4 *Preventative measures*).

23. POCL was recently amended with respect to the structure and status of Jersey's Financial Intelligence Unit (FIU) (see IO.6). Jersey has also enhanced its legal framework with the introduction of a "*failure to prevent money laundering*" offence as well as the measure that enables deferred prosecution agreements when entities self-report offences to the Attorney General (AG).

24. In 2020 the Government of Jersey overhauled the governance structure through which it delivers its AML/CFT/CPF strategy, this created the National Financial Crime Policy and Strategy and Coordination Structure (the National Structure). The National Structure puts effective mechanisms in place which support the implementation of NRA findings. It serves as a permanent platform for cooperation and coordination at policymaking and operational levels for the competent authorities. The PSG is the permanent national coordination function for AML/CFT. Overall, the legislative framework presents a strong basis for preventing and fighting ML/TF.

⁶ <https://www.jerseyfsc.org/industry/sectors/banking/banking-statistics/> the JFSC provides Bank numbers and bank deposit levels.

25. At the time of the onsite the main actors in Jersey's National structure are as follows⁷:
- **The Chief Minister of the States Assembly:** The Chief Minister holds the ultimate responsibility for all financial services areas. This includes overarching responsibility for financial crime policy, which has been delegated to two Assistant Chief Ministers, one of which acts as chair of the PSG.
 - **The Minister for Home Affairs:** The Ministry for Home Affairs is responsible for the States of Jersey Police Force and the enforcement responsibility of the Jersey Customs and Immigration Service in respect of financial crime. The Minister for Home Affairs is also responsible for the Terrorism (Jersey) Law 2002.
 - **The Minister for External Relations:** This Minister exercises their responsibilities in accordance with the Common Policy for External Relations, as agreed by the Council of Ministers. In line with the Common Policy and with the Island's international obligations, Jersey implements both UN and autonomous UK sanctions. This Minister is the Competent Authority for the implementation of Targeted Financial Sanctions in Jersey – see further information below concerning the Financial Sanctions Implementation Unit (FSIU). Responsibility for the ratification of treaties and conventions for Jersey rests with the Ministry for External Relations alongside broader initiatives such as promoting cooperation and stronger government to government relationships between the Jersey authorities and its international partners.
 - **The Minister for Treasury and Resources:** The Minister is responsible for administering the Criminal Offences Compensation Fund and the Drug Trafficking Offences Compensation Fund. These funds exist to hold confiscated proceeds of crime which are responsible for the funding of certain AML/CFT initiatives pursued by the PSG.
 - **Law Officers' Department (LOD):** This department is led by the AG and the Solicitor General (SG), his deputy, together with advocates, solicitors, legal professionals, and other staff, including investigators. The AG and SG are appointed by the Crown and are independent from the Government of Jersey. The SG is able to exercise all the powers of the AG in his absence. The AG is the prosecuting authority in Jersey and all prosecutions are brought in his name. The AG has statutory investigatory powers in respect of cases of serious or complex fraud, under the Investigation of Fraud (Jersey) Law 1991. Along with the SOJP and Jersey Customs and Immigration Service (JCIS), the LOD is responsible for the investigation of ML and TF. The LOD consists of the Criminal Division and the Civil Division both supported by a small administration team. The Criminal Division is divided into three teams, being the Criminal Court Team, the Economic Crime and Confiscation Unit (ECCU) and the Mutual Legal Assistance Team (MLA) (see IO.7). The AG is also the central authority for MLA (incoming and outgoing), gathering written and oral evidence to assist domestic and overseas criminal or civil asset recovery investigations and proceedings (See IO.2). They apply to the Royal Court for freezing/seizing orders (such as *saisies judiciaires* and Property Restraint Orders) and confiscation of the proceeds of crime (IO.8).

⁷ Following a ministerial restructure, as of 27 February 2024, the Minister for External Relations holds the ultimate responsibility for all financial services areas ([Changes to Ministerial Offices \(Jersey\) Amendment Order 2024](#)) and remains the Competent Authority for the implementation of Targeted Financial Sanctions in Jersey.

- **Viscount and Viscount's Department:** The Viscount is the executive officer of the Royal Court. The department is principally required to execute orders of the Courts. The Viscount enforces orders issued by the Royal Court, including *saisie judiciaires*, manages civil asset recovery orders and property restrained or forfeited under the Forfeiture of Assets Law. The primary duty of the Viscount is to ensure that the assets are realised in such a manner that enables orders to be paid. In addition, the Viscount and their department undertake a variety of functions such as being the executive officer of the States Assembly, administering bankruptcies, managing juries, and acting as the Coroner for Jersey.
- **Judiciary:** Complex financial crime cases are heard before the Royal Court consisting of a legally qualified judge and, in the case of statutory offences (which would include ML and breaches of the MLO) and asset forfeiture, the judge is joined by two Jurats who are the finders of fact. The Jurats are full time lay judges elected by an electoral college of the legal profession and elected members of the legislature. Customary offences (fraud, perverting the course of justice etc.) are heard by a jury of 12 members of the public.
- **Chief Judge:** This is the role of the Bailiff. He is assisted by his Deputy and Royal Court judges (Commissioners). The Bailiff and Deputy Bailiff are appointed by the Crown and the Bailiff appoints the Commissioners.
- **The States of Jersey Police Force (SOJP):** They are responsible for policing in Jersey along with the Honorary Police (voluntary forces established in each of the Island's Parishes, with officers elected at Parish assemblies). From a counter terrorism and general policing perspective the SOJP have a presence at both entry points to Jersey, the seaport and airport. The Counter Terrorism Policing Unit (CTPU) are operational at both locations.
- **Jersey Customs and Immigration Service (JCIS):** JCIS has the legal remit of policing the Island's border in relations to Customs (prohibited and restricted goods and collection of import duty) and Immigration matters (movement of people into the Common Travel Area). JCIS has three Officers embedded within the Joint Financial Crimes Unit (JFCU). They form the drugs proceeds confiscation team which has responsibility for financial investigations relating to drug trafficking in Jersey. JCIS is responsible for seizing illicit drugs imported into the Island and 'tainted cash' and can require cash disclosures from individuals entering and leaving the Island.
- **The Joint Financial Crimes Unit (JFCU):** This specialist investigative unit is based at Police Headquarters and comprises of officers from both the SOJP and JCIS. The primary role of the unit is to investigate domestic serious and complex financial crime including complex fraud and money laundering offences. The unit also works closely with other teams within the SOJP and JCIS to identify and investigate ML offences that are associated with generating illegal profits, such as drug trafficking. The unit has responsibility for the investigation of suspected terrorist financing and proliferation financing offences as well as the identification of assets associated with Royal Court criminal cases that may be the subject of confiscation.
- **The Jersey Financial Intelligence Unit (FIU):** The Jersey Financial Intelligence Unit (FIU) transitioned in 2023 to being an operationally independent, administrative FIU. Prior to this date it was a law enforcement model FIU resourced with both Police Officers and civilian intelligence investigators and analysts. The FIU is the designated central

authority for the receipt, analysis, and dissemination of intelligence. This includes analysis of Suspicious Activity Reports (SARs) filed by reporting entities together with additional intelligence and information received from international FIU's (via the Egmont Secure Web) as well as other partnerships at national and international level.

- **The Jersey Financial Services Commission (JFSC):** The JFSC is the Island's designated AML/CFT/CPF supervisory agency for FIs, DNFBPs, VASPs and "Prescribed NPOs" (non-profit organisations that are at heightened risk of being abused for terrorist financing purposes). The JFSC has statutory powers that enable it: (i) to carry out offsite and onsite inspections of supervised persons, compel the provision of information or documents from defined persons, and carry out regulatory investigations; (ii) to require supervised persons to remediate non-compliance with their AML/CFT/CPF obligations; (iii) to impose a range of administrative sanctions (including fines) where there has been non-compliance with AML/CFT/CPF obligations. With the exception of the gambling and legal sectors, where an FI or DNFBP is also subject to prudential and conduct supervision this function is undertaken by the JFSC. The JFSC acts as a consolidated supervisor (at a sub-consolidation level within the overall group) for only one financial institution, a bank. In addition, the JFSC operates Jersey's Registry (hereinafter, 'the Registry'). It holds and updates 15 registers, which includes the Island's central register of beneficial ownership, as well as registers of companies, business names, foundations, partnerships and security interests.
- **Financial Sanctions Implementation Unit (FSIU):** The Financial Sanctions Implementation Unit (FSIU) is responsible for implementing an effective sanction regime and ensuring a whole-Island approach to implementation in accordance with FATF standards. It coordinates the introduction of sanctions measures and assists the Minister for External Relations (the "Minister") in carrying out his duties as Competent Authority for sanctions implementation under the Sanctions and Asset-Freezing (Jersey) Law 2019.
- **The Jersey Gambling Commission (JGC):** The JGC has responsibility for licensing, registration, and prudential/conduct regulation of gambling, with the exception of functions in relation to the Channel Islands Lottery which remain with the Minister for Sustainable Economic Development.
- **Jersey Finance Limited (JFL):** JFL is a non-profit making marketing agency which represents and promotes the local finance industry, funded by its member firms and the Government of Jersey.
- **The Tripartite System:** Whilst not an agency in itself, for most of the reporting period the Tripartite system was a key mechanism used by intelligence, law enforcement and prosecution agencies in Jersey to progress cases. The Tripartite system was the system by which the FIU disseminated cases to LEA's and competent authorities. With the change in model of the FIU came a change in the process for disseminating cases to LEAs and competent authorities, the Tripartite system was replaced by a process of direct dissemination to agencies by the FIU, based upon agreed "take on" criteria. To ensure continued cooperation at a strategic level, agencies established the Joint Agency Meeting (JAM) process. All relevant agencies attend quarterly meetings of the JAM to discuss cross-cutting and strategic issues with ongoing cases.

1.4.3. Financial sector, DNFBPs and VASPs

26. The table below shows active market participants (including natural persons) from 2018 to 2022 by registered/licensed activity⁸:

Table 1: Number of persons registered or licensed – FI, DNFBP and VASP sectors

Number at end of year	2022	2021	2020	2019	2018
Financial Sector					
Acceptance of deposits and other repayable funds	12	13	12	12	11
Banks	19	20	24	25	26
Financial Leasing	1	1	1	1	1
Guarantees and commitments	7	8	7	7	7
Insurance (Long Term and Composite Insurers)	56	59	61	62	62
Investing, administering or managing funds	45	40	38	33	28
Issuing and administering means of payment	12	16	15	13	11
Lending/factoring	46	46	43	41	37
Money Broking	2	2	2	2	2
MSBs and exchange offices	32	34	37	39	44
Participation in a securities issue	15	16	16	16	16
Safe custody services	5	6	6	6	6
Securities (Private Funds)	625	527	402	292	189
Securities (Public Funds)	499	567	589	668	762
Securities firm - CIF service provider	518	519	510	515	518
Securities firm - Investment Business	67	70	73	78	82
Securities firm - Portfolio management and advice	7	8	7	7	6
Securities firm - Safekeeping and administration of securities	7	8	7	7	7
Securities firm - Trading for the account of third parties	8	7	6	6	6
Non-Financial Sector					
Accountants and Auditors	128	122	118	117	113
Advice and services to the purchase of undertakings	1	1			
Casinos	2	2	2	2	2
High Value Dealers	2	2	2	2	2
Lawyers, including notaries	51	51	51	52	55
Real estate agents	50	49	45	45	43
Trust and Company Service Providers	795	799	839	849	845
Virtual Currency Exchange	7	5	4	3	2

⁸ A person registered/licensed by the JFSC for more than one activity is reported against each activity for which they hold a certificate/licence. Not all persons granted a registration/licence have a Jersey presence e.g. the long term and composite insurers.

27. Jersey had 19 banks providing deposit-taking services as at the end of 2022. The banking sector is diversified between well-known UK high street banks and global private banks. The sector provides traditional services to the local market together with corporate solutions for the investment funds industry and TCSPs. These include treasury specialists together with international banking for expatriates and UK resident non-domiciled clients.

28. At the end of 2022, there was GBP 151.5 billion of bank deposits in Jersey, down from a peak of GBP 212 billion in 2007. Nevertheless, the banking sector remains significant with an increase in deposits each quarter since June 2021. In 2022 the banking sector accounted for approximately half of the total financial sector GVA. The majority of customer relationships are with non-residents.

29. In the securities sector the principal activity for fund operators is the provision of fund administration and management services (fund services business (FSBs)). Public Funds account for the majority of investors and assets under management. Recently the greatest growth has been in the number of Jersey Private Funds, a product launched in April 2017. Most fund products in Jersey are aimed at professional/sophisticated investors.

30. Jersey has a large and significant TCSP sector, in keeping with its existence as an IFC. In more recent years, there has been a shift in ownership and size (by number of employees) within the sector to private equity ownership and away from owner/managed businesses. 10 TCSPs (one of which also holds a banking license) are part of a group and subject to consolidated supervision by an overseas regulator. The TCSP sector remains important for the Island, directly employing around 4,500 Jersey-based individuals as of June 2022. A TCSP must be used to form a legal person, except in the case of a company with locally resident shareholders whose identity must be verified by the Registry. TCSPs in Jersey provide a full range of services including: (i) management services (director, partner, qualifying member of a foundation or trustee in a customer structure), (ii) limited services (registered office, secretary or both), (iii) single service (registered office services only, director services only, trustee services only, partner services only, council member services only, nominee services only, accommodation, correspondence or administrative services only and “hold mail” services (provision of registered office or business address and holding correspondence for collection or forwarding)). According to the 2023 ML NRA update, management services are the activity most often provided to customers, followed by trustee services and limited services. There has been a decline in the provision of management services from 75% of the business in 2018 to 66.6% in 2022, and an increase in trustee only services from 10.2% to 16.9% and in limited services from 10.2% to 13% in the same period. Provision of services to non-Jersey companies represented 11.8% of the business as of 2022.

31. The activity of Investment Business (IBs) covers a diverse range of businesses, including local Independent Financial Advisers (IFAs), niche wealth managers and investment banks with a global presence. As of 31 December 2022, there were 67 registered IBs. The reported total number of beneficial owners and controllers is 58,887 and the total number of customer relationships reported is 79,282.

32. The non-banking money service business (MSB) sector is small in terms of numbers and the risk associated with their products and services, which mostly encompass the provision of cash-related services on a limited scale (including currency exchange) and cross-border payment solutions.

33. Insurance businesses which meet the definition of a financial institution, as provided by the FATF, represent a very small percentage of the financial services business carried on in or

from within Jersey. There are 56 permits issued by the JFSC to businesses to carry on long-term or composite insurance, all of which are overseas companies carrying on insurance business in or from within Jersey. The long-term insurance requirements of the local population are serviced by these overseas companies who have no physical presence in Jersey. At the time of the onsite, no Jersey company is registered to carry on long-term insurance business with the public.

34. There are no terrestrial casinos in the island. A data collection exercise is conducted every year for online casinos. However, due to only 2 casinos being registered, the results of the data collection are not made public, due to commercial sensitivities. All gambling in Jersey, including casinos, is supervised from a conduct perspective by the Jersey Gambling Commission.

35. Law firms have a significant role in corporate legal work by providing legal advice on the creation of complex structures, often for the purposes of facilitating real estate investment transactions, frequently related to the UK. They do not often handle customers' funds. Approximately 60% of law firms employ 10 or less individuals and no lawyers are part of a group subject to consolidated supervision by an overseas regulator. Remaining DNFBPs (real estate agents, accountants and auditors and high value dealers) are much less significant in terms of materiality.

36. As the 2022 National Risk Overview confirmed, the Virtual Asset Service Provider (VASP) sector in Jersey remains small, both in terms of number of operators and share of the economy (it provides for 0.3% of the employment and 0.2% of the total income across all sectors); the risks are therefore limited. Jersey has not been identified as a jurisdiction with a materially important VASP activity by the FATF⁹. In May 2022 three VASP entities were registered with the JFSC, (growing to seven by December 2022), although 2 of them have yet to start actively trading as of 2023. VASPs in Jersey predominantly provide services to institutional customers outside of Jersey, out of which only 0.5% is estimated to have links with higher-risk jurisdictions. It is estimated that transactions processed by VASPs amounted to GBP 3.5bn in 2022, which is significantly lower than the value of wire transfers for the same period (VA transactions would represent 0.15% when compared to wire transfers). No VASP has exposure to privacy coins. The JFSC has risk-modelled all VASPs operating in Jersey as low-risk. There is also some indirect exposure from sectors (FSBs, TCSPs) which do business with entities who deal with VAs directly. Jersey authorities anticipate that this sector will grow, possibly significantly. Jersey was one of the first global jurisdictions to regulate fiat to virtual currency exchanges in 2016, bringing VAs within AML provisions. Additionally, involvement directly or indirectly with VAs is considered a sensitive activity by the Registry as it poses a potential risk to the Island and all such applications are subject to additional checks prior to an application being granted. In January 2023, changes to primary legislation implemented in full the FATF definition of VASPs thereby bringing them into full scope for AML/CFT obligations. "Travel rule" requirements for VASPs were adopted in September 2023.

⁹ <https://www.fatf-gafi.org/content/dam/fatf-gafi/publications/VACG-Table-Jurisdictions-2024.pdf.coredownload.pdf>

Weighting

37. The AT classified sectors on the basis of their relative importance, given their respective materiality and level of ML/TF risks. This classification is used to inform the conclusions throughout the report, weighting positive and negative implementation issues more heavily for most significant sectors than for less significant ones. This approach applies throughout the report but is most evident in IO.3 and IO.4:

- a) most significant: banking, TCSP and securities (FSBs) sectors;
- b) significant: investment businesses (IBs) and law firms;
- c) less significant: other FIs (money service businesses (MSBs)), other DNFBPs (accountants, real estate agents, casinos) and VASPs.

1.4.4. Preventive measures

38. In Jersey, AML/CFT preventative measures are set out in the Money Laundering (Jersey) Order 2008 (MLO) and the AML/CFT/CPF Handbook sets out the enforceable regulatory requirements that supervised persons (FIs, DNFBPs and VASPs) must follow when carrying on financial services business, either in, or from Jersey, or anywhere in the world through a Jersey company.

39. The MLO has been amended in several instances during the period under review. Most notable ones include amending the definition of financial group to also include DNFBPs and introducing conditions upon which a person ceases to be considered a politically exposed person (PEP) (both September 2023).

40. A number of activities were historically exempted in Jersey legislation from the registration/notification requirements and AML/CFT obligations, such as private trust companies (PTCs). The MLO was amended in January 2023 and all the scope exemptions were removed (see IO.1).

1.4.5. Legal persons and arrangements

41. Jersey is a full service IFC, with formation of legal persons and legal arrangements being one of the elements of what is offered. In Jersey, a TCSP must be used to form a legal person, except in the case of a company with locally resident shareholders whose identity must be verified by the Registry. Following registration, each legal person must maintain (at least) a registered office in Jersey, and all providers of registered office by way of business must be TCSPs or FSBs when providing a registered office for a fund vehicle. All legal persons are required to submit details of beneficial ownership to the Registry. Legal persons are also expected to follow the Government of Jersey's statement regarding National Risk Appetite and abusive tax schemes.

42. A significant legal development concerning the transparency of legal persons took place during the period under review with the enactment of the Financial Services (Disclosure and Provision of Information) (Jersey) Law, Order, and Regulations in January 2021. This legislation requires timely (within 21 days) delivery and update of beneficial owner and controller information, as well as significant person information (those holding director and equivalent positions) of legal persons.

43. Types of legal persons available in Jersey and a description of their functions are below.

Table 2: Overview of legal persons in Jersey as of 31 December 2022

Entity	Number	Description
Company	34,384	An incorporated entity which might be either public or private. It might also be incorporated with limited liability, unlimited liability (rare) or limited by guarantee.
Incorporated Cell Company (ICC)	538	Both the incorporated cell company and each cell are incorporated entities.
Protected Cell Company (PCC)	57	The protected cell company is an incorporated entity. The cell itself does not have separate legal personality to the Protected Cell company.
Limited Liability Company (LLC)	1	A hybrid entity, combining characteristics of a company and a partnership while offering limited liability to investors. Not to be confused with a company with limited liability.
Limited Liability Partnership (LLP)	138	A partnership which has separate legal personality and in which the partners benefit from limited liability.
Incorporated Limited Partnership (ILP)	15	A body corporate with separate legal personality to its partners.
Separated Limited Partnership (SLP)	154	An unincorporated partnership with separate legal personality.
Foundation	212	An incorporated entity with separate legal personality, established for objects which may be purposes or beneficiaries.
Incorporated Association	246	Incorporated associations are incorporated under an Acte of the Royal Court of Jersey.
Limited partnership	2,637	A partnership made between general partners with unlimited liability and limited partners, whose liability is limited to their contribution.

44. Treatment of legal arrangements varies depending on the type of arrangement. Limited partnerships are required to register with the Registry with beneficial ownership and controller requirements currently specified in consents issued under the Control of Borrowing (Jersey) Order 1958. Due to these reasons and not exhibiting “trust-type” characteristics, they will be considered as legal persons for the purposes of R.24/25 and IO.5, even if lacking legal personality.

45. The following table presents the types of legal arrangements available in Jersey and provides a description of their functions.

Table 3: Overview of legal arrangements in Jersey

Entity	Number	Description
Express Trust	29,338*	Legal arrangement normally governed by a trust deed/instrument.
<i>Fidéicomis</i>	80	A trust-like arrangement, but contrary to a trust, it may own immovable property in Jersey and is recognised by an Acte of the Royal Court of Jersey.
Customary law partnerships	330**	A partnership between two or more persons to carry on business, for a lawful trade or business, or hold an asset in common to share between them the profits and losses.

** The number of express trusts represents the number reported as being administered by a TCSP registered with the JFSC. Some of these are not Jersey Law trusts and there will be a small number of Jersey Law trusts which are not administered by a TCSP and therefore are not included in this number.*

*** This is an approximate number and represents the number which have been granted a business licence under the Control of Housing and Work (Jersey) Law 2012.*

46. Non-Jersey companies administered in Jersey are frequently administered by registered TCSPs who are required to apply the same CDD obligations as for Jersey entities. The 2021 JFSC Supervisory Risk Data indicated that 8,331 non-Jersey companies and 1,617 'other' non-Jersey legal persons and arrangements were administered by registered TCSPs. The risks associated with non-Jersey companies are similar to the risks related to Jersey companies. These risks may, however, be heightened due to different incorporation requirements and controls in the home jurisdiction which may be less stringent than those in Jersey. These risks are significantly mitigated due to the AML/CFT obligations placed on TCSPs with respect to their customers.

1.4.6. Supervisory arrangements

47. Jersey has a single regulator, the JFSC. It is an independent statutory body established under the Financial Services Commission (Jersey) Law 1998.

48. The JFSC is the supervisor for AML/CFT/CPF purposes, tasked with monitoring and supervising compliance by FIs, DNFBPs, VASPs and Prescribed NPOs. It also operates the Registry, which registers Jersey companies, most types of partnerships, foundations, and business names, and administers the Control of Borrowing (Jersey) Law 1947. The JFSC operates a Central Policy Team who support the organisation and work collaboratively with the Government of Jersey, other competent authorities, and industry representative bodies to enhance the legislative framework and regulatory rulebook.

49. The JFSC is part of the Group of International Finance Centre Supervisors (GIFCS). The GIFCS was established in 1980 and is a group of financial services supervisors with a core interest in promoting the adoption of international regulatory standards especially in the banking, fiduciary and AML/CFT arena. It is a leading authority on the regulation of trust and company service providers, and the interface of these intermediaries with AML/CFT standards. It is also an observer body of the FATF, a member of the FSB Regional Consultative Group for Europe, and a member of the Basel Consultative Group. The JFSC is also a member of the International Organisation of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), and the Enlarged Contact Group on the Supervision of Collective Investment Schemes (ECG).

1.4.7. International cooperation

50. The principal ML risks facing Jersey as an IFC stem from the nature of its financial sector business conducted in or from the Island. This creates a material vulnerability to being used in the layering and placement stages of ML schemes, which is well recognised by Jersey authorities. These risks generally involve proceeds generated from criminal activities committed outside the island (mainly proceeds of drug trafficking, corruption, fraud and tax evasion). The 2023 ML NRA includes a list of 20 jurisdictions identified as posing a threat to Jersey. The list includes six financial centre jurisdictions which were first identified in the 2020 ML NRA as posing a threat to

Jersey due to their status as financial centres with which Jersey has strong business links: Ireland, Hong Kong, Switzerland, United Arab Emirates (UAE), UK, and the United States of America (US).

51. Jersey's authorities recognise that effective international co-operation is essential in tracing proceeds of crime and uncovering the identity and background of criminals and apply, wherever possible, a proactive approach (e.g., in the area of informal cooperation). Within the LOD there is a dedicated mutual legal assistance (MLA) Team responsible for carrying out the function of providing MLA. It is responsible for making and receiving MLA requests in respect of the investigation and prosecution of crime, criminal asset tracing, restraint and confiscation, and civil recovery (non-conviction-based confiscation). On outgoing MLA requests the MLA team receives Instructions to send out Letters of Request from the SOJP, JCIS, and the Criminal Courts Team. The majority of instructions are from ECCU, who are responsible for conducting complex financial crime investigations, especially those cases with an international aspect. On outgoing requests, it must be noted that whilst the UK is consistently the jurisdiction which receives the majority of MLA requests, there are some jurisdictions with which Jersey engages frequently (in particular, the US and Portugal) and it has also sought legal assistance from many other jurisdictions. Jersey has also made proactive efforts to increase cooperation in tackling financial crime with the UAE and Switzerland.

52. In the area of formal cooperation, Jersey authorities have made improvements in execution times over the last five years. Assets of over GBP 3.2 million and USD 320 million have been shared with other jurisdictions as a result of MLA between 2018 and 2022. More generally, Jersey has also engaged in bilateral capacity-building and information-sharing initiatives with several jurisdictions, particularly in the areas of tax transparency and beneficial ownership information.

53. The FIU proactively shares intelligence with foreign counterparts on a regular basis. Other competent authorities also regularly engage in informal exchange of information and intelligence with foreign counterparts both for law enforcement and regulatory purposes.

2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 1

- a) Jersey has a strong understanding of its ML/TF risks informed by a variety of sources. During the period under review, Jersey carried out national and sectorial ML/TF risk assessments, all of which provided a thorough and in-depth analysis of the country's specific risks. This well-established risk identification process is comprehensive and includes the analysis of a wide range of factors and scenarios which were cross checked against jurisdiction's key ML/TF threats and vulnerabilities.
- b) All of the necessary public stakeholders have been involved in the NRA process through an effective coordination mechanism, and there was a proactive engagement of the private sector in the preparation of ML NRAs. This was less obvious for the TF part of the NRA, where some obliged entities were consulted during the course of this exercise, without their direct engagement in the TF NRA working groups.
- c) The risks of misuse of Jersey's financial sector to launder the proceeds of tax offences, fraud and corruption committed abroad have been recognised as the most material for the jurisdiction. Thoroughness of the analysis and variety of sources used suggest that this conclusion on key risks is reasonable and well-grounded. This notwithstanding, the lack of cases (i.e., investigations, prosecutions) relating to foreign tax crimes proceeds being laundered in Jersey may limit the authorities ability to recognise different trends and methods in relation to this specific area.
- d) Some specific areas of risk assessment appear to merit more detailed analysis. These include some aspects of threats emanating from global offences that have a transnational element, such as those committed by organised crime groups worldwide. In addition, potential risks associated with the provision of services by TCSPs and banks that may be associated with virtual assets (VAs) have not been fully assessed/evaluated by the authorities, whilst TCSPs relationships with customers from higher risk jurisdictions merit more analysis for TF risk assessment purposes.
- e) An updated national strategy for AML/CFT and combatting proliferation financing (CPF) was published in 2022. National and agency-specific AML/CFT strategies address the risks identified in the NRAs.
- f) Jersey has analysed the risks related to a set of exemptions from CDD requirements which can be applied by a supervised person in low risk circumstances. The exemptions are used in relation to a limited number of customers and these numbers have decreased during the period under review. Jersey has recently started collecting quantitative data on the value relating to these exemptions, but for reasons of consistency of valuation of customers and double counting, their full scope materiality could not be established.

- g) The objectives and activities of competent authorities are largely consistent with the ML/TF risks identified in the NRA and those actions outlined in the National Strategy.
- h) National co-ordination and co-operation between agencies on AML/CFT issues is a strength of the Jersey system. All relevant competent authorities work well together at policy and operational level. The National Financial Crime Structure remains the framework under which mechanisms for co-operation and co-ordination exist at a policy and operational level.
- i) Jersey extensively communicates the results of risk assessments to the private sector and the private sector demonstrated a high level of awareness of the NRA findings.

Recommended Actions

- a) Jersey should analyse, in more detail, threats emanating from global offences that have a transnational element, including by using typologies and strategic analysis developed by the FIU and other authorities. This primarily concerns the risks associated with the laundering of proceeds from organised crime activities in jurisdictions/regions (other than UK and Ireland) with which Jersey has significant business relationships. Particular attention should be paid to the possibility of these proceeds being laundered via products and services offered by Jersey's FIs and DNFBPs.
- b) Jersey should further consider potential risks associated with the provision of services provided by TCSPs and banks that may be associated with virtual assets (VAs).
- c) Jersey should have stronger engagement with the obliged entities when assessing TF risks. In addition, a more profound analysis of TF risks stemming from TCSP's relationships with customers from higher risk jurisdictions should be carried out.
- d) Jersey should enhance future risk assessments with case studies/real life scenarios and good practices distinctive for IFCs to improve the public and private sector's ability to recognise different trends and methods in laundering proceeds of foreign tax crimes.
- e) Jersey should continue to consider the materiality of customers and third parties exempted from certain aspects of CDD measures

54. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34.

2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

2.2.1. Country's understanding of its ML/TF risks

55. The relevant authorities of the UK Crown Dependency of Jersey have a strong and detailed understanding of their core ML/TF risks. The authorities have a particularly good understanding of risks in the financial and TCSP sectors, whereas there is also a sufficiently broad understanding of risks in other sectors. This is assisted by the fact that the two iterations of NRA were both systemic large-scale exercises with high-level commitment and nationwide coverage. These processes were built upon a comprehensive methodology and thus have resulted in accurate and high-quality ML/TF risks analyses based on a wide range of data from public and non-public sources. Although a more comprehensive understanding of some specific risks/threats is

desirable, this would only require a fine-tuning of what has already been a well-established risk assessment process. Overall, the AT considers risk understanding and risk assessments carried out by Jersey to be of a good quality, well founded, up-to-date and impartial. The assessment team recognises that the NRAs, as they stand, reflect and confirm the comprehensiveness of risks understanding by all competent authorities which were a part of these large-scale processes.

56. Identification, assessment and, subsequently, understanding of national ML/TF risks in Jersey are directed by the Financial Crime Political Steering Group (“PSG”) which employs a robust structure and has access to a comprehensive set of data. All AML/CFT competent authorities participate in this group, thus ensuring a very strong level of co-ordination. Private sector was also engaged in the preparation of the first NRA (ML part) and its update.

57. The National Level Risk Working Group (“NLR”) is an operational group composed of AML/CFT experts from competent authorities who are responsible for the co-ordination and delivery of risk assessments and action plans with respect to ML/TF vulnerabilities at both national and sector level. The NLR also convenes sub-working groups comprising both public and private sector representatives as necessary.

58. In 2020 and 2021, Jersey published its first comprehensive national ML and TF risk assessments (hereinafter ‘2020 ML NRA’ and ‘2021 TF NRA’) based on the World Bank methodology. Data used in the 2020 ML NRA covered the period 2017/18 but in some specific sectors this was supplemented by 2019 data. It is important to note that data across this NRA report was non-uniform and was taken from different parties at different times. As also acknowledged by the authorities, the following must be particularly noted when considering the 2020 ML NRA: authority level data was collected for 2013-2017; industry level data was collected for 2017/18 (occasionally 2019). The non-uniform data collection has impacted the analysis in a number of areas - as the data analysis progressed it became apparent that the data available still did not allow for a fully holistic analysis of ML risks and further data needed to be collected. These issues have been solved through (i) the systematic collection of industry data since 2018; (ii) amendments to the SAR template; (iii) the introduction of the National Statistics Database, as well as (iv) carrying out a further assessment of sectors/areas which were identified as those of a higher risk (legal persons and arrangements, VASPs, NPOs (TF) and private funds).

59. For the purpose of these sectors/areas assessments, a specific methodology was applied to fit the particularities of these businesses and the links the legal persons/arrangements have with foreign jurisdictions. Particularly important is the comprehensive assessment of risks inherent in legal persons and arrangements that are created in Jersey and which are domiciled abroad, having a nexus with the jurisdiction. The establishment and/or administration of legal persons and legal arrangements is the core business of the trust and company service providers (TCSP), the sector which is rated as having a medium/high residual ML risk. This risk analysis is therefore an important tool in informing the jurisdiction’s risk understanding in this area.

60. During 2022-2023, the ML and TF NRAs were updated, and their second iterations were finalised and published in 2023 - the NRA updates consider data from 2019 to 2022 for the ML analysis and from 2020 to 2021 for the TF analysis. Both updates also review the work done since the adoption of the initial NRAs, the impact and quality of implementation of recommended actions, and re-examine the risks levels in specific sectors/areas.

61. Jersey is an international financial centre (“IFC”), where significant amount of assets generated abroad are managed by its FIs and DNFBPs (the latter primarily concerns TCSPs). As an IFC Jersey offers all types of financial products and services, predominantly to non-resident

clients that may seek to undertake business with TCSPs, banks, investment funds, lenders, and the securities sector, including private funds. This has the potential to make the jurisdiction an attractive location for layering criminal proceeds. Accordingly, the jurisdiction is primarily exposed to external ML threats as non-residents may seek different pathways to transfer criminal proceeds to, or through Jersey, using its banking system or TCSPs. This is acknowledged by all competent authorities, as well as the most material private sector entities.

62. With regard to ML risks, and in particular the ML related threats, the 2020 ML NRA identifies (expectedly) that the highest threats are associated with foreign predicate criminality. However, it also notes that drug trafficking in Jersey and organised crime groups active locally, are of a higher threat too. The overall threat level of foreign predicate offences is medium-high and low-medium for domestic criminality. On the vulnerability side, the report highlights vulnerabilities related to AML policy and strategy; quality of FIU intelligence gathering and processing; and a specific set of vulnerabilities in relation to the TCSPs, securities (funds), and investment business sectors as being the most material. Overall, the leading risk is that non-resident customers could take advantage of Jersey financial services businesses to launder proceeds acquired through illicit activities that took place outside of the jurisdiction. The NRA also notes that there is less risk of ML at the 'placement' stage.

63. The TCSPs were found to be most exposed to the risk of ML in the Designated Non-Financial Business or Profession (DNFBP) sector, with the legal sector the next most exposed. This position is considered reasonable given their significant role in corporate legal work and the creation of complex structures in Jersey. These risks, their analyses and conclusions, in general terms, are largely in line with risks observed in other IFC which feature similar types of businesses with non-resident clients.

64. The 2023 ML NRA update provides a review of residual risks and the impact of recommended actions' implemented following the 2020 ML NRA. The 2023 ML NRA update also recommends further actions, reanalyses ML threats and broadens the understanding of these threats in terms of the type of predicate offences and their origin (domestic or international). This element was then analysed in conjunction with vulnerabilities associated with relevant sectors. The 2023 ML NRA update also identified whether Jersey's overall risk of ML has changed since the 2020 ML NRA was published. As for the changes in the risk landscape, the NRA update concluded that, consequent to the actions undertaken by the authorities, out of the 10 residual risks¹⁰ two have been fully addressed, six largely addressed; and two partly addressed. The 2023 ML NRA update also notes that the national threat position remains medium-high and predominately international rather than domestic, with the majority of funds generated from predicate offences committed outside the jurisdiction. On the other hand, the 2023 ML NRA update states that the national vulnerability position has significantly changed (as a result of

¹⁰ These residual risks are: (i) authorities understanding of ML not being sufficiently granular; (ii) lack of uniformed data collected to monitor ML risks; (iii) lack of understanding of cross-border ML risk (iv) policy development is not sufficiently resourced to respond to emerging threats faced by Jersey as an IFC; (v) LEA cooperation with counterparts abroad where predicates are committed not fully developed; (vi) for both authorities and industry the understanding of specific topics relevant to ML is still developing; (vii) the need to improve the quality of Intelligence available to the FIU, combined with processing challenges and resource constraints; (viii) effectiveness of tax enforcement and co-operation; (ix) supervisory approach is not fully tailored to higher risk sectors; and (x) lack of typologies of ML and guidance for specific important sectors,

actions implemented – as noted above) and is now a solid medium compared to borderline medium-high in 2020. The overall risk position of the four sectors remained unchanged.

65. Both ML and TF NRA iterations cover a broad range of areas relevant for an IFC. The AT is of the view that the analysis presented in the NRAs and their updates are of a good quality, with a comprehensive overview and reasonable and well-grounded conclusions on the key risk areas. Given the way the NRA process was carried out, the level of participation and the multi-agency approach, the conclusion is that the NRA reports result from a thorough and comprehensive understanding of ML/TF risks by the competent authorities of Jersey.

66. To reach such a conclusion, the AT did not rely solely on NRAs and other documents presented within the framework of this Immediate Outcome. Lengthy discussions were held with competent authorities on different risk areas and risk scenarios. As an example, in-depth discussions were carried out on authorities' understanding of the inherent risks of services offered in the private sector. In particular, the services offered to high-net-worth non-residents, some of whom are worldwide known individuals. These cases always involve complex structures (including mixed groups of legal persons and arrangements) established and managed by TCSPs. Given the specific links Jersey has with other international financial centers (such as City of London, United States, United Arab Emirates, Hong Kong or Ireland), risk emanating from business relationship with TCSPs based in these jurisdictions were also analysed. The 2020 NRA notices that *'over the last 50 years, Jersey has established a relationship with the City of London and there are strong links between businesses in the two jurisdictions, noting that Jersey represents an extension of the City of London for corporate treasurers, institutional bankers and treasury specialists, fund promoters, brokers and other corporate financiers. Many of the legal persons and arrangements established under Jersey law that are used in international transactions are instigated by large London law firms. Some local law firms have also established a presence in London to further develop this business model.'*

67. In view of this, the AT paid particular attention to the extent to which the authorities acknowledge and weight the risks deriving from this type of business relationships and what were/are the mitigating measure that have been applied to minimise these risks. There has been a long period of time, going beyond the NRA exercises, since Jersey authorities acknowledged and analysed the inherent risks from businesses being introduced through so-called "magic circle" (businesses introduced by five most prestigious London-headquartered multinational law firms). Based on this analysis, the authorities implemented a number of measures to strengthen the prevention and controls in the AML/CFT area. In particular, a series of targeted discussions and workshops with the private sector were held, in parallel with joint public -private research on risks of laundering the proceeds of foreign tax crimes. At the level of legislation, a series of amendments, which have sought to strengthen both the civil and criminal enforcement framework, were adopted.

68. Notwithstanding these notable measures, they are, in the AT view, a bit generic in their nature. Whilst these measures have (undoubtedly) a positive effect on the overall ML/FT risk understanding in the jurisdiction, the expectation is that such a form of ML risk (as discussed in paragraph above) is also addressed by more specific and tailor made measures. These could, *inter alia*, include, proactive consideration of case studies/real life scenarios specifically covering ML stemming from the above-referred activities, which could potentially result in publication of case studies and revision of red flags for reporting entities. On the other hand, discussions with LEA and prosecutors confirmed that they are aware of these risks and have tools and expertise to investigate cases where such ML schemes are used.

69. With regard to geographical risks, it is important to note that Jersey identified jurisdictions, i.e. other financial centres, which may act as “entrepots”, where funds have come from or will subsequently be transferred through, including Jersey. With the data available, the 2020 ML NRA identified six jurisdictions as those posing a higher risk. Given the extension of criteria covering higher risk jurisdictions for the purposes of the 2023 MLNRA update (here the authorities used additional sources and data, including major global events that impacted businesses in Jersey, as well as specific indicators on increase/decrease of their business with relevant jurisdictions), another twelve jurisdictions were added to this list. Consequently, the updated list of higher-risk jurisdictions now comprises 20 countries. Overall, the jurisdictions did a good quality analysis, which resulted in a valuable understanding of geographical risks.

70. In relation to the threat environment, the overall foreign predicate criminality threat of ML is considered as Medium-High. The analysis on foreign predicate offences is informed by cases investigated/prosecuted, as well as by financial intelligence on suspicions of ML stemming from foreign predicates. Given the limitations noted under IO7, the latter (i.e., use of financial intelligence) enabled the authorities to be more in-depth with its threats’ analysis. As a result, tax crimes, fraud and corruption were identified as key threats. This is a reasonable and well-founded conclusion. Specific case studies featuring important details on typologies involving fraud and corruption, and, to a lesser extent, tax crimes, further confirm this. On the other hand, the fact that very few ML prosecutions have been carried out presents a vulnerability, and thus was subject to analysis in the 2023 NRA update. As a result, the authorities put forward recommendations directed at enhancing international cooperation and obtaining evidence from abroad in pursuing ML investigations and prosecutions.

71. Appropriate understanding of threats stemming from tax crimes committed abroad was also demonstrated, this being a result of an intensive communication among LEA and Revenue Jersey. Whilst at the operational level, the FIU is sharing information on tax related intelligence internationally, requests for assistance are also made through Revenue Jersey under tax information exchange agreements. The jurisdiction also developed a specific study ‘*Jersey’s defences against foreign tax crimes*’, which features the likelihood of Jersey’s financial and professional service providers being involved in the laundering of the proceeds of tax crimes committed abroad. It is a comprehensive study carried out through public private partnership. It has also been used to raise awareness, knowledge and skills of the financial industry and the competent authorities on threats posed by this predicate. Whereas these measures present a good practice in tackling specific risks, the lack of cases/real life scenarios (investigations, prosecutions, convictions) on ML stemming from foreign tax crimes, may hamper the authority’s ability to recognise different trends and methods in this area.

72. The 2020 ML NRA also touches upon the threats posed by organised crime. These threats are divided into two groups: (i) where ML is secondary to key activities (ML as a consequence of the organised crime primary activity e.g. trafficking in narcotics) and (ii) organised financial criminality being the primary crime (e.g. professional ML, servicing multiple organised crime groups). This part of the analysis mostly focuses on threats stemming from organised crime groups from the UK and Ireland and their eventual links to Jersey. Possible typologies are explored and risks are acknowledged. Whilst these efforts are commendable, the AT notes that the broader context of organised crime threat, including by using typologies and strategic analysis developed by the FIU and other authorities, could benefit from more specific analysis. For example, threats stemming from organised crime groups and their activities in other jurisdictions/regions with which Jersey has significant business relationships merit more

detailed analysis. Such analysis would primarily concern some global offences (e.g. trafficking in narcotics in American/Asian regions; trafficking in human beings and trafficking in weapons in Asian/African regions, etc.) and the possibility of their proceeds having a nexus to Jersey. This notwithstanding, it needs to be noted that during the on-site discussions, the FIU, LEA and prosecutors demonstrated better understanding of these threats than the NRA (and its update) would suggest.

73. The risks posed by Politically Exposed Persons (PEPs) have been articulated in both NRA iterations. Data collected for the purpose of 2020 ML NRA showed that 12% of the TCSP customers were either PEPs themselves or had connections with a PEP. The domicile jurisdictions of these PEPs were also identified, and almost a half of the 'PEP population with links to Jersey' comes from the countries identified as those of higher risk. The NRA update reviews these risks in light of mitigating measures applied and gives an extensive overview of how its specific features may materialise in practice. The FIU data and knowledge was specifically used for this purpose, including the development of typologies on how PEPs may use complex structures in Jersey, thus confirming a good understanding by the competent authorities of these risks.

74. The 2022 Virtual Asset Service Providers (VASP) Risk Overview further informed the authorities understanding of risks posed by VASPs. The Overview assessed the available data and noted that, despite Jersey being one of the first jurisdictions to bring virtual currency exchanges under the scope of AML/CFT legislation and to introduce clear guidance for token issuances, the data used to determine ML/TF was too generic. On the other hand, the virtual assets (VA) sector's size and share in the economy are relatively small, thus not posing significant ML/TF risks in general.

75. The main types of entities interacting with VAs in Jersey were identified as funds and fund managers that invest in VAs or in VA businesses and TCSPs that provide company administration and directorships to VA entities. These entities deal mainly with institutional clients outside Jersey. Considering the international client base and cross border nature of the transactions through the Jersey banking system and TCSP sector, the authorities have not fully assessed/evaluated the potential risks related to transactions that aim at the provision of virtual currency related services. The authorities acknowledged that the understanding of VAs related ML/TF risks by TCSPs and other registered entities is not at the satisfactory level to properly apply adequate systems and controls. Consequently, there is a need for further improvements in the area.

76. Use of cash was also analysed by the authorities and mostly through specific sector analysis and the potential of cash being misused for ML purposes within specific business the sectors carry out. Given that the use of cash in the sectors is minimal (according to the data provided), its use did not trigger high risks scenarios. Cases where cash was used for some drug related offences were also discussed, where LEA and customs demonstrated appropriate understanding of how cash could be misused for illicit purposes.

TF risks

77. TF risk is considered between NLR and the Terrorist Financial Sanctions working group. The work between those groups ensures that TF risk is adequately covered.

78. For TF, Jersey opted to use the World Bank national risk assessment tool (NRA tool) augmented by the "Monaco (MONEYVAL)" guidance that looks to specifically take into account TF risk factors which may be unique to IFCs. The 2023 TF NRA Update utilised a methodology similar to that employed for the 2021 TF NRA.

79. The 2021 TF NRA considers potential financing of domestic terrorist operations and Jersey's exposure to TF stemming from its status of an IFC. From the analysis undertaken, there is no evidence that there are any domestic terrorist organisations. The very few individuals (Jersey nationals) that made attempts to commit a terrorism related offence in the country are identified as self-radicalised individuals with no links to any wider network or organisations. Therefore, the TF threat from these fund flows is considered low.

80. It is important to note that there has been no case of terrorism financing in Jersey so far, therefore the risk understanding is mostly informed through a theoretical exercise on how an IFC may be used for such purposes. Consequently, the key findings of the 2021 TF NRA were as follows: IFCs face particular challenges in detecting terrorist financing due to the absence of common indicators, although they are not immune from terrorist financing risks. They can be misused for cross-border movement of terrorist funds including flow-through of terrorism funds; service provision; use of complex structures, abuse of philanthropy; and use of funds generated domestically by illicit activities. Jersey actively participates in discussions with other IFCs and international bodies to better understand TF risks.

81. In completing the TF risk assessment Jersey has considered TF from various aspects, such as the number of customers and beneficial owners within targeted jurisdictions; the number of PEPs from these jurisdictions; and the unknown risks. The risk of Jersey being used as a conduit for TF is considered medium-low.

82. To further examine and substantiate TF risk understanding, the authorities carried out the analysis of incoming and outgoing financial flows to/from targeted jurisdictions¹¹. Such an exercise has been carried out for the purposes of the 2021 TF NRA and its 2023 update. Data was collected from banks and money service businesses. A small proportion of the overall outgoing payments (0.47%, by value approximately 2,3 billion GBP) was found to be transferred to a total of nineteen jurisdictions considered to be of a higher TF risk. The overall figure may be even larger since (as observed in the NRA), transactions to and from Jersey are mostly interconnected with other financial centres – the UK and the USA. The analysis has shown that around 60% of the funds could be associated to a single FI whose business model involves supporting business operations in Africa, such as the mining industry.

83. The 2023 NRA update included more data on financial flows (including the transaction descriptions), detected/seized cash at the border, basic data on the origin of foreign direct investment coming to Jersey and the transactions conducted with the use of prepaid cards issued by local service providers. The authorities indicated that none of the financial data gathered ultimately identified any suspicion of potential TF activities. Whilst the authorities should be commended for carrying out this exercise and for broadening the data for this analysis, it remains unclear to what extent the data gathered has been further used for strategic or operational analysis to identify potential undetected TF activities. In addition, the analysis on the correlation between identified financial flows to high-risk jurisdictions and the adequacy of received TF related SARs was not carried out. As already discussed, and as observed by the authorities, the TCSP sector has a significant number of TCSP relationships with customers from higher risk jurisdictions. Whereas some analysis on this has been carried out, this specific feature merits further attention when examining TF related risks. In addition, and similarly to what has been

¹¹ Jurisdictions (21 jurisdictions) were identified through the use of a combination of publicly available terrorism risk indices, and intelligence information.

noted in relation to ML related risks, some areas, such as the VASPs regime and the overall application of preventative measures by the sector, should continue to be improved for CTF purposes too.

84. In conclusion, the 2023 TF NRA Update confirmed that there has been no material change to the nature of TF threats and vulnerabilities identified in the 2021 TF NRA.

85. Contrary to the ML NRA process, the TF risk assessment did not benefit from direct engagement of obliged entities in the working groups. This notwithstanding, the private sector was consulted during the course of this exercise, but was not directly engaged in the TF NRA working groups. Considering that TF NRA identifies *inter alia* the need for further examination of TF preventive measures and products that can be misused, future TF NRA processes would benefit from more direct engagement of the private sector.

86. Overall, the efforts made by the authorities to understand the TF risks are to be commended and the difficulties faced when carrying out TF risk analysis derive mostly from Jersey's specific position as an IFC which has never experienced a terrorism financing case. In the absence of TF related cases the NRA exercise was based on theoretical assumptions. Having said that, the set of conclusions resulting from the TF risks analysis is reasonable and forms a good basis for proper understanding of the risks. Nevertheless, given the rapid changes in the TF threat environment worldwide, the competent authorities should continue to closely follow developments in this area and reexamine the risks whenever such action may be necessary.

2.1.1 National policies to address identified ML/TF risks

87. There is strong political commitment in Jersey to address any shortcoming in relation to the overall AML/CFT system. This is very much reflected through concrete actions and continuous activities of the PSG and of individual authorities. This commitment has been demonstrated by the support provided to AML/CFT initiatives since before the period under review.

88. National and agency-specific AML/CFT strategies address the risks identified in the NRAs. The 2022 National Strategy for Combating Financial Crime is based on three main pillars: (i) a clear direction of travel for the competent authorities to combat financial crime together; (ii) strategic priorities to ensure the FATF recommendations are fully implemented; and (iii) implementation of the national action plan to deliver these strategic priorities.

89. Further to the 2020 ML NRA findings, the National Strategy puts forward strategic priorities, which aim at having both public and private sectors able to deliver a holistic plan that protects Jersey against financial crime, prevents harm to the jurisdictional society and international stakeholders, upholds the position of Jersey as a responsible and cooperative international financial centre and supports legitimate growth and prosperity.

90. This high level commitment is then translated into seven strategic priorities. These are: (i) to better understand the threats and performance metrics by the competent authorities and the private sector; (ii) to better share information and enhance coordination; (iii) to ensure that the powers, procedures, preventative measures and tools of law enforcement, the justice system and the private sector are fit for purpose and as effective as possible; (iv) to strengthen the capabilities of law enforcement, the justice system and private sector to detect, deter and disrupt ML/TF/PF; (v) to enhance the management of financial crime risk in the private sector and to strengthen the risk-based approach to supervision; (vi) to improve the systems for transparency of ownership of legal persons and arrangements; and (vii) to deliver an international strategy to

enhance Jersey's leading position on financial crime prevention with a hostile environment to criminals.

91. Under these strategic priorities, there is a detailed Action Plan which specifies 33 individual actions which are assigned to different agencies, with clear timelines and measurable indicators for their implementation. The actions defined in the Action Plan are well shaped for risk management purposes and they comply with the results of the NRA. They are designed to be delivered during the 2 year period following the publication of the Strategy (i.e., by September 2024). The implementation of actions is monitored by the PSG under the National Financial Crime Work Programme. Delivery of that programme is managed by the Co-ordination and Delivery Group (the "CDG"). Periodic reports which detail the status of implementation of these actions are thus prepared, the first one being released in September 2023. This report concluded that out of the 33 individual actions, 14 (42%) have been completed, implementation of 17 (52%) is still on-going, whereas 2 (6%) actions are delayed. Further to this, the PSG has also considered the need for targeted risk assessment work. As a result of this, the need for a thematic report on the Jersey Private Fund (JPF) was identified as a priority following the finalisation of the 2020 ML NRA. The thematic report on JPF was finalised and published in March 2021.

92. As already noted, the strategy and action plan flow from the NRA findings and properly reflect the priorities as identified in the NRA. Some of the key reforms deriving from the NRA findings include, for instance, providing all competent authorities with direct access to beneficial ownership information; moving the FIU away from law enforcement and making it a fully independent agency; designating the JFSC with the range of powers and mandate as an NPO supervisor. Given the unsatisfactory number of ML prosecutions, the authorities made important legislative changes which include criminalisation of breaches of Money Laundering Order, criminalisation of failure to prevent money laundering offence and also a measure that enables deferred prosecution agreements when entities self-report offences to the Attorney General (see also I07). These actions and their results confirm that there is an appropriate response at the policy level to the key challenges in the overall AML/CFT framework in Jersey.

93. Since the establishment of the National Level Risk Working Group, the PSG has considered the funding of different agencies based on risks. Since the adoption of the 2020 ML NRA and the 2021 TF NRA, the PSG has acted as a structure which also advises the Government on the allocation of funds – i.e., the increase of resources for specific agencies which were identified as not sufficiently staffed to respond to challenges as identified through the NRA exercises. This resulted in funding increases across agencies for approximately £1.8m from 2022 onwards. As an example, the FIU and the ECCU's (police) and the LOD MLA Department's resources have significantly increased based on the identified priorities. These reinforcements are welcome, and, in the view of the AT, provide sufficient resources to competent authorities to adequately carry out their tasks.

94. In conclusion, the AT is of the view that the national policies, as set out in the National Strategy, are aligned with risks identified and thus contribute to the enhancement of the effectiveness of the national AML/CFT regime, addressing the most prevalent ML/TF threats and vulnerabilities in the jurisdiction.

2.1.2 Exemptions, enhanced and simplified measures

95. A number of activities were historically exempted in Jersey legislation from the registration/notification requirements and AML/CFT obligations, such as private trust companies (PTCs), undertaking a regulated activity within the scope of intragroup arrangements,

the provision of director services to regulated entities on a limited capacity (6 or less directorships) or activities that authorities considered not to fall under the definition of FI, DNFBP or VASP. As a result of the 2020 ML NRA, it was determined that it was not possible to evidence that certain activities, which previously benefitted from these exemptions, did actually meet the FATF criteria of proven low risk or occasional or very limited activity. Therefore, the regime was amended, since January 2023, to remove all the scope exemptions, which means that persons carrying on these activities will have to register independently with the JFSC for AML/CFT purposes (including PTCs or entities providing services to private funds and other investment schemes that were customers of a TCSP).

96. Under the Proceeds of Crime (Supervisory Bodies) (Transitional Provisions) (Jersey) Order 2023, existing financial services businesses brought into the scope of the AML/CFT regime were given an initial transitional period to the end of June 2023. This deadline was consequently extended (Article 5A) until 30 September 2023 for the following activities: provision of director services to collective investment funds; persons carrying on family office business (limited to only those that do not use a private trust companies (PTC) administered by a TCSP) and persons providing certain limited types of gambling services.

97. However, after the adoption of the amendments in January 2023, it became clear to the authorities that those persons providing director services as a business which came newly into scope for AML/CFT obligations were finding challenges with implementing all of the initially proposed changes. Therefore, the Minister with responsibility for Financial Services amended the Money Laundering (Jersey) Order 2008 (MLO) by adding a 12-month limited exemption for those directors. Article 24B of the MLO provides these directors with certain partial exemptions from AML/CFT obligations¹². This means that those directors are not required to appoint a ML compliance officer and are not required to meet obligations regarding policies and procedures including the requirement to undertake business risk assessments. These exemptions are both partial and temporal, with a view of being repealed on 1 October 2024. The authorities advised that this allows them an opportunity to review the ongoing appropriateness of the partial exemption and its application in practice. It will also provide these newly in-scope businesses with sufficient time to prepare and to meet the AML/CFT obligations imposed on them under Article 37 of the POCL through the MLO. Generally speaking, the lifting of the scope exemptions aligns with the risk assessment findings.

98. In relation to the EDD, the MLO requires its application in any situation that can present a high ML/TF risk. In particular, it sets down specific EDD measures that must be applied to PEPs and to correspondent relationships. The AML/CFT/CPF Handbook requires specific EDD measures in respect of customers connected to higher risk countries and further advises (in a form of guidance) on other specific EDD measures applicable to some additional higher risk situations.

99. Jersey also has a set of CDD exemptions which do not apply in a general manner, but rather can only be used where a supervised person can demonstrate and record that the exemption is being used in a low-risk circumstance and that it is meeting the necessary risk-mitigating conditions. The circumstances in which these exemptions can apply are set out in the MLO. The exemptions fall into two categories: exemptions from applying third party identification measures where the customer is itself regulated and supervised for AML/CFT (funds, TCSPs, etc.)

¹² Articles 7, 8, 9, 9A, 10, 11, 11A and 12 of the Money Laundering Order.

(Art.17 of the MLO); and exemptions from applying certain identification requirements (Art. 18 of the MLO). Contrary to what was said about the lifting of the scope exemptions and their general justification further to different risk assessments, other exemptions as discussed above are all long standing and thus do not directly derive from the assessment of risks carried out at the national level. However, Jersey has considered the risks related to these exemptions also in the light of the high risks identified in the NRAs.

100. Regarding the exemptions from applying third party identification measures (Art.17), the authorities have analysed the total number of customers exempted and the total deposits and other repayable funds where CDD exemptions have been applied. The types of customers usually refer to deposit-takers, FSBs, TCSPs or collective investment or unregulated funds. Obligated entities making use of Art.17 exemptions have decreased from 66 in 2018 to 51 in 2022, although it is still quite present in certain sectors (47% of banks (9 banks) are using them as of 2022). The total number of customers (across all sectors), to which these exemptions are being applied has decreased from 0.42% in 2018 to 0.20% in 2022, with an estimated number of customers as of 2023 of 1,261. In addition, as indicated under IO.4, the decreasing tendency to use these exemptions was perceived among the FIs met onsite, due to the assessment of risks and the justification of application in low-risk situations proving challenging in practice. However, some of those FIs, who are still using them, struggled to articulate how risks related to underlying customers are assessed.

101. For the set of exemptions from certain CDD requirements (Art.18), the types of customers to which they are normally applied includes insurance policies, pension schemes, regulated entities, public authorities, companies listed on a regulated market or employees of the entity. The total number of customers falling under these exemptions has not decreased between 2018 and 2021. As of the end of 2022, it is estimated that these exemptions are applied to a total number of 11 144 customer relationships, across all sectors, most notably among the TCSP, legal, investment business and banking sectors.

102. Whilst information is known on customer relationship numbers, Jersey authorities advised that they started collecting “value” data (volumes of funds) from the banking sector on the use of Articles 17B-D. They also advised that during the initial data collection exercise which included all persons who reported using Article 17B-D or 18 for one or more customers, certain challenges were faced in relation to collecting useful, meaningful, and comprehensive data. Issues arose relating to the consistency of valuation and double counting of customers, examples being (i) an investment advisor, an administrator, a lawyer, an accountant all servicing the same fund which will create an element of double counting if all entities use Art 18 (the fund itself being a regulated person); or (ii) a banking relationship with several individuals to be identified (customer, plus three beneficial owners, etc.) For example, if the exemption is applied to just one individual, is the entire value of the banking relationship then counted.

103. Consequently, the full scope of materiality of exemptions, i.e., the value of the assets under management of the customers that the exemptions are applied to, could not be established. Whereas the reasoning (as provided in the previous paragraph) seems justified, the authorities should continue with their efforts in analysing the materiality of the cases when the exemptions are being applied.

2.1.3 Objectives and activities of competent authorities

104. The objectives and activities of the competent authorities are largely consistent with the ML/TF risks identified in the NRA and those actions outlined in the National Strategy. The

Financial Crime Strategy Team (FCS Team) in the Government of Jersey, Department for the Economy, are responsible for co-ordination of risk work, AML/CFT/CPF policy and legislation. On a day-to-day basis the FCS Team manages the activities of the National Level Risk Working Group. The FCS team is composed of key officials who propose amendments to the legislation relevant to financial crime. Consequently, they have been responsible for all of the major legislative changes in the period 2018-2023. Overview/analysis of the objectives and activities of the key AML/CFT authorities are summarised in the following paragraphs. The AT considers these as reasonable, well founded and appropriate responses to the risks identified.

105. *Supervision* – Countering financial crime is one of the JFSC’s “guiding principles” and this is reflected in the JFSC’s plans and strategies. The JFSC regularly compare NRA outcomes against JFSC risk model scores, and then adjusts the settings in the risk model, benchmarking the model against the NRA findings (as a representation of the national view on risk). NRA threat and vulnerability scores are also used to set some sectoral values in the JFSC model. An example of the use of the NRAs results by the supervisor is the introduction of new supervisory regimes in relation to VASPs and NPOs. The design, remit and implementation of these regimes was driven directly by the results of the 2022 VASP Risk Overview and the 2022 NPO NRA.

106. *The FIU* has made a number of significant improvements at an operational and strategic level in response to the recommendations from the 2020 ML NRA and the 2021 TF NRA, the 2022 VASP Risk Overview and the 2022 NPO RA, as well as the 2022 National Strategy. The uplift and investment in staff and restructuring of the FIU model from law enforcement to administrative is aligned with the 2022 National Strategy, aiming to improve the effectiveness of the FIU in line with NRA recommendations. This initiative is also a direct response to the Strategic Priority Four of the National Strategy: “Enhanced Capabilities of Law Enforcement, the Justice System and Private Sector”. The FIU is now fully independent, better staffed and capable of delivering more concrete results for purposes of detecting and investigating financial crimes. More attention needs to be paid by the FIU to better align its strategic analysis with the findings of the NRA (see also IO6).

107. *Law Officers Department and ECCU* - The Attorney General has issued written policies since the 2020 ML NRA was adopted. These, *inter alia*, include the Attorney General’s Guidance on the Prosecution of Money Laundering, ECCU Operations Manual for Investigators, the Attorney General’s Guidance on Parallel Financial Investigations, and the Attorney General’s Guidance on Mutual Legal Assistance. Whilst ECCU’s resources have increased based on the results of the 2020 ML NRA and the 2021 TF NRA, the legislative changes as indicated under the Core Issue 1.2 aim to further strengthen their role in combating ML. In parallel, a proactive approach and development of jurisprudence in conviction and especially in non-conviction based confiscation present positive trends in responding to the risks the jurisdiction faces, which the AT specifically values. Details of these (including a creative interpretation of how bank accounts are seized in cases where they present an instrumentality for committing ML offence) are further discussed under IO8.

108. *JFCU Ops* - As a result of the outcomes of the 2020 ML NRA and the 2021 TF NRA the JFCU has devised and promoted the States of Jersey Police Parallel Financial Investigation Policy which sets out the need for investigators to consider a financial investigation when dealing with domestic proceeds generating crimes and to always conduct a financial investigation when investigating a major proceeds-generating offence.

109. *Financial Sanctions Implementation Unit (FSIU)* - The FSIU was created directly as a result of outcomes of the national risk assessments and in line with the priorities in the 2022 National Strategy. The PSG approved the creation of the FSIU, which acts as a National Coordination Mechanism for TFS, in October 2021, recognising the need for additional resource.

2.1.4 National coordination and cooperation

110. National co-ordination and co-operation between agencies on AML/CFT issues is one of the strengths of the Jersey system. This does not come as a surprise given the size of the jurisdiction and the established practice of close communication and cooperation among all relevant AML/CFT agencies. This concerns both policy and operational levels.

111. The National Financial Crime Structure remains the framework under which mechanisms for co-operation and co-ordination exist at a policy and operational level. As already discussed in the previous chapters of this Immediate Outcome, the PSG is the most senior national committee responsible for development and implementation of AML/CFT policies, whilst the CDG is the key delivery body to ensure delivery of national policies and priorities as directed by the PSG. CDG meets between the PSG meetings, and more regularly than the PSG. The CDG coordinates the different working groups and monitors that projects are properly resourced in order to be delivered in line with the agreed programme. Cooperation at operational level for individual case information exchange is executed through an operational level multi-agency coordination group entitled 'Tripartite'.

112. With respect to CFT, operational working groups have been established to co-ordinate ongoing activities between agencies, particularly around threat and risk and these meet at least quarterly. As a UK Crown Dependency, Jersey also relies upon its relationship with the UK in addressing the threat of terrorism and TF.

113. The SOJP Counter Terrorism Policing Unit (CTPU) is responsible for Counter Terrorism Policing, and its remit includes the acquisition and development of intelligence. Amongst its responsibilities are the regular liaison with security and intelligence counterparts in the United Kingdom and, to a lesser extent, France and the US. CPF activities are specifically included within the National Foundation Documents.

114. In terms of activities, a CPF Operational Working group has been established with representatives from the JFSC (Registry, Policy and Supervisory teams); JCIS; Ports of Jersey; FIU; ECCU; LOD; Office of the Jersey Charity Commissioner; GoJ (Financial Sanctions Implementation Unit). This group focuses on work around the threat and risk to Jersey concerning PF. The group met four times between June and December 2022 and will meet twice a year from 2023 onwards. The CPF Operational Working group has recently been working on a CPF risk assessment.

115. Implementation of the Strategy's priority actions is closely monitored by the PSG at its monthly meetings under consideration of the National Work Programme. It monitors the progress, process and key deadlines for recent work updating the ML and TF risk assessments, and also ensuring alignment of the island's authorities with the risk assessment work. The group has also considered the need for targeted risk assessment work, e.g. the need for a thematic report on the Jersey Private Fund product was identified post the initial ML NRA in 2021.

2.1.5 Private sector's awareness of risks

116. The results of the NRA have been communicated to FIs and DNFBPs in a proactive and consistent manner. The two agencies with greatest responsibility for ensuring awareness of ML/TF NRAs are Government and the JFSC. The NRAs are published on the Government website.

The JFSC also highlights publication of the risk work, both during the drafting process and after publication, through industry updates, webinars, and through participating in live events. Since 2020 all NRAs, and all risk-based materials, has been presented under the '*Combating Financial Crime: Together*' banner. Important components of this outreach campaign include a dedicated area within the Government of Jersey's web page (Gov.je), and regular live events which range from conference style events with participation of hundreds of industry professionals, to smaller presentations by members of the Financial Crime Strategy Team to specific sectors, industry bodies, and different entities.

117. Following publication of the 2020 ML NRA, the JFSC undertook a series of targeted webinars to explain the NRA findings and the specific risks highlighted in the respective sectors. JFSC staff, Government representatives, and those from industry who had been involved in the working groups had a leading role in these events. The authorities advised that through these events, the critical number of the private sector entities demonstrated good awareness of the NRA results.

118. Unlike the 2020 ML NRA, the TF 2021 NRA has had less involvement with the industry. With a view to raising awareness of the TF NRA findings, risks identified per sectors and their potential impact, a targeted outreach was carried out by the JFSC, FIU and the GoJ. The NPO NRA 2022 involved a great deal of discussion with stakeholders, as well as engagement with the Office of the Charity Commissioner. The audience was not simply finance professionals so the process also involved smaller NPOs run by those who would normally have little or even no engagement with the JFSC. As a result, the wider charitable and NPO sector were made aware of the NPOs risk exposure to TF.

119. VASP Risk Overview was also published on the Government website, publicised on social media and communicated by the JFSC in an industry update to all supervised entities.

Overall conclusions on IO.1

120. The NRA documents accurately reflect and represent the authorities' understanding of ML/FT risks facing Jersey. A high-level agreement among the authorities and private sector on the results of NRAs and sectoral assessments has been noted by the AT, though room remains for further minor enhancement of risk understanding with regard to some specific risks.

121. Jersey has demonstrated a strong and high-level political commitment to fighting ML/TF supported by necessary strategies, action plans, cooperation, and coordination.

122. Set of exemptions from CDD requirements can be applied by a supervised person in low-risk circumstances. Whilst it is commendable that the authorities have recently started collecting quantitative data on the value relating to exemptions, for reasons of consistency of valuation and double counting of customers, their full scope materiality could not be established. National cooperation/coordination is a strong feature of the AML/CFT system in Jersey at both policy and operational levels.

123. The results of the NRA have been communicated to FIs and DNFBPs in a proactive and consistent manner.

124. **Jersey is rated as having a high level of effectiveness for IO.1**

3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a) Authorities regularly access and use financial intelligence and other information to develop evidence and trace proceeds in investigations for ML, TF, and associated predicate offences. The FIU in Jersey is an important source of intelligence. Whereas the current trend of an increased use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations is encouraging, concerns remain with regard to the effective use of these throughout the review period and before the FIU related reforms were initiated.
- b) The timeliness of disseminations of FIU intelligence reports to LEAs is sub-optimal, and their quality has varied over time, with Jersey authorities generally agreeing that the latter has improved during the review period. The prioritisation of SARs by the FIU could be more risk-based. The FIU plays an important role in supporting LEAs by, for example, requesting information from foreign FIUs and from reporting entities. While commendable, this has impacted the FIU's core operations due to resource constraints. However, there's a changing perspective among Jersey authorities that the FIU's role goes beyond merely offering support and responding to requests.
- c) Submitted SARs are generally aligned with Jersey's risk profile, are of good quality, although some defensive reporting takes place, and serve as the primary source for initiating cases at the FIU. The FIU provides feedback to reporting entities on the completeness of SARs, which reporting entities have welcomed and found useful, although the feedback does not include the outcome of the SAR analysis.
- d) Jersey has made commendable progress in addressing recommendations from the 2015 Moneyval report, improving the FIU's operational independence and resources. Since 2021, its staff complement increased three-fold. The FIU of Jersey is now an independent and administrative FIU. Its budget, while ring-fenced, is still under SOJP's, and it is still physically situated within the SOJP's premises and utilises their IT systems and support. Several of the most impactful measures in expanding the FIU took place rather recently and their effectiveness is yet to be seen. The FIU still lacks sufficient technical resources, including IT tools and/or licences, and requires additional staff growth and training to ensure that it can consistently produce valuable strategic and operational analytical reports, a critical need for Jersey as an IFC.
- e) Until very recently, the FIU did not have sufficient strategic analysis capabilities and its output in this context has consequently been very limited. Commendable efforts are now taking place; however, the planning of strategic analyses is not sufficiently risk-based and could be better aligned with the findings of Jersey's NRA.
- f) Jersey's consent regime has been used on a number of occasions by the FIU to prevent the dissipation of suspected proceeds of crime, some cases of which resulted in confiscations.
- g) Jersey exhibits a substantial degree of cooperation between competent authorities, with information sharing occurring routinely. To further enhance cooperation with the industry, the authorities established a local Public-Private Partnership (PPP) for the

banking sector Jersey Financial Intelligence Network (JFIN) and the FIU of Jersey also participates in the UK PPP - Joint Money Laundering Intelligence Taskforce (JMLIT+).

Immediate Outcome 7

- a) Jersey's legal framework allows for the effective identification and investigation of ML cases. ML cases are routinely identified by the authorities through intelligence packages received from the FIU, international cooperation and information obtained domestically by LEA.
- b) Cases are investigated, including through the use of parallel financial investigations, by dedicated and specialized investigators. The number of investigations into larger and complex ML schemes appears to be rather low, although recently some large, high-profile and complex cases have been identified and investigated.
- c) The types of ML investigated by the authorities are broadly in line with the country's threats and risk profile, both in respect of domestic and foreign predicate offences, although the number of cases of ML of tax offences, identified as one of the three main ML risks, is low.
- d) For the period under review, there have been some prosecutions and convictions, and most of them concern cases of self-laundering. Some very complex ML investigations, targeting legal structures and/or asset holding vehicles, are in the process of being moved to prosecution. Autonomous and third-party ML prosecutions have so far been rare, which is not in line with the jurisdiction's risk profile.
- e) Sanctions applied against natural persons appear to be effective, proportionate and dissuasive. There has been only one case where sanctions were applied to legal persons since the last assessment (Judgment of 2016).
- f) Jersey has implemented a number of alternative measures to criminal prosecution to address the country's context, including mechanisms of civil forfeiture, deferred prosecution agreements and by incriminating the failure to prevent ML. While the latter are too recent in their inception, the results obtained under the civil forfeiture legislation are convincing.

Immediate Outcome 8

- a) Jersey has a comprehensive legal framework on seizures and confiscation. It provides adequate legislative tools for the identification, seizure and confiscation of instrumentalities and proceeds of crime, both for domestic and international criminal cases. The confiscation of criminal proceeds is pursued as a policy objective, as demonstrated by the policies and manuals in place and the actions taken, and the outcome of the authorities' actions are mostly in line with the country's risks and context.
- b) The overall results of application of different confiscation regimes (conviction and non-conviction based confiscation) are good, considering the context of the jurisdiction. Foreign requests for confiscation are recognized, and the country has organized both the repatriation and the return of assets to and from other jurisdictions.
- c) The courts routinely order the confiscation of assets previously seized during the course of a criminal investigation. Non-conviction based confiscations (civil forfeiture)

have also been routinely applied when criminal conviction could not be achieved. The total amount of all criminal proceeds recovered by Jersey during the reporting period is approximately €311 million, which is considerable. This notwithstanding, the vast majority of these funds originate from one case where a confiscation order was rendered by a foreign court, and then was enforced by Jersey.

- d) Tainted cash (there are no cases of BNIs) is routinely detected and confiscated; the actions of the authorities in this field are broadly in line with the country's risk profile. No sanctions other than the confiscation of the tainted assets has so far been handed down, preventing any assessment of their effectiveness, dissuasiveness, and proportionality.
- e) The confiscation results do generally reflect the assessment of ML/TF risks and the national AML/CFT policies and priorities, with the possible exception of tax crimes and ML-only offences.

Recommended Actions

Immediate Outcome 6

- a) Authorities should make increased use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations, particularly with regard to typologies involving proceeds in Jersey stemming from foreign predicate offences.
- b) Jersey should ensure that the quality of FIU intelligence and the turn-around times for the FIU to disseminate intelligence continues to improve. This should include, among others, an increased propensity to seek and analyse information in SARs and from domestic and international sources, including FIUs, develop intelligence, and add value in its products.
- c) Jersey should continue implementing the FIU's transformation programme and capacity-building plans. These includes among other initiatives:
 - a. Having its own budget separate from that of SOJP's.
 - b. Completing its relocation plans. In doing so, Jersey should ensure that the continuing process of separating the FIU from the SoJP should not result in any loss of direct access to databases or other information sources. It should also ensure that any systems (such as its SAR database) which the FIU will no longer be able to use as a result of its relocation are replaced by suitable tools.
 - c. Better equipping the FIU with IT tools and making these widely available within the FIU team.
 - d. Ensuring that FIU personnel receive training to be able to carry out strategic and operational analysis, especially in complex cases, and develop intelligence products for use by LEAs and other competent authorities.
 - e. Furthering the FIU's growth with additional people as envisaged in the transformation programme.
- d) The FIU should continue with its efforts to produce strategic analysis products, ensuring these are risk-based and relevant to authorities and industry in Jersey.
- e) Authorities should ensure that the support and information sharing provided by the FIU to the JFSC, and to Jersey LEAs throughout the investigative stages of cases, does

not adversely impact the FIU's ability to execute its core operations, including the proactive analysis and development of cases which should be prioritized accordingly.

- f) The FIU should review its SAR prioritisation process to ensure it takes into account jurisdictional ML/TF risks.
- g) The FIU should provide feedback to reporting entities on the quality and timeliness of SARs reported to it and should consider introducing measures to provide feedback to reporting entities on the outcome of SARs reported to it.
- h) Jersey should take steps to enhance compliance with SAR reporting obligations among reporting entities, including by providing clear written guidance, and engaging in industry outreach efforts to ensure consistent and timely filing of reports [this is linked to both effectiveness and also to findings mentioned in Rec 20].
- i) Jersey should consider reviewing the legal provisions concerning the composition of the FIU Board (see Recommendation 29.7).

Immediate Outcome 7

- a) Jersey should continue to pursue and commit considerable efforts to investigations related to the large-scale ML cases involving funds deriving from predicates committed abroad (tax crimes, corruption, fraud, etc.), including cases with complex legal structures, and bring more of these matters to the point of prosecution. To achieve this, Jersey should ensure, *inter alia*, that the resources (e.g., investigators, forensic accountants, prosecutors) required for undertaking complex ML investigations and prosecutions remain sufficient and well trained.
- b) Jersey should ensure also that investigators continue to have sufficient knowledge of country ML threats and risks, how complex legal structures are abused for ML and how funds from criminal proceeds are layered through Jersey's financial/VASPs sector or via DNFBPs. To achieve this, continuous and regular training needs to be ensured for the LEAs and the judiciary, using internal and external expertise (including for recent legal instruments, i.e. failure to prevent ML and DPAs).
- c) Jersey should review and enhance its policies, mechanisms and the manner in which they are being used to ensure they are effective in investigating and prosecuting ML arising from tax offences.
- d) Authorities should continue, as they have been certainly for the latter part of the assessed period, harvesting all sources of information available (e.g. FIU intelligence, incoming MLA requests, overseas and domestic LEA and other agencies' disseminations, open sources information, financial investigations etc.) to identify, investigate and prosecute ML more in line with country risks (e.g., focus on complex ML cases involving funds deriving from predicates committed abroad). To achieve this, continuous and regular training needs to be ensured for the LEAs, as well as to maintain good domestic operational cooperation between the relevant authorities and to provide typologies and relevant data to inform the national risk assessment.

Immediate Outcome 8

- a) Jersey should enhance its efforts to increase the seizure and confiscation for ML offences only, and from tax offences committed abroad. Competent authorities should

otherwise keep their policies and mechanisms for seizure and confiscation of criminal assets under constant review.

- b) Relevant authorities should receive continuous training to maintain routinely ordering the confiscation of assets previously seized during the course of a criminal investigation.
- c) Enhance and continue the existing work of asset sharing or repatriation where cases and international co-operation permit.

125. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32.

3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)

126. This assessment was based on statistics; case studies; interviews and system demonstrations with relevant Jersey authorities. Relevant findings on the level of international cooperation, which competent authorities are participating in, were considered.

3.2.1. Use of financial intelligence and other information

127. Authorities regularly access and use financial intelligence and other information to develop evidence and trace proceeds in investigations for ML, TF, and associated predicate offences. The FIU, JFCU, SoJP, LOD, ECCU, and JCIS have access, directly or indirectly, to in excess of 45 public and private sector databases and information sources, including local databases and some owned and maintained by UK LEAs and intelligence agencies. LEAs, including ECCU, also have access to various international bodies, directly or indirectly, including through UK liaison officers, to Interpol, Europol, CARIN and the IACCC among others.

128. The variation of data available to the FIU and LEA's is wide, ranging from law enforcement official records including intelligence, telecommunications agencies, land registry, the charities commission, company registry (including beneficial ownership) and ship registry to name a few. The FIU had direct access to the Registry database from 2017 via a stand-alone terminal in its office. Initially, this direct access could only be used for enquiries from UK authorities under the terms of the Exchange of Notes (EoN) agreement. Under any other circumstances, information held on the Registry was available indirectly via the JFSC. From October 2022 the FIU was granted unrestricted direct access to the Registry databases via the stand-alone terminal. Another source of information often used by the FIU is Revenue Jersey's database. Access to this is indirect. Jersey authorities regularly use such sources to develop cases and provided extensive data and statistics to this effect. Some of the external closed-source databases that the FIU has access to are listed in the following table.

Table 6.1: JFIU access to external databases

Database	Type
PNC - Police National Computer	Direct
PND - Police National Database	Direct
SOJP Viewpoint System (containing multiple subsidiary databases)	Direct
JFSC - BO Registry	Direct

JCIS - CLUE 3 and CAESAR	Direct
Joint Asset Recovery Database (JARD)	Direct
SOJP Counter Terrorism Police Unit CTPU	Indirect
JFSC – Supervisory information	Indirect
Jersey Social Security Department	Indirect
Revenue Jersey (Tax Authority)	Indirect
Jersey Population Office	Indirect
Ships and small ships registry (CRM & MIDAS)	Indirect
DVA – (UK Passport Database)	Indirect
CID – (Case Information Data)	Indirect
IRIS (Immigration Referencing Info. System)	Indirect
General Aviation	Indirect
General Maritime	Indirect
Commercial Airline and Maritime manifest data	Indirect

129. The FIU's direct access to specific databases, including external UK databases, was a direct result of its previous status as a police-FIU, physically situated within the SOJP premises and utilizing the SOJP's IT infrastructure. Jersey authorities have acknowledged that the forthcoming relocation of the FIU from the SOJP's premises may have implications for the FIU's continued direct access to certain systems.

130. The FIU is an important source of financial intelligence within the island's AML/CFT system. SARs, together with other sources of information, such as international FIU requests and incoming FIU spontaneous intelligence reports (particularly from the UK), are a primary source for the FIU to produce financial intelligence.

131. The FIU routinely exercises its powers to obtain financial information from local institutions, including reporting entities, even in absence of a SAR having been submitted beforehand. It does so by issuing, through electronic means, what is referred to as a Proceeds of Crime notice (POC notice)¹³. During the review period, the FIU issued 1,181 POC notices to local institutions, with the FIU noting satisfactory and timely (often in or under a week) responses from industry. Reporting entities must treat POCs with confidentiality and are prohibited from informing their clients. Failing to comply with POC notices constitutes a criminal offence. Banks and TCSPs are the main receivers of POCs. Information obtained typically would include banking transaction data, beneficial ownership information and other CDD information, and is provided to the FIU in electronic form through the FIU's online portal (POL SAR).

Table 6.2: Number of POCs submitted by the FIU to local institutions.

	2018	2019	2020	2021	2022	Total
Contact relevant local Institution*	383	553	704	563	388	2,591
POC notice to local institution	238	253	238	262	190	1,181
Total	621	806	942	825	578	3,772

*Refers to requests made by the FIU to the submitter of a SAR/MIR for further information.

¹³ A POC notice seeks additional information from any relevant person... [who] holds information that is relevant to analysis of the report (Regulation 3(1)(b) (i) and (ii) of the FIU Regulations).

132. There are no major practical or legal barriers to Jersey LEAs, the FIU and criminal justice agencies' ability to gather intelligence and/or evidence for ML/TF investigations, prosecutions and in tracing of proceeds of crime. The investigative agencies (SOJP/JFCU, JCIS and ECCU) also regularly use coercive legal tools (court issued Production Orders) to obtain financial information and evidence from reporting entities.

Case Study 6.1: Use of POC notice by FIU

Following the receipt of a spontaneous report from the UK FIU, the FIU Jersey opened a case in mid-2021. The report suggested that funds were moved through a Jersey bank account linked to a significant fraud, bribery and corruption and ML case that was international in scope. The allegations involved movement of funds some years earlier through various jurisdictions including Jersey and the use of the funds to acquire real estate in another jurisdiction. The subject had been linked to the international scandal via open-source reports.

Concerns were raised in relation to a failure by the Jersey Bank to take appropriate action, with monitoring measures in regard to source of funds information on the incoming funds used to acquire real estate in another jurisdiction.

The FIU filed multiple POC notices with the bank in question to obtain information. The case was presented to the Tripartite Group regarding multiple failures of the bank to prevent ML which resulted in a criminal investigation by the JFCU.

133. Also, Jersey LEAs and competent authorities regularly request and use information held by the FIU in furtherance of their investigations and/or statutory and regulatory obligations. Authorities also confirmed that the FIU Jersey continues to actively provide support during ongoing investigations even after an FIU dissemination¹⁴ is made. Such support, evidenced by case studies and statistics, is indeed common practice, and examples include the FIU providing to LEAs further analytical products and intelligence package updates, and the FIU seeking additional information from foreign FIUs or local institutions.

Table 6.3: Number of requests made by investigative agencies to the FIU Jersey

	2018	2019	2020	2021	2022	Total
States of Jersey Police General (SOJP)	69	36	41	50	76	272
SOJP Joint Financial Crime Unit (JFCU)	24	31	15	50	64	184
Economic Crime and Confiscation Unit (ECCU)	23	11	3	27	69	133
Law Officers' Department (LOD)	21	21	25	26	18	111
Jersey Customs & Immigration Service (JCIS)	1	23	10	5	11	50
Total	138	122	94	158	238	750

¹⁴ FIU "dissemination" is a generic term for the sharing of an FIU intelligence package, which may occur via FIU reports sent directly to domestic LEAs and competent authorities; or to foreign FIUs and LEAs via the Egmont secure web.

Case Study 6.2: Use of financial intelligence for investigation and prosecution of serious domestic fraud & self-Laundering

Mr X was the manager of a Jersey company. Over a period of 13 years, he conspired with two others and stole over £3.3 million from the company. The investigation was conducted by the JFCU and included intelligence gathering through the FIU, arrest, search and interview of suspects, production orders served on local banks, LORs to Country 1 and Country 2, review of computer and phone data using specialist software, and analysis of banking material conducted by a forensic accountant.

The focus of the prosecution was larceny, conspiracy to commit fraud, falsification of accounts and removing criminal property from Jersey. This involved marshalling voluminous materials into an evidential format, instructing a forensic accountant to produce a report in relation to the relevant financial material, and requesting JFCU officers to obtain further statements to prove the elements of the offences. Bundles were then prepared and served on the court and the defence. X has pleaded guilty to three counts of larceny, one count of false accounting, two counts of conspiracy to commit fraud, and one count of removing criminal property from Jersey (money laundering offence). He awaits sentence. Two co-defendants await trial.

134. Given Jersey’s exposure to foreign predicate offences, the investigative agencies (SOJP/JFCU, JCIS and ECCU) regularly obtain evidence or intelligence from foreign sources, and in doing so, many times seek the support of the FIU. During the review period, approximately 25% of the requests made by the FIU Jersey to foreign FIUs are attributed to requests made to the FIU by the investigate agencies.

135. Similarly, although exact statistics could not be provided, authorities confirmed that investigative agencies also often obtain, through the FIU’s POC notices, financial information from reporting entities.

136. Statistics provided to the AT indicate that intelligence disseminated by the FIU to LEAs constitutes the main source of information triggering investigations into ML or predicate offences. Other sources of information that gave rise to ML investigations include incoming MLAs; other informal international requests for cooperation; open-source information; and investigations launched following a parallel financial investigation.

Table 6.4: Number and sources of ML investigations

Source	2018	2019	2020	2021	2022	2023, H1	Total
Financial investigations	4	4	3	7	3	2	23
FIU disseminations	11	12	13	10	13	6	65
MLA requests	0	3	4	0	1	0	8
Other sources	3	8	3	3	10	4	31
Total	18	27	23	20	27	12	127

137. During the review period, the FIU disseminated a total of 263 case files¹⁵ to ECCU or JFCU. Of these, 179 were taken on by the LEAs and were linked to 153 investigations into ML/TF or predicate offences (65 of which were ML investigations and 88 were investigations into predicate offences). To note is that multiple FIU case files may be linked to a single investigation. These case files account for the majority of ML investigations in Jersey. The main recipients of FIU intelligence were the JFSC, SoJP and the JFCU. The ECCU and JCIS also are among the top receivers of disseminations from the FIU. Further information is provided in core issue 6.4.

138. The majority (21+16 / 62) of ECCU ML investigations were triggered by FIU intelligence received by ECCU directly or through the Tripartite process. ECCU investigates more complex ML (see also IO.7) particularly those with a cross-border element. The JFCU is also a recipient of FIU disseminations but is largely focussed on ML investigations which concern ML arising from domestic predicates, and occasionally for standalone ML. Almost 80% (26 out of 33) of ML investigations led by JFCU were triggered by FIU disseminations. Overall, the number of ML investigations triggered by FIU intelligence seems to be modest. Considering Jersey's risk profile, the AT is of the view that it is reasonable to expect a larger number of investigations into complex/cross-border ML compared to the number of ML investigations linked to domestic predicates, than what has taken place thus far. This is more so the case in recent years (2021 and 2022) where only 8 ECCU ML investigations were triggered by FIU intelligence compared to 18 JFCU investigations. Also, some concerns in relation to the effective use of financial intelligence are discussed in the paragraph to follow.

139. Several case studies presented to the AT on the use of financial intelligence involved cases on ML linked to foreign predicate offences, in particular fraud, bribery/corruption, and tax offences. Examples of these practices, including details of use of different types of financial intelligence to trigger money laundering investigations, are provided under IO.7 (see Case Studies 7.1-7.6). While such cases align with Jersey's risk profile, statistics indicate that, of the SARs disseminated to LEAs linked to ML, approximately only half had a reference to suspicions of foreign ML. Additionally, concrete results from the vast majority of these investigations, including those where the FIU's assistance is provided during their course, are yet to materialise. In other words, there is a limited number of ML/TF/predicate offence investigations stemming from financial intelligence and other information which resulted in further proceedings (i.e. prosecutions – see also IO7). These facts raise the question as to whether the competent authorities' efforts and capacities to investigate and use financial intelligence have been sufficient. The same concern could be raised with regard to the effective use of financial intelligence vis-a-vis the Jurisdiction's key ML risks. Despite there being cases which include foreign predicate offences (identified as higher risks), the actual number of cases resulting from the use of financial intelligence for further pursuance of such cross-border ML cases prosecution is also modest.

TF related financial intelligence

140. With regard to the use of financial intelligence in TF, during the review period 10 SARs linked to TF triggered an FIU dissemination to LEAs. There was only one request from LEAs to FIU in relation to TF. As provided under IO.9, there have been four TF investigations, all of which were triggered by FIU intelligence. Although TF cases and related intelligence is prioritised and

¹⁵ A case file relates to a single suspicion and aligns to how a record is created on the FIU's "IFIS" case management system. By way of an example, a SAR is submitted on Person A who is suspected of corruption. A case file will be created on IFIS and then all further intelligence and analysis relating to that suspicion will be added to the case. Any single case file may contain multiple SAR/MIR reports from one or more reporting entity for the same suspicion.

thoroughly analysed by the FIU and other competent authorities, this has not identified any reasonable grounds that TF activity has occurred in or through Jersey.

3.2.2. STRs received and requested by competent authorities

141. The FIU Jersey is the central authority for the receipt and analysis of suspicious activity reports (SARs) from reporting entities. Apart from reporting entities, the JFSC also submits SARs to the FIU. There are two types of reports, namely SARs and Miscellaneous Intelligence Reports (MIRs). The latter is a report type used by reporting entities to either submit a continuation SAR (to provide the FIU with additional information regarding a previous submission, or to send a consent request following a SAR already submitted) or to reply to a POC notice issued by the FIU. MIRs are also used by the FIU to register any incoming responses to RFAs sent out by FIU Jersey and incoming spontaneous intelligence reports.

142. The law requires reporting entities to submit SARs to the FIU as soon as reasonably practicable. In general, this is understood by industry to mean that SARs are to be submitted promptly and without delay, however, as explained in further detail in IO.4, this interpretation at times varied quite significantly amongst the reporting entities met during the onsite. Since this might have negative implications on the timely filing of the reports, further guidance on this matter would be beneficial for the private sector.

143. The quality of the FIU reports has improved over time. This is largely attributed to the improvements to the SAR reporting template made several times over the review period. As of now, the FIU considers that, although some defensive reporting takes place, the quality of SARs is generally good, a view that is shared by the assessment team and based on sanitised examples provided by Jersey. Reports, and any supporting documentation such as bank statements and CDD information, are received by the FIU Jersey through a custom-built online portal known as POLSAR. Since its launch (before the review period), and in particular from 2018 onwards, efforts have been made by the FIU to enhance the quality of SARs. This largely consisted of introducing several changes, such as more data fields and improved structure, to the SAR template and by providing guidance, in written form and through a seminar, to reporting entities on how to use the updated templates and online system.

144. The assessment positively notes that reporting entities in Jersey also submit SARs in cases where business is declined. The new SAR template now requires reporting entities to state if the SAR submission relates to business that was declined. This could be for a variety of reasons and includes situations where due diligence carried out as part of any onboarding process triggered a reporting obligation. Statistics indicate that during 2022, business declined was chosen in 10% of the SARs.

145. All incoming SARs are checked by FIU grading officers. SARs are not rejected on the basis of poor quality. Instead, reporting institutions are contacted directly by FIU staff to draw their attention to any problems and to request that they attend to any quality issues, thereby driving higher standards and delivering feedback on how quality should improve.

146. The assessment team also observed a good level of ongoing cooperation between the FIU and JFSC in so far as reporting levels, by sector, are concerned. Monthly meetings take place between the FIU and the JFSC where reporting aspects and statistics are discussed.

147. During the review period, authorities in Jersey, including the FIU, identified a total of 18 cases where reporting entities potentially breached their obligation to submit a SAR, which under Jersey Law, would constitute a criminal offence (*'Failure in a financial institution to report to the FIU or nominated officer'*). Many of these cases are ongoing and form part of wider investigations by ECCU. A few of these cases have been closed for lack of evidence and others have been shared

with the JFSC for the case to be handled administratively. It is nevertheless concerning to note that none of these cases have yet resulted in any measures on the reporting entities.

148. Considering the size of Jersey's financial sector and the risk profile of the jurisdiction, the overall number of SARs is moderate. Banks and TCSPs have consistently been the top reporting sectors of SARs to the FIU which is largely commensurate with Jersey's profile as an IFC. Whilst Jersey's large fund sector appears to under-report in comparison to other material sectors, the FIU explains that this is largely attributed to the fact that some entities hold multiple licences and due to this, a received SAR might not be assigned to investment activity. More specifically, given some reporting entities in Jersey offer multiple services to their customers, the categorisation of a SAR "sector" is based on only one of the services offered by the reporting entity and would not be duplicated in sectors of any other ancillary services offered to the customer. This is more common to the TCSP, Fund and Investment sectors. As a consequence, the number of SARs attributed to entities providing Trust, Fund and Investment services is likely, to some extent, to be undervalued as a result of the binary nature of how statistics have to be captured. Recent enhancements to POLSAR will enable the FIU, going forward, to determine to which business activity of the entity holding several licenses the received SAR needs to be assigned.

149. A downward trend has been observed in the reporting levels in most sectors. Authorities explained that this is due to a number of factors, including lower risk appetites, result of de-risking initiatives and improved quality of reporting with less defensive reporting. Given the on-site discussions with authorities on this matter, the AT would, in general, concur with their reasoning.

150. The FIU keeps statistics on the suspected predicate offences both as reported by the reporting entity, and separately, as considered by the FIU officials. As of February 2022, reporting entities must select only one predicate offence, or 'unknown' if the suspected predicate is not known. The majority (more than 90% of SARs submitted in and following February 2022) of SARs report suspicions of ML suspected to be originating from fraud, tax crimes and corruption and this is consistent with the risk of predicate offences discussed under Jersey's NRA. During the reporting period an average of 43% of SARs contained a legal person or arrangement. It is estimated that just over 50% of such legal persons or arrangement were registered in Jersey.

151. During the review period, the FIU received 91 SARs where the reporting entity marked TF as its grounds for suspicion, including in cases where business was declined. Most of these were from banks and TCSPs. This number appears to be consistent with Jersey's TF risk profile. As a matter of procedure, all incoming TF SARs are given the highest priority rating by the FIU and their analysis is expedited.

152. In terms of feedback to reporting entities on the quality of SARs, some efforts were made to provide feedback on the quality of SARs by the FIU. This was done in-person to reporting entities on a one-to-one basis. This practice covered majority of the review period. However, in 2023 the FIU introduced a new feedback feature in POLSAR, through which the FIU indicates to the reporting entity if the SAR's quality was good and whether any deficiencies were noted. Reporting entities welcomed this initiative and found the FIU's feedback useful. They also noted that recently, the FIU has become more accessible and willing to assist reporting entities, for example, by answering queries and discussing cases. Additionally, in 2022 the FIU started publishing in the FIU section on the SoJP's website, quarterly statistical reports to update the finance industry on the analysis of data obtained from SAR submissions. The reports also address areas of quality and errors that have been identified in that quarter. Since first published, these reports have been refined and in 2023 they include TF typology scenarios relating to different sectors to assist reporting entities in better understanding typologies. The AT welcome this practice and encourages its further application in the forthcoming period.

153. Furthermore, Jersey has, in April 2023, established a local PPP, the Jersey Financial Intelligence Network (JFIN). At the time of the onsite, the membership was limited to five commercial banks. JFIN provides a mechanism for the FIU to brief financial institutions on typologies, as well as to share intelligence relating to specific operational matters. To complement the JFIN PPP, the FIU has an MoU with the UK's PPP, the Joint Money Laundering Intelligence Taskforce (JMLIT+). This allows a two-way information and intelligence mechanism between FIU Jersey and the JMLIT+ teams. Given its very recent introduction, it is difficult to assess how this newly established PPP has contributed to the effectiveness of Jersey's AML/CFT framework, nevertheless, it seems promising.

154. The FIU does not receive any cross-border declarations, however, it has direct access to JCIS's databases, namely CLUE 3, which is JCIS's intelligence databases, and indirect access to CAESAR, which is Jersey's freight management system, used to control freight movements and collect Goods and Services Tax (GST), customs duties and excise taxes. Any passenger searches conducted by JCIS officials are logged on its systems, including situations in which a passenger is asked to declare cash at the border. A case of effective inter-agency cooperation involving the FIU, which resulted in ML investigation/prosecution is provided below.

Case Study 6.3: Use of SAR for developing dissemination and investigation – FIU assisting JFCU

This case was related to an OCG exchanging the proceeds of crime (cash) in Jersey for high value goods such as mobile phones and computers at high street retailers.

A reporting entity alerted the FIU by filing a SAR and calling the FIU on a potential money laundering criminality in action in the town centre. The FIU expeditiously informed JFCU on a verbal basis before disseminating a report detailing what the reporting entity had observed.

The offenders had been attempting to exchange approximately £30,000 worth of Jersey notes into GBP in a span of two consecutive days. The offenders were captured attempting to leave Jersey via the harbour in a vehicle onto the ferry to the UK. They were found in possession of high value goods, Jersey cash and evidence of material linking them to an Uzbekistan OCG syndicate with connections to the UK.

After the arrests the FIU then assisted the JFCU in their investigation by sending further RFA's out to other international FIU's, challenger banks in the UK and other payment platform agencies identified through enquiries. The FIU then analysed and disseminated enhanced intelligence packages which assisted LEAs in obtaining evidence to pursue the case.

The offenders were later prosecuted, convicted and sentenced to terms of imprisonment for money laundering.

3.2.3. Operational needs supported by FIU analysis and dissemination

FIU's structure and resources

155. Jersey has made commendable progress in addressing recommendations from the 2015 Moneyval report, improving the FIU's operational independence and resources. At the time of the last mutual evaluation the FIU was a sub-unit of the JFCU within the SOJP. As a consequence, the FIU was principally staffed by police officers and came under the overall command of the Chief Officer of SOJP, including for budgetary purposes. The FIU's transition to an administrative entity in 2023 marked the end of it being a law enforcement FIU and its sub-unit status within the SOJP.

156. The FIU of Jersey is, as of 2023, an independent and administrative FIU, set up by law and having its own legal personality. It has a Director who reports to the FIU Governance Board. The Board is responsible for strategic oversight of the FIU and the Board reports to the Minister with responsibility for Financial Services who chairs the Political Steering Group (PSG). The FIU staff are no longer part of the police force and cannot be re-deployed to other duties. Staff are also not expected to undertake any other role other than what is tasked to them by the Director of the FIU.

157. It has a staff complement of 30 employees overseen by the Director of the FIU, whose position now has an equivalent standing to the heads of other law enforcement agencies. From 2018 to 2021, the FIU had a staff complement of 11 personnel. Throughout this period, notable transformations were occurring within the FIU, as the workforce composition shifted from predominantly police officers to a more civilian-based structure. In subsequent years, there has been a significant three-fold increase in staffing. This expansion involved the hiring of financial services professionals, including the Director, with two-thirds of the staff possessing experience in the banking, trust, or fund sectors. The FIU is also supported by two legal advisors provided by ECCU which are critical enablers for the FIU, as they regularly provide the FIU with support and advice on complex cases and decisions related to the consent regime.

158. Although this growth is indeed commendable, the great part of it is recent. Consequently, more than half of the FIU's staff possess limited experience in performing core FIU functions and have yet to receive the training and gain the experience necessary to effectively carry out FIU analysis. Several intelligence officers are not particularly active in performing analytical responsibilities and have yet to 'grow' into analytical officers. In more complex cases, for almost all of the review period, officers needed to rely on an analyst who has the skills, experience, and the tools required to perform the financial analysis, including the visualisation of transactions and network analysis when needed. At the time of the onsite, there were two officers who could perform such tasks. These same officers were also responsible for carrying out strategic analysis and for generating statistical information for reporting purposes. Considering the complexity and intricacy of cases often encountered in an IFC environment, this concern is of notable significance.

159. At ministerial level, improving the FIU's capacity, through improvements in both technical and human resources, remains a priority. As part for the FIU's capacity building programme, plans are in place for at least six officers to receive training during 2024 to become analysts, two of which will receive specific training on strategic analysis. Also, a ministerial decision has been taken to provide additional funding to the FIU that will create 5 new FTEs positions at the FIU.

160. The FIU budget is still part of the allocation to the SOJP, but the funds are ring-fenced and cannot be re-allocated elsewhere. The FIU is physically situated within the SOJP's premises and utilised their IT systems and support. However, the FIU office area can only be accessed by FIU personnel and their IT systems can only be accessed by FIU staff, save for IT support when required. The FIU and SoJP currently have a Data Processor Agreement which impacts upon what additional IT resources the FIU can obtain and use. The FIU is free to identify suitable IT tools/equipment, which however, must be compatible with SOJP systems, and can allocate budget towards the provision of new IT equipment. This might potentially limit the FIU's ability to acquire specific IT tools and programs that are not compatible with the SOJP systems. This could limit the future choice of the FIU IT tools and programs. As part of the FIU's transformation programme, Jersey authorities intend to relocate the FIU Jersey to a dedicated premises, or possibly to be co-habited with ECCU.

161. As for technical resources, the FIU uses a renowned intelligence analysis tool commonly used by FIUs and LEAs, and another commercially available tool which the FIU uses to cleanse bank statements in preparation for further analysis. The number of licences of these tools, at the time of the onsite, was limited to two, and as mentioned earlier, most of FIU staff lacked the

training needed to make use of such tools. The use of commercially available OSINT tools is also somewhat limited.

162. The FIU has its own dedicated case management system, IFIS. This is an in-house built system and is held on the SOJP's systems, with support provided by the SOJP IT function. SARs and other reports from reporting entities received by the FIU are recorded on the FIU's IFIS system as also are all disseminations by the FIU. The system doesn't offer any intelligence analysis functionalities.

163. In general, Jersey authorities acknowledged that further tools are needed to support its functions, and that, at the time of the onsite, they were in discussions with a number of service providers to this effect.

164. In conclusion, the FIU Jersey has made significant strides in its growth and transformation, transitioning from a police-based structure to an administrative and independent FIU with an increase in staff and the recruitment of former LEA officers and financial services professionals, all of whom come with specific and useful skills from their previous employments. However, the majority of staff members lack the experience and training required for effective FIU analysis, which is especially critical given the complex nature of cases typical in an IFC environment. The reliance on a limited number of officers for analytical tasks and technical tools underscores the pressing need for further capacity building.

Operational analysis

165. As noted under core issue 6.1, SARs serve as the primary source for initiating cases at the FIU. Other sources of information are also used, such as incoming requests from foreign FIUs and open-source information.

166. The process for the operational analysis of incoming SARs is described in the FIU's Operations Manual/Staff handbook that was being drafted at the time of the onsite. All incoming intelligence submitted to the FIU is manually scrutinised upon receipt and graded against criteria as per the FIU grading policy that was formally introduced in February 2023 but applied, in practice, during the entire review period. The AT observed that the criteria used for grading purpose do not sufficiently consider the results of Jersey's ML risk assessment. In this regard the FIU Jersey confirmed its intention to revise the policy to formally take into account the NRA's results. In any case, the grading officers seem to be sufficiently aware of the NRA's results, having themselves been involved in the latest NRA iterations, are still able to manually adjust the grading accordingly were necessary.

167. The FIU conducts operational analysis to determine if ML/TF/PF or predicate offences may have/had been committed analysing, *inter alia*, information available to it from open sources, industry and other authorities. In terms of seeking information from foreign FIUs, as covered in more detail in IO.2, the number of outgoing requests by the FIU has been particularly low, and not commensurate with that of an IFC and with Jersey's risk profile. In 2018 and 2019, less than 2% of incoming SARs/MIRs gave rise to an outgoing FIU indicating that Jersey's FIU was not sufficiently proactive in seeking informal cooperation as part of the analysis of its own cases.

168. The FIU of Jersey received a total of 7,463 SARs and 12,827 MIRs (9,591 from industry) during the review period. As mentioned earlier, in practice, SARs serve as the main trigger for the FIU to carry out an analysis. Of the SARs received, 8.7% of SARs received were linked to 263 case files disseminated by the FIU to LEAs under the assessment period.

Table 6.5: FIU case files disseminated to JFCU/ECCU, 2018 to 2022

		2018	2019	2020	2021	2022	Total
Incoming intelligence to FIU	SARs	1,805	1,596	1,403	1,266	1,393	7,463
	MIRs	1,987	1,923	2,608	3,010	3,299	12,827
Outgoing intelligence (disseminated by FIU to ECCU/JFCU)	SARs linked to case files	141	150	108	126	128	653
	MIRs linked to case files	359	599	464	695	833	2,950
	FIU case files	56	44	34	60	69	263

169. The statistics shared with the AT reveal the following: 24% of disseminated SARs were associated with suspected predicate offences, 36% are linked to domestic ML, and 38% are linked to suspected foreign ML. Notably, the AT observed a decreasing trend in the proportion of disseminations related to domestic ML, while there was an increasing trend in disseminations connected to cases where the suspected predicate offence occurred abroad. This shift suggests that the intelligence dissemination has aligned more closely with Jersey’s risk profile over the review period.

170. Sanitised examples provided to the AT of FIU intelligence packages disseminated to LEAs illustrate that recent reports are sufficiently comprehensive for LEAs in Jersey to initiate an investigation and provide actionable leads.

171. The quality of FIU reports has however varied over time, with Jersey authorities generally agreeing that this has improved during the review period. Jersey’s 2020 NRA identified the quality of FIU intelligence gathering and processing as a vulnerability in its AML framework. Since then, improvements have been made to ensure that the FIU, using its powers to obtain and analyse information, is better positioned to add value to its intelligence packages, rather than merely functioning as a passive conduit. The recent changes bringing greater independence to the FIU are likely to continue fostering a change in the mindset that the FIU’s primary aim is to provide intelligence capability rather than support capability. In this regard, some examples of FIU analytical products, that the AT had a chance to see, present an encouraging trend. Further work is underway, including a full scope review of the FIU’s dissemination process and the FIU’s product lines, to continue increasing the quality of its disseminations.

172. Regarding the turnaround time for the processing and dissemination of intelligence packages to LEAs, from discussions and recent data, the assessment team observed that turnaround times haven’t significantly improved during the review period. Jersey authorities attributed this to multiple factors, including the disruptions caused by the Covid-19 pandemic and the inherent challenges to the FIU’s day-to-day activities brought about by its transformation programme. The ongoing FIU transformation initiatives, coupled with other longer-term projects, such as the SAR template and portal reforms, and the review of the consent regime among others, have understandably impacted the FIU’s short-term productivity during the review period. Additionally, the limited analytical and technical capacities of the FIU, coupled with frequent requests by Jersey LEAs for investigative support, further contributed to these challenges. The AT finds these arguments credible, and thus supports Jersey authorities’ view that there is a need to ensure that timeframes to gather and share intelligence are shortened.

Strategic Analysis

173. Until 2023, the FIU did not have sufficient capacities to focus on typology/strategic analysis. The FIU's first strategic analyst was recruited in 2018. Since 2020, the number of strategic analysts grew slowly to reach 3 by the time of the onsite. Given the FIU's human and technical resource constraints, its strategic work was more focused on producing statistics, statistical reports, and on ensuring that data received and held by the FIU was accurate and reliable. In fact, the FIU has published several quarterly and annual reports, with detailed statistics on financial intelligence reporting trends which provide a detailed breakdown of SARs and MIRs submissions. Its reports indicate the situation in terms of which sectors of reporting entities had been submitting reports.

174. An ML typologies booklet was published in January 2023 jointly by the JFCU and the FIU. The report, which was produced by an external consultancy company in liaison with the JFCU and the FIU, highlights a number of typologies using Jersey case studies, hypothetical case studies, and some from the UK. Some typologies covered include tax offences, drug trafficking, insider dealing and corruption. The booklet delves into some judgements of local cases and provides red flag indicators and learning points for the reader. Some reporting entities found this useful and relevant, whereas others didn't. Some weren't aware of its existence.

175. Efforts are however being made by the FIU to produce strategic analysis products, with a number of these ongoing at the time of the onsite. These include: (i) Tax crime – using SARs, MIRs and in cooperation with the UK NCA, the aim is to analyse the quantum of tax offences, the jurisdictions that are using Jersey as a repository for proceeds of tax crimes, and the types of financial products used to facilitate tax offences; (ii) Use and cross-border transportation of Jersey bank note – commenced in 2022, this analysis was, at the time of the onsite, in its final stages, and is aimed at mapping the flows of Jersey bank notes and their use by criminals in Jersey; (iii) Cybercrime typology – commenced in 2023, will be a publicly available report on the use of crypto currencies and crypto assets as a means to facilitate predicate offences as well as for ML/TF.

176. With regard to the strategic analysis in relation to the use of cash (in particular use of Jersey bank notes), the FIU is cooperating with JCIS, the JFIN PPP, and also the UK National Crime Agency. One of the predominant typologies involving cash in Jersey concerns cash generated through the sale of drugs imported from mainland UK. At the time of the onsite, this analysis was ongoing and almost complete, but specific conclusions were not yet available.

177. While these efforts are commendable, the assessment team observed that, overall, the FIU's output in strategic analysis products has been somewhat limited with a number of other agencies and consultancy being used for these purposes. Whereas the latter, per se, should not be seen as an issue, the fact is that the FIU's capacities did not allow for further development of in-house expertise as far as strategic analysis are concerned. Moreover, at the time of the on-site visit a strategic analysis plan was not in place, while strategic analyses carried out so far have not been sufficiently risk based – i.e., better aligned with the findings of Jersey's NRA. Jersey authorities have also acknowledged this fact.

178. The FIU confirmed that there are plans in place for more staff to receive specific training as strategic analysts. The FIU also intends to produce, by end 2023, a structured and relevant strategic analysis plan that is aligned to risks, to identify areas of concern and specific questions that strategic analysis must address, whilst ensuring its products are relevant to Jersey and serves their purpose.

Suspension of transactions

179. Jersey's FIU has the authority to block transactions and accounts using a "consent regime" which reporting entities use to shield themselves from money laundering prosecution.

Approximately, 14% of SARs contain a consent request. When a consent request is made, the assets are frozen by operation of the law, not the FIU. This freeze persists as long as the relevant suspicion remains and the FIU withholds consent. Whereas having this tool in place is important for risks and context of an IFC, this can pose challenges for reporting entities, as it can block their customer relationships for extended durations. Jersey's FIU may however release reporting entities from tipping off restrictions when circumstances permit, particularly if consent is denied for extended periods of time. This happens occasionally, and the FIU's refusal to provide consent has, at times, led to the account holder challenging its decision in Court. Whereas this process does bring inherent tipping off risks, key reporting entities demonstrated good understanding of the requirement to not tip-off customers (see also IO4).

180. On average, the FIU attempts to reply to consent requests within a period of two days. By way of example, in 2022 the FIU received 1,303 consent requests. Of these, for 197 requests, consent was not provided.

181. The Consent regime in Jersey is an administrative measure used by the FIU to arrest or block funds suspected to be the proceeds of crime whilst intelligence analysis is carried out. A consent request from a reporting entity is actioned by the FIU by either allowing or refusing the ability to Act, Transact or Exit. Unlike the more common FIU "administrative freeze" powers which usually relate to a single financial transaction, a "No Consent" decision may relate to the totality of the assets held by a customer, including very substantial assets held by complex legal arrangements. Consent requests are sent to the FIU on the basis of simple suspicion. Consent regime measure was frequently applied in practice and, in a number of cases, its applications was a first step which afterwards led to successful seizures and confiscations of proceeds of crime (see also IO8).

Table 6.6: FIU Initiated Provisional Measures (no consent/NC)*

	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>
<i>Outcome / Disposal</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>
<i>Forfeiture</i>	1	3	-	1	1
<i>NC Lifted NFA</i>	5	6	9	4	4
<i>Prosecution / Confiscation</i>	4	3	1	3	2
<i>Saisie / Repatriation</i>	4	5	3	2	4
Total	14	17	13	10	11

*These figures relate to the number of consent requests lifted in a given year. For example, if consent is refused in 2014 and then lifted in 2018 it will appear in the 2018 column.

3.2.4. Cooperation and exchange of information/financial intelligence

182. Interviews, supported by statistical data on LEAs' information requests to the FIU, along with the provided case examples, firmly establish that substantial cooperation and information sharing occurs routinely in Jersey. The small size of the jurisdiction, with all authorities within walking distance from each other, enables swift information exchange and seamless consultations. Throughout the review period, cooperation and the exchange of financial intelligence within Jersey's authorities have been notably efficient and flexible. During the on-site visit, the assessment team directly experienced the strong collaborative spirit among Jersey's competent authorities. These authorities actively pursue cooperation and information sharing across all levels, including supervision, financial intelligence, and investigations, as evidenced by the presented case studies covering different immediate outcomes.

183. Statistics detailed in core issue 6.1 indicate that during the review period, investigative agencies in Jersey submitted 750 requests for information to the FIU Jersey. Proactive sharing of information also takes place among authorities. For example, all MLAs received by the LOD are proactively shared with the FIU.

184. Meetings among authorities take place on a regular basis, often driven by the process by which most FIU intelligence packages are disseminated to other competent authorities and law enforcement agencies. This process has evolved and has gone through a number of iterations during the review period.

185. Until Q1 2023, the FIU disseminated intelligence cases to LEA's and competent authorities through the Tripartite system, which consisted of monthly meetings attended by JFCU, ECCU (post 2017), JFSC and the FIU. The FIU would submit "intelligence packages" to be discussed in relation to criminal investigation or civil forfeiture. The JFSC's enforcement team also presented cases which would highlight any criminal breaches of local legislation that were outside of the remit of the JFSC to deal with. Each agency was given an opportunity to decide whether to take on the case and propose how they might support its progression. This, at times, created difficulties. Also, the AT is of the view that having had to wait for a tripartite meeting made the general process to share intelligence lengthier. Eventually, clearer agency take-on criteria were developed to allow the FIU to pass intelligence packages directly to the most appropriate agency and aligned to their take on criteria.

186. In 2023 the Joint Agency Meeting (JAM) system was initiated to provide relevant authorities (FIU, JFSC, JFCU and ECCU) with a platform to discuss operational and strategic matters. Sanctions and Revenue Jersey may also participate and are invited on an ad-hoc basis. JAM meetings are held monthly to discuss ongoing investigations, and quarterly at a strategic level.

187. Meanwhile, between 2019 and 2022, a weekly collaborative multi-agency (FIU, LOD, Revenue Jersey and JFSC) process, namely the Triage Process, took place. This in response to a workshop that found that ML cases were not progressing quickly enough to investigative authorities. The aim of the Triage Process was to review new SARs to identify those that offered the best prospect of intelligence development for a subsequent ML investigation, and to escalate such cases for further analysis. At these meetings, all new incoming SARs from the previous week would be assessed for information of specific relevance to each agency's criteria. For example, the JFSC would assess all SARs for indications of potential regulatory breaches and other matters relevant to the JFSC; Revenue Jersey for domestic tax matters and the LOD would assess SARs for indications of ML/TF.

188. While the Triage process had its benefits, the AT is concerned on two fronts. Firstly, it may have unduly impacted the FIU's operational independence, particularly when it comes to deciding which cases to further deepen its analysis on. Secondly, it led to a situation where intelligence wasn't shared on a need-to-know basis, a general principal adopted by FIUs and intelligence agencies to protect the confidentiality of the information they process. Indeed, the Triage process was discontinued in August 2022 by authorities in order to ensure the operational independence of the FIU and the confidentiality of SARs, amongst other reasons.

189. SARs are disseminated by the FIU with Jersey authorities via a secured shared platform. Throughout the review period, the main recipient of SARs disseminated by the FIU Jersey was the JFSC, with year-on-year increases in such disseminations, indicating a strong preference to use intelligence for supervisory purposes, as also confirmed by authorities. Similarly, the JFSC's consistent presence in the Tripartite, Triage and JAM processes is noteworthy and somewhat unusual, but emphasises the Country's focus on making use of intelligence for supervisory purposes. This approach is also apparent from several case studies presented to the AT. Although the commendable collaboration between the FIU and the JFSC is evident, the inclination to take

on cases from a supervisory perspective may have, on occasion, lead to missed opportunities for engaging in more proactive ML investigations.

190. Cooperation between the FIU and the JFSC is also strongly manifested in the number of SARs raised by the JFSC, which over the review period amounted to 610 (more than 6% of total SARs). In many of these, suspicion was identified during the course of the JFSC's supervisory actions, such as on-site examinations.

191. After the triage process was discontinued in 2022, the JFSC produced a list of 30 indicators for the FIU to consider when deciding whether to share intelligence with the JFSC and what type of SARs the JFSC would be most interested in. Many of these indicators are linked to potential breaches of AML/CFT obligations. SARs marked for sharing by the FIU with the JFSC are shared, in their entirety, in batches on a weekly basis via a secure email service. This information is stored on an internal secure database known as CRIMS. SAR information is then sanitised and shared with the JFSC Supervision units, and feeds into the JFSC's risk model. SAR intelligence is also used to further enforcement cases by the JFSC. Additionally, detailed statistical reports, at reporting-entity level, are shared by the FIU with the JFSC to track any changes or deficiencies in financial intelligence reporting from specific types of financial services business.

Table 6.7: Disseminations by the FIU to Jersey authorities

	2018	2019	2020	2021	2022	Total
Jersey Financial Services Commission	193	387	453	459	516	2,008
States of Jersey Police General	396	399	333	244	303	1,675
States of Jersey Police JFCU Ops	127	118	104	152	123	624
Economic Crime and Confiscation Unit	34	34	19	65	143	295
Jersey Customs & Immigration Service	54	49	57	48	35	243
Revenue Jersey	59	59	38	34	30	220
Jersey LOD	54	19	17	20	15	125
Jersey Social Security	35	26	11	16	5	93
Jersey - Economy and Partnerships Directorate	19	22	26	23	2	92
States of Jersey Other Government	1	5	3	5	5	19
Minister for External Relations (Sanctions)	0	0	0	0	12	12
Total	972	1,118	1,061	1,066	1,189	5,406

192. Information has also been shared by the FIU Jersey with other several authorities in Jersey, including JCIS and Revenue Jersey. JCIS receives disseminations from FIU via the TIU (Target Investigation Unit) for financial intelligence, typically in relation to large sums of Jersey banknotes being deposited into UK bank accounts. FIU disseminations to JCIS also consist of replies to RFAs made by JCIS to the FIU surrounding specific investigations. Revenue Jersey

routinely receives shares of intelligence from the FIU on an ad-hoc basis. Such shares commonly concern cases in relation to domestic tax-compliance.

Overall conclusions on IO.6

193. The FIU in Jersey is an important source of intelligence. Whereas the current trend of an increased use of FIU analytical reports and other intelligence to initiate ML and predicate offences investigations is encouraging, concerns remain on the effective use of these throughout the entire review period and before the FIU related reforms were initiated.

194. Jersey has made commendable progress in addressing recommendations from the 2015 Moneyval report, improving the FIU's operational independence and resources. The FIU of Jersey is now an independent and administrative FIU. Several of the most impactful measures in expanding the FIU took place rather recently and their effectiveness is yet to be seen.

195. For most of the review period, the FIU was focussed on providing investigative support, and channelled intelligence without consistently seeking to obtain and analyse financial intelligence to add value to its intelligence packages. At the time of the on-site visit, the FIU was still in the process of reforms, and hence still not equipped by sufficient technical and human resources to ensure that it can consistently produce valuable strategic and operational analytical reports, a critical need for Jersey as an IFC. The ongoing FIU transformation programme intends to address these concerns and seems promising.

196. Jersey exhibits a substantial degree of cooperation between competent authorities, with information sharing occurring routinely.

197. Whilst some recent examples on the use of intelligence and the ongoing reforms are commendable, more concrete results in terms of effective use of financial intelligence in large scale ML/TF and predicate offences are yet to be demonstrated.

198. **Jersey is rated as having a moderate level of effectiveness for IO.6.**

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

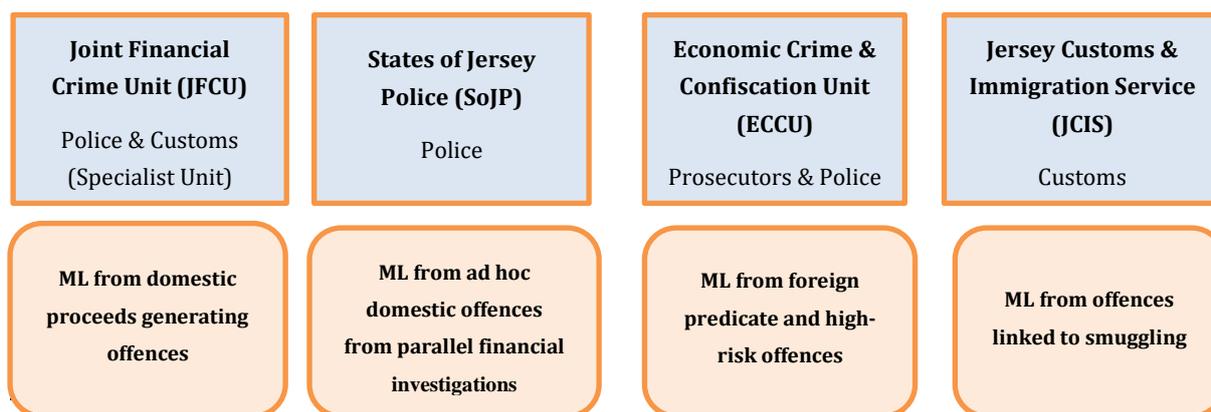
199. Jersey demonstrates high-level commitment to fight serious crimes, including ML. It has the legal framework and mechanisms in place to enable the effective identification and investigation of ML, including through the use of parallel financial investigations, by dedicated and specialized investigators. Judicial authorities and LEAs use all tools at their disposal to identify and investigate ML cases proactively. Over the period under review, the number of investigations into large and internationally complex ML schemes has increased. Some recent high-profile cases have also been identified and investigated.

200. As regards to the investigative process, under criminal law, Jersey is a common law jurisdiction, with significant statutory law elements. The Judiciary does not play any role in the decision to commence an investigation or the decision to prosecute; the latter rests entirely with the Attorney General (AG).

201. The roles of law enforcement investigators and legal advisers are separate and distinct. Jersey's criminal justice system is one where investigations are initiated, planned, led, and conducted by law enforcement officers. Investigations are commenced when there are reasonable grounds to suspect that a criminal offence has been committed.

202. The following law enforcement authorities are in charge of identifying and investigating ML cases:

Chart 7.1: Authorities in charge of identifying and investigating ML cases



203. ECCU was established in 2017 to tackle complex financial crime, corruption, TF, ML, and asset recovery cases in Jersey. It took some time for ECCU to be fully operational. Hence, during the first part of the period under review, JFCU (cf. infra) was conducting investigations into cases that would at the end of the same period be taken forward by ECCU. Most of the cases of ECCU involve foreign predicate offences.

204. Since its inception, ECCU has grown, from a unit consisting of 3 legal advisers and 1 investigator to (at the time of the onsite)¹⁶ 7 legal advisers, 1 paralegal, 3 police investigators, 3 civilian investigators, 1 accountant, and 1 analyst. ECCU supplements its resources by engaging specialist independent counsel and forensic accountants. The growth of ECCU is reflected in its caseload: in 2018, ECCU held 15 live investigations. ECCU’s caseload has grown exponentially in the last few years and the large majority of its ML investigations and its preliminary reviews before opening an investigation (for ease of reference referred to as “pre-investigations”)¹⁷ arise from foreign predicate offences and involve higher risk sectors such as banks and TCSPs. In 2022, ECCU held 26 live investigations and 14 “pre-investigations.”

205. ECCU sits within the Law Officers Department (LOD) Criminal Division under the oversight of the AG. It will consider the most serious financial crime and money laundering cases for investigation, based on priority principle, which sets out criteria such as the complexity of the case, the quantum of the offending, the level of risk of significant damage to Jersey’s reputation, the transnational nature of the case. Considering these criteria, a decision will be made to open an investigation, commence a pre-investigation before a final decision is made, or take no further action.

206. Decisions whether to open an investigation or to take no further action are authorised by the ECCU Senior Legal Adviser (‘SLA’). In respect of exceptional or very high-risk cases, the Law Officers (i.e. the AG and SG) will be consulted directly.

¹⁶ As at March 2024 there are 9 legal advisers, 1 paralegal and 8 investigators.

¹⁷ This is not a formal step *per se* but a review of initial materials to ascertain whether is material to show a criminal offence has taken place and whether such material is likely to become available; or whether there is material to show that tainted property is held in Jersey and whether such material is likely to become available. ECCU carried out 68 such “pre-investigations” in the reporting period and 10 went on to be investigated.

207. The sources used by the ECCU to identify ML investigations are provided under IO.6 Core Issue 6.1 which demonstrate that the main sources are FIU disseminations, including via the Tripartite Process, MLA requests, foreign LEAs requests and other. As seen above, a majority of the ECCU's investigations (for the period 2018 – 2022) originate from information directly received from the FIU. Intelligence and information from the FIU are received in the form of sanitised material gathered from one or more SAR, from which the FIU may have conducted further enquiries enabling them to build an intelligence package. For a more detailed analysis the reader can refer to the developments under IO.6.

208. Another 26% of the ECCU's investigations originate from the Tripartite Process. As also discussed under IO6, this process operates when a case requires a multi-agency approach involving the ECCU, JFCU and the JFSC, or when it is unclear which agency is best placed to lead an investigation. In those instances, FIU or the JFSC will submit an intelligence package to all agencies and a joint agency meeting will be held to discuss the case. At the meeting, which is attended by representatives from all agencies, the case will be discussed, and a decision will be made to either:

- a) allocate the case to the ECCU or the JFCU to commence a pre-investigation or an investigation;
- b) allocate the case to the JFSC to take regulatory action, including enforcement;
- c) refer the case to the FIU to gather more intelligence and bring it back to the Tripartite;
- d) take no further action.

209. The majority of tripartite referrals originate from the FIU, making it the most important source of work for the ECCU.

210. Another main source of information for the ECCU (16% of the investigations) is the Mutual Legal Assistance (MLA) process. The process of MLA review is facilitated by the MLA Team (see also IO2), which sits in the LOD Criminal Division and functions as the Central Authority for Jersey. When an incoming formal letter of request for assistance is received by the MLA Team, it is triaged to ascertain whether it contains material to show corruption, tax offences, fraud, ML, or any another proceeds generating offence has taken place in Jersey or has links with Jersey, and whether it should be referred to the ECCU for review.

211. If a decision is made to refer the case, the MLA request is executed and once material is in the possession of the MLA team, that material, along with the original Letter of Request, is referred to the ECCU for review. A second review of the case will be conducted by the ECCU Legal Adviser to determine whether it falls within the scope of the priority principle.

212. The ECCU Legal Adviser will liaise with the MLA Team to initiate and maintain informal contact with overseas jurisdictions to obtain further information and case materials, and then to ensure that any subsequent formal request for material is appropriate and well received. The ECCU investigator or the Legal Adviser may also make direct contact with their counterparts overseas.

213. This process takes time, particularly in cases where investigations are ongoing in respect of the predicate offending overseas. Where this is the case, there are instances when Jersey is requested not to take any action, because either the suspect is already subject to criminal justice action overseas, or because the overseas jurisdiction has concerns that its investigation may be prejudiced by action in Jersey.

214. When an investigation is opened, an investigator will be allocated to the case. An investigation strategy meeting will then take place to set manageable lines around the investigation. This is led by the Legal Adviser and the team will aim to, among others, identify the suspects who will be investigated and potential offences and agree on investigative actions which can be taken to obtain key material and evidence.

215. ECCU undertakes parallel financial investigations when investigating predicate offending which does not, itself, constitute ML. Parallel investigations account for 11% (7 of 62) of the ECCU investigations. Almost all the predicate offending investigated by the ECCU for the purposes of ML occurs overseas and in the vast majority of cases, no linked predicate offending in Jersey has taken place. This means that the investigation is focussed purely on ML from the outset.

216. In rare cases the ML investigation has been initiated based on the information provided by the JFCU, AG or based on open-source media.

JFCU

217. JFCU is a Police and Customs resourced unit. Its main purpose is to investigate domestic proceeds generating offences originating from financial crime and TF, including dishonesty offences, all types of fraud, ML arising from domestic predicate offences, standalone ML and to identify criminal assets.

218. JFCU is staffed by 7 detectives, 3 civil investigators, 1 analyst, 1 forensic accountant support officer, and 3 JCIS officers. Legal advice is available from 2 full time LOD legal advisers (who are part of ECCU) that sit alongside the JFCU team.

219. JFCU identifies ML investigations from a variety of sources which include:

Table 7.1: Sources of JFCU ML Investigations

	2018	2019	2020	2021	2022	Total
FIU	-	5	3	7	11	26
Direct contact from complainant	1	1	-	-	-	2
Drug Squad	-	-	1	1	-	2
JFSC	-	2	-	-	-	2
JCIS	-	-	1	-	-	1
Total	1	8	5	8	11	33

220. For the first half of 2023, 9 additional investigations can be added, bringing the total of JFCU's ML investigations to 42.

221. JFCU deals with cases where there is either a local suspect, whether a natural person or a legal person, or a local victim, and the financial crime can be considered to be a serious offense. Where the need for a parallel financial investigation is identified a JFCU investigator will be allocated to the case alongside the original investigator to support the financial element of the investigation.

222. JFCU routinely carries out financial investigations as part of all commercial drugs trafficking investigations. Pursuant to the authorities, the outcomes of parallel financial

investigations include not only potential ML charges but also identification of the proceeds of crime and other assets that could be subject of confiscation proceedings and identification of other members of the criminal networks.

Table 7.2: JFCU predicate offences for ML investigations (2018 - 2022)

Offence Description	Domestic	Foreign*	Total
Not identified	1	7	8
Fraud	1	6	7
Drug Trafficking	5	1	6
Corruption	-	3	3
Organised Crime	-	2	2
Tax offences	1	1	2
Theft (Larceny)	3	-	3
Market manipulation	-	1	1
Human Trafficking	-	1	1
Total	11	22	33

* It should be noted that a case can initially be assessed as “domestic” for the purpose of allocation to the competent LEA but may during the investigation ultimately uncover “foreign” aspects of the criminality, without this being retroactively recorded or amended in the relevant filing system.

Other LEAs

223. Besides ECCU and JFCU, both SoJP (drug squad) and JCIS have investigated cases of ML. There were 10 investigations lead by SoJP (drug squad), all of which had drug trafficking as predicate offence and 9 of which were self-laundering cases.

224. JCIS led 11 ML related investigations during the review period (2018 – 1st half of 2023), mostly related to drug trafficking offences. These investigations originated in non-FIU intelligence or following drug seizures. Both the SoJP and the JCIS conducted parallel financial investigations.

Discussion

The total number of investigations is as follows:

Table 7.3: All agencies – Total of ML investigations by year

Agency	2018	2019	2020	2021	2022	1H 2023	Total
JFCU	1	8	5	8	11	9	42
SOJP	0	2	1	4	3	0	10
JCIS	2	3	1	1	3	1	11
ECCU	15	14	16	7	10	2	64
Total	18	27	23	20	27	12	127

225. As can be seen from the Table 7.3, the overall number of investigations into ML is not significant given Jersey's position as an IFC and the size of its financial sector. While it can be acknowledged that it is not possible neither to determine from the outside what the appropriate number would be for a given jurisdiction nor to draw a direct comparison between jurisdictions of similar size or even extrapolate from smaller or bigger ones, the figures reproduced above might indicate that more could have been done by the authorities in terms of identification and investigation of possible ML cases over the period under the review. It is however acknowledged, based on the interviews and the material shown to the AT, that the quantity and quality of ML investigations aligned with the jurisdictions risk profile is moving in an encouraging direction.

226. The authorities indicated during the on-site visit that the figures above do not represent all the criminal conducts that could receive the legal qualification of ML, the latter being reserved for the more serious offences (without however indicating a precise threshold) and that a different way of statistical recording could have produced a higher number of potential cases. There is no evidence that would confirm this statement, however there are also no reasons not to accept this as a possible explanation.

227. The legal framework in place, as it is reflected also in the TC Annex, does give the competent authorities the means to effectively identify and investigate ML, and various efforts made and initiatives taken by Jersey after the previous MER, to modernize its system and to give LEA more tools to tackle financial crime, must be acknowledged.

228. The quality of the information provided by the FIU (the main source for initiating investigations for the ECCU and the JFCU) has not been contested or put into doubt by LEAs and general impression is that the quality has enhanced over time. When looking at the number of intelligence packages disseminated by the FIU to LEA, while there is a certain number that have not been followed up by formal investigations, this is not an uncommon phenomenon, as explained more in detail under IO.6.

229. The way incoming MLA requests are analysed by the authorities could also be an effective way of identifying ML conduct of third-party launderers and other possible accomplices in the financial sector. Further examples of ML investigations conducted by the Police that are linked to a drug trafficking investigation (which is one of the major domestic threats to the island) also show the commitment and willingness of the authorities to address the financial side of these criminal phenomena.

230. The cases illustrations provided by the ECCU and the JFCU, and, in particular, some recent high-profile cases, demonstrate not only the authorities' willingness but also competence to address serious forms of financial crime and related ML, domestically and abroad. These cases include numerous complex structures established and managed by both local and foreign wealth managers/TCSPs. Some of these recent cases are confidential and cannot be presented in the report. The AT has a sufficient understanding of how these complex structures were allegedly established and connected with each other including through BO links or alleged connections between some funds and predicates committed abroad and is satisfied that the ECCU is well equipped with mechanisms and expertise to carry out the most complex ML investigations.

231. In terms of resources, a considerable increase can be observed for all authorities concerned (the FIU, ECCU and other LEA), towards the very end of the review period. Onsite interviews revealed also that more could have been done if certain resources, or even a specific agency itself, had been available at an earlier stage.

232. Case studies provided demonstrated that the competent authorities make good use of all the available tools to identify and investigate ML (see some examples in Box 3.1 below), including intelligence/information from overseas law enforcement agencies and open-source media. Provided examples included identification and investigation of ML related to predicate offences in some complex cases involving very large amounts of criminal property, cross-border activities, and use of legal arrangements to disguise the real beneficial owner. Regular use of special investigative techniques, arrests, and assets frozen were also shown in these cases.

Case Study 7.1: ML investigation initiated from FIU intelligence

In April 2018, the ECCU received an intelligence package from the FIU. The intelligence related to a funds held in Jersey related to very high value fraud overseas. Early indications were that extensive complex structures had been used, across multiple jurisdictions, to layer illicit funds. Following enquiries by the FIU, some overseas jurisdictions confirmed that criminal investigations had commenced; another confirmed that it had issued a worldwide freezing order. When requested, the FIU refused consent to deal with suspicious funds (approximately 418 million EUR) held in Jersey.

ECCU commenced a ML investigation into those funds (suspects are two private persons), funds are held under “no consent” and worldwide freezing orders are in place. Informal communication channels were opened with overseas law enforcement agencies, multiagency meetings were held, and fast-track action was taken to contact authorities in the victim jurisdiction.

By the end of the on-site visit, the case was still under investigation.

Case Study 7.2: ML investigation initiated from MLA referral

This case was referred to the ECCU in November 2022 from the MLA Team, following the receipt and execution of an incoming request for assistance from the United States (US) authorities.

The case in the US centred on an art dealer, who had defrauded corporates and individuals of some USD 84 million.

During the offending period, the defendant had set up Jersey companies and associated bank accounts. To ascertain if these had been used to facilitate the fraud, a meeting was set up between the legal adviser in Jersey and the prosecuting and investigative authorities in the US.

This revealed that the Jersey structures had been used in the fraud and featured in the US indictment, which covered the defendant’s worldwide offending and to which he pleaded guilty.

By the end of the on-site visit, the case was still under investigation. No funds have been frozen or confiscated in Jersey as none remain in Jersey. A forfeiture order was made and is currently being enforced in US.

Case Study 7.3: ML investigation initiated from Tripartite Process

In July 2019, ECCU opened a ML investigation following receipt of an intelligence package from the FIU via the Tripartite process. The source of the offending centred around high value corruption by Individual A and high-ranking politicians in Country 1. Linked investigations were ongoing in Countries 2 and 3.

Individual A was based in the United Arab Emirates (UAE). He opened a bank account in Jersey during the relevant time (July 2019 – April 2021). Within a year, some USD 6 million flowed into and out of the account. This was inconsistent the purpose of the account given by Individual A when he opened it.

During the investigation, ECCU made informal and formal contact with 3 overseas jurisdictions and obtained production orders against 2 Jersey based Fund Services Businesses.

Independent counsel was instructed to advise on the case, following which further enquiries were undertaken, before a decision was made in April 2021 that there was insufficient evidence to show ML in Jersey. This is because according to authorities the material provided could not substantiate on its own (and upon the collection of the evidence from abroad there were no supportive or admissible other evidence) the allegations of ML or assist the investigation in Jersey. No funds were frozen or confiscated these are no longer in Jersey. The account was closed before the FIU and ECCU became aware of the suspect.

Case Study 7.4: ML investigation initiated from information received from overseas LEA

Authorities in Country 1 were conducting a priority operation, concerning high profile individuals involved in fraud, bribery, and ML. Intelligence indicated that the main suspect and others were planning to visit Jersey. Direct contact was made with the ECCU investigators in June 2021 to inform them of this and request assistance. A multiagency approach was taken and the SoJP quickly deployed a surveillance team, to monitor the suspects whilst they were in Jersey.

The investigation in Jersey remains live and informal contact with Country 1 is ongoing, where a charging decision is being considered. The FIU has received and shared SARs with the ECCU, some of which came from the JFSC, concerning efforts by potential suspects to place funds in Jersey. This information was shared, and direct contact made by ECCU investigators with the Jersey entities.

FIU also identified an inflow of funds (EUR 927 000) into Jersey. This is being investigated by the ECCU, with the assistance of Country 2, to identify any potential ML in Jersey. The case was initiated in June 2021 and was by the end of the on-site still under the investigation. According to authorities, no funds were frozen or confiscated as “tipping off” a remains live issue.

Case Study 7.5: ML investigating initiated from Joint FIU/JFSC referral

FIU and the JFSC worked together developing intelligence on a high profile/potentially reputationally damaging case which had received political interest. The case concerned an unauthorized trust company business, and an urgent Tripartite process was undertaken.

In August 2020, the ECCU received a comprehensive intelligence report from the FIU and the JFSC and a ML pre-investigation was commenced.

By the end of the on-site visit, the case was still under investigation. No funds have been frozen or confiscated at current time.

Case Study 7.6: ML Investigation initiated via Open Source

Media coverage published in 2022 of convictions of Individual A revealed potential offending in Jersey. This was picked up by an investigator in the ECCU and presented to the team.

A request for assistance was then sent to the FIU, which revealed assets connected to Individual A were held in Jersey. Contact was also made with the JFSC and it was confirmed that Individual A had a corporate presence in Jersey. ECCU then commenced a substantive and a parallel ML investigation, which by the end of the on-site were still ongoing.

Significant funds in Jersey in relation to a number of individual suspects remain under 'no consent'. No application to formally restrain those assets will be made until Country 2 makes a charging decision and Jersey is clear to proceed with its investigation.

233. Interviewed competent authorities confirmed that they participate on regular basis at relevant trainings and conferences and that applicable internal procedures have been enhanced to enable more efficient identification and investigation of ML cases.

234. As a conclusion, to the question on how well ML is investigated by the authorities, it can be determined that ML is now, in 2023, rather well investigated compared to 5 years ago (the beginning of the period under review) and for some time after that. It can also be presumed that, mainly a serious lack of resources (and some legislative tools) was impeding an effective combatting of ML phenomena in the past, while now the obstacles have been mostly removed.

235. Lastly, substantial improvements of the legislative tools (i.e., introduction of "*Failure to Prevent ML*" offence and "*Deferred Prosecution Agreements*") (see 3.3.5 "Use of alternative measures") and mechanisms (i.e., improving the resources of competent authorities and raising their awareness) demonstrate that Jersey's commitment to fight serious crimes is continuous and solemn.

3.3.2. Consistency of ML investigations and prosecutions with the threats and risk profile, and national AML policies

236. The types of ML investigations are largely consistent with Jersey's threats and risk profile and national AML policies while for prosecutions this is achieved to some extent.

237. In their NRA, the authorities determine that the ML risk in Jersey comes from foreign predicate and cross border criminality. The threat rating from foreign predicate offences is being assessed as medium/high, and for cross border criminality it as medium.

238. The NRA identifies corruption, tax offences, and fraud as the most prevalent predicate offending from which funds flow into Jersey. In terms of domestic offending, the NRA states that drugs trafficking, followed by fraud offences and larceny, produced the most money laundering prosecutions and convictions. The threat rating from domestic offending is being assessed as medium/low.

239. The NRA further states that over 39% of Jersey’s economy is based on financial services. It places the TCSP, securities, investment business, and the banking sectors as the largest players in the financial services industry in Jersey. It further states that these sectors are the most at risk of money laundering, along with legal services. It also shows that the highest numbers of non-resident customers are dealt with by these sectors. The overall assessment of the ML threat to Jersey was determined to be “*medium high*”.

240. When analyzing the actions undertaken by the different LEA, the following figures have been considered:

ECCU – investigations

241. ML investigations conducted by the ECCU demonstrate the following:

- Almost 73% (45 of 62) investigations have arisen from foreign predicate offending.
- Regarding foreign predicate offences, 29% come from corruption, 22% from fraud and 11 % from tax offences.
- The jurisdictional threat seems to be partially in line with the NRA, in that the USA and the UK dominate.
- In terms of sectorial risk, the banking and TCSP sector dominate, accounting for over 42% of the investigations each (investment business and funds, 10%)
- The data provided shows a prevalence of legal persons (126) over natural persons (83) as suspects for ECCU investigations (not prosecutions) for the period 2018 – 2022.

Table 7.4: Types of ML investigated by ECCU

Type of ML	2018	2019	2020	2021	2022	Total
Self-laundering	10	6	10	2	2	30
Self-laundering/Third Party	2	0	5	4	5	16
Third Party	2	8	1	1	3	15
Stand-alone Laundering	1	0	0	0	0	1
Total	15	14	16	7	10	62

JFCU – investigations

242. The JFCU has investigated ML cases linked to domestic proceeds generating offences, with their main focus on fraud, which is in line with the domestic threats identified in the NRA. The table below sets out the number of all fraud offences investigated by JFCU during the period under the review:

Table 7.5: Fraud offences investigated by JFCU

	2018	2019	2020	2021	2022	1H 2023	Total
Fraud	10	8	41	48	27	13	147

243. Looking at the statistical data and cases which were already brought before the court, one may notice that banks, asset and fund management companies, TCSPs, and other financial intermediaries for which a significant inherent risk factor results from the international customer base, and which also includes a not inconsiderable number of PEPs, have never been prosecuted for ML. Wealth administration and private banking pose further risks because of the high level of assets involved and the clients' profile. Furthermore, these clients use complex products and have high expectation of confidentiality and anonymity. These would, inter alia, suggest that ML offences where e.g., TCSPs would be used to conceal or made arrangements in respect of criminal property could be one of the possible typologies into which the authorities would look at and examine more often. Whilst some investigations involve financial intermediaries, there has not been any major case of professional ML (i.e., third party ML involving banks or TCSPs) which was prosecuted before Jersey courts. While the authorities mentioned a case involving a DNFBP (dealer in precious metals and stones), the AT is of the view that this type of business is less material for the jurisdiction and its ML related risks.

244. Tax offences (or ML stemming from tax offences), one of the three main sources of ML of foreign PO identified in the NRA, while investigated, are not many, and fewer have been prosecuted. During the on-site, the AT were provided with a tax evasion case where an indictment has been issued (the matter is ongoing). Also presented were a few case examples involving foreign tax offences as a PO. Some legal obstacles such as double criminality or the lack of consent given by foreign (tax) authorities to use the information for criminal proceedings do in a certain degree explain the lower number.

245. As a conclusion, while it can be said that the ML investigations (see Case Studies under 3.3.1 above) are broadly in line with the country's threats and risk profile and AML policies (which might also partially be due on how the NRA was established) it is difficult to assess the adequacy to these elements of prosecutions, as they are very low in number and that convictions have so far only been obtained by JFCU and JCIS (the latter all for self-laundering typologies linked to drug cases). The complex matters referred to above that ECCU are pursuing and hope to bring to prosecution are commensurate with the jurisdiction's risk profile.

3.3.3. Types of ML cases pursued

246. The number of prosecutions and convictions for ML, for the period under review, is low and not in line with the jurisdiction's context as an IFC and its risk profile. The authorities have demonstrated to the AT that this is in part due to factors beyond the jurisdiction's control, such as delays in receiving co-operation from other jurisdictions and even refusals to co-operate.

247. ECCU has and is conducting a number of complex investigations (see above under 3.3.1 “*ML identification and investigation*”), including in high profile cases; however, only one of these investigations was, at the time of the onsite visit, advanced to the point of prosecution. ECCU has successfully prosecuted three cases of breaches of the Money Laundering (Jersey) Order 2008 (MLO). Breaches of the MLO may lead to criminal liability and these provisions have been used by ECCU in cases where the breaches were persistent and longstanding, but the conduct was not sufficient to show substantive money laundering. In these three cases two were arising from foreign predicate offence and legal persons were successfully convicted. The authorities indicated that such cases were absorbing considerable resources. Although the AT is aware that this issue belongs more to the CI 7.5, the reference was made here as to show ECCU’s role in processes which have so far led to convictions.

248. JFCU has investigated mostly self-laundering cases (25 out of 33) and some third-party laundering cases (6). There was one stand-alone case. JFCU has obtained the following convictions:

249. **Table 7.6:** Types of ML convictions from JFCU cases

Type of ML	2018	2019	2020	2021	2022	Total
Third Party	-	2		-	3	5
Self-Laundering	-	2	3	-	1	6

250. JCIS has obtained some convictions, all for self-laundering:

251. **Table 7.7:** Types of ML convictions from JCIS cases

Type of ML	2018	2019	2020	2021	2022	1H 2023	Total
Self-Laundering	-	-	6	2	7	2	17

252. There is only one conviction for stand-alone or autonomous ML, whereas third-party laundering convictions are very rare, which is not in line with the jurisdiction’s context as an IFC and its risk profile.

253. Case Studies demonstrating prosecutions and convictions in self-laundering and third-party ML cases are presented below.

Case Study 7.7: Case study demonstrating prosecution and conviction in self-laundering

Individual X was an employee of a Jersey company. He stole several million pounds from it over 12 years. He also, together with another, person, Y defrauded that company of tens of thousands of pounds. X transferred the proceeds of his larceny to different bank accounts and using an FX platform removed hundreds of thousands of pounds from Jersey to Spain which applied to a mortgage on property he had purchased. Sentences of 11 years and 6.5 years were passed (includes 12 months for ML to run consecutively), and confiscation orders (including an available asset overseas) were made for £ 511 323 (approximately EUR 596 000) and £ 144 870 (approximately EUR 168 860).

Case Study 7.8: Case studies demonstrating prosecution and conviction in third party ML

The defendant laundered cash on behalf of a criminal enterprise that was engaged in the importation and supply of controlled drugs into Jersey on a commercial scale. He was convicted in 2020, following a 6-day trial for three counts of entering into or becoming concerned in a ML arrangement to the value of over £ 1 million.

The defendant utilised his jewellery business to facilitate the movement of funds from Jersey to the UK through the purchase and sale of bullion. This enabled cash to be removed from the Island and provided to members of the enterprise within the UK without the cash being physically carried out of the jurisdiction.

The typology involved four simple steps. Firstly, a sum of cash would be handed to him at his jewellery shop, and he would then deposit that cash into his business bank accounts held under the name of a legal person of which he was the sole director. Then he would use the cash to purchase gold bullion from a dealer based in Hatton Garden, London. Finally, the bullion would be collected from the London dealer and sold for cash. The cash would then be available to UK-based members of the criminal enterprise to be used to purchase drugs or otherwise cover their operating costs.

The defendant was sentenced to 7 years and 6 months' imprisonment. The 7 defendants for the predicate offences were sentenced to imprisonment ranging from 2 years to 14 years. Confiscation proceedings are ongoing.

254. With regards to legal persons, very little has been done during the period under review. Whilst the authorities presented a judgement from 2016 (criminal conduct taking place from 1999 to 2011) where a foreign legal person pleaded guilty for ML and where a substantive fine was imposed, this case, given the timeframe of this evaluation, is only mentioned to confirm the fact that the legal system allows for the successful prosecution of legal persons and cannot be taken into account for the rating of this immediate outcome. Since 2016, no other legal person has been prosecuted and hence convicted for ML. The authorities advised however that most of ECCU's current investigations involve legal persons and arrangements. Furthermore, there have been cases where legal persons were prosecuted, convicted and sentenced for MLO breaches. The authorities acknowledged that prosecuting and convicting legal persons for ML is a complex exercise, in part be due to the difficulty in proving the "*directing mind and will*" of the legal person, which is one of the reasons why new legal instruments such as the "*Failure to Prevent ML*" offence and "*Deferred Prosecution Agreements*" have recently been introduced (see 3.3.5 "Use of alternative measures").

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

255. Proportionate and dissuasive criminal sanctions apply to natural persons convicted of ML. The ML offences are punishable by up to 14 years' imprisonment, an unlimited fine, or both. Criminal liability and proportionate, dissuasive sanctions apply to legal persons convicted of ML, without prejudice to the criminal liability of natural persons. Legal persons are punishable by an unlimited criminal fine. Parallel proceedings (civil, administrative) are not precluded, although often stayed as criminal proceedings take priority (see c.3.9 and c.3.19 under TCA R.3).

256. Sentences in the Royal Court in respect of all criminal matters, are determined by Jurats, who also serve as judges of fact for statutory offences, which include ML offences.

257. There are twelve Jurats at any one time, who are indirectly elected by an electoral college which consists of members of the States of Jersey and members of the legal profession. The Royal

Court sits either as the Inferior Number (a judge and two jurats) or the Superior Number (a judge and at least five jurats). Only the Superior Number can impose sentences of imprisonment of more than four years.

258. The Superior Number also acts as a court of first appeal in respect of sentences handed down by the Inferior Number. Otherwise, appeals from the Inferior Number and the Superior Number are heard by the Jersey Court of Appeal, in which Jurats do not sit. Thereafter, any appeal would be heard by the Judicial Committee of the Privy Council (whose membership is the same as that of the United Kingdom Supreme Court).

259. The maximum sentence for ML in Jersey is 14 years' imprisonment which the authorities say is the longest available sentence under Jersey law short of life imprisonment. The authorities further affirm that non-custodial sentences are unlikely to be imposed for natural persons convicted of ML.

260. For the period under review, as reflected under table below, there has only been one instance in which a sentence was suspended (a 16-month custodial sentence). Jersey courts further have developed sentencing guidelines for ML offences, based on case law (e.g., *AG v. Goodwin* (2016) JRC 165 and *Bohjwani v. AG* (2011) JCA 034).

261. The following table sets out the statistics for ML convictions, along with the sentences imposed for all LEA:

Table 7.8: ML convictions and sentences imposed for all LEAs

Year of Conviction	Investigating Agency	3 rd Party/ Foreign Predicate/ Standalone	Count of Individuals convicted of ML	Sentence (months)	Confiscation / Cash Forfeiture amount (£)
2019	JFCU	Self-Laundering	1	36	
2019	JFCU	Self-Laundering	1	15	
2019	JFCU	3 rd Party	2	174 (combined)	€ 137 328
2020	JFCU	3 rd Party	3	285 (combined)	€ 1 180
2020	SoJP	3 rd Party	1	36	
2020	JCIS	Self-Laundering	1	12	€ 199
2020	JCIS	Self-Laundering	3	48 (combined)	€ 97
2020	JCIS	Self-Laundering	2	72 (combined)	€ 3 441
2021	JCIS	Self-Laundering	2	12	€ 24 570
2021	SoJP	Self-Laundering	1	12	€ 954
2022	SoJP	Self-Laundering	3	58 (combined)	€ 26 818

2022	JFCU	Self-Laundering	1	112	€ 18 181
2022	JFCU	3 rd Party/ Standalone	3	120 (combined)	€ 42 332
2022	JCIS	Self-Laundering	2	24 (combined)	€ 9 945
2022	JCIS	Self-Laundering	3	144 (combined)	€ 29 997
2022	JCIS	Self-Laundering	1	16 (suspended)	€ 8 902
2022	JCIS	Self-Laundering	1	16	€ 867
2023	JCIS	Self-Laundering	2	105 (combined)	€ 131 016

262. Further, although not directly handed down for ML offences, it must be noted that fines have been imposed by the Royal Courts in three cases of MLO breaches by legal persons, for a total of 1 000 000 GBP (approximately EUR 1 149 000).

3.3.5. Use of alternative measures

263. Jersey invokes the following as alternative measures to prosecution of ML:

- a) Criminal prosecutions for breaches of MLO using Proceeds of Crime Law (POCL)
- b) Non-conviction based confiscation under the Civil Asset Forfeiture Law (domestic)
- c) NCBF under the Civil Asset Recovery (International Cooperation) Law 2007
- d) Failure to prevent money laundering under POCL
- e) Deferred Prosecution Agreements (DPAs)

264. As regards item a), the POCL foresees the possibility to prosecute breaches of the MLO. As already discussed under previous core issues of this IO, these provisions have been used in cases where there was insufficient evidence to provide a realistic prospect of conviction in respect of the natural and legal persons involved for money laundering offences, but the breaches in question were serious and met ECCU's priority principle. Cases presented to the AT confirm that this mechanism has been applied in practice and has been a substitute when the competent authorities did not have sufficient evidence to pursue ML prosecution against legal persons.

265. As regards items b) and c) we refer the reader to the developments under IO8, which confirms extensive use of these mechanisms. It can however be motioned that the introduction of NCBC confiscation has widened the reach of the authorities to combat ML and confiscate tainted cash and monies held in bank accounts.

266. The measures under d) and e) are recent (June 2022 and March 2023 respectively) and have so far not been used or brought to conclusion at the time of the on-site. Observations on application of failure to prevent ML is discussed under IO6 – 18 investigations were initiated so far, none of which has yet materialised into prosecution. By the time of the on-site visit, no DPA has been initiated.

267. As previously noted, the prosecution of MLO was applied in practice. The use of this mechanism to date has enabled the authorities to hold to account some high-risk sectors identified in the NRA (bank). One of the examples is provided in the box below:

Case Study 7.9: Prosecution for MLO Breach, Legal Person

The Bank A, a leading multinational financial services business, pleaded guilty to one offence of failing to comply with the Money Laundering (Jersey) Order 2008. The investigation originated from intelligence provided by the JFIU to ECCU, initially in respect of suspected sanctions breaches by the bank and two individuals, A and B, who were their clients.

During the course of the investigation, a request for assistance from a foreign jurisdiction, also investigating sanctions breaches, was received and executed. This prompted another JFIU report, identifying two further individuals, C and D, suspected of terrorist financing.

The report, the MLA materials, and other materials generated during the course of the domestic investigation, were carefully reviewed. This revealed that the bank and individuals A and B were not subject to sanctions and therefore no breaches had taken place. It also revealed insufficient evidence to prosecute individuals C and D for ML offences in Jersey.

There was sufficient evidence to show that the bank had breached the Money Laundering (Jersey) Order 2008, in that it failed to have in place adequate policies and procedures to identify and prevent transactions carrying a risk of money laundering. Upon conviction, the bank was fined £ 475 000 and ordered to pay costs of £ 25 000.

268. Under the failure to prevent money laundering regime Financial Services Businesses can be prosecuted if a person associated with them is engaged in money laundering. The definition of associated person includes employees, agents, customers, and others performing a service for or on behalf of the financial services business.

269. The burden of proof will be upon the financial services business to demonstrate that it adequately maintained and applied prevention measures. The financial services business can be convicted regardless of whether or not the associated person is convicted of ML. There is also no need for the prosecution to establish a “*directing mind and will*” when prosecuting a legal person. This offence, as stated above, came into force only in June 2022 and has so far not been tested in Court.

270. The Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023 came into force on 3 March 2023. A DPA is a statutory agreement pursuant to which a legal person agrees to comply with the terms of the agreement and the AG agrees not to progress proceedings while the DPA is in effect. Where there is compliance until the expiry of the DPA, the AG must then discontinue the proceedings in relation to the offence.

271. DPAs are available in respect of offences specified in the schedule to the DPA Law and only in circumstances where the entity self-reports the commission of that offence or those offences. Specific Guidance has been issued by the AG.

272. The authorities highlight the fact that DPAs are not intended to be a means for legal persons to avoid prosecution. The decision to enter into a DPA rests solely with the AG and a DPA will be refused in the circumstances explained in the Guidance. For example, if an entity is already under investigation for the same criminal conduct, they have self-reported. Instead, DPAs will be used entities to step forward and agree to pay a substantial financial penalty as a route to rehabilitation, subject to certain conditions, including reporting and remediation actions.

273. As both the failure to prevent ML and the DPA have not yet been tested in practice, they have not demonstrated their effectiveness and can hence not be considered in terms of rating under IO7. They however illustrate Jersey's commitment to effectively tackle some forms of criminality when a criminal prosecution for ML proper is not possible.

Overall conclusions on IO.7

274. Jersey has achieved IO.7 to some extent with major improvements needed. Jersey demonstrates a policy-driven commitment to identify, investigate and eventually prosecute ML using all tools available.

275. There are no structural or fundamental issues which may hinder Jersey's efforts in pursuing ML. For example, the authorities are well resourced (and the system allows in certain cases for the allocation of additional resources on short notice should the need arise), the judiciary well understands ML and does not place any legal obstacles contrary to the standards on establishing ML, and the legislative framework is strong. In addition, recent changes to the legal instruments by way of adding alternative measures have clearly enhanced the AML/CFT system.

276. The number of investigations of complex ML cases is increasing and broadly in line with the Jersey's national threats and risks. Although the number of prosecutions and convictions is low and only to some extent in line with the country's threats and risks, the sanctions that have been imposed can be considered as dissuasive and proportionate.

277. Thus, major changes are needed to improve the system, less in terms of the legal framework and allocated human resources as they were at the end of the review period than by way of continuing (and improving) the investigation of serious ML cases, using also newly implemented tools and instruments, with the aim to significantly raise the number of prosecutions (and ultimately convictions), including in respect of complex legal structures abused for ML.

278. **Jersey is rated as having a moderate level of effectiveness for IO.7.**

3.4. Immediate Outcome 8 (Confiscation)

3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

279. Jersey has a comprehensive legal framework on seizures and confiscation which provides adequate legislative tools for the identification, seizure and confiscation of instrumentalities and proceeds of crime, both in domestic and international criminal cases (cf. TC analysis).

280. The confiscation of proceeds of crime, instrumentalities and property equivalent of value is pursued as a policy objective – this is supported by the actions taken in practice and also the following policies and manuals:

- The adoption of the 2022 - 2025 Government Plan, which foresees, e.g. further investment in the resources of the FIU and the ECCU, which ultimately benefits the identification of criminal assets.
- The recovery of criminal assets as a national priority is mentioned in the "*National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction*" of September 2022.

- The Memorandum of Understanding concluded in 2017 between the Chief Minister and the Financial Crime Agencies (i.e. SoJP, including the JFCU, ECCU, JCIS, the FIU and the JFSC), updated in 2023 to foster the cooperation between the jurisdiction's agencies in the field of combatting financial crime and recovery of proceeds thereof.
- The AG has issued his "*Guidance to Investigators and Prosecutors on Money Laundering and Financial Crime*" which deals e.g. with the restraint, forfeiture, and confiscation of criminal assets.
- Each of the Financial Crimes Agencies (as defined above) have issued their own guidance regarding the processes to be followed to trace, freeze and seize the proceeds of crime.
- Legislative amendments to the POCL, including: (i) legislation concerning gifts made by a criminal (meaning that gifts made by a criminal within a five-year period prior to his or her conviction may be part of the realisable estate which can be seized and ultimately confiscated); and (ii) the expansion of the powers of the courts and the inception of a comprehensive regime for the seizure and confiscation of instrumentalities (POCL, Art. 288 and corresponding Enforcement Regulations).
- The Introduction of the Civil Forfeiture Law (as of 20.8.18) updating the cash seizure regime and introducing a non-conviction based forfeiture regime.
- The existence of the Criminal Offences Confiscation Fund (COCF), established under the POCL, which receives all amounts recovered under or in satisfaction of a domestic or external conviction-based confiscation order or instrumentalities forfeiture order or received under an asset sharing agreement arising from such orders. It also receives (Civil Forfeiture Law, Art. 11) all amounts received under a non-conviction based forfeiture order.

281. These policy objectives are equally followed by concrete actions by all competent authorities. As evidenced from the points raised above and in Recommendation 4, a comprehensive legal framework is in place, which enables competent authorities to exercise different modalities of confiscation of proceeds of crime – through criminal and civil proceedings.

282. The investigators' and courts' practices (as discussed under CI 8.2) confirm that the legislation, as well as specific agencies' guidelines on asset recovery, are applied and interpreted in a way which provides for an effective deprivation of assets from criminals, whether held in Jersey or outside the jurisdiction.

3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

283. Further to establishing confiscation as a policy objective, specific operational tools were put in place in Jersey to effectively pursue this objective. As noted under the Core Issue 8.1, in 2017, an MoU was signed between relevant agencies (ECCU, SOJP, JFCU, JCIS, Viscount) with the aim to foster inter-agency cooperation, providing a clear distinction of responsibilities of who does what in detecting, tracing, identifying, seizing/freezing and ultimately confiscating and managing the seized and confiscated assets.

284. These responsibilities include seeking assets both in the country and abroad. The interviews held on-site confirmed that these actions and competences as foreseen by the MoU are well understood and that the central role in the proceedings which involve serious economic crime cases, is played by the ECCU. In these processes they are assisted by the SoJP, which, upon

having sufficient information that there are (i) prospects for significant civil forfeiture; (ii) prospects for significant conviction-based confiscation; and (iii) possibility to compensate victims, would hand over the case to ECCU.

285. On-site discussions also confirmed that ECCU has sufficient capacities to carry out its tasks in the identification and confiscation of proceeds of crime. It is composed of skilled professionals, who demonstrated high awareness and knowledge of all areas discussed within what is broadly considered as 'confiscation of proceeds of crime'. ECCU has also issued its own Investigation Manual which includes specific guidance on both conviction and non-conviction based confiscation.

286. Seeking and tracing assets and establishing links criminals have with property is a part of any investigation ECCU carries out. The authorities advised that asset tracing/identification is a critical factor taken into account from the outset of an investigation which is continuously reviewed throughout the life of all cases - it is the 'golden thread' throughout the life of all ECCU cases. This statement was further substantiated in the supporting documents (different case files and forms, which include specific sections on what has been done in identifying and seizing property suspected as proceed of crime). These documents were made available to the AT, and they confirm that the investigative course of actions, as stated by authorities, is a mandatory part of ECCU's investigations. Timely seizure/freezing of assets (*saisie judiciaire*) is given a key priority in all investigation plans.

287. The courts in Jersey routinely order the confiscation (both in criminal and in civil proceedings) of assets previously seized, as demonstrated by the figures seized and ultimately confiscated during the period under review. The total amount of all criminal proceeds recovered by Jersey during the reporting period is approximately 311 million €. This consolidated figure includes: (i) confiscations orders made following a conviction before Jersey courts; (ii) enforcement of external confiscation orders, following an external conviction (iii) non-conviction based forfeiture orders made under the Civil Forfeiture Law and (iv) enforcement of external non-conviction based forfeiture orders. The overall amount of 311 million € is considerable. Different means used to achieve this result, as explained by each of the points on application of different confiscation mechanisms, confirm that the jurisdiction provided an appropriate response to challenges an IFC may face when criminally obtained assets are not kept in the jurisdiction but have links with it. In view of that, international communication and cooperation was instrumental (see also IO.2).

288. Breaking down the overall amount confiscated so far, the AT also noted that, despite the generally very positive assessment on results, the vast majority of the funds confiscated, originated from one single case, where, based on a foreign court decision, Jersey enforced a confiscation order. Civil Assets Recovery Fund (CARF) was thus established which receives monies that are the subject of External Civil Asset Recovery Orders (ECAROs). Whereas it is commendable that Jersey has pursued and enforced such a decision, the fact remains that this case involves the total amount of 280 million € (more details of this cases are provided in the box 3.6 below). This means that all other confiscation orders (both in criminal and civil proceedings) as rendered by Jersey courts, amount to approximately 31 million €. The exact amounts confiscated per year, through application of both criminal and civil confiscation regimes in Jersey, are presented in the table below.

Table 8.1: Total Funds Recovered and Paid into the COCF (post-conviction confiscation and domestic NCBC)

	2018	2019	2020	2021	2022	Total
Amounts (EUR)	14 699 331	403 819	11 268 001	316 908	4 202 880	30 890 939

289. Further to this table, the authorities confirmed that 11,5 million € were confiscated as a result of criminal conviction, whereas the remaining 19,5 million € results from civil courts decisions.

290. The confiscation orders (in criminal proceedings) are a form of monetary penalty – the amount the convicted person is required to pay is decided by the court based on evidence presented. When deciding on the amount, the Court considers the following: (i) the direct benefit (i.e. the amount gained by the defendant in committing the crimes for which he/she/it is convicted); and (ii) the assumed benefit (i.e., the value of all the defendant’s assets he/she/it has owned or spent over a six years’ period – the Court may assume that any property held by the defendant during that period was received as a result or in connection with the commission of (undisclosed) offences).

291. Further, the POCL provides for the forfeiture of a sum of money equivalent to the value of the instrumentalities. Where Confiscation Orders are not satisfied within the timeframe set by the Court, an imprisonment in default may be imposed. Confiscation orders can also be subject to review by the Court should the financial situation of the defendant person changes after the conviction. These “new” assets can subsequently be confiscated.

292. The amounts confiscated in criminal proceedings (11,5 million, resulting from a total of 127 confiscation cases), cover both domestic and foreign predicate offences, as illustrated in more detail in table under 3.4.4 “*Consistency of confiscation results with national ML/TF risks and with national AML/CFT policies and priorities*”. The statistics confirm that the amounts seized and confiscated for foreign predicate offences is higher than those covering domestic criminality, which is in line with Jersey being an IFC.

Confiscations in ML cases

293. The amounts confiscated for ML offences are however rather small compared to the criminal assets confiscated in total, which confirms the assessment under IO.7. The total amount of confiscation for ML offences, amounts to EUR 435 827. This figure does not properly align with the jurisdiction’s risk profile.

Assets seized

294. As the AT already discussed, in the preceding paragraphs, the competent authorities have tools, mechanisms and a sufficient level of expertise to properly trace, identify and seize/freeze assets suspected to be the proceeds of crime. The authorities have provided the following figures, regarding assets/funds seized or frozen during the review period:

Table 8.2: Assets/funds seized or frozen during 2018 – 2023 June¹⁸

	2018	2019	2020	2021	2022	1H 2023	Total
Saisie Judiciaire issued	6	3	1	5	9	1	25
Value of assets seized (EUR)	2 041 731	514 243	235 833	1 077 393	6 034 341 057	2 718 655	6 040 928 912

295. Comparison of figures of confiscated and seized assets show a significant discrepancy between the two. This is further obvious if the figure of 280 million is taken off from this comparison, given that it resulted from foreign confiscation order. However, the simple reason for this discrepancy (as indicated also in the table below) results from a significant seizure made in one high profile case, details of which were discussed during the on-site (see also IO.7). Complexity of this case, including the efforts of the authorities to trace and seize/freeze these funds/assets further confirmed what was stated above, and that is a high level of expertise by ECCU in pursuing proceeds of crime.

Instrumentalities

296. The authorities have the power to confiscate the instrumentalities of crime pursuant to two pieces of legislation: Article 28B of the POCL and Article 2 of the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001. These powers can be utilized when criminals deny ownership of both proceeds and instrumentalities of crime as demonstrated with following example below (see Case Study 8.1).

297. Further to what is a comprehensive legal framework for the confiscation of instrumentalities, LOD and the judiciary developed an interesting interpretation of seizure and confiscation of some specific instrumentalities. In ML cases, when it is proven that ML took place through one of more accounts, these accounts, including all funds found in them and no matter whether these were gained lawfully, would be confiscated. The rationale for such approach is that these accounts, including the licit funds in them were used for transfers and concealing of funds subject to a particular laundering activity. The AT was also presented cases when this had been applied in practice. This approach, given the risk and context of Jersey, enables the competent authorities not only to effectively confiscate bank accounts and funds that are/have been abused for ML, but also to ensure that proper consequences are in place for an engagement in ML activity.

Case Study 8.1: Confiscation of instrumentalities

The three suspects in Jersey pleaded guilty to 22 ML offences and were sentenced to 4 years, 3 years, and 3 years on 25 April 2022.

¹⁸ Not all funds which are subject to confiscation have previously been subject of a formal *saisie judiciaire*, but will have been subject to a No Consent by the FIU, thus effectively preventing their dissipation pending formal procedures.

The confiscation hearing in this case was cancelled and replaced with a forfeiture order under Criminal Justice (Forfeiture Orders) (Jersey) Law 2001 – (*Property used for the purpose of committing, or facilitating the commission of, any offence or was intended by the person to be used for that purpose*).

The defendants denied that they had benefited financially from the ML offences they committed in Jersey. The defendants denied that the criminal money belonged to them. They stated that they were laundering the criminal money on behalf of an organised crime group.

The criminal cash had been used in the commission of the offences and the defendants did not oppose the application for the forfeiture of the cash and the high value products that had been purchased with the cash.

The forfeiture order of October 2022 was for £15 432 cash (approximately EUR 17 700), EUR 2 550 cash and high value products to a total value of £ 20 155 (approximately EUR 23 100).

Non-conviction based confiscation

298. Civil Forfeiture Law provides for the non-conviction based confiscation of tainted property, defined as property which is reasonably suspected to be or have been used in or intended to be in unlawful conduct, or obtained in the course of, from the proceeds of, or in connection with unlawful conduct. It includes profits accrued from the tainted property and if mixed, only the tainted property can be forfeited.

299. This mechanism is used as an alternative to criminal proceedings when a conviction-based confiscation is not possible. The advantage of the civil procedure is the nature of the standard of proof (civil) and the fact that the burden of proof sits with the defendant. During the period reviewed, 9 civil confiscation decision were rendered by the courts totaling to the amount of approximately 18,5 million EUR. Civil confiscation regime is instrumental in Jersey's efforts to deprive criminals from illicitly obtained assets. It brought more tangible results than conviction-based confiscation, which, taking into account the context of IFCs, confirms the jurisdiction's good practice in having alternative measures to criminal proceedings which may sometimes be difficult to finalise (e.g., obtaining evidence from abroad, etc.).

300. Another fact that also triggered the AT's attention is an initiative that followed the adoption of the 2018 Civil Forfeiture Law. This initiative was introduced by the authorities further to their review of certain cases which were believed to have included ML activities but where insufficient evidence was found for their prosecution. Consequently, a review was undertaken of all of the funds held under the "*consent regime*" (see IO.6) and some of these funds were subsequently forfeited under the NCBC regime (see Box 3.3. Case Study 9 above under IO.7 3.3.5 "*Use of alternative measures*" and case study below). This is another example of good practice and proactive approach undertaken by Jersey authorities.

301. This was not the only case where *no consent* measure applied by the FIU allowed the competent authorities sufficient time to build the case and gather necessary evidence to pursue seizure/freezing and ultimately confiscation of assets. As presented in the table 6.6 under IO6, once the *no consent* would be withdrawn by the FIU, and in case sufficient evidence was found, the proceedings would follow with a court decision to seize assets. This would be continued with conviction or non-conviction based confiscation, depending on evidence gathered. The point here is that the authorities consider the application of *no consent* regime as instrumental in securing assets and giving the competent authorities sufficient time to gather evidence. Given the risks and context of Jersey, this seems reasonable and appropriate.

Case Study 8.2: Civil Forfeiture, Proceeds of Grand Corruption

An historic review was undertaken in respect of a No Consent issued in respect of funds belonging to a high-profile military and political figure in Nigeria ('Individual A'). Individual A was heavily implicated in siphoning off vast sums of public money for personal gain, whilst in public office. After this review, and the matter was referred to the ECCU and an investigation was commenced in August 2018 and undertaken until March 2023. Due to the historic nature of the case and the evidential difficulties this presented, a decision was made to pursue the funds held in the account by way of civil forfeiture.

In 2022, an application to forfeit the funds was made and was successful. An appeal of the order by Individual A, on the basis he was refused access to the tainted funds for the purposes of funding legal expenses and that this was an unlawful interference with his human rights, was heard and dismissed. In total, £ 447 669 (approximately EUR 522 116), EUR 294 954, and USD 1 746 502 (approximately EUR 1 611 497) was forfeited.

Individual B was a close friend and associate of Individual A. The linked investigation into Individual A revealed that Individual B had introduced Individual A to the Jersey bank in 1986 and assisted him in setting up the false named accounts into which the bribes were paid.

Individual B operated the accounts on behalf of Individual A and used his London address for correspondence with the bank. Individual B also held an account at the Jersey Bank, which received £ 90 000 (approximately EUR 104 967) directly from Individual A. The account also received large payments via another bank account, held by a Jersey company (now dissolved), which was also controlled and operated by Individual B.

As a result of the SAR submitted in respect of Individual A in 2007, consent to deal with funds held by Individual B and the company was not given. However, between 2003 and 2007, funds were paid away by Individual B to the same bank account in London, which featured in the Individual A matter.

In 2022, the funds that remained in Jersey were the subject of a successful forfeiture application by the AG pursuant to Article 10 of the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018. In total, USD 50 980 (approximately EUR 47 039) was forfeited.

Seeking assets abroad and sharing assets with foreign jurisdictions

302. For the period under review, Jersey has requested the repatriation of assets seized abroad, but the number of cases is modest, and they include small amounts. While this is not totally out of line with Jersey's context as an IFC, hoarding assets of offenders being abroad, one could possibly envisage a more active role by the authorities in this field, going beyond the recovery of assets only located in Jersey.

Table 8.3: Outgoing freezing, seizure, and confiscation requests

Year	2022		2021		2020		2019		2018		Total	
	ML	Other	ML	Other	ML	Other	ML	Other	ML	Other	ML	Other
Total	0	5	0	7	0	11	0	2	0	0	0	25
Sent	0	1	0	2	0	5	0	1	0	0	0	9
Executed	0	1	0	2	0	3	0	1	0	0	0	7

Pending (b/f from previous year)	0	3	0	3	0	3	0	0	0	0	0	9
Total Amount (EUR)	-	-	-	-	-	-	-	-	-	-	-	324 309

303. Jersey has however executed foreign confiscation requests for rather substantial amounts, as evidenced hereunder. Contrary to seeking assets abroad, Jersey has enforced 5 foreign confiscation orders, resulting from both, conviction and non-conviction based proceedings. Jersey also executed several foreign restrained orders involving quite significant amounts (approximately 10 million € for NCBC and 4 million € in criminal – authorities have noted that the Requesting Authority in respect of the NCBC case of 9,8 million is expecting a Letter of Request imminently to register a final order which was at initial stage at the time of the on-site visit).

304. Jersey is sharing assets with its foreign partners. The AG has entered into a number of asset-sharing agreements, and in several high-profile cases entered into multilateral agreements for the return of the monies and the subsequent use of the monies in these jurisdictions (see case study in Box 3.6). Several more asset sharing agreements are pending and should be resolved, as the authorities advised, by the end of 2023 or in 2024. While these cases fall outside of the period under review, they still do demonstrate the authorities’ commitment in this particular area.

Table 8.4: Asset Sharing

Year	Recipient Jurisdiction	Predicate Offence	Amount Shared (EUR)
2022	USA	Fraud	495 489
2022	UK	ML	17 726
2022	UK	Drugs offences	10 130
2022	UK	ML	13 673
2022	Kenya	Corruption	3 344 700
2021	USA	Fraud	674
		Fraud	56 158
2020	US, for onward transmission to Nigeria	Corruption	280 180 695
2018	US, for onward transmission to South Africa	Conspiracy to illegal import, process and sell lobster and fish that had been illegally harvested in South Africa.	6 329 975
		TOTAL (EUR):	290 449 220

Case Study 8.3: Sharing/repatriating assets

In February 2020, the Government of Jersey, the Federal Republic of Nigeria and the Government of the United States of America entered into an Asset Recovery Agreement to repatriate more than US 300 million (approximately EUR 280 million) of forfeited assets to Nigeria.

The funds were laundered through the U.S. banking system and then held in bank accounts in Jersey in the name of Properties Corporation A, a British Virgin Islands company, and in the name of the son of the former Head of State of Nigeria (Individual A). In 2014 a U.S. Federal Court in Washington D.C. forfeited the money as property involved in the illicit laundering of the proceeds of corruption arising in Nigeria during the period from 1993 to 1998 when Individual A was Head of State.

At the time the case was filed as part of the U.S. Department of Justice's Kleptocracy Asset Recovery Initiative in 2013, it was the largest U.S. kleptocracy forfeiture action ever commenced. In 2014 the AG of Jersey applied for, and was granted, a Property Restraint Order under the Civil Asset Recovery (International Co-operation) Law over the Jersey bank account balance of Properties Corporation A. This was challenged unsuccessfully in the Royal Court of Jersey and Court of Appeal, and an application for permission to appeal to the Privy Council by Properties Corporation A was refused. France and the United Kingdom restrained additional funds at U.S. request.

The funds in Jersey were forfeited in a 2014 judgement entered by the US District Court for the District of Columbia, which became final in 2018 following the end of the appeals process. The Royal Court of Jersey registered and enforced the US judgement in 2019.

Tripartite negotiations between Jersey, the U.S. Department of Justice and the Nigerian Government resulted in a comprehensive and robust return agreement which ensures that all monies are used for specified infrastructure projects and subject to independent auditing, as well as monitoring by a civil society organisation. Jersey continues to be actively involved in the monitoring provisions relating to the use of the monies.

Individual A and his associates stole and laundered many hundreds of millions of dollars of public money during his military regime. The monies were laundered by his family, and a number of close associates. The laundering operation extended to the United States and European jurisdictions including the United Kingdom, France, Germany, Switzerland, Lichtenstein and Luxembourg.

Asset Management

305. The Viscount, an institution founded during the reign of Henry III of England, performs the role of asset management office, responsible for asset freeze/seizure orders (*saisies judiciaires*) under the POCL, and property restraint orders under the Civil Forfeiture Law, the management of property frozen, seized or restrained, and for the subsequent execution of confiscation and forfeiture decisions and the disposal of such property following court decisions.

306. In complex cases, the Viscount can request the assistance of professionals of the financial sector or other experts but often does manage the assets himself. Based on interviews and cases discussed, the AT is satisfied that both the legislative framework and the material means at the Viscount' disposal allow for effective performance of its duties.

307. Overall, the conclusion is that Jersey does confiscate (or forfeit) the proceeds of crime, although the amounts remain low for ML-only cases, which is in line with the findings under IO.7.

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

308. Jersey operates a disclosure system. Individuals may be asked to reveal the amount of cash they are carrying to an officer of the JCIS. A person travelling with more than EUR 10 000 EUR (or equivalent) can make a voluntary cash disclosure via a form available on the Government website. Signage and posters are displayed at the airport and harbour advising travellers of this requirement.

309. All physical cross border transportation by travellers and through mail and cargo is covered by the disclosure requirements as noted in R. 31.2. As an additional measure, postal workers are required to provide postal packets for inspection if a customs officer reasonably suspects the packet might contain cash in excess of EUR 10 000 (or equivalent).

310. JCIS is the service responsible for the movement of people and goods arriving and departing Jersey. As such it has responsibility for the detection of illegal migrants, cash, drugs, and other prohibited items at the border. JCIS has officers trained to apply to the relevant surveillance authorities for warrants to conduct covert surveillance, property interference, and intrusive surveillance. It has an Intelligence Unit which is jointly resourced by Customs and Police Officers – relevant intelligence held by either agency is shared between both agencies. JCIS will share relevant intelligence with Revenue Jersey where it is considered that the information may be relevant. All cash disclosure reports, seizures and relevant intelligence is shared with the FIU.

311. Intelligence generated in Jersey by JCIS is also put onto the UK Police National Database and is therefore accessible to all Police Forces in the UK and UK Border Force. JCIS has data-sharing agreements with the UK Home Office, which result in the ability for JCIS to contact UK Border Force operational teams without notice advising them of suspicious passenger movements and requesting information at short notice if required. JCIS also can establish short-term informal intelligence sharing arrangements when targeting persons and syndicates which are based in other jurisdictions. In addition, JCIS has access to specifically trained dogs, which can search for cash and drugs.

312. All suspicious cash detections/seizures made by JCIS are further investigated by JFCU (by a unit manned by customs officers). These cases are assessed to determine whether a criminal investigation (including ML investigations) can be progressed, as well as to decide which is the most appropriate asset recovery power to be used to recover the cash.

313. JCIS use powers under Part 2 of POCL to confiscate cash following a criminal conviction. Table 3.27 provides the figures for cash recovered using POCL powers.

Table 8.5: Cash Confiscated

	2018	2019	2020	2021	2022	Total
Cash Confiscated	1 141	68 439	13 560	253 963	138 718	475 821

314. In overall, confiscated cash amounts are broadly in line with Jersey's ML/TF risk profile (see IO.1). There have been instances where cash seizures have led to a ML investigation (see Case Study 8.4) – in most cases, the related criminality was however drug trafficking, which is in line with the findings of the NRA.

Case Study 8.4: Case seizure on the border leading to ML investigation

Jersey Customs and Immigration Service (JCIS) led an investigation in operation A which concerned the importation of commercial quantities of cocaine into Jersey from Liverpool via couriers and the exportation of the proceeds of crime to the UK.

The investigation into the syndicate started in November 2019 when £ 6 000 (approximately EUR 6 900) was seized at Jersey airport from a Liverpool-based male, Individual A, who was attempting to export the cash on a flight to Liverpool.

Individual A had drawn attention to himself as he had only arrived in Jersey via the ferry on the previous day driving a vehicle, he said he was delivering to a friend in Jersey (Individual B). The cash was seized under the Civil Forfeiture Law and Individual A was allowed to enter the jurisdiction after giving an interview in relation to the provenance of the cash.

Information about the seizure was passed on to the JCIS Officers in the Island's Joint (Police and Customs) Financial Crimes Unit which initiated a JFCU financial investigation parallel with an ongoing intelligence-led operation into the drug trafficking activities of the syndicate.

Following the seizure of the cash from Individual A, the JCIS made three seizures of cocaine from couriers who had arrived from Liverpool, one in November 2019 and two in March 2020, all of which could be closely linked to Individual A and his associates.

Communications data and further investigations showed that Individual B, based in Jersey, and another Liverpool-based male, Individual A, were involved in organising the importations and exporting the proceeds of their drug trafficking activities using a variety of ML methods.

This resulted in Individual C and Individual A being arrested and interviewed in August 2020 and then released.

Once sufficient evidence was gathered Individuals 1, B and C were arrested in the summer of 2021. Data from their phones and from the JFCU investigations into their bank accounts showed significant movement of monies off the Island and discussions between them on how best to export cash, this included: cash being deposited in Jersey and being removed from the same bank account in Liverpool; bank transfer of monies between accounts of known criminal associates under the guise of legitimate business payments; the bank preventing the deposit of large cash amounts into an associate's business bank account; simple cash exports of small amounts; the purchase of high value watches, which were then exported; the deposit of Jersey currency (not legal tender in the UK) which had been exported to the UK, then deposited into bank accounts and immediately withdrawn in sterling.

All three were sentenced in March 2022 to 4 years for ML offences. These sentences were concurrent with the 9 years 4 months they each received for the drug trafficking offences.

Assets were also confiscated from each defendant as below:

Individual A - £ 16 380 (EUR 18 820)

Individual B - £ 7 729 (EUR 8 880)

Individual C - £2 916 (EUR 3 350)

315. In circumstances where it was not possible to prosecute, but suspicions remained that the cash was linked to a criminal conduct, NCBC powers have been used, as shown in Table 8.6 and Case Study 8.5 below:

Table 8.6: Cash Detained/seized/forfeited using NCBC powers

	2018	2019	2020	2021	2022	1H 2023	Total
Cash Detained/seized (EUR)	11 850	46 457	33 275	164 564	42 414	29 560	298 560
Cash Forfeited (EUR)	-	16 550	6 070	133 320	8 941	-	164 881

Case Study 8.5: Cash Forfeiture with no criminal prosecution

Individual A was identified as part of an outward customs control at the airport which is undertaken just after the security checkpoint. Individual A confirmed he had one piece of checked-in baggage. He was asked if he had anything to declare including cash and he declared £ 2 000 (approximately EUR 2 300) in his checked-in bag. When asked further details about the cash he then stated it was actually £ 4 000 (approximately EUR 4 600). In further questioning he stated he had arrived in the Island the previous day in possession of £ 6 (approximately EUR 6,9).

The checked-in bag was then recovered from the ground handling agents and searched in front of Individual A and £ 4 960 (approximately EUR 5 700) was found in the bag. Individual A stated it was his and that he had just taken it out of his bank that day. He was asked if he would be able to verify this transaction via the airport ATM and then stated his bank details would not show any such transaction. Individual A denied having been given the cash to export and continued to state that it was his but would not provide any details as to the provenance of the cash.

Individual A had the cash seized from him under Art. 5 of the Civil Forfeiture Law as suspected tainted cash. Individual A provided his address, email address, telephone number and bank details and he was allowed on his way. He was then emailed a seizure notice.

A few hours later Individual B contacted the airport Customs Office via an unknown number enquiring about any cash seized by Customs that day. The Individual B would not provide any details other than his name and stating that he had asked his friend to collect a quantity of cash resulting from the sale of a car in Jersey. When asked further questions the Individual B put the phone down.

Over the course of the following weeks several attempts were made to establish contact with Individual A from JFCU to no avail. 7 months later the cash was formally seized under the Forfeiture of Assets (Civil Procedures) (Jersey) Law 2018.

316. There have been no sanctions handed down in relation to non-disclosed cash, besides the confiscation of tainted cash, as the authorities considered this to be a sufficient penalty. This makes any assessment (beyond the developments in the TC Annex) on the effectiveness, dissuasiveness, and proportionality of the sanctions impossible.

3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

317. As further discussed under IO1, the majority of Jersey's customer base is non-resident by both number and value of business, and that, as such, should a source of funds be the proceeds of crime, it is likely that the predicate offence will have been committed overseas.

318. The authorities made available the statistics on assets seized and recovered, deriving from both. Following numbers support this statement:

Table 8.7: Overall amounts of assets seized, confiscated and recovered – foreign and domestic predicate offences:

	2018		2019		2020		2021		2022		1H 2023		Total	
	No of cases	Value (EUR)	No of cases	Value (EUR)	No of cases	Value (EUR)								
Seized assets														
Domestic predicates	13	3 970 848	12	837 744	4	246 772	9	395 969	1	3 686 010	6	2 733 480	54	11 870 823
Foreign predicates	0	0	1	458 632	0	0	1	852 963	5	6 031 002 063	0	0	7	6 032 313 658
Confiscated assets														
Domestic predicates	45	1 639 146	64	2 158 578	70	380 959	58	424 730	8	2 163 569	6	79 361	324	6 846 343
Foreign predicates	6	6 805 860	5	297 331 336	1	37 523	1	71 535	4	3 155 071	2	2 518 732	19	309 920 057
Assets Recovered														
Domestic predicates	49	1 850 580	58	821 622	70	1 156 079	60	516 503	8	439 765	10	2 555 830	331	7 340 379
Foreign predicates	6	6 805 860	4	280 234 965	1	9 742 115	3	196 014	3	1 237 901	1	1 544 155	18	299 761 010

319. The table above demonstrates that foreign predicates constitute the majority of assets seized, confiscated and recovered. This is largely in line with the Jersey risk profile. Further, pursuant to the NRA, corruption, tax offences and fraud would be the most prevalent (foreign) predicate offences from which illicit funds flow into Jersey. Following tables illustrate that this is the case:

Table 8.8: Assets seized/confiscated from high-risk foreign predicate offences (2018 – 1H 2023)

Year	Fraud				Tax Offences			
	Restraint		Confiscation		Restraint		Confiscation	
	No	Value (EUR)	No	Value (EUR)	No	Value (EUR)	No	Value (EUR)
Total:	3	13 052 967	5	2 762 122	2	2996 057	1	44 087
%excluding 6bn case	4,8%				0,9%			

Year	Corruption				Other			
	Restraint		Confiscation		Restraint		Confiscation	
	No	Value (EUR)	No	Value (EUR)	No	Value (EUR)	No	Value (EUR)
Total:	2	6 032 744 670	6	299 270 033	2	11 295 805	5	145 966
%excluding 6bn case	90,8%				3,5%			

320. As previously discussed under CI 8.2, the high percentage that the category “corruption” represents in this table stems from one high profile case where 280 Million € were confiscated, accounting for approximately 90% of the monies confiscated during the review period. Figures

for other predicate offences considered to be of a higher threat are, in general, in line with the NRA. This notwithstanding, the figures for tax offences are not particularly high. This fact was also discussed under IO.1, IO.6 and IO.7.

321. Turning to the domestic predicate offences, drug trafficking and fraud are predominant. Again, this largely reflects authorities' assessment of risks.

Table 8.9: Asset seizures and confiscations by JFCU – domestic predicate offences

Year of confiscation	Foreign or Domestic Predicate	Seized Assets (EUR)	Confiscation Order (EUR)	Assets Recovered (EUR)
2018	Domestic - Fraud	14 275	14 275	14 275
2018	Domestic - Theft	House approx. 1.6 million + 336 000	Awaiting confiscation hearing	
2019	Domestic - Fraudulent inducement to invest	934 000	934 000	886 550
2019	Domestic - money laundering the proceeds of tax evasion	357 000	83 300	83 300
2019	Domestic - Fraudulent conversion & Money laundering order	22,934	22 934	22 934
2019	Domestic - Fraud	696 000	158 936	158 936
2019	Domestic - Fraudulent conversion	48 790	383 432	48 790
2019	Domestic - Drugs and money laundering	136 850	136 850	136 850
2020	Domestic - Fraud	506 626	253 313	253 313
2021	Domestic - Theft	0	Compensation 11 934	11 934
2022	Domestic - Fraud	0	Compensation 18 585	18 585
2023	Domestic - Fraud, theft and money laundering	House approx. €1.6 million	Awaiting trial	-

322. As regards civil forfeiture, the figures are as follows:

Table 8.10: ECCU Civil Forfeiture Orders

Year Order Made	Predicate Offence	Jurisdiction	Order Amount (EUR)
2018	Drugs	Jersey	102 392
2019	Standalone ML	USA	19 320
2019	Fraud	Spain	5 742
2019	Corruption	USA	14 897 869

2020	Fraud	UK	67 599
2021	Drugs / Tax Evasion	UK	38 824
2022	Corruption	Nigeria	2 384 750
2022	Corruption	Nigeria	44 285
2023	Corruption	Mozambique	974 577
Total:			18 535 358

323. Given the figures and comprehensive statistics as provided by the authorities, it could be concluded that the confiscation results, in general, do reflect the assessment of ML/TF risks as laid down in the NRA and the national AML/CFT policies and priorities. That being said, it remains that the sums confiscated for tax offences and ML-only are low. This is explained by low number of prosecutions and convictions for tax offences (see also IO.7).

Overall conclusions on IO.8

324. Jersey has achieved IO.8 to large extent with moderate improvements needed. The overall figures for confiscation are noteworthy and Jersey currently has one case with assets worth 6 billion € seized. These are the features of a well-functioning and effective system.

325. Jersey has both the legal framework and the policies in place to deprive offenders (using using both criminal and civil procedures) of the proceeds and instrumentalities of crimes (both domestic and foreign). It has a wide range of legislative weapons in its arsenal to achieve this, in particular extended confiscation and non-conviction based confiscation, and it regularly uses such powers.

326. There is a proactive approach by all competent authorities in pursuing the proceeds of crime generated in country or abroad, including the cases of enforcement of foreign seizure and confiscation orders. These orders are enforced no matter whether they concern confiscation in criminal of civil proceedings. The courts routinely order the confiscation (both in criminal and in civil proceedings) of assets previously seized. Whereas the overall amounts seized and confiscated are considerable and generally in line with the jurisdiction's context and risks, the same cannot be stated for proceeds from tax and ML-only offences and efforts are required to increase the same.

327. The amounts of cash confiscated at the border are broadly in line with Jersey's ML/TF risk profile (see IO.1). There have been instances where cash seizures have led to a ML investigation. In circumstances where it was not possible to prosecute ML, but where the suspicions remained that the cash was linked to a criminal conduct, non-conviction based confiscation powers have been used.

328. Jersey is rated as having a substantial level of effectiveness for IO.8.

4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

- a) Jersey has a sound legal and institutional framework for combating TF. The authorities involved in terrorism and TF related prevention and investigation are aware of the TF risks and threats. There have been four TF investigations so far, none of which have led to prosecutions or convictions. Details of these investigations confirmed that not transferring these investigations to prosecutions was justified. The absence of TF-related prosecutions and convictions is broadly in line with the Jersey's TF risk profile.
- b) The relevant mechanisms for the identification, investigation and prosecution of TF appear to be in place. Financial investigations are conducted in the initiated terrorism-related investigations. A variety of intelligence sources, including TF-related MLAs, FIU disseminations, LEA intelligence and reported matches of targeted financial sanctions concerning high risk jurisdictions, are considered when analysing the need to initiate a TF investigation.
- c) Whilst TF is considered as a priority by all authorities, the FIU is still in the process of developing analytical capacities and expertise in the field of TF intelligence.
- d) Jersey's policy concerning TF is integrated with the UK's national CT strategy, allowing it to be supported at all stages of TF analysis and investigation by expertise provided by the UK security services and law enforcement. There is ongoing cooperation between the prosecutorial authorities of the UK and Jersey, which is to be developed further in the future.
- e) The absence of TF prosecutions does not allow the AT to make a conclusion on the proportionality and dissuasiveness of sanctions applied. Nevertheless, sanctions available under the Jersey legislative framework appear to be proportionate and dissuasive in the event of a conviction.
- f) Jersey authorities have different alternative measures to disrupt TF (such as non-conviction-based forfeiture, prosecution for other offences or the curtailment of leave). None of these have been applied due to the absence of grounds.

Immediate Outcome 10 and 11

- a) Jersey has in place a comprehensive legal framework which ensures direct applicability of relevant UNSCR covering TF-related TFS. All persons are required to freeze the assets of designated individuals and entities without delay and without prior notification. PF related TFS measures, in most cases, follow those applied in relation to TF-related TFS. However, a series of procedures has been introduced recently, and therefore effectiveness is yet to be fully demonstrated.

- b) Following a TF risk assessment of the NPO sector, Jersey authorities started applying mitigation measures that resulted in the revision of the current legal framework and the introduction of risk-based oversight principles. The AT has some concerns, however, regarding the proportionality of measures applicable to the vulnerable subset of NPOs. Whilst the JFSC was very active in raising the awareness of the NPO sector with regard to TF risks, more guidance aimed at protection from TF abuse is needed. Given that the risk-based supervisory oversight over the NPO sector commenced in January 2023, its effectiveness is still to be fully demonstrated.
- c) No funds or other assets have been frozen in relation to designated persons or entities under the UN TF or PF-related TFS regimes. Nevertheless, Jersey obliged entities have frozen assets pursuant to other sanctions' frameworks. The authorities were able to demonstrate - through examples of cooperation and actions taken in relation to other sanctions regimes - that in case of an identified TF/PF case, they would be capable of taking actions consistent with the requirements under respective UNSCRs.
- d) The measures undertaken by the competent authorities of Jersey are largely consistent with the country's overall TF risk profile and the conclusions of the TF NRAs and the 2022 NPOs risk assessment. There have been no NPO-related information requests from foreign competent authorities, from SARs or confirmed cases of NPOs abuse for TF.
- e) Obligated entities are generally well aware of TFS obligations, however, they do not make a distinction between PF and TF-related TFS. The scrutiny of TFS checks is largely dependent on the size and scope of activities of the obliged entity. The identification of indirect links, close associations and screening of the external parties to a transaction remains a challenge. This might have further negative implications on identifying assets of designated persons. Obligated entities would benefit from more sector tailored guidance.
- f) Commonly, TFS forms a standard element of full scope AML/CFT on-site examinations. The supervisor can be commended for conducting an additional thematic review with a specific focus on TFS-related controls in 2022. However, apart from one finding (for which no enforcement actions have been applied yet), no serious compliance failures have been identified by the JFSC to date, consequently, no sanctions have yet been applied. The JFSC's sanction risk model and scrutiny of TFS on-site checks would benefit from further improvements.

Recommended Actions

Immediate Outcome 9

- a) Jersey should analyse in more depth the appropriateness of SAR/STR reporting by FIs, DNFBPs and VASPs on TF suspicion and issue relevant guidance or provide training to increase the awareness.
- b) Jersey should further increase the capabilities and capacities of competent agencies to identify, prevent and combat the more recent trends and methods of TF, in particular the FIU. The authorities should continue to foster close contacts with their UK counterparts.

Immediate Outcome 10

- a) The authorities should take necessary actions to (i) fully implement the risk-based supervisory oversight measures to NPOs; (ii) extend monitoring aimed at registration of new Prescribed NPOs; (iii) further guide NPOs in identifying and mitigating TF threats, risks and vulnerabilities, including red flags for potential TF and provide more targeted training to the sector on the mentioned topics; (iv) consider whether the measures in place for Prescribed NPOs are proportionate for all entities falling within this category and effectively target various level of TF risk exposure.
- b) Jersey should ensure effective application of the revised legal framework and recently adopted relevant procedures/instructions aimed at making sure the authorities are aware of their responsibilities and roles in the process.

Immediate Outcome 11

- a) The JFSC should (i) enhance its sanctions' risk assessment model so that it is better tailored to flag sanctions' evasion risk exposure and broaden its use; (ii) increase the scrutiny of TFS on-site checks, including more focus on the identification of indirect links and close associations with entities and individuals subject to sanctions; (iii) collect and analyse data aimed at measuring changes of TFS compliance trends.
- b) Jersey authorities should provide further guidance to obliged entities with a focus on: (i) the identification of indirect links and close associations with entities and individuals subject to sanctions; including screening the external parties to a transaction; (ii) PF activities, sanctions-evasion patterns/typologies used by proliferators and how dual use goods could be abused for PF. The authorities should ensure that guidance, where relevant, is sector-specific, i.e., takes into account different activities, products / services and business practices.
- c) As in the case of TF-related TFS, Jersey should ensure effective application of the revised legal framework for PF-related TFS and recently adopted relevant procedures/instructions aimed at making sure the authorities are aware of their responsibilities and roles in the process.
- d) The authorities should further analyse the threats and vulnerabilities highlighted in Jersey's PF risk overview with the aim of introducing mitigating measures in the areas that may impact the implementation of PF-related TFS.

329. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5-8, 30, 31 and 39.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

330. This assessment is based on information, statistics, case studies, and interviews with relevant Jersey's authorities.

4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk-profile

331. In the review period there were no TF prosecutions or convictions. There have been in total four TF investigations so far, but these did not result in further proceedings as no evidence of TF was found (see under 4.2.2 "*TF identification and investigation*").

332. In addition, there were two incidents of Jersey residents being investigated and prosecuted for terrorist offences involving self-radicalized individuals acting alone with no links to wider organizations or groups. In both cases a parallel financial investigation was carried out, in which due to the character of the cases no evidence of TF was found to proceed. This is broadly in line with Jersey's TF risk profile as assessed in the latest 2023 update of the TF NRA.

333. Jersey has never experienced a terrorist attack in its history. No terrorist groups or cells have been identified as operating within its borders. Demographic and geographical factors point to a relatively low risk of domestic terrorism. The country has no parts of its population that would be sympathetic to the terrorist cause. In addition, no intelligence was identified concerning so-called foreign terrorist fighters (FTFs) and their funding.

334. Given its status as a Crown Dependency, Jersey closely cooperates with UK authorities in addressing the threat of terrorism and TF. The FIU and the SOJP maintains close links with partners and stakeholders within the UK's Counter Terrorism Policing Network and the UK intelligence community, as well as the UK's Home Office, Ministry of Defence, and the Foreign and Commonwealth Office. UK security services share intelligence with the SOJP through a direct connection into the UK's Counter Terrorism Policing Network.

335. In 2021 Jersey conducted its first TF NRA. The Island decided to conduct its first TF risk assessment at a national level and considered threats and vulnerabilities across the Island as a whole, rather than by sector. The TF risk was later updated in 2023 with a broader set of data added to the analysis. Overall, the risk assessments indicate, that there is a low risk of domestic terrorist fund raising and a medium-low risk of Jersey being used as a conduit for TF (i.e., the 'Store' and 'Move' stages of TF). The AT finds this assessment to adequately reflect the TF risks Jersey faces as a jurisdiction. The authorities have demonstrated that they understand the TF risks Jersey can face as an IFC and are vigilant to signs of TF coming either from FIU intelligence or other sources.

336. One of the main TF risks that Jersey as an IFC faces is use as a transit jurisdiction for the movement of funds intended to finance terrorism. To this extent, an important activity in the context of IO.9 is the analysis of incoming and outgoing financial flows to/from high-risk countries, which enriches the awareness of the relevant authorities (see IO.1).

337. Over the five year-period, there have been a total of 79 TF SARs filed. The majority of these were received from TCSPs (35) and banks (18), which is in line with the country risks. The overall number of such disclosures may appear to be low, however it is higher than for some other comparable IFCs and broadly in line with the low TF risk of the country (see IO.1). All incoming SARs are checked by FIU grading officers. In the course of such a check only seven SARs were identified as not relating to TF, which demonstrates that generally the submitted SARs were of

good quality. The assessment positively notes that reporting entities in Jersey also submit SARs in cases where business is declined (see also IO.6). Some improvements are needed with regard to raising the awareness of the obliged entities on TF risks, however, these are common to many jurisdictions and thus cannot be considered as material to conclude that private sector has major issues with submitting TF SARs. Nevertheless, it would be beneficial if authorities would conduct further analysis on the topic of TF SAR reporting. Such an analysis should take into account the identified financial flows to and from high-risk jurisdictions, and the overall quality of reporting. The latter is triggered by the fact, that a number of SARs which have not been assessed by the reporting entities and the FIU upon submission as TF related, are later still shared with counter-terrorism organisations after in-depth analysis (see under 4.2.2 “*TF identification and investigation*”).

338. Overall, meetings with Jersey authorities held onsite confirmed, that they are well aware of the TF threat IFCs are exposed to and take steps to identify whether any changes to the jurisdiction’s TF risk profile have occurred. The actions undertaken under the review period demonstrate the appropriate level of vigilance, sense of priority and awareness of relevant TF modus operandi, which should allow Jersey to successfully detect and prosecute TF cases, should they arise. This can be considered consistent with the country’s risk-profile.

4.2.2. *TF identification and investigation*

339. The legislative framework of Jersey for combating TF is broadly in line with international standards (see R.5). In case a TF investigation would be focused on the domestic nexus, the role of the lead agency would be assigned to the JFCU. In complex cases and those involving a transnational nexus, the ECCU take over this role. In situations of terrorism with a primarily external nexus (UK-based/affecting the UK/international), the UK National Crime Agency (“NCA”) or the British security services would be expected to be the lead agency for identification and investigation of TF suspicions. The SOJP Counter Terrorism Policing Unit (“CTPU”) manages the link with domestic UK intelligence services through the CT Policing network, and also through the Counter Terrorism Policing Liaison Officer (“CTPLO”) network.

340. Jersey authorities consider a wide variety of different avenues as potential information sources for TF investigations, such as: JCIS disseminations, CTPU information, LEA intelligence, data from TF MLAs, disseminations from the FSIU and intelligence packages from the FIU. During the review period, information on suspicion TF activity requiring an investigation was only received from the FIU. In the period under review, Jersey did not receive any MLA requests nor any informal police requests from abroad concerning TF¹⁹. No potential TF was identified in the course of JCIS or local policing activities. CTPU did not receive information on potential TF with a nexus to Jersey from UK intelligence agencies.

341. As indicated, all TF investigations in the last five years were initiated on the basis of FIU intelligence. The FIU has demonstrated to be proactive in its spontaneous dissemination of intelligence to local LEAs and other jurisdictions. To this extent, not only information from TF SARs and their continuations (CR) was subject to FIU analysis, but all different types of miscellaneous reports received (MIRs) and requests for assistance from foreign FIUs with a potential TF nexus (RFAs).

¹⁹ Jersey received two MLA requests advised by the originators as concerning terrorism related activities. No nexus to terrorism or TF was however identified during analysis of the request.

Table 9.1: Assessment of Terrorism (including Terrorist Financing) by the FIU on various receipts of intelligence

Cases, where the FIU rated as potentially concerning Terrorism (including TF)	2018	2019	2020	2021	2022	Total
B: SAR	9	16	9	13	25	72
C: CR	2	0	2	2	1	7
D: RFA	8	3	4	5	10	30
E: MIR	2	2	4	5	9	22
Total	21	21	19	25	45	131

342. To this extent, a total of 177 cases were reviewed in the context of verifying T/TF suspicion. This indicates that apart from the 131 cases containing information rated upon receipt by the FIU as potentially involving terrorism (incl. TF), an additional 46 cases after FIU in-depth analysis were considered worthy of being shared with counter-terrorism organisations.

343. The FIU prioritises the processing of TF-related reports by assigning them the highest level of importance in the assessment process. All TF-related intelligence is analysed and shared with local and UK CT units as well as internationally via Egmont if deemed relevant. The FIU has a well-practiced line of communication direct to the UK NTFIU - a Metropolitan Police unit with responsibility for TF investigations in England and Wales. In addition, every new natural person and company added to the FIU's IT databases is also screened by the CTPU for any additional intelligence held by UK intelligence agencies.

344. For most of the period under review, the FIU experienced resource restraints impacting the ability to produce adequate strategic and operational analytical reports. The recent efforts of Jersey to strengthen the capacity of the FIU have yet taken full effect and there is still a need to further develop sufficient technical resources and human resources (incl. training) to appropriate analyse intelligence related to potential TF (see IO.6).

Table 9.2: Case files concerning TF suspicion analysed by the FIU and their outcome

Outcome	IFIS Files	International Shares on IFIS files ²⁰	Domestic (CTPU) Shares on IFIS files
Analysed - No TF identified in Jersey	141	94	30
RFA - No Trace	18	-	-
No nexus to Jersey	8	-	1

²⁰ International shares concern disseminations to United Kingdom Security Services (SIS MI6 MI5), South West Counter Terrorism Unit (SWCTU), South West Counter Terrorism Unit (SWCTU) - Analysts, Counter Terrorism Intelligence Unit (CTIU) - South West Counter Terrorism Unit (CTU) - West Midlands, Counter Terrorism Policing South West, Met Police SO15 Counter Terrorism Police, USA - Treasury Task Force (the Office of Terrorism Financing and Financial Crimes (TFFC), USA - Office of Terrorism and Financial Intelligence.

RFA - CTPU name check no TF identified	5	-	4
Investigation ongoing	3	-	1
Data error	2	-	-
Total	177	94	36

345. The table above indicates the conclusion the FIU has reached following its analysis of the cases. Where this file has been disseminated to another agency (domestic or international share), it is their results of analysis that are recorded, as feedback on the ultimate outcome has been sent back to the FIU.

346. As can be observed from the review above, in most cases the FIU was proactive in its spontaneous dissemination of intelligence, either domestically to the CTPU, abroad to UK and US authorities, or both. In all the cases analyzed ultimately no TF was identified or there was no nexus to Jersey. A total of four cases were considered by the FIU to have a reasoned degree of TF suspicion and sent to JFCU to trigger a potential TF investigation. Below is an example of how an FIU dissemination led to a subsequent TF investigation.

Case Study 9.1: FIU dissemination triggering TF investigation

In July 2020 the FIU received SAR intelligence from an MSB, that a local resident in Jersey had been sending low level amounts of funds to subjects in various jurisdictions over a 3-month period in 2020.

There had been 20 transactions totalling over £ 9 000 (approximately EUR 10 375) sent to a variance of subjects from different ethnic groups and multiple unrelated receivers in unrelated high-risk jurisdictions. The submission was made under the proceeds of crime legislation on the basis of being highly transactional and unusual activity. The FIU graded the SAR taking into consideration the terrorism component and recognised the vulnerability to high-risk jurisdictions.

The Intelligence was shared with CTPU along with the names of the beneficiaries of the transfers for checks against their CTPU databases.

Police national database checks were carried out the names of the subjects with negative results. Intelligence was also shared with Police Force Intelligence Bureau and Public Protection Unit due to the conduct of the local resident.

Local checks with government agencies identified a bank account and further intelligence was requested from the domestic bank via a POC Notice. Statement of accounts obtained did not raise any suspicions of other potential TF/POC conduct.

The FIU fast tracked the case to JFCU for urgent action. SAR intelligence was also shared with the regulator in regard to the MSB filing the SAR. A TF investigation was initiated. JFCU Police Officers interviewed the subject at her home in September 2020. The subject had not been able to visit any of these countries in the last few months due to Covid restrictions. The subject decided to put whatever she could afford to donate, to people she sees as being in need of financial support into a separate account. The subject had met some of the people in person and the ones that she didn't know personally she had video calls with them to see where they lived and work.

She willingly donated money to them. She stated that she used to work for UK defence and is aware of the risks of terrorists financing in these countries. The subject works as an accountant and a lay preacher, she chose to give away what she could afford.

No criminal conduct was identified however the subject was given advice regarding potential TF funding risks.

347. All of the four TF investigations initiated so far were focused on the transfer of funds to individuals in high-risk jurisdictions. Details of these investigations provided to the AT along with the results of actions taken by LEAs in the course of these cases confirmed that non transferring these investigations to prosecutions was justified.

348. Jersey LEAs have the adequate experience and tools to identify and investigate possible TF activity. At least 20 prosecutors from the LOD, including ECCU legal advisors, have undergone appropriate awareness training on TF. Jersey's special relation with the UK allows it to benefit from training and expertise of UK authorities. Investigative authorities received TF training from the UK through the assistance of the NTFIU, UK Charity Commission, Terrorist Offender Management Unit, UK Fin-Net, and Her Majesty's Treasury (HMT)-Sanctions Team. Should any resource constraints appear in the context of a TF investigation, law officers can be diverted from other tasks within the LOD. In addition, Jersey law officers have the possibility to seek assistance from the prosecutors of the UK's Treasury Counsel, who are specially appointed senior prosecutors that handle only serious cases, including terrorism and TF. One of the senior legal advisors (senior prosecutor) within ECCU is a former UK lawyer with direct experience in the prosecution of terrorism cases. The unit also has dedicated TF financial investigators.

349. The Attorney General has issued special guidance to investigators and prosecutors on terrorist financing. The guidance underlines that any intelligence report linking suspected terrorist financing activity to Jersey should be given the highest priority and the matter should be passed to investigators at the earliest opportunity. The document outlines the array of TF offences envisaged in the law, the special investigatory powers available and provides case studies and red flags in relation to specific TF scenarios.

350. Due to the absence of TF prosecutions and convictions, there was no occasion for the authorities in Jersey to develop practices in gathering evidence or determining jurisprudence on evidence needed to secure conviction for TF. Mindful of the potential of Jersey being involved in more complex TF cases, in 2023 the authorities conducted a tabletop exercise, concerning a fictitious scenario, where a Jersey association of religious nature was used to transfer funds for financing of terrorism via Jersey to a third party. All stakeholders identified and prioritized the activities each of them would take in the course of such a TF investigation and subsequent prosecutorial actions and decisions. A range of special investigative powers under the Terrorism Law can be utilised in TF investigations, such as the power to obtain specific information from FIs or the possibility to monitor accounts. The undertaken activities combined with the expertise obtained in the course of training and guidance highlight, that should reasoned TF suspicion arise in future, the authorities will act diligently.

4.2.3. TF investigation integrated with –and supportive of- national strategies

351. Jersey as a Crown Dependency is engaged in the UK CT community and involved in the UK National Counter Terrorism Strategy (CONTEST Strategy). The CONTEST Strategy is an overarching national strategy for the combatting of terrorism and specifically terrorism financing. TF is dealt with under the "Pursue" pillar, where, amongst other objectives, the strategy aims to disrupt terrorist activity by restricting access to its financing. The Strategy indicates the

UK's responsibilities concerning safeguarding the security of the Crown Dependencies and highlights the commitment of the UK to provide, when appropriate, technical expertise and/or specialist resources to enhance and support an effective, expeditious, locally led response and recovery in the wake of a terrorist incident. As indicated earlier, this allows Jersey to be supported at all stages of TF analysis and investigation by expertise provided by the UK law enforcement and security services, which is crucial given the size and context of the jurisdiction. There is ongoing cooperation between the prosecutorial authorities of the UK and Jersey, which is to be developed further in the future.

352. TF is indicated together with ML as one of the policing priorities in the SOJP Annual Policing Plan. The delivery plan for the fourth goal "*Prevent crime & bring offenders to justice*" includes activities aimed at demonstrating effectiveness in investigating ML and TF offences.

353. In 2022, the Jersey published its first *National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction*. The strategy was based on the findings of the ML and TF NRAs and focused on mitigation measures on the specific risks identified. In 2023, a special action plan progress update was issued to determine the status of the activities included in the national strategy. One of the outcomes of the strategy is the AG's guidance on TF investigations and prosecutions.

354. The AT noted the good level of information exchange between the relevant authorities involved in prevention and detection of terrorism and terrorism financing. The authorities actively cooperate with each other during the investigation – the standard workflow envisages TF case conferences between the authorities for case allocation and inter-agency collaboration. Because of the size of the jurisdiction, there is no difficulty in prompt communication. CTPU support is a standard practice both on the level of intelligence analysis and investigation. The cases shared with the AT demonstrate the close operational cooperation and importance of financial intelligence in its role in the overarching UK counter-terrorism strategy, under which Jersey is engaged in as a Crown Dependency.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

355. Jersey's legal framework allows TF prosecution of both natural and legal persons. As there have been no convictions to date, no conclusion can be made on the proportionality and dissuasiveness of sanctions applied. The principal offences of TF contained in the Terrorism Law envisage a maximum 14 years of imprisonment, which is the highest statutory maximum penalty (excluding murder which involves life imprisonment). When calculating sentences, the Royal Court in Jersey has had regard to English cases and guidelines²¹.

4.2.5. Alternative measures used where TF conviction is not possible (e.g. disruption)

356. The authorities have not yet had the opportunity to introduce alternative measures given the absence of TF investigations. Depending on the circumstances, different mechanisms could apply, inter alia criminal prosecutions for breaches of Money Laundering Order (MLO) using the Proceeds of Crime Law, the use of non-conviction-based forfeiture, the failure to prevent money laundering regime or the refusal of curtailment to leave.

²¹ Sentencing guidelines in England and Wales are considered, but not binding in Jersey.

357. Jersey authorities have the powers to seize and forfeit, by way of civil proceedings, cash and other assets suspected to be property originating, or intended to be used, in unlawful conduct, including TF (for more details on the mechanism see IO.8).

358. Applying criminal prosecution for breaches of the MLO would be used in circumstances, where it is not possible to show the necessary level of criminal intent to prove a case against a financial service business for TF, but the entity has clearly failed in its obligations to carry out customer due diligence or to report suspicions of TF. The authorities indicated one such case triggered by suspicion of violations of TF TFS. While no TF was ultimately identified, the financial service business in question was convicted of breaching the MLO.

359. The recently introduced failure to prevent ML (see IO.7) regime allows FSBs to be prosecuted if a person associated with them is engaged in money laundering. The broad definition of ML in the POCL also includes TF offences. As indicated in IO.8 this offence has so far not been tested in Court.

360. The JCIS confirmed another alternative measure - the refusal at the border or the curtailment of leave (immigration permission)- that can be exercised for a non-UK citizen at any time.

Overall conclusions on IO.9

361. Jersey has in overall effective system to identify, investigate and prosecute TF and only moderate improvements are needed. TF is considered from a strategic perspective, with mitigation measures introduced to mitigate any identified vulnerabilities.

362. Jersey's competent authorities are generally aware of the TF threat and risks IFCs (including Jersey) are exposed to but further work should be done on the analysis of financial flows to/from TF related high risk jurisdictions and more focus should be put on the verifying the adequacy of TF SAR reporting.

363. The focus on capacity building has made it possible for LEAs to obtain adequate experience and tools to identify and investigate possible TF activity. Due to the ongoing build-up of technical resources (including IT tools) and staff, the FIU is still to reach its full analytical capacity and expertise to detect TF from financial intelligence. The absence of TF prosecutions is broadly in line with Jersey's self-assessed risk profile. The authorities have demonstrated vigilance by acting immediately on any indication of TF. All initiated counter-terrorism investigations also included a financial component.

364. **Jersey is rated as having a substantial level of effectiveness for IO.9.**

4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

365. Jersey is an international financial centre and the Island's financial sector is predominantly oriented towards providing financial services to non-resident clients. The key risks associated with Jersey's status as an IFC is cross-border transfer of funds through Jersey or funds by non-resident clients being managed within Jersey. The most material sectors in this regard are banks, securities (including funds and investment services) and TCSPs. No evidence exists that NPOs in Jersey are or have been used for TF, however, risk-based oversight over NPOs' activities for TF prevention purposes is very recent.

4.3.1. Implementation of targeted financial sanctions for TF without delay

Institutional framework

366. In 2019 Jersey adopted the Sanctions and Asset-Freezing (Jersey) Law 2019 – SAFL serving as the basis for the existing TF TFS framework. In 2021 the supplementary Sanctions and Asset-Freezing (Implementation of External Sanctions) (Jersey) Order was introduced. This legislation replaced the previously existing sanctions framework in place during the earlier part of the reporting period which, also provided for the implementation of TFS without delay. Further amendments of the SAFL, in 2023, addressed several technical deficiencies in R.6 prior to the onsite visit. The authorities have introduced a series of accompanying procedures. Processes for requesting listing and delisting from the UN (based on the MoU between Jersey and the UK) and the procedure for receiving requests from other jurisdictions for a TF asset-freeze designation have been present throughout the entire review period. Nevertheless, a series of procedures were only introduced in 2023; inter alia searching and reporting information regarding targeted financial sanctions, identifying targets for potential designation, requesting a terrorism designation to the UN, reviewing a designation made by the Minister for External Relations etc. Due to the very recent nature of these procedures and the absence of opportunities to follow some of them in practice, the AT in most cases cannot make firm judgments on the effective use of the mechanisms in place. Nevertheless, the authorities met onsite were aware of the need to closely cooperate in this regard.

367. The Minister for External Relations (MER) is the statutory competent authority for all financial sanctions in Jersey. The Financial Sanctions Implementation Unit (FSIU), which sits within the Ministry of External Relations, supports the Minister in carrying out his functions as the Competent Authority. The FSIU has the necessary resources to carry out its functions effectively (4,5 full time experts). In the case of significant increases in the volume of operational work, the FSIU can be supported by other staff from government, JFCU and external support from private sector providers. This possibility has already been used once due to the expansion of the autonomous UK Russia sanctions regime.

368. The authorities cooperate and exchange information on TF TFS-related matter through the TF Operational Working Group (TF OWG) which was established in 2022. Another group, the Sanctions Operational Working Group (SOWG) first met in 2022 and was formalised through a Terms of Reference in 2023 to bring together Jersey’s authorities and agencies responsible for the effective implementation of sanctions, by facilitating information sharing and the coordination of activities. Since early 2022, the FSIU has also met weekly with the Law Officers’ Department (Civil Division) to discuss matters relating to sanctions implementation. Prior to the formation of these groups, the authorities also met regularly to discuss issues involving TF TFS. In addition, the coordination of activities on a policy level is conducted through the TF, Proliferation Financing (PF), and TFS Policy Working Group.

Implementation of UNSC resolutions

369. Under the provisions of the SAFL (Article 19), immediate and automatic legal effect is given to any changes made to the asset-freeze lists maintained by the UNSC ISIL (Da’esh), the Al-Qaida Sanctions Committee, and the UNSC 1988 Sanctions Committee. As a result, the provisions indicated ensure the implementation of TF-related TFS without delay, as designation by the UNSC and its committees comes into effect immediately in Jersey. In addition, the SAFL Order 2021, implements all UK sanctions regulations (“UK Sanctions Regulations”) made under the Sanctions and Anti-Money Laundering Act (SAMLA) 2018, which includes all UNSCRs related to TFS. For

this reason, de-listings do not come into force immediately, but need to be first also introduced in the UK legal framework. In practice, no time delays have been observed concerning this matter.

370. Given its status as a British Crown Dependency, Jersey may not directly propose asset-freeze designations to the relevant UNSC committees. However, the Island has a Memorandum of Understanding (MOU) with the FCDO, that allows it to request the UK to make such proposals on its behalf. In 2023, a special procedure was introduced to guide the authorities on how to prepare the proposal for a terrorism designation to the United Nations.

371. Throughout the review period, Jersey has not identified any individuals or entities for designation under UNSCRs 1267/1989 or 1988 or proposed any designations, which can be considered consistent with the TF risk profile of the Island. No requests were received from foreign jurisdictions under UNSCR 1373. Jersey has considered one autonomous terrorism asset-freeze designation proposal. In 2023, the Minister received a notification from JFCU concerning an individual connected to a terrorism investigation. The Minister ultimately concluded that the proposal did not meet the designation criteria of the relevant UNSCRs, and a designation was deemed not to be the right tool to achieve the overall objective of protecting the public from terrorism. The authorities met onsite were able to elaborate on the mechanism for proposing a terrorism designation as well as what factors play a role in considering such a proposal from another country, which indicates the relevant procedures will be applied in practice when necessary.

Communication mechanisms

372. Asset-freeze designations have legal effect in Jersey immediately and automatically, regardless of whether a notice has been published. Nevertheless, the authorities conduct efforts to communicate any changes to the UN and UK asset-freeze designations via different mechanisms. One of the methods is the use of Financial Sanctions Notices published online by the FSIU on the Jersey Gazette. Once such a notice is published on the Jersey Gazette, an automatic email alert containing a link on the latest updates is sent to subscribers (around 540 individual email addresses). The authorities have introduced policies to ensure all notices are published on the Jersey Gazette on the same day for listings, de-listings, or amendments to the sanctions lists of the UN or UK. Prior to 2022, the authorities strived to do this within no longer than 1 working day for new asset-freeze designations and 2 working days other changes.

373. Another method is the publication of notices on the Jersey Financial Services Commission website or subscribing the JFSC RSS news feed. The JFSC sends out notification alerts to subscribers (~1400 individual emails) in cases of any changes concerning sanctions designations. From July 2023 all obliged entities are legally required to sign up to, and receive, sanctions email alerts and sanctions notices from the Government and the JFSC. The authorities have been monitoring whether all types of obliged entities have satisfied this requirement and encourage them to do so. In total, only around 70 reporting entities have failed to sign up, the majority of them lawyers, accountants and estate agents. Many entities independently signed themselves up to other subscriptions of UN, EU and OFAC lists.

374. During the period under review, the JFSC has issued specific financial sanctions practical guidance on how to comply with the obligations concerning inter alia TF TFS. Additional dedicated webpages were created in 2022 to provide a more detailed overview of the UNSCRs and the TFS related to terrorism and TF implemented in Jersey. Guidance on obligations with regard to TFS is also included in the *Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing*,

specifically for Jersey's obliged entities. Additional information on sanctions is also available on the Government of Jersey website, including guidance on how to request a review of a designation or how to apply for sanctions licences and exemptions. The FSIU also publishes updates to its public guidance on financial sanctions and new legislative developments on the Jersey Gazette – for example notices on the changes to the political environment in Afghanistan (the Taliban gaining control over Kabul) to update the public and industry of the changing situation.

375. A general overview of the understanding of obliged entities on the implementation of TFS and other related obligations is provided under IO.4 and IO.11. It must be stressed, that controls adopted by the obliged entities in TFS area do not distinguish between TF-related TFS and PF-related TFS. All categories of obliged entities met onsite by the AT were well aware of the existing TFS obligations and the requirement to freeze funds belonging to designated individuals and entities, however, the level of scrutiny of checks is correlated with the size and scope of activities of the given entity. A common challenge highlighted by the entities met on-site is the identification of close associates or other indirect links with sanctioned entities and the screening of external parties to a transaction. None of the interviewed private sector entities had practical experience in freezing funds and filing such a report to the Minister of External Relations as no sanctions hits related to TF relevant UNSCRs have been identified. For more information see IO.11

4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

376. For most part of the period under review, there were no specific activities focused on assessing the risks of TF abuse of the NPO sector followed by an introduction of targeted mitigation measures. The NPO Law has been in force since 2008, requiring NPOs that fall within the scope of the FATF definition to register with the JFSC, which inter alia is obliged to take into account the TF risk exposure at the time of registration. The authorities' efforts evolved gradually over time with recent introduction of stricter regulatory measures and a NPO risk-based oversight.

377. In Jersey's 2021 TF NRA, the authorities classified the TF risks associated with the NPO sector as a whole as medium-low and committed to conducting a dedicated NPO risk assessment followed by review of the regulatory measures at the later stage. In the period 2021-2022, Jersey conducted a more comprehensive TF risk assessment of the NPO sector that resulted in the risk categorisation of NPOs that fall under the FATF standard, albeit there is uncertainty whether all NPOs were covered by the risk assessment exercise. However, the authorities were proactive in reaching out to the NPOs that were not required to be registered at the time. The risk assessment exercise had two phases: (i) first, a questionnaire containing basic information on the structure, objective, activities and funds collection/disbursal was sent out to all NPOs registered with the JFSC and to TCSPs providing services to NPOs; (ii) next, a more detailed information request was sent only to those NPOs (~230) potentially considered as higher risk on the basis of the first phase of the exercise. This second survey covered more aspects, such as risk assessments, internal systems and controls, vetting/screening procedures of partner NPOs and beneficiaries. The risk assessment did not include orphaned structures primarily used as wealth structuring vehicles, being administered by TCSPs (390) – due to the fact that the responses could distort the outcomes of the assessment - and NPOs who at the time were exempted from registration to raising or disbursing funds of less than £1,000 within any 12-month period, unless they registered voluntarily or were otherwise identified and encouraged by the JFSC to participate. The latter exemption was cancelled in 2023 and such NPOs were also obliged to register with the JFSC. The NPO NRA assessed the NPOs on the basis of 9 different factors, involving inter alia, the jurisdiction

involved in raising/dispersing funds and the lack of adequate and robust systems and controls for NPOs established in Jersey.

In total 980 NPOs (out of a total of 1544 NPOs) were initially identified to be in scope of the FATF definition. 852 of these were considered as low and medium risk of abuse for TF due to their practices of raising or disbursing funds over 1000 GBP (cumulated amount over a year) to in jurisdictions with no domestic terrorist threat (Jersey, Guernsey, Isle of Man) or areas considered at low risk of terrorist abuse and the NPO regulation is recognised as being robust enough to identify TF abuse (England and Wales, and Scotland). The remaining 128 were considered higher risk, in which case no further distinction was made on the jurisdiction risk associated with raising and disbursing funds. These were later identified due to legislative changes as “Prescribed NPOs” and subject to supervision by the JFSC and additional obligations. As of January 1st, 2023, an NPO gains the status of a “Prescribed NPO” when, during the preceding 12 months, it has raised funds exceeding £1,000 from outside Jersey, Guernsey, the Isle of Man, England and Wales, and Scotland or disbursed funds exceeding £1,000 outside those jurisdictions. It is up to the NPO to notify the JFSC should it acquire or lose the status of a Prescribed NPO. Currently, the JFSC monitors this through information sharing with the other competent authorities holding information on NPOs; routine monitoring by annual data collection is planned to be established in the near future.

378. Whilst Jersey can be commended for taking actions aimed at NPOs’ prevention from TF abuse, the AT has concerns whether the proportionality of the actions can be proven to all NPOs concerned, especially for smaller organisations. This is due to the following: (i) the introduction of the new category of Prescribed NPOs only to some extent took into account the findings of the NPO NRA 2022, which indicated that higher risk could (apart from the jurisdiction of fundraising/disbursal) be also associated with a number of other factors, such as the structure of the NPO, associated partners, activities, objectives, payment remittance practices, etc.; (ii) in addition, the relatively low threshold for becoming a Prescribed NPO under legislation in connection with the additional obligations, such as the provision of financial statements to the JFSC on demand, the possession of appropriate accounting systems and controls, record keeping requirements concerning the identification of owners, controllers of the NPO and significant donors, raises concern of whether the measures introduced can be considered fully proportionate to the level of TF risk. This raises a question of potential unintended consequences given the amount of investment into the compliance area required by smaller NPOs. It is positive, however, that prior to enacting new legislative requirements to Prescribed NPOs, the JFSC actively consulted with the NPO sector. Whilst strengthened requirements is an important TF safeguard, the authorities should continue monitoring whether new requirements are proportionate to the risk exposure.

Risk-based monitoring and oversight of NPOs

379. All NPOs that fall within the scope of the FATF definition must register with the JFSC if established in Jersey or administered from within Jersey, whether or not it carries on any activity on the Island. During the registration process, NPOs are required to provide information on their activity, purpose, and objective. Further checks are conducted with regard to potential Prescribed NPOs – similar to those required for new obliged entities. The JFSC can refuse to register a NPO if it was of the opinion that the NPO may assist with terrorism or TF, may not be legitimate or may be exploited by criminals and terrorists. No refusals to register have been issued so far.

380. Around half of all registered NPOs are charities. They are required to register with the JCC in order to obtain charitable status and to pass the charity test (having only charitable purposes

and the goal of providing public benefit in Jersey or elsewhere) as well as document the good standing of its representatives. Data on charities is made available in a public register. The JFSC and the JCC have in February 2023 signed a MoU in order to provide a formal basis for co-operation, including for the exchange of information and investigative assistance in the field of NPOs having a charitable status.

381. The JFSC is empowered to monitor the activities of NPOs with a view on TF prevention concerning all organisations registered under the NPO Law. Whilst the NPO regulatory regime has been in place since 2008, it was further strengthened in 2023 following a TF risk assessment of the NPO sector. Since then, the risk-based supervisory oversight of TF-vulnerable NPO subset has begun. Apart from the ongoing outreach to Prescribed NPOs, this process is currently focused primarily on the registration of NPOs that recently acquired “Prescribed NPO” status. In the first half of 2023, JFSC focus has been placed on meeting the representatives of the Prescribed NPOs considered higher risk in order to better understand their activities. The JFSC has begun its onsite monitoring activities by conducting a thematic review of 8 Prescribed NPOs from all the different risk categories. The thematic review focused on how NPOs implement record keeping requirements on significant donors and some other controls. It identified that the overall understanding of the obligations in this field are good, but further work is necessary especially in the field of mitigating diversion risk and introducing appropriate training for NPO staff and volunteers. Whilst the JFSC can be commended for taking the first risk-based supervisory oversight actions that proved useful, they were not concentrated, however, on the key vulnerabilities of abuse laying at the funds’ disbursement stage, for example, associated with beneficiaries rather than the donors. Given that the risk-based oversight of NPOs has recently begun, its effectiveness is yet to be fully demonstrated.

382. Since January 2023, the JFSC is responsible for the supervision of those NPOs that fall within the definition of Prescribed NPOs (i.e., the NPOs that conduct transfer over £1,000 to jurisdictions other than England and Wales, Scotland, and the British crown dependencies). The JFSC has prepared a supervisory plan for those NPOs (135 as of October 2023), dividing them using a risk-based approach into the following categories: high (20), medium-high (12), medium (31) and low (72) risk in accordance with some of the risk factors used in the NPO NRA 2022. For high risk NPOs the JFSC will attempt to monitor their risk profile through the introduction of a strategic supervisory plan and a combination of update meetings, periodic reporting, and on-site examinations. Medium risk NPOs’ supervision will include a strategic supervisory plan along with meetings, on-site examinations and a desk-based review. The low risk NPOs will be involved in ad-hoc meetings and desk-based research.

Outreach and awareness by NPOs

383. Both the authorities and NPOs met onsite have highlighted the substantial outreach to the sector conducted in the recent years, especially concerning the preparation of the NPO NRA in 2022 and subsequent legislative changes to the NPO law. In addition, a series of webinars have been prepared concerning NPOs and terrorist risks. Both specific obligations and detailed guidance on how to comply with the legislation for Prescribed NPOs was included in the JFSC Handbook for the prevention and detection of ML/TF/PF. A special section dedicated to NPOs was posted on the JFSC website. The authorities have prepared special informal consultation and drop-in sessions where NPO representatives could arrive and ask questions. While the AT commends the efforts of the authorities for keeping the NPO sector up to date on the risk assessment and recent legislative changes, NPOs could benefit from further guidance on the risk of being used to facilitate terrorist financing, indicators to look out for when raising or disbursing

funds and the development of best practices to address TF risks and vulnerabilities characteristic for their sector. This was confirmed by NPOs interviewed onsite, which expressed their need for further and more specific training dedicated for their staff members and volunteers regarding how to mitigate the risks of potential TF abuse.

384. The Prescribed NPOs met onsite demonstrated good knowledge of the measures to protect themselves from TF abuse the most prevalent of which is screening and verification of partner NPOs. It is not uncommon amongst larger NPOs to rely on private commercial databases for screening against negative media information, sanctions or PEP status checks. However, ultimate beneficiaries are not being screened nor identified. This is largely attributed to the fact that the Prescribed NPOs are engaged in supporting beneficiaries abroad and thus they often rely on partners (associate NPOs) for the distribution of donations. Therefore, measures are introduced not only to check fitness and propriety of the partners, but they are also commonly subjected to audit and periodic financial reporting along with reporting on expenditures, etc. Whilst ultimate beneficiaries are not necessarily identified in each case, the reputational checks on partners and scope of reporting by partners goes beyond of what the legislation requires. Despite the fact that the notion of “Prescribed NPOs”, that are subject to stricter legislative requirements, has been introduced recently (in force since January 2023), NPOs with a global presence already had many of the above discussed measures in place earlier in the reporting period. This demonstrates strong motivation and ability of the NPOs to safeguard their reputational risk arising from potentially being involved in criminal activity.

4.3.3. Deprivation of TF assets and instrumentalities

385. Jersey has the relevant mechanisms in place to deprive terrorists, terrorist associates, or terrorist financiers of assets and instrumentalities, including preventive measures, and mechanisms to freeze and seize terrorist property. There have been no funds or other assets frozen in Jersey pursuant to the TF-related TFS regime.

386. At the same time, the jurisdiction has managed to demonstrate its ability to take action to freeze assets under the UNSCR Libya regime (2 notifications in total). Frozen assets have been reported by obliged entities primarily under the UK’s Russia sanctions regime. As of 31 January 2023, £1,363,600,000²², (rounded to the nearest £100,000) of assets have been reported to the MER as having been frozen in respect of this specific sanctions’ regime. While not connected directly to UNSCRs concerning TF-related TFS, the practical application of the asset freezing requirements by obliged entities under other sanctions regimes indicates, that there is appropriate awareness among FIs, DNFBPs and VASPs with regard to application of measures envisaged under the SAFL. However, only a handful FIs and DNFBPs that the assessors interviewed had experienced engaging the relevant authorities on TF asset freezing. Nevertheless, obliged entities were well aware of their obligations under the TFS regime to freeze funds and all were implementing screening solutions against sanctions list (mostly automated) that consequently results in examination of false positives. Nevertheless, it must be stressed that frequency and scope of screening varied among obliged entities. For more information on the implementation of TF-related TFS techniques and practicalities see IO.11. Apart from the general awareness raising initiatives by the authorities on the TFS topic, some obliged entities have also

²² £1,382,600,000 as at 31 July 2023.

used the opportunity to seek advice from the competent authorities of Jersey regarding specific questions on the implementation of TFS.

387. In the review period, Jersey has not conducted any TF prosecutions or convictions and has not had the opportunity to deprive subjects or organisations of assets and instrumentalities related to TF activities. No other alternative measures (including the use of non-conviction-based forfeiture) to deprive terrorists of their assets have been applied. As indicated under IO.9, there has been one terrorist conviction in Jersey throughout the reporting period, nevertheless there was no material evidence to support any charges of TF.

4.3.4. Consistency of measures with overall TF risk profile

388. Jersey authorities have made considerable efforts to analyze the terrorism financing risks faced by the jurisdiction, especially since 2021. The TF NRA 2021 and the TF NRA 2023 update both concluded that there is a medium-low risk of Jersey being used as a conduit for terrorism financing. A separate NPO NRA was prepared in 2022 identifying a subset of NPOs considered more vulnerable to TF abuse.

389. While the AT indicates that further analysis of financial inflows and outflows through Jersey is necessary in the context of the assessment of the Island's TF risk (see IO.9), the AT is of the opinion that although the actions taken by the competent authorities under this chapter are largely in line with the TF risk profile of Jersey, the efforts are recent and thus effectiveness is yet to be fully demonstrated.

390. The key risks associated with Jersey's status as an IFC are cross-border transfer of funds through Jersey or funds by non-resident clients being managed within Jersey. In this context actions taken by the private sector, especially the most material sectors, is of vital importance. As described above, whilst banks adopted relatively robust controls for implementation of TF-related TFS, there seems to be limited emphasis on sanctions evasion risks despite the fact that many FIs acknowledge the detection of association to sanctioned individuals along with the screening of beneficiaries of the funds is a challenge. Controls adopted by other material sectors, funds and TCSPs, are less robust than those by banks and there is room for improvement, however, the risk exposure of these sectors is lower than of banks. No assets have been identified and frozen related to TF-TFS.

391. The authorities in Jersey have introduced a comprehensive legal framework which ensures automatic implementation of the relevant UNSCRs covering TF-related TFS without delay and without prior notification. A special unit (FSIU) under the MER has been created to coordinate TFS-related matters. Cooperation on both an operational and policy level is secured through various working groups (SOWG, TF OWG, TF, PF, TFS policy WG). Nevertheless, some recent changes to the TFS framework, the NPO regulatory regime and its risk-based oversight (as discussed above) has not yet allowed their effectiveness to be fully demonstrated.

392. Throughout the review period, there were no incoming NPO-related information requests by foreign authorities, or STRs, concerning potential TF involving NPOs, filed by obliged entities. The relevant NPO supervisory authorities did not reveal any indication of abuse of the NPO sector for TF purposes. In addition, there were no incoming or outgoing MLA requests concerning TF or NPO matters. The authorities have in the last years intensified certain measures in relation to NPOs falling under the FATF definition, by carrying out TF risk assessment of NPO sector that resulted in the identification of higher risk NPOs which was followed by the review of legal and regulatory measures applicable to NPOs. Whilst revised regulatory framework for large share of

NPOs conducting cross border transfers has been put in place, the proportionality of the requirements applicable to said NPOs is questionable. Jersey is currently implementing an oversight framework with a view to establishing a fully-fledged risk-based approach. Nonetheless, the actions taken by the authorities are recent and so far, do not fully constitute risk-based monitoring/supervision in relation to NPOs considered higher-risk of TF abuse.

Overall conclusions on IO.10

393. Jersey has a robust legal TFS framework in place that also ensures the immediate implementation of TF-related TFS. Processes are in place to communicate new designations or changes thereto to all obliged entities. FIs, DNFBPs and VASPs demonstrate a relatively good degree of awareness of their TF-related TFS obligations, although the implementations practices differ.

394. Finalisation of the TF risk assessment of the NPO sector resulted in the review of legal measures applicable to higher risk NPOs. In 2023, the authorities began to implement the risk-based supervisory oversight measures aimed at TF prevention by the NPO sector.

395. Relevant coordination and cooperation mechanisms are in place for TFS, as well as processes to freeze and unfreeze assets and provide access to frozen funds. Overall, the efforts undertaken by the competent authorities have resulted in suitable mechanisms in place to deprive assets or instrumentalities of terrorists, terrorist organization and terrorist financiers. Nevertheless, some of these actions are fairly recent, thus their full effectiveness is yet to be demonstrated.

396. **Jersey has achieved a substantial level of effectiveness for IO 10.**

4.4. Immediate Outcome 11 (PF financial sanctions)

Contextual factors

397. Jersey serves the role of an IFC and hosts a large TCSP industry and branches of several major international financial institutions. The Island is neither a weapons manufacturing jurisdiction, an international trade centre or a market of proliferation goods. It has marginal trade relations with Iran and no trade relations with North Korea. Jersey has ports, but it does not serve as a major transshipment or transit point and is located far away from any countries of proliferation concern. Vessels with a maximum tonnage of 399GT can be registered by individuals or companies not resident in Jersey, so long as the individual or company owner is resident in an eligible jurisdiction and the individual or company has appointed a Jersey resident Representative Person.

398. Jersey is in a Customs Union with the UK and the other Crown Dependencies and part of the Common Travel Area, which allows free movement of people to and from the UK, the Republic of Ireland, Guernsey and the Isle of Man. The UK-CDs Customs Union (with Jersey as part) is based on Jersey's adoption of the UK's tariff for goods from third countries. This means that it applies the same common external tariff to third country products. Accordingly, there are both legal and operational gateways to ensure timely cooperation and exchanges of information between the customs competent authorities of Jersey (JCIS) and the UK. Whilst export control matters do not form part of the customs union with the UK, Jersey applies its own prohibitions and restrictions lists which mirror those in the UK. The movement out of the island of strategic goods currently falls under the Customs and Excise (Import and Export Control) (Jersey) Order 2006 (made under the Customs and Excise Law) meaning that there is a control on any goods that would be Category

A, B or C goods as defined in the Export Control Order 2008 of the United Kingdom, if those goods were in the United Kingdom. The Open General Export Licence, which is made by virtue of the Customs and Excise (Import and Export Control) (Jersey) Order 2006, also prohibits the exportation of dual-use items as listed in Annex I of EU Council Regulation (EC) 428/2009 as it has been retained in UK law by virtue of the European Union (Withdrawal) Act 2018 under the Trade etc. in Dual-Use Items and Firearms etc (Amendment) (EU Exit) Regulations 2019. Trade sanctions, arms embargoes and other trade restrictions are implemented by JCIS.

399. In 2023, Jersey in cooperation with an independent third party with expertise in the field prepared a high-level overview of Jersey's proliferation financing (PF) risk exposure. The document summarizes what is perceived to be the most relevant PF threats to the jurisdiction, key vulnerabilities that may allow these threats to materialize, existing measures that are in place to mitigate threat exposure, as well as the possible consequences of failing to address PF risk exposure. The conclusions of this exercise will be used by Jersey authorities to further progress in its work in the PF area.

4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay

400. The mechanism implementing proliferation related TFS is broadly the same as the one for TF – through the SAFL and connected SAFL Order. The relevant UNSCRs have legal effect in Jersey through the relevant UK SAML A Regulations. This concerns the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, which gives effect to UNSCR 2231(2015), and the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, which gives effect to UNSCR 1718(2006) and further resolutions that extended its scope. This framework allows sanctions to be applied immediately and automatically, thereby meeting the requirement to implement PF-related TFS "without delay". No prior notification is required. The same communication mechanisms are applied as in the case of TF TFS (JFSC news feed, Jersey Gazette).

401. Similarly, as in the case of TF-TFS, the MER serves as the statutory Competent Authority for financial sanctions related to proliferation in Jersey. The FSIU supports the MER in carrying out its functions as the Competent Authority.

402. As regards national cooperation mechanisms, in March 2022 the authorities created the Proliferation Financing Operational Working Group (PF OWG), which holds meetings on a bi-annual basis. The group consists of representatives of GoJ, FSIU, LOD, ECCU, JCIS, JFCU-SOJP, CTPU, JFSC, the Charity Commission and the Ships Registry - Ports of Jersey Limited. The group serves as a contact point for the sharing of relevant tools and information relating to CPF. It has also been involved in the drafting of the PF risk overview of Jersey and the coordination of outreach to the private sector on PF-related TFS. In addition, coordination of activities on a policy level is conducted through the TF, PF and TFS Policy Working Groups. However, the authorities informed the assessment team that there was ongoing discussion on PF-related TFS prior to formation of the above- described working groups.

403. In the review period Jersey has not initiated any requests for PF-related designations. The competent authorities attribute this to the fact that they have never identified, in the course of their duties, persons or entities that might meet the relevant listing criteria. However, the Jersey authorities did make a number of asset-freeze proposals to the UK under the Russia sanctions regime.

4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions

404. Between 2018 and 2023, there was one case reported to the MER by the private sector with regard to PF-related TFS. No PF-related SARs have been provided to the FIU. Proliferation financing was also not a topic in incoming requests for information to the FIU or MLA requests received by the authorities. No assets have been frozen pursuant to UNSCRs related to PF TFS.

405. From 2018 to July 2023, obliged entities filed around 300 sanctions compliance reports, the majority of which refer to the UK autonomous sanctions regime concerning Russia. In these cases, the financial assets identified have been frozen by the obliged entities. In addition, the authorities have been notified about Jersey properties owned by a person subject to an asset-freeze designation under the UK Russia sanctions' regime and as such subject to asset-freeze restrictions. While these notifications did not concern proliferation financing, they demonstrate that obliged entities are vigilant when it comes to freezing assets of a person designated under financial sanctions regimes in general and notify the authorities in such cases.

406. Apart from relying on incoming sanctions compliance reports filed in accordance with the SAFL, the authorities have introduced different mechanisms aimed at identifying any assets of designated persons connected with the relevant UNSCR regimes. The FIU has a mechanism for screening its database for identifying designated persons under TFS. Beneficial ownership information in the registry is screened against TFS databases. The JFSC has an automated ongoing monitoring process (screening via commercial databases) of entities and Principal Persons and Key Persons held within the JFSC's supervision database (ERM system).

407. The Jersey Ships Register was identified as potential vulnerability for proliferation given the well documented activity of the DPRK using ships to circumvent sanctions in the past. To this extent, the Assistant Registrar completed a paper assessing TF/PF risk by vessel type, which assessed the PF/TF risks in the Ships Registry as medium to low. Bigger vessels or high value vessels were considered a heightened risk due to the fact, that those vessels may be owned by non-Jersey corporate structures, for which the information about the ultimate beneficial owner (UBO) can be difficult to obtain. In result of the risk assessment and in response to the expansion of the UK's autonomous Russia sanctions regime, an additional control was introduced, whereby the UBO of a company owning the Jersey registered vessel must declare that the vessel is not and will not be owned, controlled, or operated by persons on the UK Designated Persons List (which includes UN PF-related asset-freeze designations).

408. The JCIS is responsible for the enforcement of any sanctions that concern the movement of goods or persons. Specific cultural goods and strategic goods require an export license to be obtained. In the period 2018-2022 there was a total of 94 licenses granted, covering goods valued at just under £3.5 million in total. Almost two-thirds of licenses were issued regarding a single exporter of parts for out-of-service engines to government entities in jurisdictions not considered as higher PF or TF risk. When considering applications for licenses, the JCIS consults the UK's Export Control Joint Unit (ECJU) or the National Arts Council of the UK in order to ensure complementary cross-jurisdictional checks on consignors and consignees of the goods. Private consignors and consignees may also be checked with the FIU Jersey, although this possibility has only been utilized once. Rather than requesting information from the FIU, JCIS would provide pertinent consignment details to the FIU for consideration. No licenses in the period under review were issued for any exports to jurisdictions considered to be of a heightened risk to financial, terrorist or proliferation risk.

409. In case of any identified potential suspicion involving assets related to designated persons not frozen or reported to the MER, the JFSC and the FIU would notify the FSIU. If in the course of the FSIU examination it becomes apparent, that there was a potential violation of the sanctions' framework in Jersey, the matter is disseminated to the ECCU for further investigation. Throughout the period under review, there have not been any sanctions applied for violations of PF-related TFS or any other financial sanctions regimes. Some none-PF related potential violations have been reported to the ECCU, however, they ultimately did not end with any penalties during the reporting period.

Case Study 11.1: PF-related TFS checks by the obliged entity

In 2023, a Funds Services Business ("FSB") submitted a Sanctions Compliance Report in respect of a link between its former client, a Jersey registered company ("Company A"), one of its directors (an individual ("Person A" - not a Designated Person) and an associated entity ("Company B") which were named in UNSC Panel of Experts reports as possibly being connected to proliferation financing activity relating to the UNSCR DPRK sanctions regime.

The FSB identified this connection when its automated overnight screening system created sanctions' 'hit' against Person A. The FSB subsequently investigated the matter, carrying out manual screening and discovered the connection between Person A and Company B, as well as in adverse media found online.

Company B was named in the UNSC Panel of Experts report as a company that had potential links to sanctions evasion/proliferation activities in relation to the DPRK. Company B was again named in a subsequent UNSC Panel of Experts report that the entity is linked to other companies suspected of involvement in sanctions evasion/proliferation activity. The FSB had provided registered office services to Company A of which Person A was the UBO. It had not provided any services to Company B.

Company A was neither mentioned in the UNSC Panel of Experts reports nor in any adverse media. However, Company A was the Limited Partner in a multi-jurisdictional structure that included Company B. Person A was a director and part owner of Company A, and also had an ownership stake in Company B.

None of the information received by the FSIU to date provides any evidence of any sanctions breach potential or actual. All information received by the FSIU in respect of this matter was shared with, and discussed with, the FIU and JFSC. The matter has also now been referred to ECCU for further consideration.

410. In the period under review, at least two other cases of potential proliferation-related financial activity with alleged involvement of Jersey's financial sector were identified. Whilst these cases were not directly linked to PF-related TFS under UN sanctions' regime, they nevertheless demonstrate what practices are followed by the competent authorities and obliged entities in the area of TFS.

411. In 2017, a Jersey resident was reportedly involved in buying licenses for mining in the DPRK. Finances from this project were used to pay off loans as the resident was paying debts to a Jersey bank from Australia. Ultimately the case was closed due to a lack of evidence of criminal activity.

412. In 2023, the authorities identified a case on inter alia potential failure by an obliged entity to file a STR to the FIU concerning suspicion of ML stemming from proliferation of WMD (although not directly associated with the relevant Iran or the DPRK UNSCRs). The source of wealth of a

non-resident with an account in Jersey may have resulted from family money associated with illicit proliferation activity. The individual was a PEP due to his relations with an individual, who was widely believed to be a central participant in the black-market trade of nuclear technology. The natural person with a Jersey account had no fixed income, but operated funds received from the family, some of which was used in an attempt to purchase property. The bank failed to identify the family connection and ties to sanctioned individuals (OFAC). The case was initiated in 2023 due to a request from a foreign FIU, long after the accounts of the natural person in question were closed in Jersey (2017). Only upon receiving a PoC from the FIU did the bank file a SAR. The investigation on breaches of the AML/CFT legislation by the obliged entity is still ongoing.

4.4.3. FIs and DNFBPs' understanding of and compliance with obligations

413. Obligated entities met onsite generally understood their obligations concerning targeted financial sanctions and related fund freezing, while many did not differentiate between TF and PF-related TFS, therefore the findings on PF-related TFS are equally applicable to TF-related TFS implementation by the private sector (also see IO.4). As observed by the AT, the awareness of PF-related TFS is generally lower than on TF-related targeted financial sanctions. The AT is of the view that the implementation of TFS might be potentially impacted by the technical legislative shortcomings discussed under R.7, as well as guidance provided in the AML/CFT/CPF Handbook, that requires screening to be carried out at the time of on-boarding, during periodic review and when there is a trigger event (such as amendments to the sanctions lists), but is silent regarding screening of all transactions explicitly at the time of their execution (except one-off transactions).

414. Most FIs, VASPs and large DNFBPs use commercial automatic software to screen against TFS lists. Clients are checked against the TFS related lists both at the stage of establishing a business relationship and periodically (at a pre-determined frequency based on client risk profile or depending on the changes to client CDD data) and/or in any case of (occasional) transaction; ad-hoc scan can also be scheduled once amendments to the sanctions' list are announced. The systems in many OEs provide for the possibility to automatically screen the name of the customer through the list provided not only by the UN and UK, but also EU, OFAC lists.

415. The level of scrutiny of checks is correlated with the size and scope of activities of the given entity. For example, banks screen clients, the related controllers and BOs, along with all available information on parties involved in transactions, although shortcomings related to the identification of BO (exercising control through other means) highlighted in IO.4, may impact the checks conducted. Especially VASPs were mindful of the PF risk their field of activities is subject to in the context of known PF schemes exploited by the DPRK. To this extent, focus is put on the use of blockchain analytics commercial software. Difficulties by VASPs to implement TFS partly derives from the travel rule - see more under IO.4. In cases, where obliged entities come across a possible match with any sanctions lists, an investigation is opened to confirm whether the match is a true or a false positive.

416. The common challenges faced by the obliged entities relate to identifying close associates/ other indirect links with sanctioned entities and the screening of external parties to a transaction. In the case of the later, some of the banks have applied data integrity checks to reject incoming payments which lack of sufficient information or contain transfer data in an unidentified language. Nevertheless, limited ability of the reporting entities to identify associations to sanctioned persons might increase the likelihood of sanctions' evasion risk.

417. Most entities were aware of the obligation to file sanctions compliance reports to the Minister of External Relations in case of the need to report asset-freezing under the UN and autonomous UK sanctions regimes. However, none of representatives of the OEs met on-site had practical experience in filing such a report, as no sanction hits related to PF relevant UNSCRs have been identified.

418. Jersey authorities have conducted awareness raising initiatives on PF-related TFS. Guidance is publicly available on the JFSC and Government of Jersey websites and is focused on topics such as countering proliferation of WMD and PF, financial sanctions practical guidance or additional-information-sources of ML-PF-TF. The guidance on the websites includes a detailed overview of the relevant PF UNSCRs (Iran and DPRK) and indicates good practices in compliance with PF-TFS obligations. These are updated regularly in connection to new / amended versions of the lists of designated persons. PF has also been to some extent the topic of JFSC webinars and live events in the recent years (along with other financial sanctions regimes) mostly in combination with TF-related TFS. Obligated entities met onsite, especially FIs, indicated the need for more sector specific guidance on PF activity, sanctions-evasion patterns/typologies used by proliferators and how dual use goods could be abused for PF.

4.4.4. Competent authorities ensuring and monitoring compliance

419. The JFSC bears the responsibility to check and verify whether obliged entities accurately implement PF-related TFS. The supervisor does not distinguish between PF and TF related TFS for the purpose of its supervisory activities thus analysis and conclusions present in this chapter equally applies to TF-related TFS.

420. Compliance checks with PF-related TFS forms part of broader JFSC's routine financial crime examinations. Planning of TFS inspections is commonly driven by AML risk rather than TFS related considerations. This is largely as a result of an OE's TFS risk score being commensurate to its AML risk score, i.e., an entity with a higher AML risk score will generally have a higher sanctions risk score and an entity with a lower AML risk score will have a lower sanctions' risk score, with the TFS risk score being generally lower than the AML risk score. Whilst the supervisor considers that due to these reasons it is more prudent to use AML risk as the driver when planning examinations, the AT would encourage the JFSC to introduce further improvements to its sanctions' risk assessment model with an emphasis to suitability of data points used for sanctions' risk calculation and calibration of the thresholds and weightings and their impact on the overall risk score. For example, the following can be considered: (i) data points under products/services risk category should be better suited for sanctions' risk modelling; (ii) transactional values are not considered at all, only volumes; (iii) under the customer risk category, too much emphasis is placed on PEP clients with no consideration of other data points linked to sanctions' evasion risk exposure, such as, clients with complex ownership structures, third parties, etc.; (iv) not all data points forming part of a risk score calculation are considered relevant to sanctions' risk and thus might water down the risk results, e.g., percentage of customers classified as higher risk by the entity is not well suited for inherent sanctions' or ML risk calculation as it is dependent on the controls' adopted by each individual entity. Based on the above, the AT is of the view, that the JFSC would benefit from improving its sanctions' risk model and broadening its use in the TFS area.

421. In terms of sanctions' evasion risk exposure, the JFSC's ranking (based on sanctions' risk model) of the sectors is the following: TCSPs demonstrating highest risk exposure, followed by the banking sector, FSBs, IBs, MSBs and DNFBPs. However, not all supervised entities (for

example, VASPS) were risk assessed from the sanctions’ risk point of view due to the fact that they were brought into the scope of the regulatory regime fairly recently.

Table 11.1. Risk categorisation based on sanctions’ evasion risk for 2022

Sector	Average risk model sanctions score	No. of High risk entities	No. High-Medium risk entities	No. of Medium risk entities	No. of Medium-Low risk entities	No. of Low risk entities
Banking	16.41		-	7	7	5
FSB	15.01	-	-	2	17	2
IB	14.50	-	-	8	26	17
TCSP	17.27	-	5	28	68	8
MSB	9.77	-	-	-	-	3
DNFBPs, of which:	8.25	-	-	-	18	242
<i>Lawyers</i>	<i>11.06</i>	-	-	-	10	31
<i>Accountants</i>	<i>8.45</i>	-	-	-	6	96
<i>Other DNFBP</i>	<i>7.09</i>	-	-	-	2	115

422. The number of TFS on-site examinations is proportionate to sectorial sanctions’ risks, with the top three sectors having the highest sanctions’ risk score noting the most inspections. For a full list of AML/CFT full scope on-site examinations, please refer to IO.3.

423. In addition, the JFSC is to be commended for conducting a thematic review on TFS controls in 2022. This was done on the basis of a questionnaire sent out to 65 obliged entities from different categories. The questionnaire primarily focuses on control-related questions, i.e., whether the obliged entities have systems and controls in place required for TFS implementation and elements subject to screening. The responses indicated that some of the OEs would most likely have to make comprehensive changes to systems and controls in order to be compliant with the legislation (in the areas of risk assessment, policies and procedures, screening and employee awareness). Following the questionnaire exercise, the JFSC employed a third-party screening technology company, to undertake testing of the sanctions screening arrangements employed by 23 obliged entities. Ultimately, in four out of these 23 entities, the JFSC identified findings in respect of the OEs’ inability to demonstrate they had adequately tested their screening tool(s) to ensure they were operating effectively.

424. Overall, in the period of 2019-2022, out of the 1234 findings resulting out of supervisory activities, around 80 (~6,4%) relate to financial sanctions in general (including TF and PF-related TFS). The findings mostly relate to shortcomings in the areas of screening clients, risk assessments, guidance on steps to be taken in the event a connection was identified to financial sanctions and documentation proving the checks conducted.

Table 11.2. Number of TFS-related findings per sector

Sector	2019	2020	2021	2022
Banking	-	2	5	1
FSB	-	2	4	3
Investment Business	1	2	1	3
Lender	-	2	-	-
MSB	-	-	2	3
TCSP	2	4	9	12

Lawyers	1	5	14	5
Accountant	2	3	1	-
Casino	1	-	-	-
Estate Agent	-	5	-	-

425. The JFSC considers none of the TFS breaches identified to be significant and material (with the exception of one finding), however, the AT is of the view that the supervisory approach to scrutiny of TFS checks need to be re-considered, as this can have wider implications on determining the severity of breaches. For example, under the review period no supervisory checklists that would include elements, such as specific checks surrounding an obliged entity's policies and procedures for establishing whether a customer had close associations to sanctioned entities/individuals, were utilized as part of the JFSC's financial crime examinations. Whilst the obliged entities reported challenges to identify close associations and indirect links with sanctioned entities and individuals may negatively impact their compliance with TFS thereby increasing sanctions' evasion risk, there were no supervisory findings concerning failures in this area.

426. Based on the AT's review of four onsite examination reports, it remains unclear whether the finding regarding the absence or incomplete internal procedures on sanctions implementation was followed by the sample testing in terms of the functionality, calibration and effectiveness of the screening solutions accompanied by client sample files, as no documents were provided to evidence that this has been done (2 reports). In the case of one serious TFS breach (1 report) concerning the absence of ongoing screening against sanction hits, the entity had been referred to the Heightened Risk Response Team and to the JFSC's Enforcement division; the enforcement process is still ongoing.

427. Although the supervisory authorities have sanctioning powers in place, no monetary penalties or other sanctions have been imposed for failure to comply with PF-related or TF-related TFS obligations. So far, only in one case a warning letter was issued by the JFSC to the supervised person with regard to the absence of local or group procedures in place for referral of sanctions compliance reports to the MER (see below). Consideration of sanctions' application for the one serious TFS breach referred above identified in 2022 is still ongoing. Following onsite examinations, obliged entities are required to submit remediation plans to the JFSC in order to remedy any identified shortcomings. Whilst the JFSC considers these had a positive effect on the compliance rate by the obliged entities, no measurable results have been made available to the AT to prove this.

Case Study 11.2: the JFSC activities concerning breach of measures relating to targeted financial sanctions

A desk-based examination (during COVID-19 restrictions) of an obliged entity conducted by the JFSC took place in December 2020 and March 2021. The scope of the Examination assessed compliance with the obligations contained within the MLO and the AML/CFT/CPF Handbook.

One of the findings was that whilst the obliged entity had correctly identified a sanctions match to a designated person, and had frozen assets held at an overseas branch of the Jersey incorporated business (having complied with reporting requirements in that jurisdiction), it had not met its reporting obligations under Article 32 SAFL.

Despite the isolated nature of this finding, it nonetheless represented a breach of Jersey's legal framework regarding sanctions compliance, which could have affected PF-related TFS. A Band 1 - Civil Financial Penalty warning letter was issued by the JFSC to the supervised person as they had breached a mandatory AML/CFT/CPF Code of Practice - failing to notify the JFSC of any matter required by the aforementioned Code.

The warning letter is issued to an obliged entity in person to make it aware, that if it fails to make a required notification in the following two years it could be subject to a monetary fine.

Overall conclusions on IO.11

428. Jersey comprehensively implements UNSCRs proliferation-related sanctions on DPRK and Iran. Existing mechanisms ensure prompt communication of new designations or modifications to the private sector. Relevant coordination and cooperation mechanisms have been introduced by the authorities in relation to proliferation financing.

429. Under the review period, no assets have been frozen under the relevant UNSC PF-related TFS sanctions regimes. In 2023, the authorities investigated one case of potential violation of the PF TFS regime, however, sanctions' breach was not confirmed.

430. Obligated entities met onsite demonstrated a relatively good understanding of their PF-related TFS obligations, although many do not differentiate between TF and PF-related TFS. Identification of close associations and indirect links with sanctioned individuals and entities remain a challenge. There is a need for further PF specific guidance.

431. There is room for further improvement of the JFSC's monitoring activities in the PF TFS area. The supervisory activities of the JFSC would benefit from further expanding the scrutiny of TFS checks. To date, only one serious shortcoming has been identified by the supervisor in the area of TFS compliance, however, no sanctions have been applied for TFS-related breaches so far.

432. **Jersey has achieved a substantial level of effectiveness for IO 11.**

5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 4

- a) Understanding of ML risks and AML/CFT obligations is generally good across all sectors, although this was not the case for the entire period under review. Banks demonstrated the highest understanding of ML risks among FIs and were able to articulate both sectoral risks and risks identified through business risk assessments (BRAs). Larger TCSPs and law firms have better understanding of ML risks and AML/CFT obligations among DNFBPs. Understanding of TF risks is, overall, less well-developed and mostly focused on risks related to NPOs and persons subject to TFS.
- b) Risk mitigating measures applied by REs, such as corroboration of source of wealth (SOW) and understanding of economic substance, are mostly commensurate to risks, although their effectiveness improved more recently. Banks and TCSPs have restricted their risk appetite in relation to aggressive tax avoidance practices. TCSPs are also able to adequately oversee the activities of legal persons and arrangements by actively participating in their daily operations. There is however uneven implementation of risk mitigating measures in relation to complex structures as the criteria employed for identifying those structures varies significantly between REs.
- c) CDD and record-keeping obligations are generally well understood. Risk-based processes are in place to undertake CDD measures, including the identification of BOs, although not all REs understand fully the concept of control through other means. Third-party reliance has been declining in the banking, TCSP and FSB sectors. New customer relationships are refused and submission of a SAR is always considered where obtaining or updating CDD information is not possible. Certain weaknesses were identified in relation to holding up-to-date source of funds/source of wealth (SOF/SOW) information on existing customers. The use of exemptions to not identify underlying customers appears to be declining overall, but some REs still using those exemptions do not always consider sufficient information for assessing risks to ensure that exemptions are only applied in low-risk situations.
- d) The specific measures are generally applied for PEPs, new technologies, wire transfers, TF-related TFS and higher-risk countries, while the provision of correspondent banking services is very limited. Customers connected to foreign PEPs and higher-risk countries are subject to enhanced onboarding processes. However, most REs only apply all relevant EDD measures (e.g. senior management approval, enhanced monitoring) where there is an accumulation of ML/TF risks in respect of customers connected to foreign PEPs (as opposed to a foreign PEP status being a sufficient trigger). There is also uneven understanding of the concept of a close associate who is connected to a PEP either socially or professionally across all sectors.

- e) Although the majority of SARs relate to potential tax offences, the reporting has been largely driven by information requests from tax authorities and customers participating in tax amnesties or self-identifying tax evasion rather than proactive identification of suspicious activity. The number of ML-related SARs filed by banks and TCSPs is not fully commensurate with risks. Policies adopted by some REs do not always ensure prompt reporting. Quality of SARs has been improving lately due to a proactive FIU feedback and the JFSC's supervisory measures. The tipping-off prohibition is well-understood and communicated to staff.
- f) REs have generally adequate corporate governance arrangements and internal policies and controls in place, although comprehensive AML/CFT programs for some DNFBPs are quite recent. Independent audits are carried out regularly and employees are subject to risk-sensitive screening. Division of responsibilities between the lines of defence, oversight by senior management, quality assurance processes and compliance incentives are frequently inspired by group practices and have been found as sound. FIs are able to share information within financial groups concerning the fact that a SAR has been submitted. However, the availability of qualified resources in compliance functions was identified as a serious challenge.

Recommended Actions

Immediate Outcome 4

- a) The JFSC should continue its efforts at strengthening the awareness of ML/TF risks (particularly among non-bank FIs and DNFBPs, other than larger TCSPs and law firms) to ensure that business specific risks are well-understood and addressed.
- b) The JFSC should provide REs with detailed guidance on complex structures to ensure that the identification of these structures and application of appropriate EDD measures is consistent across all REs.
- c) The JFSC and the Central Registry should ensure that all REs understand fully the concept of control over legal entities through means other than ownership by providing more granular guidance and increasing outreach. This should include additional indicators that would cause REs to trigger relevant inquiries where appropriate.
- d) In relation to PEPs, the JFSC should ensure that REs: (i) apply all EDD measures (particularly senior management approval and enhanced monitoring of business relationship) required by the FATF standards to every foreign PEP customer (incl. legal entities and arrangements with foreign PEP BOs); and (ii) consider as close associates of PEPs and apply the relevant EDD measures to individuals closely connected to PEPs either socially or professionally.
- e) The JFSC should ensure that periodic reviews of high-risk customers (particularly legacy customers) always include the obtaining of documentary/corroborating evidence to ascertain SOF/SOW (where evidence is lacking) and updating beneficial ownership information (except where TCSPs are providing management services).
- f) The JFSC should ensure that REs assess the risks appropriately and apply the exemptions available for customers/investors of TCSPs and unregulated or non-public funds only where risks are low.

- g) The FIU should continue its efforts (particularly in the banking and TCSP sectors) in order to increase the quality and, where appropriate, the number of ML-related SARs and the range of typologies reported.
- h) Regarding SAR reporting, the JFSC should: (i) continue its efforts at monitoring and enhancing the effectiveness of internal systems and processes of REs for identifying and reporting of suspicious activity; and (ii) ensure that all REs are submitting SARs to the FIU promptly after the ML/TF suspicions are formed.

433. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

5.2. Immediate Outcome 4 (Preventive Measures)

434. The sectors have been classified on the basis of their relative importance, taking into account their respective materiality and level of ML/TF risks. The banking, TCSP and funds (FSBs) sectors are considered as the most significant. Investment businesses (IBs) and law firms are considered as being significant. Less significant are other FIs (money service businesses (MSBs)), other DNFBPs (accountants, real estate agents, casinos) and VASPs.

435. IO.4 conclusions are largely based on the interviews with a range of private sector representatives, supported by supervisory data (incl. examination findings) and other information from the authorities and the private sector regarding risks, SAR reporting, materiality and business details.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations

436. Understanding of ML/TF risks and AML/CFT obligations has been improving over the recent years among both FIs and DNFBPs due to increased supervisory effort of the JFSC and a significant increase in outreach from other authorities and is now generally good across all sectors. Specific degree of understanding however varies depending on the sector and within the sectors, depending on the size of REs.

FIs

437. Banking is the largest financial services industry in Jersey, with 19 banks and GBP 148.4 billion of bank deposits (approximately 50% of the financial sector GVA) as of December 2022, and the greatest residual ML/TF risk to Jersey, along with TCSPs, comes from banks. This is due to the products they offer (e.g. private banking), cross-border nature of operations, and the type (e.g. PEPs) and geographic exposure (largely non-resident) of their customer portfolio. Most of banks' customers are introduced from their group entities. Banks in Jersey also heavily rely on an outsourcing model whereby the processing of new customers often takes place in "centres of excellence" located outside of Jersey.

438. Overall, there is a good level of understanding of ML risks in the banking sector. Most banks interviewed during the onsite visit were able to articulate both sectoral ML risks, and threats and vulnerabilities identified through business-risk assessments (BRAs). Some banks however struggled to describe in detail risks specific to their businesses (e.g. source of risk) and customer portfolios (e.g. primary risk-related attributes) beyond generic risks identified in the NRA. Banks are also aware of TF risks presented by NPOs and persons subject to TFS and are

conducting BRAs specific to TF. This can be explained by an increased outreach from the authorities highlighting these risk-areas in the context of recent overhaul of the AML/CFT legislation in Jersey but generally, their knowledge of TF trends and typologies is less robust.

439. All banks interviewed found the NRA helpful and agreed with its findings. Few banks were aware of the updated NRA report, which was published right before the onsite visit. Although the NRA findings did not lead the banks to significantly overhaul their BRAs or customer risk classification systems and processes (most risks identified by the NRA had already been considered, as stated), the NRA nonetheless proved helpful in crystalizing some of the threats and vulnerabilities facing the banking sector in Jersey.

440. Banks prepare BRAs by observing their group-wide policies. But they also consider the NRA findings and JFSC guidance. Main threats identified through BRAs include tax offences and layering of foreign proceeds of crime such as corruption, which is in line with the jurisdiction's and sector's risk profile. The banks met during the onsite visit did not consider the outsourcing model ("centres of excellence") used to facilitate onboarding of large number of new customers and conduct screening as a source of significant vulnerability despite having two important compliance functions detached from their core operational processes. The NRA also highlighted that these centres of excellence are providing outsourcing services to a number of jurisdictions, and this may present a vulnerability regarding the application of preventive measures not being as tailored to Jersey's AML/CFT framework as they could be.

441. The quality of BRAs and consideration of their findings by senior management has been a focus area of the JFSC in recent years (e.g. thematic inspections, annual risk assessment meetings). As a result, the understanding of risks among banks improved as confirmed by onsite interviews. The methodologies used by banks for conducting BRAs are sound and involve the identification of inherent risks, assessing the effectiveness of internal controls and determination of residual risks. Feedback from internal and external sources are fed into BRAs (e.g. the JFSC findings, compliance monitoring programs). BRAs are also reviewed and updated regularly (mostly annually) or upon trigger events (e.g. "Grey Listing" by the FATF). Key trends that may trigger a reassessment of risks are also monitored on a quarterly basis and reported to senior management. Nonetheless, in 2020-2022, the JFSC identified shortcomings related to BRAs and understanding of ML/TF risks in more than half of banks that were examined (although most shortcomings were not considered as serious), which suggests that further improvements are needed.

442. Understanding of ML risks among non-bank FIs is also good, but less robust compared to banks. Non-bank financial services industries comprise of FSBs (i.e. funds and funds service businesses), investment businesses, MSBs and insurance companies. FSBs are by far the biggest among the non-bank financial industries in Jersey (GBP 489 billion assets under management as of December 2022). Among funds, public funds dominate by net asset value (GBP 450 billion as of December 2021) and the number of customers. However, Jersey private funds are on the rise and due to their flexibility (e.g. speed-to-market, reduced formality) are most susceptible for being misused.

443. There were 3 MSBs operating in Jersey at the time of the onsite (other entities conducting MSB activity are multi-licensed, mostly banks) and the total size of the sector is small. The relatively bigger MSB provides transaction accounts (virtual IBANs) and facilitates cross-border transfers of funds and payments, as well as customer-to-customer ('C2C') and business-to-business ('B2B') payment solutions. The entity stated to the AT that one of their objectives is to

fill the gap that currently exists on the market. Namely, while banks focus on the provision of private banking and wealth management services, they will support the operational needs of family offices. There is also a smaller MSB which provides cash-related services on a limited scale: currency exchange and cheque encashment to low income population who receive government allowances and to vulnerable individuals who have limited access to banking and receive salaries or charitable assistance via cheques issued by the Jersey community savings charity. The average weekly amount of those cheques is only 200 JEP. The entity also acted as the agent for the Jersey branch of a UK-based bank to allow its customers (individuals and small businesses) cash cheques or deposit funds in remote areas of Jersey.

444. Insurance companies in Jersey do not provide any investment related insurance policies, or any insurance products to the general public, and thus, are not included in the analysis that follows.

445. Although, non-bank FIs are conducting BRAs, their understanding of threats and vulnerabilities related to specific characteristics of their businesses and customer portfolios is less nuanced compared to banks. FSBs highlighted conduct risk and fiduciaries as main risk-drivers in their activities, and highlighted Jersey private funds and cross-border transactions as major threats. The non-bank FIs interviewed onsite found it difficult to clearly articulate specific TF risks related to their services and products apart. Most non-bank FIs highlighted TF risks associated with the misuse of NPOs and persons subject to the TFS. They admitted that the JFSC has identified areas for improvement regarding their BRAs and stressed the need for more comprehensive analysis that would take into account all relevant trends and criteria. All non-bank FIs are aware of the NRA findings (not the recent NRA update) and found those helpful, particularly in understanding where their sector seats on the national risk spectrum.

446. Banks developed risk appetite statements that underpin their customer acceptance policies. These policies usually restrict the onboarding of customers connected to jurisdictions with strategic deficiencies (i.e. FATF “Black List”) or deriving their wealth/funds from sensitive industries (e.g. arms trade, military, adult entertainment, virtual assets) and do not have appetite for shell companies, bearer shares and the inability to conduct CDD. Intermediaries/introducers are also increasingly viewed as risky, and some banks appear to have started prohibiting third party reliance altogether. Aggressive tax avoidance schemes have also been restricted by REs following the JFSC’s Sound Business Practices Policy of 2014 (most recently revised in September 2023), but more effectively with the adoption of the National Risk Appetite Statement of 2022. As a result, there has been a de-risking trend in the banking sector in recent years due to CDD issues or other financial crime concerns (13,188 customer relationships were terminated in 2019 only, with far lower numbers in previous and subsequent years).

447. During the onsite visit, banks stated that they have also been limiting their exposure to transactional/operational use of accounts that does not align with their business models (i.e. private banking, wealth management). Some banks have also exited relationships with TCSPs where an operational use of pooled accounts was observed for the benefit of underlying customers. Any deviation from the risk appetite must be examined by senior management or at the group level and if approved, would normally come with restrictions, enhanced monitoring of relationships and regular reporting to senior management.

448. Banks have put in place a risk-based approach by classifying customers based on risk following their group-wide policies and the JFSC guidance. Customer risk classifications are reconsidered periodically (e.g. annually for heightened risk customers) or upon on a trigger event

(e.g. change in customer data or a new BO). Inherent risk factors employed for customer risk classification normally include: customer profile (e.g. adverse media, PEP connection, complexity); industry (e.g. mining, trading, virtual assets); geographic connection (including jurisdiction of tax residence); services and products (e.g. transactional accounts); value of assets/transactions; and delivery channels (e.g. video onboarding). Risk factors related to BOs and other relevant parties in the business relationship are also factored into the classification of risks. The risk scoring categories used by banks vary and may sometimes include multiple levels in a heightened risk category (e.g. high A, high B, high C, high D, high E). Risk factors are usually weighted through automated algorithms to arrive at a final risk score, or certain higher risk factors may result in a high risk classification by default.

449. Banks generally named foreign PEPs, complex structures and countries with strategic deficiencies as higher risk factors, which largely corresponds to the risk profile of Jersey as an IFC. These risk factors however may not independently result in assigning a heightened risk score to customers. As a result, the number of banks' customers rated as higher risk (4.5%) are substantially smaller than the number of customers connected to higher risk jurisdictions or foreign PEPs, or complex structures combined.

450. Investment business and funds sectors similarly have customer acceptance policies that prohibit the provision of services to customers connected to countries black-listed by the FATF and specific types of customers that are not aligned with their business models (e.g. non-familiar funds involving virtual assets). Such an approach allows them to focus on familiar businesses where risks are largely understood. Some funds have also put a cap on high-risk customers (e.g. 20% of an entire customer base) as part of their risk appetite. Non-bank FIs mostly consider higher-risk jurisdictions (FATF "Grey List", Appendix D2 to the AML/CTF/CPF Handbook), cross-border transfers of funds, complex structures and foreign PEPs as posing heightened ML risks. Non-bank FIs classify customers based on similar risk factors as banks. The categories of risk-scoring (e.g. low, medium, higher, high) vary across entities and sectors. Non-bank FIs also update customer risk assessments periodically and upon trigger events.

451. FIs are allowed to use exemptions provided by the MLO (Art. 17C) and to not identify underlying customers/investors of TCSPs and unregulated or non-public funds, which makes it nearly impossible to fully understand the risks presented by those underlying customers/investors. Application of Art. 17C exemptions must always be risk-based and should only occur in lower risk situations under the MLO. FIs must also be satisfied that appropriate CDD measures have been applied to underlying customers or investors, and should test the application of those measures. However, FIs met onsite struggled to articulate how risks related to underlying customers are assessed. Some FIs obtain information from the TCSPs/funds on the classification of risks in the underlying customer portfolio and its exposure to PEPs.

452. Both banks and non-bank FIs interviewed during the onsite visit demonstrated an advanced understanding of their AML/CFT obligations and were able to describe internal AML/CFT policies and procedures in detail. Most of them are well-aware of international best practices largely due to their international exposure and group-wide experience-sharing. However, the JFSC data indicated that, overall, both the banking and non-banking financial sectors suffer from shortage of qualified and experienced AML/CFT staff, which could impact their overall understanding of AML/CFT obligations.

DNFBPs & VASPs

453. DNFBP Sectors comprise of TCSPs, law firms, online casinos, accountants and real estate agents. TCSPs are one of the most important sectors and the main ML/TF risk driver (along with banks) in Jersey. This is due to the nature of their services, and the type (42.6% trusts, most of them being discretionary trusts) and geographic exposure of their customer portfolio (71% non-Jersey based customers). TCSPs mostly provide management services to their customers (66.6% of reported activity in 2022). Much of TCSPs' significance also derives from the fact that they are essential for ensuring availability of beneficial ownership information in Jersey, especially in relation to legal arrangements (trusts).

454. In general, DNFBPs' understanding of ML risks is generally good, but less robust compared to banks. Overall, TCSPs and law firms have a better understanding of ML risks among DNFBPs, although the level of risk awareness in all DNFBP sectors depends on the size of REs. The JFSC examinations in past years show that smaller size firms in legal, accounting and estate sectors have a basic to fair risk awareness. Understanding of TF risks is less well-developed compared to ML risks and is mostly focused on NPOs and persons subject to the TFS. One TCSP met onsite was able to articulate risks related to customers and transactions connected to countries that are high-risk bearing in the context of TF.

455. TCSPs undertake BRAs by taking into account products/services offered, customer portfolios and geographies, and other contextual factors. The methodologies explained by TCSPs interviewed during the onsite visit are sound. BRAs are updated systematically, and the JFSC findings and compliance monitoring programs are fed into the assessments. However, the JFSC's examinations show that, in some instances, there had been a disconnect between the understanding of ML/TF risks and putting in place necessary controls (breaches related to the internal control and procedures being the most prominent in examinations between 2020 and 2022) and, in lesser instances, BRAs were not sufficiently well-documented in recent years. All TCSPs have put in place risk appetite statements and customer acceptance policies that prohibit the provision of services to customers connected to sensitive industries (e.g. virtual assets) and countries "black-listed" by the FATF, and consider aggressive tax avoidance schemes or the lack of SOW/SOF understanding as unacceptable. Some TCSPs have also restricted the provision of limited services (e.g. registered office, secretary or nominated person services) due to heightened risks involved and would not service less conventional structures spanning multiple jurisdictions.

456. TCSPs consider non-resident customer base, PEPs connected to higher risk jurisdictions and cross-border transactions, where Jersey is not a final destination, as main risks. Most TCSPs interviewed during the onsite visit stated that they limit their services to the use of structures for wealth management purposes and have restricted servicing trade-related businesses. However, some banks met onsite observed the use of pooled TCSP accounts for transactions/operational purposes for the benefit of underlying customers, and exited such relationships. All TCSPs are also aware of the risks posed by complex structures of legal persons and arrangements, particularly in the context of tax evasion. But the definition of complex structures employed by TCSPs varies significantly as some of those met onsite pointed at the number of layers in a structure (e.g. five layers or more), while others underlined the unfamiliarity or unusual composition of structures (e.g. double trust structure) or the involvement of entities from multiple jurisdictions as a criterion of complexity. TCSPs also demonstrated the understanding of risks related to private trust companies (PTCs) they administer and the provision of "limited services", where they lack the possibility to properly oversee the activities of customers.

457. TCSPs classify customers by risk and update customer risk assessments similar to banks. In a similar fashion, not all foreign PEP customers (14% of all customers) are classified as high-risk by default, however the overall number of customers rated as high-risk is substantial (30% of all customers) compared to banks.

458. Understanding of ML risks among larger law firms interviewed onsite is at a level comparable to banks and larger TCSPs. However, the JFSC found in recent years that some risk assessment processes in the legal sector were subjective and did not capture sufficient detail to ensure an informed risk-based approach. Law firms are not directly involved in the formation of legal persons and arrangements, and do not often handle clients' funds. Law firms provide advice on the creation of structures to facilitate real estate investment transactions (e.g. unit trusts), which are frequently related to the UK. The biggest vulnerability in the legal sector, as stated by law firms met onsite, is the complexity of transactions and the lack of ability to understand the rationale behind and examine all parties involved in large transactions that span borders and where Jersey law firms play only a small part.

459. Understanding of ML/TF risks among DNFBPs other than TCSPs and law firms is less sophisticated, but at an adequate level. Accounting sector in Jersey is dominated by "big 4" firms and none are involved in transactions defined by the FATF standards, as a separate TCSP license would be required to conduct activities related to the incorporation and management of legal persons and arrangements, and the accountancy firms do not participate in the management of customer's funds or other assets. Real estate agents have recently started conducting comprehensive BRAs. However, the real estate sector in Jersey is very small and only residents are allowed to buy real estate property (non-residents require government's permission and investment of more than 3.5 million Jersey Pounds (JEP)). Real estate agents also do not handle clients' funds or accept cash and all real estate transactions in Jersey must involve lawyers, which in their opinion further mitigates ML/TF risks. Nonetheless, when interviewed, they were capable of explaining how real estate transactions and their services could be exploited for illicit purposes.

460. There are no land-based casinos in Jersey and the existing 2 online gambling providers operate on a relatively small scale. One is a lottery betting provider and services residents of Jersey and Ireland and the other offers a wider range of games to Canadian residents. Their understanding of risks is adequate and is centred around the collusion and insider information, types of games offered, means of payment and the size of winnings. The online gambling providers believe that the responsible gambling rules (e.g. weekly payment thresholds, corroboration of source of funds) have a spillover effect and lower ML/TF risks in their sector.

461. DNFBPs demonstrated a good awareness of the NRA findings (TCSPs, law firms, accountants, real estate agents, online gambling). Most of the entities interviewed onsite stated that they agreed with the risks identified in the NRA (although most of those risks they already knew, as stated, except for risks related to NPOs in the TF context). Some TCSPs stated that the NRA findings triggered a significant overhaul of their AML/CFT programs, and introduction of mitigation measures and training of staff. There was little awareness of the updated NRA, which was adopted in September 2023, very close to the date of the onsite visit.

462. Understanding of ML/TF risks among VASPs is generally good. VASPs are aware that their services are vulnerable in the TF context, but their understanding of specific trends and typologies is less robust. The VASP sector is small in size and, at the moment of writing this report, comprises of 4 entities (from a maximum of 7 over the assessed period) that provide services to

institutional customers based outside of Jersey, since the appetite for virtual assets is very limited among Jersey's FIs. VASPs mostly take comfort from the fact that most of their customers are regulated in jurisdictions with well-established AML/CFT systems.

463. Since VASPs predominantly have institutional customers (there is only one VASP servicing retail customers on a limited scale), their services mostly include custody and management of virtual assets and exchange services. Customers of VASPs include both regulated FIs, such as investment funds and asset managers, and VASPs, including unregulated VASPs. The VASPs interviewed during the onsite visit classify customers based on risk and have recently started undertaking comprehensive BRAs. However, their understanding of underlying customers/investors is limited. The JFSC has only recently commenced the supervision over VASPs (1 inspection in 2022, and 5 thematic ones in 2023) and the risk assessment processes in the VASP sector are yet to be examined in-depth for effectiveness.

464. VASPs are aware of risks related to VAs with additional anonymizing features (i.e. "privacy coins") and vulnerabilities related to Blockchain transactions in the context of TFS screening and SOF/SOW understanding. It is not possible to obtain full information on and assess risks of and screen parties involved in VA transactions as the "travel rule" is yet to be implemented globally and, in the case of Jersey, has only been in place since September 2023, with its implementation yet to be assessed. However, since VASPs in Jersey provide services to institutional customers only, there are only a handful of VA accounts needed for performing transactions and VASPs make sure that they verify their owners and that all of their transactions are limited to those VA accounts.

465. Both DNFBPs and VASPs interviewed during the onsite visit demonstrated an adequate understanding of AML/CFT obligations and were able to articulate their AML/CFT policies and procedures. The degree of understanding however appears to be a function of size as larger TCSPs and law firms have a more detailed and sophisticated understanding compared to other REs. Similar to financial industries, the JFSC data showed that there is a shortage of qualified and experienced AML/CFT staff in DNFBP sectors, which could impact the overall understanding of AML/CFT obligations. It has also been admitted by many DNFBPs interviewed onsite that their understanding improved significantly since only a couple of years ago, largely due to the concerted efforts by the authorities.

5.2.2. Application of risk mitigating measures

466. FIs, DNFBPs and VASPs have implemented AML/CFT preventive measures to mitigate ML/TF risks facing their institutions. The range of these measures and the extent to which they are applied effectively varies across the sectors and between the REs.

FIs

467. Banks have put in place sophisticated AML/CFT systems and controls that involve a broad range of measures to address ML/TF risks. They establish customer risk profiles and apply EDD measures to higher risk customers such as obtaining third-party tax opinions, corroborating SOF/SOW, obtaining due diligence reports from external service providers (e.g. Kroll, Dow Jones), applying elaborate customer onboarding processes and frequent customer reviews (annual or shorter timeframes). Banks also keep track of customer to manager ratio to make sure that their relationship managers have sufficient time and capacity to monitor customers' behaviour. Non-bank FIs have introduced similar AML/CFT controls, but generally their systems are less robust compared to banks.

468. Overall, it was the impression of the AT that risk-mitigation strategies of FIs have improved in recent years due to increased supervisory efforts of the JFSC. However, shortcomings related to the application of risk-based measures and effectiveness of internal systems and controls (e.g. delays in periodic reviews, compliance resourcing) were identified in more than 80% of examinations conducted by the JFSC in 2020-2022 for all sectors, which means that further improvements are needed. FIs met onsite rely on the TFS screening tools and apply EDD measures to NPOs to mitigate TF risks. There seem to be no specific measures applied in connection to transactions or customers connected to countries neighbouring higher-risk jurisdictions for TF or conflict zones, although some entities use their transaction monitoring tools to detect some anomalous trends in this regard. Additionally, all four TF investigations conducted by the authorities were based on SARs filed by FIs concerning transfers of funds to countries considered a higher risk from TF perspective or their neighbouring jurisdictions.

469. All FIs have restricted aggressive tax avoidance as unacceptable customer behaviour following the Sound Business Practices Policy of the JFSC of 2014 (most recently revised in September 2023), but more effectively with the adoption of the National Risk Appetite statement in 2022, which calls on REs to prevent and deter abusive tax schemes, and has a quasi-binding power on supervisory authorities. As a result, Banks are always considering economic substance when onboarding new structures (legal entities and arrangements). This normally involves requiring potential customers to provide the tax advice they have received on the rationale to engage a Jersey-based FI and leveraging in-house tax advisors to examine the provided information and documents. In case of higher-risk customers or when economic substance is in doubt, banks may also request tax opinions from external service providers. These controls provide effective risk-mitigating measures in relation to new customer relationships and are in line with tax-related risks facing Jersey. However, similar measures are not always applied to existing customers that had been onboarded prior to introducing those measures. In particular, periodic customer reviews do not always include an in-depth examination of economic substance of existing structures or obtaining audited financial statements or tax declarations to make sure that they are tax compliant.

470. FIs consider complex structures as an inherently higher risk factor and apply EDD measures such as obtaining relevant information on each layer to understand the whole structure, its economic substance and risks therein. Some banks involve teams of specialists created at the group level to deal with particular complexities. The AT was given examples by FIs met during the onsite visit of highly complex structures that lacked economic substance or utility and were eventually turned down. However, the definition of what constitutes a complex structure varies significantly among FIs (similar to TCSP sector), which may lead to an uneven implementation of EDD measures.

471. Most FIs apply stricter approach than is required under R.10 by obtaining SOF/SOW information from all new customers and examining its plausibility. This helps to ensure that customer profiles are comprehensive even in case of medium and lower risk relationships. Higher risk customers are further required to corroborate through reliable documents (e.g. bank account statement, dividend distributions, contracts, tax returns) the source of assets involved in a relationship and the source of their total wealth. Where the generation of wealth goes back to years ago and the provision of reliable source documents is not possible, FIs normally consider publicly available information and take into account the absence of adverse media. Such an approach to new customers is commensurate to risks since FIs in Jersey focus on providing private banking and wealth management services to non-resident customers. However, similarly

strong measures are not always applied to existing customers that had been onboarded before the current regulatory framework. In particular, periodic reviews of customer profiles do not always involve the corroboration of SOF/SOW even where such information/documents are missing for higher risk customers unless there is a trigger event (e.g. adverse media).

472. Banks and other FIs have significant exposure to customers connected to higher risk countries and foreign PEPs. New customers connected to higher risk jurisdictions and foreign PEPs go through an enhanced onboarding process performed by customer acceptance committees or teams established in banks, FSBs and investment businesses. However, most of the customers connected to foreign PEPs or higher risk jurisdictions are not eventually classified as higher risk and consequently, EDD measures such as senior management approval and enhanced monitoring are not always applied (e.g. UK expatriates seem to be generally considered as inherently medium or lower risk).

473. Absolute majority of new customers are onboarded by FIs without meeting them face-to-face. Customers are frequently referred to Jersey banks by their group entities, which provides the advantage of having access to group intelligence on those customers. Some banks have recently introduced video onboarding processes for both natural persons and legal entities, where risks are mitigated by obtaining duly certified copies of identification and registration documents and setting strict eligibility criteria (e.g. nexus to the UK, "blue chip" companies). Banks also heavily rely on the outsourcing model (i.e. "centres of excellence" located in other jurisdictions) for onboarding new customers. They are applying routine assurance testing on those "centres of excellence" to check their onboarding processes, and also provide systematic guidance and training. Examples were provided to the AT about the weaknesses identified via assurance testing (e.g. SOW corroboration). These weaknesses were then escalated to senior management and remediation measures were undertaken by providing more tailored training and guidance. Some banks also limit their exposure to the vulnerabilities inherent in the outsourcing model by conducting secondary reviews of the information and documents collected by "centres of excellence". Nonetheless, a heavy reliance on such outsourcing models makes the oversight over their activities challenging. It was not an impression of the AT that banks met onsite subject the "centres of excellence" to internal/external audit and quality assurance measures that are equivalent to those of their own.

474. In cases where FIs use the exemptions provided by the MLO (Art. 17C), risks involved in these relationships are not always duly assessed and mitigated. While FIs interviewed onsite stated that they have some processes in place to test CDD measures undertaken to underlying investors/customers (e.g. identification and screening of underlying investors/customers via sample testing), information on the risk profile of such underlying investor/customer base (including those exhibiting higher-risk characteristics such as PEPs) are not always obtained or reviewed. Furthermore, AML/CFT policies and procedures of TCSPs and unregulated or non-public funds are not always considered by the FI in the context of risk mitigation. On the other hand, as stated, the application Art. 17C exemptions seems to be diminishing as some FIs found it costly and challenging to make sure that exemptions are applied in lower risk situations and subsequently, either exited such relationships or started identifying all underlying customers/investors and subjecting those to screening.

475. MSBs, while having less sophisticated AML/CFT controls, in line with their risk profile and materiality, also apply some risk mitigating measures, such as obtaining SOF/SOW information from all customers, applying weekly thresholds of 300 and 2,000 GBP for individual and corporate customers, respectively, regarding cheque encashments or applying enhance scrutiny

to the (extremely rare) currency exchange transactions over 7,500 GBP by requesting documentary proof of SOF and their intended use.

DNFBPs & VASPs

476. All DNFBPs and VASPs have developed AML/CFT systems and controls to mitigate risks they are facing. Larger TCSPs apply risk mitigating strategies that are more sophisticated and comparable to banks, while AML/CFT measures put in place by smaller TCSPs, real estate agents, gambling providers and VASPs are less robust, and also relatively recent and frequently a direct result of the JFSC's supervisory actions. All DNFBPs met during the onsite visit classify customers based on risk and were able to describe how they implement risk-based measures when higher-risk criteria are satisfied (e.g. PEPs, higher risk jurisdictions, complex structures). Overall, it was the impression of the AT that ML risk mitigation clearly improved over the recent years due to concerted effort of the JFSC, which was confirmed by the DNFBPs met onsite. The amount of spending on AML/CFT compliance among DNFBPs also increased substantially in recent years. The NRA however highlights the lack of customer SOW/SOF understanding as a risk in the TCSP sector and points at the tension between compliance and profitability that exists therein. Mitigation of TF risks is mostly done through the application of TFS screening tools.

477. TCSPs will often only accept business if they also provide Director services and are leveraging their ability to sit on the board of their customers. It was confirmed during the onsite visit that TCSPs are actively participating in the management and oversight of their customers' activities, unless their services are limited (e.g. registered office, secretary, nominated person). This reduces the possibility of abuse since members sitting on the board or participating in the management are individually responsible for the activities of structures administered by TCSPs and would normally have a comprehensive understanding of their operations. Limited-only services have seen a slight increase in recent years, but only accounted for 13% of the TCSPs business in 2022. Some TCSPs apply a number of mitigating measures such as (i) always providing a combination of services (as opposed to one limited service only) in order to ensure their presence on the board meetings or obtaining minutes of the board; or (ii) refusing the provision of limited services to complex structures.

478. Larger TCSPs follow a similar approach to banks regarding tax-related risks and complex structures. TCSPs are considering aggressive tax avoidance schemes as unacceptable in line with the Sound Business Practices Policy of the JFSC. They usually obtain the tax advice their customers have received and examine tax efficiency of specific structures by engaging in-house tax advisors in the process. Private trust companies (PTCs) are dealt with by practitioners of family investment holdings in order to better understand the rationale behind the structures and their tax plans. The objective is to make sure that, on the one hand, structures have economic substance and on the other, customers intend to remain tax compliant. As TCSPs are frequently involved in the establishment and management of complex structures, they are better placed, compared to other REs, to ascertain the economic substance of complex structures both at the onboarding stage and on a continuous basis.

479. These measures are largely commensurate with tax-related risks in the TCSP sector. However, TCSPs met onsite did not seem to place particular importance on identifying breaches of foreign tax laws, even in higher risk situations. Furthermore, understanding of what exactly a complex structure means varies significantly. Some TCSPs stated that they would normally think of a structure as complex when they either do not fully understand all the layers or have never seen a particular setup in the past. Others were pointing at the number of layers or the

involvement of multiple jurisdictions. Like FIs, TCSPs would benefit from additional guidance in order to ensure more consistent application of EDD measures to complex structures.

480. TCSPs always obtain SOF/SOW information at the onboarding stage and in relation to higher risk customers, further verify that information based on reliable source documents (e.g. dividend distributions, tax declarations, audited financial statements). They also use publicly available information to corroborate SOW. However, TCSPs interviewed onsite admitted that verifying SOW in relation to “legacy” customers is challenging and that verification documents may not always be requested during periodic reviews, unless there is a trigger event (e.g. adverse media) and sometimes it is impossible to verify “historic” wealth anyway (e.g. due to lapse of time from the initial wealth-generating activities).

481. Larger law firms and accounting companies (“big 4”) apply risk mitigating measures that are largely commensurate to risks. Customers of law firms are usually referred to them by partner firms, which are mostly UK-based. Jersey law firms take great comfort when a regulated intermediary (either a bank or a major law/audit firm) is involved in a large and complex (i.e. multi-party, cross-border) transaction since they find it difficult to understand the entire picture. Partners of the firms get involved in the process of onboarding a higher risk customer and considerations in decision-making include geographic connections, level of complexity and reasons behind the high-risk trigger. Connections to foreign PEPs and higher risk jurisdictions will trigger an enhanced onboarding process, but such customers are not always classified as higher risk if the inherent risk drivers have no relevance to and do not affect the services provided in a specific customer relationship.

482. Online casinos do not provide person-to-person (P2P) games or accept virtual assets as payments. No wire transfers or third-party payments are allowed (pay-out is done to the source of initial deposit) and the use of multiple payment cards for the deposit or redemption of funds (or collection of winnings) is prohibited. They also employ 3D authentication (2-step) tools to prevent the use of stolen cards or third-party access to gaming accounts. Furthermore, algorithms are in place to identify anomalous activity and detect collusion, while winnings over 5,000 GBP are subject to additional scrutiny. Online gambling providers also do not issue winning certificates unless approached by banks. Responsible gaming rules provide additional risk mitigating mechanisms such as weekly thresholds for payments and requirements to verify the source of funds for every customer. Higher risk customers are subject to lower thresholds and more frequent account reviews. In general, these measures are commensurate to the risks in the gambling industry.

483. Estate agents have also recently started building comprehensive customer risk profiles and updating those regularly depending on the assigned risk (due to increased supervisory focus from the JFSC). More scrutiny is applied to heightened risk customers and relatively high value transactions. They will try to understand SOF and would normally request strong corroboration where funds are not coming from a local lender. Unlike other REs, estate agents have customers that are predominantly residents of Jersey and their experience with complex structures appears limited to inheritance trusts. Therefore, the mitigating measures applied by estate agents had been found as commensurate to the risks in the real estate sector in Jersey.

484. VASPs have also developed certain risk-based measures. In particular, they use Blockchain analytics tools to analyse transaction chains and detect suspicious activity. They also consider VAs that are leveraging techniques (e.g. mixers, tumblers) to ensure high level of anonymity for users as unacceptable. Although the “travel rule” is not yet implemented in

practice, VASPs' customer base is predominantly institutional and only a limited number of designated accounts are being used to conduct VA transactions. Thus, transactions to/from VA accounts other than those previously verified are refused/returned. This significantly reduces the risk of missing information concerning counterparties in VA transactions.

485. Institutional customers of VASPs are usually based in foreign jurisdictions (Jersey FIs have limited risk appetite to VAs) and they range from regulated funds and asset managers to both regulated and unregulated VASPs. VASPs examine AML/CFT controls of their customers and do not onboard customers from jurisdictions with strategic deficiencies. In relation to unregulated VASPs, additional measures include obtaining legal opinion from reputable firms on their AML/CFT compliance, checking VA trading records for suspicious activity and ascertaining SOW of BOs. However, the risk mitigating measures in relation to underlying customers/investors appear limited. Furthermore, the JFSC has only recently started supervising VASPs and their risk mitigating strategies have yet to be examined for effectiveness.

5.2.3. Application of enhanced or specific CDD and record-keeping requirements

FIs

486. FIs interviewed during the onsite visit demonstrated a generally good knowledge of CDD and record keeping requirements, although AML/CFT policies and procedures of banks are more comprehensive compared to non-bank FIs. It is the impression of the AT that the new regulatory framework (amendments to the MLO and AML/CFT/CPF Handbook) and supervisory efforts of the JFSC in recent years paid off and helped improve the application of CDD measures across all FI sectors. Conversely, it also implies that the CDD information held throughout the period under review was not always comprehensive. FIs met onsite admitted to facing challenges in remediating customer risk profiles and SOF/SOW information in line with new requirements and expectations set out in the MLO and the AML/CFT/CPF Handbook, especially since January 2023, while for some FIs these challenges remain ongoing. The JFSC examinations in 2020-2022 also show that the shortcomings related to CDD were identified in almost half of inspections.

487. CDD measures undertaken by FIs are risk based. They consider customer risk profiles to determine the type of documents and suitable certification that must be used for verifying the identity of customers and BOs. When onboarding customers remotely (e.g. video onboarding), FIs would always obtain certified copies of identification documents. Understanding of the purpose and intended nature of new customer relationships and ascertaining the economic background of customers is fairly well-documented. SOW/SOF information is obtained from customers irrespective of the risk, while corroborating documents are collected from higher-risk customers. Third-party reliance declined among the banks (from 2,754 entities in 2018 to 128 entities in 2021) as they find it costly to comply with the requirement to exercise oversight over the AML/CFT controls of those third parties. All FIs met onsite confirmed that new customer relationships are refused, and existing ones are terminated when they are unable to complete the CDD process. In such situations they would always consider filing a SAR.

488. For customers that are legal persons or arrangements, FIs obtain structure charts to understand the full corporate structure and identify BOs. However, verification documents are not always obtained for every layer in the structure even where complex structures are involved. Interviews conducted during the onsite visit confirmed that all FIs apply a 3-tier test (control through ownership, control through other means, control through positions held) to identify BOs. They have comprehensive policies to identify individuals who hold controlling ownership

interest in legal persons (sometimes going below the threshold of 25%). Where trusts are involved, FIs obtain a trust deed and collect information on trustee(s), settlor, beneficiaries and other relevant parties (e.g. protector). Distributions and payouts are also monitored closely to detect beneficiaries. Some FIs however struggled to articulate situations where they would suspect that control over a customer is exercised through means other than ownership interest. Other FIs provided examples of indicators that would normally trigger reviews therein, such as adverse media, mismatch between the amount or source of assets and the background of a supposed BO, and the involvement of unrelated parties in customers' operations and interactions.

489. All FIs have in place systems for screening customers (including BOs and related parties) and their transactions against external commercial databases (sanctions, PEPs, adverse media, etc.). These systems are mostly automated (e.g. World-Check, Factiva). The screening always takes place during the onboarding stage. However, the frequency of screening in the course of a business relationship varies greatly among FIs (except for sanctions screening, which happens overnight) and usually depends on the size of REs and risks assigned to customers (e.g. weekly, quarterly, annual). The screening is always part of periodic reviews of customers.

490. FIs have also implemented scenario-based transaction monitoring systems that aim to identify unusual patterns of transactions and generate alerts. These systems are using ex-ante (e.g. transfers to/from high-risk jurisdictions, thresholds) and ex-post monitoring (e.g. anomalous behaviour, repeated payments or ATM withdrawals) tools. FIs interviewed onsite demonstrated a sufficient understanding of the criteria and typologies used for creating scenarios. They stated that scenarios have improved over time by considering extended periods of time for identifying unusual customer behaviour. Some REs also started experimenting with machine learning and AI solutions. However, most FIs also admitted that alerts generated by scenario-based transaction monitoring systems rarely lead to SARs and generally account for a smaller portion compared to other sources generating SARs. This may mean that current scenarios may not be keeping pace with the risks Jersey is facing.

491. FIs undertake periodic reviews of customer profiles as part of ongoing monitoring. Frequency of these reviews normally depends on risks assigned to customers (e.g. annual reviews for high-risk customers). However, the JFSC examinations in recent years show that largely due to shortage of compliance resources, some FIs have been experiencing delays in undertaking these reviews (findings related to ongoing monitoring have been found, on average, in approximately 45% of JFSC examinations to FIs between 2019 and 2022). Periodic reviews of customer profiles include updating the CDD information, adverse media checks and examining transactions undertaken throughout a business relationship in light of the existing CDD information. But the reviews rarely imply obtaining updated documentary evidence to ascertain changes in the ownership or corporate structure or to establish the SOW even for higher risk customers. Such in-depth reviews seem to be purely event-based and are triggered by the existence of adverse media, unusual customer activity or when changes in the ownership structure become known to the FIs.

492. All FIs are keeping the relevant CDD records for at least 5 years from the date when business relationships with customers are over.

DNFBPs & VASPs

493. DNFBPs demonstrated a generally good knowledge of CDD and record-keeping requirements during the onsite visit. Larger TCSPs and law firms have policies and procedures that are far more comprehensive and nuanced compared to other DNFBPs. Similar to FIs, the

evident progress in the application of CDD measures appears to be a quite recent phenomenon as some entities interviewed onsite stated that substantial improvements were made to their systems and controls in the last two to three years. DNFBPs met by the AT demonstrated that they now have risk based CDD procedures in place, while SOF/SOW information is frequently obtained irrespective of risks assigned to customers. DNFBPs also review customer files periodically or upon trigger events. All DNFBPs confirmed that they refused business relationships due to inability to complete CDD and considered filing a SAR. However, examples provided mostly concerned the onboarding stage rather than terminating existing relationships (statistics show that only accountants and lawyers have, very rarely (ranging between 1 to 4 cases per year), terminated business relationships on these grounds. Overall, the number of refusals is significantly lower compared to FIs. The authorities stated that in the legal sector this should be attributed to a low risk appetite at the onboarding stage.

494. TCSPs are frequently involved in the establishment of legal persons and arrangements and therefore, have a first-hand knowledge of the structures used by their customers. Similar to FIs they obtain structure charts and apply a 3-tier test to establish BOs. It was demonstrated to the AT that TCSPs are capable of effectively identifying individuals holding controlling interest in a legal entity and establishing the BOs of trusts (trustee, settlor, beneficiary). Most TCSPs stated that they have not witnessed “dummy” settlors in years and therefore, the phenomenon is no longer relevant. Some indicators mentioned that help identify frontmen BOs include adverse media, SOW corroboration and unrelated third parties getting involved in their interactions with customers. Nonetheless, some TCSPs met onsite struggled with articulating the concept of control through means other than ownership interest. Although TCSPs use the services of introducers to acquire new customers, they conduct CDD measures themselves. While third-party reliance is heaviest among TCSPs, it had declined over the years, which was confirmed during the onsite interviews (although the decline is far less compared to banks (an approximate 15% decrease in the number of third parties relied upon for TCSPs in 2018- 2021 compared to an approximate 95% decrease for banks).

495. TCSPs have screening tools, which allow for sanctions, PEP and adverse media screening. They also use IT systems to monitor customer transactions. Larger TCSPs have automated systems, while smaller REs have put in place manual processes. But similar to FIs, transaction monitoring systems rarely result in SARs. TSCPs are frequently involved in the daily activities of their customers, including in facilitating their transactions, which should make it easier to identify deviations from expected customer behaviour. However, the lack of sufficiently effective IT systems may hamper the ability to view customer relationships as a whole and not only in the context of individual transactions. TCSPs undertake period reviews of existing customer relationships. But similar to FIs, they admitted that periodic reviews (including their frequency and depth) is a challenge mostly due to lack of appropriate compliance resources, particularly in relation to legacy customers.

496. A characteristic of legal sector in Jersey is that a substantial part of legal activity takes the form of one-off transactions rather than long-term relationships. As a result, law firms conduct due diligence measures for each legal matter even for repeated customers (unless 3 months have not passed since the last matter). Law firms and accountants collect the appropriate information and documentary evidence to trace the chain of ownership/control and establish a connection with BOs. Real estate agents also conduct the appropriate CDD measures and demonstrated the understanding of a BO concept as referring to individuals having ultimate control over a customer. Online gambling providers identify and verify the identity of their retail customers and

collect comprehensive CDD information (assisted by the responsible gaming rules). They have also put in place elaborate monitoring systems that generate alerts concerning unusual customer behaviour.

497. VASPs provide services predominantly to institutional customers. They are aware of BO requirements and apply in practice a 3-tier test to understand the ownership structure of institutional customers and identify BOs. However, their ability to apply any CDD measures to underlying customers is limited. VASPs use elaborate scenario-based monitoring systems and Blockchain analytics to identify and trace potentially suspicious transactions.

498. All DNFBPs and VASPs are keeping the relevant CDD records for at least 5 years from the date when business relationships with customers are over.

5.2.4. Application of EDD measures

PEPs

499. The number of customers of REs connected to foreign PEPs is quite substantial, particularly for TCSPs, banks, public funds and investment businesses. Sectors most exposed to PEP customers are FSBs, banking and TCSPs.

500. Discussions held during the onsite visit revealed that both the authorities and obliged entities consider that number as being excessively high. In their opinion, this is the result of the MLO requirements that until recently did not allow the removal of a PEP status even where an individual no longer held a prominent public function and exercised no continuous influence and where the nexus between the past and present roles did not exist (i.e. “once a PEP, always a PEP” approach). Consequently, UK expatriates who used to previously hold high international offices have long been considered as foreign PEPs in Jersey, which seems to be a key source for the large PEP population among the customers of REs (approximately 15% of all PEP connections for material sectors such as banks, TCSPs and investment businesses), while being less prominent among Jersey private funds (JPFs) or public funds.

501. The MLO was recently amended (September 2023) to allow the removal of a PEP status 2 years after the customer has ceased to perform the prominent public function and based on the analysis of continuous PEP-related risks. However, a large number of current foreign PEP connections forced many REs (particularly banks and TCSPs) to establish elaborate onboarding processes that are designed: (i) to identify whether risks deriving from a PEP status are relevant for a particular customer relationship; and (ii) to determine the degree of influence the foreign PEP has in the business relationship or the structure, including the degree of control they exercise over a customer and whether they are contributing assets to or are potential beneficiaries of structures that are being onboarded. The objective is to identify “truly” high-risk foreign PEP connections. These customer onboarding processes also involve the collection and corroboration of SOF/SOW information. However, most of the customers who go through these processes are not eventually classified as higher risk (unless there is a sufficient, according to the RE’s policies, accumulation of risks besides PEP status) and therefore, the requirements of senior management approval and enhanced monitoring of a business relationship are not always applied. Nonetheless, the JFSC examinations show that there has been a general improvement of the application of EDD measures to PEPs across all sectors (from 30 PEP-related shortcomings identified in examinations in 2020 to 10 shortcomings in 2022).

502. All obliged entities have put in place adequate measures to determine whether a customer, BO or other related parties (e.g. authorized representative, recipients of distributions) are PEPs or their family members. Understanding of the concept of close associates is however limited and for most REs interviewed onsite, includes those individuals who are known to have a close business relationship with a PEP. The MLO allows such an interpretation and does not clearly cover individuals closely connected to PEPs either socially or professionally. This technical deficiency appears to have negative effects on the application of EDD measures to PEP associates.

503. All obliged entities interviewed during the onsite visit have been using external commercial databases for PEP screening purposes (e.g. World-check, Risk Screen). Most obliged entities have automated screening systems, but smaller DNFBPs are usually applying semi-manual screening processes (e.g. batch screening). While these databases are effective in respect of foreign PEPs, they proved challenging for identifying domestic Jersey PEPs. The PEP screening is always conducted at the onboarding stage and also, at regular intervals for existing customer relationships (intervals depend on customer risks and size of REs) to detect people who have acquired PEP status in the course of a business relationship. It also seems to be a common practice among obliged entities to obtain a self-declaration from customers about PEP connections.

Correspondent banking

504. There are very few correspondent banking services (i.e. Vostro accounts) provided by Jersey-based banks. Most banks are subsidiaries or branches of large groups and conduct transactions through their parent entities. Thus, they have no need to establish bilateral correspondent relationships. Despite not providing correspondent services, banks interviewed during the onsite visit were knowledgeable about the requirements to assess the reputation and quality of supervision of respondent institutions, conduct ongoing monitoring and prohibit shell banks or the use of accounts by shell banks. However, the JFSC's efforts in recent years appear to have raised the awareness of banks about the applicable AML/CFT obligations and improved compliance therein.

505. Correspondent-type relationships can be found in the VASP sector. These include the provision of VA custody or management services to institutional clients for the purpose of facilitating transactions for underlying customers. Although VASPs interviewed onsite confirmed that they examine the reputation and AML/CFT controls, and obtain senior management approval, some of those institutional customers are VASPs that have not been subject to AML/CFT supervision.

New Technologies

506. REs conduct risk assessments (mostly from vulnerabilities perspective) before using new or developing technologies prior to launching new products/services. While some banks and TCSPs introduced video onboarding (e.g. Zoom, Whatsapp), new technologies are not common in the non-bank and DNFBP sectors (except online casinos). Video onboarding, as implemented by obliged entities, does not seem to involve sophisticated technological tools to identify customers or validate identity documents (e.g. liveness checks, biometric verification). As a result, duly certified copies of identity documents are frequently obtained before the onboarding of customers is finalized. The JFSC identified lack of risk assessments related to video onboarding in some cases and published feedback alerting obliged entities to the need for assessment of risks and implementing appropriate controls.

507. Technology-related risk assessments conducted by obliged entities affect BRAs and customer risk classification systems and may trigger relevant updates. AML/CFT compliance

officers are involved in the assessment process by identifying vulnerabilities and developing risk mitigating strategies. The JFSC provided support to industries under its supervision in the process of adopting digital ID systems through guidance and webinars, although the adoption of this technology is limited. Examples provided by entities interviewed onsite referred to IT tools implemented for enhancement of transaction monitoring systems (e.g. machine learning) that were assessed before being launched to detect potential gaps affecting the compliance with regulatory requirements. FIs in Jersey have no appetite for VAs and therefore, do not offer custody or other VA-related services to customers.

Wire Transfers

508. Banks and one MSB, which provides wire transfers services, have put in place the systems that detect missing information or inappropriate data in wire transfers. Outgoing wire transfers will be rejected unless the required information on the beneficiary is indicated by a customer. If the information is missing in an incoming wire transfer, the transaction will be put on hold and the missing information will be requested from an originating/intermediary bank. In cases where the missing information is not provided, the transfers will be returned. Banks in Jersey also have systems to identify originating banks that systematically fail to provide the required wire transfer information and apply follow-up measures. Nonetheless, the JFSC identified minimal instances in recent years (2 shortcomings in examinations in 2021) when controls have not always been operating effectively largely due to outsourcing arrangements and called on banks to review their outsourcing models.

509. The “travel rule” has not yet been implemented in practice in the VASP sector (although the legal requirement exists since the 1st of September 2023), which is partly due to the lack of global implementation of this rule. However, risks are mitigated to some extent since VASPs provide services predominantly to institutional customers and a small number of VA accounts used by counterparties are verified in advance, while no VA transfers are allowed to/from other accounts or distributed ledger addresses.

Targeted Financial Sanctions

510. All REs conduct the TFS screening before onboarding customers or conducting transactions (VASPs are discussed below). Understanding of TFS obligations however appears limited to checking the sanctions lists. Most obliged entities met during the onsite visit do not seem to have sufficiently effective systems or processes in place that would enable the identification and prevention of cases when persons subject to the TFS are controlling funds through indirect means. In the context of sanctions circumvention techniques, some entities provided examples of anomalous trends observed concerning transactions to/from countries that are neighbouring conflict zones or jurisdictions subject to comprehensive sanctions as red flags, but mostly in the context of OFAC sanctions programs.

511. All REs interviewed onsite confirmed that they use external databases provided by third-party vendors to screen customers, BOs, authorised representatives and parties in transactions against the lists of persons and entities designated under UNSCRs or by domestic state authorities and other jurisdictions (e.g. UK, OFAC, EU). They receive notifications from the JFSC about changes to relevant sanctions lists and also leverage external service providers that immediately reflect the changes in their databases. The TFS screening is mostly automated (some entities stated that automation happened recently), while smaller REs conduct the TFS screening manually or semi-manually. Existing customers are usually subjected to the daily TFS screening. However, most of the larger FIs and TCSPs have elaborate systems that would apply the TFS

screening immediately after changes to sanctions lists are reflected in databases or at the moment when changes are made to the customer data. The screening systems usually have built-in fuzzy matching algorithms and transliteration programs that allow for the identification of matches even in case of spelling mistakes or incomplete data. The JFSC has conducted a desk-based thematic review of supervised entities' screening system in 2022, which was followed by feedback reports (issued in 2023) thereby increasing the awareness of TFS related obligations and overall compliance.

512. Larger REs have detailed procedures for dealing with potential matches. In particular, as a first step, matches are investigated to differentiate between true and false positives. When the information is missing, public source data is examined, or the relevant information or documents are requested from customers or other FIs (involved in wire transfers). In case of banks and other larger REs, potential matches are dealt with by the 1st lines of defence. Where true matches are identified or suspicions persist, such cases are being escalated to AML/CFT compliance teams. Investigations may take up to several days and most REs stated that they would effectively block accounts or transactions therein from the moment of identifying an initial match. However, one bank stated that they would only apply blocking measures once a true match is finally determined, which may be considered a weakness (although the bank is primarily offering wealth management services and processing of transaction may take up to several days). All REs interviewed onsite explained that they would report true matches to the authorities (Minister for External Relations), refuse the completion of transactions and where applicable, freeze the accounts. The number of matches on the TFS lists appears small and absolute majority are false positives. Larger REs test their TFS screening solutions (e.g. technical capacity to catch relevant matches) regularly and work on the improvement of fuzzy matching algorithms.

513. The "travel rule" is not yet implemented in the VASP sector (partly due to the lack of global implementation), which makes it impossible to properly screen information about payer/payee in VA transactions. However, VASPs' have predominantly institutional customers and would not normally permit VA transfers to/from third party VA accounts or distributed ledger addresses. VA accounts belonging to institutional customers are usually verified at the start of business relationship and are also subject to checks using Blockchain analytics tools that can identify blacklisted/red-flagged accounts, addresses or transactions.

514. REs that make use of Art. 17C exemptions and VASPs (in relation to institutional customers), do not identify the underlying customers/investors and therefore, rely exclusively on the TFS screening undertaken by their customers (sometimes VASPs that have not been subject to AML/CFT supervision). It also appears that there are no processes in place to ensure that information about true matches identified and reported to relevant state authorities are also shared by these counterparties.

Higher-Risk Jurisdictions

515. Obligated entities generally have a good understanding of jurisdictional risks. They place connections to jurisdictions subject to a call for countermeasures from the FATF ("black-listed" countries) outside of their risk appetite. They check customers, BOs, other related individuals and entities, sources of funds and transaction details (e.g. address, country, counterparty) and would not proceed with customer onboarding or transactions if connections to some "grey-listed" or "black-listed" countries are identified. The exposure of REs to countries with strategic deficiencies ("grey-listed" countries) increased in recent years due to the listing of UAE and South

Africa by the FATF. These two countries account for almost half of customer connections to higher risk jurisdictions in the banking sector.

516. Obligated entities also identify other higher-risk jurisdictions and are either guided by group policies or Appendix D2 to the AML/ CTF/CPF Handbook, which provides the lists of countries that have been flagged by reputable sources to present higher ML, TF or PF risks. The JFSC is also proactively reaching out to REs by notifying them of jurisdictions added by the FATF to its list of monitored jurisdictions and requesting their plans to addressing the change in their customers’ risk profile. Some REs classify customers connected to higher-risk countries as by default higher-risk, but most have in place similar processes as for foreign PEPs. Namely, customer acceptance teams check: (i) whether risks deriving from a specific jurisdiction (e.g. reasons for “grey-listing”, degree of connection) are relevant to a particular customer relationship; and (ii) the degree of control individuals/entities connected to a higher-risk jurisdiction exercise over a customer and whether they are contributing assets to or are potential beneficiaries of structures that are being onboarded. Based on this exercise, customers may be classified as higher or medium risk. This practice is in line with the FATF standards.

517. FIs and larger DNFBPs have automated monitoring systems (frequently the same tools used for the TFS screening) to red-flag connections to jurisdictions subject to a call for countermeasures by the FATF or other higher-risk countries, while other REs employ manual or semi-manual monitoring processes. The possibility of identifying a nexus to such jurisdictions is however limited in relation to underlying customers/investors where Art. 17C exemptions are applied and for VA transfers since the “travel rule” has not yet been implemented.

5.2.5. Reporting obligations and tipping off

518. Overall, effectiveness of the reporting system appears moderate. While the quality of SARs has been improving due to efforts of the JFSC and the FIU in recent years and all REs have necessary processes to prevent tipping-off, the number of ML-related SARs is lower than the AT’s expectations considering the risks Jersey faces. The systems used for identifying suspicious transactions are not sufficiently effective. It was also revealed during the onsite visit that at least some obliged entities are not aware of the need to submit SARs promptly.

Table 4.1 - Number of SARs per sector

Reporting entities	2018	2019	2020	2021	2022	2023, H1
Banks	816	671	642	573	630	353
TCSPs	467	454	342	337	348	198
Regulator	121	103	96	86	110	43
FSBs	63	82	49	61	84	18
MSBs	87	87	73	39	21	8
IBs	60	64	42	38	41	26
Other	55	36	37	32	81	35
Lawyers	60	49	38	45	33	19
Accountants	41	23	52	44	40	27
Insurance	32	10	11	6	1	0
VASPs	0	13	14	2	3	2
Estate Agents	3	4	7	2	1	5
High Value Goods	0	0	0	1	0	0
Total	1,805	1,596	1,403	1,266	1,393	734

519. The JFSC examinations undertaken in recent years show that the quality of SARs is improving, although the shortcoming related to SAR reporting have been identified in more than 80% of all JFSC examinations. The increased supervisory focus from the JFSC and the new SAR

template, which was updated by the FIU in 2022 clearly contributed to increasing the quality of SARs. Some REs started conducting dedicated SAR trainings. Recently, the FIU also started providing direct feedback to REs concerning SAR submissions, which is an important development (praised by all REs met onsite) and should help further increase the SAR quality in the long-run. There is a mixed picture in respect of the typologies work undertaken by the FIU. In particular, not all REs met onsite were aware of SAR typologies and indicators. Some REs stated that the existing typologies are less relevant to their respective businesses (i.e. more relevant to retail banks than to wealth management business models). However, other REs stated that the typologies were recently improved.

520. The number of SARs submitted by obliged entities to the FIU between 2019-2022 decreased, largely due to banks and TCSPs filing less reports, although authorities also provided further explanations for this trend such as lowered risk appetite across all sectors, de-risking initiatives and improved quality of the reporting, with less defensive reporting (for more details, see IO.6). Banks and TCSPs still account for more than 70% of all SARs, which is consistent with higher ML/TF risk profile of these sectors and the overall Jersey profile as an IFC. However, the AT believes that the overall number of ML-related SARs is small considering the risks facing Jersey. The JFSC also identified cases of late reporting and non-reporting in its examinations and reported those cases to the FIU. Almost all REs met during the onsite visit were able to provide examples of cases that triggered SARs. Most examples of SARs were related to potential tax offences and, to a lesser extent, corruption and different types of fraud. Regarding tax offences-related SARs, it appears that the majority of those reported by the entities met onsite are reactive by nature. In particular, most banks and TCSPs stated to the AT that the information requests received from tax authorities, tax amnesties announced by foreign countries, customers requesting account statements going back to many years ago (i.e. indication of potential tax remediation) and self-declared intent by customers to evade taxes are the most frequent triggers for initiating internal investigations that eventually lead to SARs. These REs could give almost no examples of proactive identification of suspected tax offences.

521. Other examples of SARs provided by REs concerned the sources of assets, which they suspected to be the proceeds of crime committed in foreign countries (e.g. corruption, illegal arms sales). However, these cases were identified only after negative news appeared in the media or based on the information shared by group entities. It may be the case that the lack of verified information about the source of assets for legacy customers makes it difficult to identify suspicions on the basis of reviewing existing customer profiles. Furthermore, it was also revealed that IT-based transaction monitoring systems are rarely a source of SARs and that scenarios of suspicious activity used by the REs may not be keeping pace with the risks faced by Jersey. There were also a number of cases mentioned to the AT when SARs were filed after an entity became aware of an ongoing investigation (through other REs). In general, it appears that major sources for SARs are notices received from authorities, discussions held with customers or customer files reviewed by relationship managers, adverse media and group-wide sharing of information (i.e. group watch lists), rather than the analysis of higher risk criteria and indicators. There have been 79 TF-related SARs in total during the period under review (13 in 2022) across all sectors, which is consistent with the medium-low TF risk profile of Jersey.

522. MLROs decide whether to file a SAR and do not need approval from senior management. In larger REs, MLRO may solicit a second opinion from MLCOs when unsure about merits of a SAR. Where a report is not filed after an initial investigation, the rationale for not filing a SAR is documented. After filing a SAR, customers are classified as higher risk and, in some cases, when

the FIU provides the relevant consent, the business relationships are terminated. The standard of proof used by MLROs to identify which ML/TF suspicions must be filed to the FIU (reasonable grounds for suspicion) is in line with the FATF standards. In particular, REs interviewed during the onsite visit understand that SARs should be justified (not speculative), but they are also not required to have evidentiary proof of illicit activity. They also understand the requirement to report attempted suspicious activity and consider filing a SAR when new customers are refused or existing relationships are terminated due to CDD concerns. Law firms met onsite interpret legal professional privilege in a way that does not prevent filing of SARs unless they are assisting clients in relevant proceedings (e.g. regulatory remediation), where a particular matter (e.g. wrongdoing) is the object to those proceedings, which is consistent with the FATF standards. In general, MLROs of law firms are taking the final decision on whether to file a SAR in the face of concerns related to legal professional privilege and would normally consult dispute resolution teams in the process.

523. REs must submit ML/TF suspicions to the FIU “as soon as practicable”. Most REs interviewed onsite stated that the ability to file a SAR “as soon as practicable” was quite convenient in the sense that the term is loose enough to give time to AML/CFT compliance officers and MLROs for obtaining sufficient information and conducting proper investigation into a matter, and ultimately submitting a properly substantiated SAR to the FIU (as opposed to engaging in unsubstantiated reporting). On the other hand, some banks and TCSPs find the term “as soon as practicable” ambiguous, and prefer to have a more expressly defined SAR reporting timeframe.

524. Most obliged entities interviewed onsite confirmed that that they would file SARs promptly (at worst, in several days) from the moment of receiving internal SARs. They would externalize SARs even if the collection of all relevant information concerning a suspicion was not finalized and would submit any additional pieces of data or documents to the FIU later. However, it appears that some obliged entities (including some large banks and TCSPs) do not have a full understanding of the need to file SARs promptly. These entities have defined internal timeframes to file a SAR, which range from 20 to 30 days (mostly based on group guidance). When these timeframes are not met, they would escalate the matter to senior management. It was the impression of the AT that these REs have a shortage of AML/CFT compliance staff and defined the SAR filing timeframes having in mind the availability of resources. The AT was given examples of cases when even the longest of timeframes were not met in recent years due to worsening situation with compliance resources. Thus, the term “as soon as practicable” is likely interpreted by at least some REs as permitting to take into account practical considerations when setting SAR filing timeframes (rather than subordinating those practical considerations to the need for prompt SAR reporting), which is not consistent with the FATF standards. The authorities provided the data, which shows that it takes 12 days on average for banks to process internal SARs.

525. Obligated entities interviewed onsite demonstrated a good understanding of the requirement to not tip-off customers. They ensure compliance with this requirement via internal procedures and regular training of staff. Some banks and TCSPs also ensure that a suspicious customer’s file has a note (i.e. a warning flag) attached that warns relationship managers to not communicate with the customer without first consulting the relevant AML/CFT officers.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

526. FIs, DNFBPs and VASPs have adequate internal AML/CFT and controls. However, it is the understanding of the AT from the meetings held onsite that these controls have been enhanced quite recently in many DNFBP sectors, including TCSPs. The JFSC examinations have been focused on internal controls of REs in recent years and identified shortcomings in more than 80% of inspections (although the vast majority are not considered serious). There are no legal or regulatory requirements that impede the implementation of internal controls and procedures, including the group-wide sharing of information.

527. AML/CFT compliance officers have high level of authority and operational autonomy, although guaranteeing autonomy in smaller entities is challenging as some AML/CFT officers combine their compliance responsibilities with other duties. In general, the AT observed a good culture of compliance whereby AML/CFT compliance officers are involved and listened to in key decision-making processes such as onboarding of higher-risk customers. All obliged entities now have written policies and procedures to ensure the implementation of AML/CFT requirements that are being updated based on changes in legislation and the JFSC notifications and examination findings. They have been giving higher priority to AML/CFT functions in recent years and spending more resources to provide support therein, although the shortage of qualified AML/CFT compliance staff seems to be a persistent problem across most sectors. The average tenure of MLROs in recent years has been 14 months, which attests to a high turnover rate and challenges that Jersey is facing in retaining qualified compliance professionals.

528. AML/CFT functions of larger REs generally involve sophisticated governance arrangements and well-structured three lines of defence, and are also supported by group-wide functions where applicable. The first line normally includes front-facing staff, customer relationship managers and other employees carrying out operational activities (e.g. payments). Second line includes AML/CFT units that oversee the risk identification and implementation of relevant procedures at the first line level. Third line review is assigned to internal audit, which is often complemented by external service providers (e.g. “big 4”). Senior management is involved in the oversight of the AML/CFT functions by considering internal audit findings and compliance monitoring programs, and approving BRAs. Responsibilities between the lines are clearly divided, and the escalation processes and reporting lines appear effective. Compliance incentives are also embedded in key performance indicators of employees other than AML/CFT officers. Thus, quality of compliance is having an impact on performance-related bonuses, which in turn helps the development of an appropriate compliance culture.

529. Larger REs have put in place customer onboarding teams or committees for vetting prospective customers based on their customer acceptance policies and to allow AML/CFT officers provide advice on whether to enter into a business relationship. MLCOs are in charge of managing AML/CFT compliance units and MLROs are responsible for SARs, however they may be involved in reviewing each other’s duties in line with the four-eye principle. MLCOs and MLROs have a direct reporting line to senior management (i.e. board, CEO). Some of the first line duties, such as onboarding and screening, are often outsourced to third-party entities that are located in other countries (“centres of excellence”). These outsourcing arrangements may be a source of vulnerability as they result in the detachment of important compliance functions from core operational processes of REs. Smaller REs have AML/CFT programs that are less sophisticated, but generally adequate to their size and complexity of services and products offered.

530. REs screen new employees for criminal convictions and adverse media, and conduct re-screening when their roles change, while larger REs employ third-party service providers to also verify educational achievements and professional experience of potential recruits. Most REs also have induction training programs for new staff members. Periodic mandatory training programs are provided to existing employees who have AML/CFT compliance-related responsibilities. The contents and intensity of those trainings depend on the duties of trainees or external events (e.g. regulatory change). Attendance is monitored and poor results or non-attendance may incur disciplinary punishment or affect performance-related bonuses. The authorities recognize that a high turnover rate of MLROs and other AML/CFT professionals in Jersey creates a challenge for the effectiveness of training programs: (i) there is an increased demand for the training of new staff members and the JFSC examinations show that some REs fail to provide timely training for newly recruited individuals (20 AML/CFT training-related findings in examinations on average for all sectors); (ii) MRLOs are not always able to provide effective training to their staff given their short tenures. Training programs also cover outsourcing service providers and focus on Jersey-specific AML/CFT requirements to make sure that outsourced duties are performed in line with domestic legislation.

Overall conclusions on IO.4

531. The degree of ML risk awareness and the effectiveness of risk mitigating and CDD measures applied are generally good across all sectors, including the banks and TCSPs, which are the biggest risk drivers for Jersey. However, this does not apply to the entire period under review as the situation has been improving in recent years due to increasingly robust supervisory efforts of the JFSC. Some of the weaknesses prevalent in the past such as corroboration of SOF/SOW are still relevant today as REs seem to lack sufficient AML/CFT compliance resources to undertake in-depth reviews of “legacy” customers. Understanding of TF risks and typologies is less well-developed. EDD measures are generally applied for new technologies, wire transfers, TF-related TFS and higher risk countries, while the provision of correspondent banking services is very limited. However, most REs only apply all relevant EDD measures where there is an accumulation of risks in respect of customers connected to foreign PEPs and high-risk jurisdictions, as opposed to these risk factors being sufficient triggers on their own. Furthermore, the number of ML-related SARs is lower than expected by the AT considering the risks in the banking and TCSP sectors. While the quality of SARs has been improving recently, there is considerable room for improvement for systems and processes employed for the identification and reporting of suspicious transactions. These circumstances influence the overall level of effectiveness achieved by Jersey despite numerous positive developments highlighted in the report. Thus, the AT believes that IO.4 is achieved to some extent and major improvements are needed.

532. **IO.4 is rated as having a moderate level of effectiveness.**

6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 3

- a) Controls by the JFSC to prevent criminals from entering the regulated market have been enhanced throughout the review period. Whilst FIs and TCSPs have been subject to criminality checks over the entire period of review, similar checks for DNFBPs and VASPs have been introduced relatively recently, in March 2022 and January 2023 respectively. The JFSC's practice of relying on a self-declaration to report criminal convictions followed by checks in specific databases instead of requesting criminal record certificates as a routine practice is a vulnerability. This is further exacerbated as Jersey's legislation does not prescribe an all-crimes approach for reputational checks, albeit the JFSC suggests that all crimes are considered in practice. Whilst a large number of registration/regulation exemptions were lifted in early 2023, the impact of this shortcoming cannot be fully assessed as no routine supervisory data collected had been assessed to evaluate the extent of the risk exposure of previously exempted businesses.
- b) The JFSC has a good understanding of the ML risks, especially for the materially important sectors namely banks, investment (funds) business and TCSPs; however, TF risk understanding is developed to a lesser degree. Understanding of risks in the VASP and casino sector is moderate. The process of assessment of the institutional risks (exclusions for some sectors apply), albeit continuously developed throughout the review period, would benefit from further enhancement to allow for greater institutional risk understanding, especially in the key areas such as product/service, client and transactional activities risk.
- c) Supervision by the JFSC concentrates on higher risk entities in the materially important FI and DNFBP sectors, which have been subjected to more examinations and thematic reviews over the assessment period. TCSPs have been subject to supervision on the same level as FIs, if not more, due to the materiality of the sector. The number of resources to assist with supervisory activities has improved throughout the assessed period. Full-scope and focused/targeted inspections have been in the minority side for most of the sectors, with thematic inspections and reviews having been more prominent. Examination of VASPs began in 2022 and, as a consequence, compliance of the sector with the full range of AML/CFT obligations had not been supervised yet.
- d) There are a range of remedial actions and sanctions that have expanded over the period under review by allowing, since April 2022, the imposition of civil financial penalties for infringements of the MLO. The JFSC's approach greatly relies on remedial measures that require obliged entities (or independent reporting professionals) to propose the remedial actions required to address breaches identified, subject to the JFSC's approval. There were few instances where the actions or timeframes proposed are rejected by the JFSC. The imposition of sanctions has been modest, and in the case of financial

penalties, minimal, which is not in line with the number of entities inspected, their risk profiles and the numbers and types of breaches emanating from supervisory actions. The approach adopted by the JFSC in terms of appreciation of which types of breaches are regarded as severe is not sufficiently consistent. Where financial penalties have been imposed, there have been significant aggravating circumstances per case, which explains why financial penalties have rarely been considered as a first choice.

- e) The JFSC has demonstrated that its actions have some impact on the rate of compliance by obliged entities, although the link is not always apparent. There are indicators that point in the direction of improvements by obliged entities in areas such as risk and obligations understanding, expenditure in compliance or quality of SARs, although there is still room for improvement in ongoing monitoring, detection of suspicions or application to CDD/EDD to legacy customers (see also IO.4). It is also noted that the majority of the inspections still result in findings, and the overall number of findings has remained high throughout the period assessed.
- f) Supervision of TF-related TFS would benefit from further enhancement, especially with respect to scrutiny of on-site checks.
- g) The JFSC utilises a broad range of mechanisms to promote the understanding of ML/TF risks and obligations. A holistic implementation guidance on AML/CFT controls is available, however, DNFBP and VASPs would also benefit from sector specific guidance focused on the implementation of effective AML/CFT controls. Additionally, further sector specific guidance aimed at assisting the obliged entities to identify suspicious activities would be beneficial. It is not clear to what extent sectorial and individual risks are being considered when planning the training interventions.

Recommended Actions

Immediate Outcome 3

- a) Jersey should enhance criminal background checks for beneficial owners, controllers and key function holders applied at the market entry stage and in the course of subsequent changes. The criminality checks for the existing DNFBPs that have not been subject to criminality checks at the time of registration need to be applied retrospectively.
- b) The JFSC should continue to enhance its institutional risk assessment model to further advance its understanding of ML/TF risk, prioritising the key areas, such as product/service risks, transactional activities and higher-risk client groups for which risk criteria are less developed.
- c) The JFSC should consider making further use of the full-scope and focused/targeted examinations, and alternatively, off-site supervisory tools, to ensure that there is always adequate coverage of all AML/CFT obligations across all sectors, especially in relation to those entities and sectors that have not had all aspects of their AML/CFT obligations yet assessed.
- d) The JFSC should apply greater scrutiny to the breaches emanating from supervision, clearly distinguishing those more severe in nature, for the purposes of the imposition of sanctions upon non-compliant entities.

- e) The application of the sanctioning regime should be revised (in particular the guidance criteria to determine the severity of the sanction) so as to ensure that, in cases of serious breaches, the imposition of a wider range of severe and proportionate penalties, including pecuniary sanctions is prioritised.
- f) The JFSC should strengthen TF-related TFS supervisory practices with a focus to increase scrutiny of on-site checks.
- g) The authorities should issue sector specific guidance prioritising DNFbps and VASPs. Guidance documents should cover specificities of the products and services offered by different sectors in greater detail, identification of suspicious activities in different sectors and how specific service or product can be abused for ML/TF purposes. Training activities should be aligned to sectorial needs, i.e., taking into account sectorial and individual risks and vulnerabilities.

533. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, R. 26-28, R.34, and R.35.

6.2. Immediate Outcome 3 (Supervision)

534. Positive and negative aspects of supervision were weighted most heavily for the banking, securities (funds) and trust company service providers, moderately for the lawyers and investment business sectors and less heavily for less important sectors (casinos, money service businesses, non-banking lenders, accountants, real estate and VASPs). This weighting is based on the relative importance of each sector taking into account Jersey's risks, context and materiality. Chapter 1 provides a description of each sector's types of activities and volume of business in Jersey's context. The JFSC has the power to grant, withdraw or restrict the licences/registrations of FIs, DNFbps and VASPs and is able to impose or amend conditions on registrations/licences granted.

535. The conclusions in IO.3 are based on statistics and examples of supervisory actions provided by Jersey, guidance issued by the JFSC, procedural documentation utilised by the JFSC, discussions with the JFSC, as well as engagements with the FI, DNFbp and VASP sector representatives.

6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market

536. The JFSC is the designated registration body for the FIs, DNFbps and VASPs. A *central authorisations unit* (CAU) exists within the JFSC, comprised of 10 people and dedicated to dealing with applications, as well as the requisite fitness and propriety tests in respect of the beneficial owner of a significant or controlling interest, or a management function in FIs, DNFbps or VASPs. For the purpose of IO.3, TCSPs are treated in a similar vein to FIs, following the JFSC's regulatory approach. The CAU enhanced its authorization process in late 2021 and this change resulted in a single risk-based registration framework for the processing of all applications, where the degree of scrutiny is dependent on the level of risk and materiality of different sectors i.e.; (i) banks and other deposit taking businesses, TCBs, FSB and Funds applications receive the highest degree of scrutiny, (ii) followed by IBs, AIFs, Lawyers, Casinos and VASPs; (iii) the remaining low risk entities, such as insurance firms, MSBs, accountants and other obliged entities are subjected to

checks with less rigour in line with a risk-based approach to authorisations. The level of scrutiny of checks is intensified where risk flags and triggers are identified. A substantial number of registration exemptions that were present under most of the review period were recently lifted in 2023.

Financial Institutions

537. In accordance with the legislative requirements of Jersey, registration of core principle FIs is required. Despite the legislation not specifically mentioning the requirement for a 'licence', the rigor of the process and associated checks for registration is similar to what would be expected for core principle FIs that are typically licensed, such as banks and funds. In comparison, the registration process for insurance entities (considered low risk by the JFSC) and IBs involves the application of a lesser degree of scrutiny.

538. FIs that are subject to fit and proper checks in respect of its Principal Persons and Key Persons, which includes its directors, partners, shareholder controllers²³, influential directors, compliance officer, money laundering compliance officer and money laundering reporting officer (see also R.26). Members of the management of the FI are subject to a fit and proper assessment by the JFSC where they constitute a Principal Person (i.e., exercising sufficient control/influence over the business). The JFSC also considers the wider management team as part of the fit and proper assessment of the applicant entity. Registration checks for branches would consider fitness and propriety of the branch manager and key persons (compliance officer, money laundering compliance officer and money laundering reporting officer, as well as a senior officer outside of Jersey) and identify legal owners and ultimate beneficial owners.

539. For criminal checks, whilst the JFSC has the ability to require the provision of a criminal record certificate, it has not done so as a matter of routine practice. The criminal background checks are relied upon written confirmation (in the form of self-declaration) from persons in respect of any criminal convictions listed in the POCL (see more in R.26). This, combined with the fact that Jersey legislation omits to prescribe an *all-crimes* approach for registration, raises concerns on the availability and reliability of information concerning criminality of an applicant. This shortcoming to some extent is mitigated by further JFSC's checks using national police and various commercial and other databases, such as INTERPOL, FBI lists, etc. Additional fit and proper checks include sanctions screening, PEP screening and adverse media screening. Intelligence alerts, which can emanate from a number of sources, such as the JFSC's enforcement and supervision database, Police, Registry, Financial Crime Network (FIN-NET) Shared Intelligence Service (operated by the UK's Financial Conduct Authority), open source /internet, various commercial databases are also utilised by the JFSC. Where foreign persons are involved, the CAU engages with the respective authorities within the foreign jurisdiction concerned. If a

²³ In this process, an assessment is also made of shareholder controllers and will require a "no objection" from the JFSC for these individuals, which in the case of FIs regulated under (1) the Financial Services (Jersey) Law 1998 includes a person directly or indirectly holding 10% or more of the share capital; (2) the Insurance Business (Jersey) Law 1996 includes a person entitled to exercise or control the exercise of not less than 15% of the voting power in general meeting of the permit holder or of any company of which it is a subsidiary; and (3) the Banking Business (Jersey) Law includes a person whose percentage of the voting power does not exceed 50% ("**minority shareholder controller**"); a person whose percentage of voting power exceeds 50% but does not exceed 75% ("**majority shareholder controller**"); and a person whose percentage of the voting power exceeds 75% ("**principal shareholder controller**"). Pursuant to the Licensing Policies, the JFSC must also consider the overall ownership structure when assessing an application and must be able to look through the ownership structure to identify the ultimate owners.

previous criminal conviction is found, the JFSC will consider whether the criminal convictions or suspicions are material or relevant to the application or whether the application can proceed subject to specific conditions being imposed. Whilst checks in various sources and databases provide a level of assurance, recognising that Jersey as an IFC that does have a number of key persons or beneficial owners comprising foreign nationals, the checks in various sources the JFSC utilises remains a secondary means in comparison to obtaining the criminal record certification.

540. Whilst Jersey legislation does not require that an *all-crimes* approach for consideration of fitness and propriety of an applicant be applied, the JFSC mentions that all-crimes are being looked at in practice, i.e., if a criminal offence does not fall within the remit of prescribed criminality tests as a ground for refusal, the application can be refused on the grounds of integrity and reputation. Jersey had one refusal in the reporting period, as demonstrated in the table 3.1.

541. The JFSC considers criminal associations when it conducts the checks performed on key persons and also through looking at the whole ownership structure to identify links that might negatively influence the reputation of an applicant. Broader searches using commercial and open source information as well as above described databases are utilised.

542. A large number of applications have been received by the JFSC during the review period. The table below shows the applications received, refused and withdrawn for the assessment period across FIs, DNFBPs and VASPs. The most prevalent reasons for withdrawals are a change to applicants’ strategic activity objectives or a misunderstanding of the regulatory parameters.

Table 3.1: Total applications’ statistics by the JFSC

Year	Applications received	Applications refused	Applications withdrawn
2018	363	0	12
2019	387	0	13
2020	401	0	18
2021	544	0	7
2022	638	1	19
Total	2333	1	69

543. One application was refused due to criminal background concerns identified in relation to Jersey private fund, see a case study below.

Case study 3.1: New application – fitness and propriety concerns associated with the key person

A Jersey Private Fund application included fund investment for decentralised finance, and the ‘interrogation’ level of check was subsequently undertaken by the JFSC. As part of the assessment of the application, regard was given to the fund manager as well as the designated service provider, and personal information was obtained, as well as meetings held with the Applicant about the background of the manager and designated service provider. The JFSC conducted screening checks on these individuals and intelligence received found significant adverse media in respect of the fund manager. Due to the high potential of money laundering (evidence of layering etc.) and potential adverse reputational risk to Jersey, the Fund was refused approval.

Ongoing checks for FIs

544. The existing registered persons are checked where there is a material change in its circumstances²⁴: (i) This applies to change of shareholders/ mergers/ acquisitions, where the JFSC must be notified prior to a change, and only if it issues a no-objection notification can such change be affected. Where there is a significant increase in shareholding, the JFSC would confirm the source of wealth and source of funds. (ii) A similar non-objection process is being followed in cases of a change of control or a key person of an existing licensee. This involves confirmation regarding the absence of a criminal conviction that is submitted by the Principal or Key Person. In practice, there has never been an objection issued by the JFSC during the assessment period. In the period of 2020-2023, 1902 such key or principal persons of the existing conduct and prudential FIs were assessed, the majority of which were FSBs, TCSPs and Alternative Investment Funds, see the table 3.2 below. Non-conduct and prudential FIs, DNFBPs and VASPs are subject to the same controls since January 2023 and thus no data is available at the time of the assessment.

Table 3.2: Ongoing checks on shareholders and key function holders for the period from 2020 to December 2023

	Director	Key Persons	Other principal persons	Shareholder controller	Grand Total
Alternative Investment Fund Service Business (AIFSB)	174	74	0	26	274
Banking (DC)	5	8	2	0	15
Collective Investment Funds (CIF)	114	121	0	14	249
Fund Services Business (FSB)	408	192	1	52	653
General Insurance Mediation Business (GIMB)	34	14	1	7	56
IBB ²⁵ - Composite (more than 1 Class of insurance business offered)	2	2	0	0	4
IBB-Long Term (Class III insurance)	0	0	0	0	0
Investment Business (IB)	34	36	1	8	79
Money Services Business (MSB)	11	14	2	2	29
Trust Company Business (TCB)	350	162	0	31	543

²⁴ The Conduct Codes of Practice sets out actions a Registered Person must or must not undertake, including an obligation on a registered person to notify the JFSC of any matter it considers it is material to the fitness and propriety of its Principal Persons, Key Persons or investment employees, especially where the registered person has imposed a formal disciplinary measure or sanction.

²⁵ The Insurance Business (Jersey) Law 1996 ("IB(J)L") sets out the classes of insurance business within Schedule 1 (Part 1 – Classes of long term business; Part 2 – Classes of general business; and Part 3 – Groups). There are two categories of insurance business permit (each defined in Article 5 (2) of the IB(J)L). Category A permits ("IBA") cover those insurance companies that are already authorised to carry on insurance business by a jurisdiction outside of Jersey; and all other insurance businesses intending to carry on insurance business in or from within Jersey require a Category B permit ("IBB").

545. Only in early 2023 did the JFSC implement an ongoing routine monitoring process in respect of entities, principal and key persons through daily adverse media, sanctions and PEP screening. The supervisory team of the JFSC also conducts assessment of the fitness and propriety requirements during on-site examinations at FIs. The below case study illustrates the findings concerning reputation of the key person of the existing licensee and the subsequent actions taken.

Case study 3.2: Existing licensee – fitness and propriety concerns associated with the key person

Following an on-site examination in 2016, concerns were raised about the conduct of a key and principal person of an IB. The JFSC investigated the matter further and identified that a serious fraud had been undertaken by the individual. The matter was referred for criminal investigation and the outcome of the criminal proceedings in 2018 was a 7-year sentence and disqualification from being concerned directly or indirectly in the management of a Jersey company. Following the conclusion of the criminal proceedings, the JFSC resumed its investigation and found that the individual had provided false and misleading information to the JFSC, and that they had misled clients and conducted unauthorised financial service business. A public statement was issued wherein the individual was named and it was recorded that they acted dishonestly and lacked integrity. The JFSC directed that the individual could not perform any function for, engage in any employment by, or hold any position in, any business that is regulated or supervised by the JFSC without the JFSC's prior written approval.

DNFBPs and VASPs

546. The JFSC is also responsible for the registration of DNFBPs and VASPs. Prior to March 2022, the legislative position in Jersey was such that Casinos, Lenders and Virtual Currency Exchange Bureau applications were subject to criminality checks, but no criminality tests were a legislative requirement for lawyers, accountants, estate agents and DPMS. Legislative changes introduced in March 2022 resulted in criminality checks being a legislative requirement in respect of lawyers, accountants, estate agents, and DPMS as well as requiring notification of changes to their key and principal persons.

547. The registration requirement for VASPs covering all categories of virtual assets related activities as defined in the FATF Glossary were introduced recently, in January 2023. Prior to that some virtual assets related activities were subject to registration and fitness and propriety checks inclusive of the criminality check aspect: Virtual Currency Exchange Businesses (VCEBs)²⁶ and entities which provided VA custody or depository services were deemed to be undertaking FSB in terms of the FSJL.

548. The regulation of casinos comprises a dual licensing approach, whereby the casino is required to be both registered with the JFSC for AML/CFT/CPF purposes and licensed by the Jersey Gaming Commission (JGC).

549. For DNFBPs and VASPs the fitness and propriety checks include the utilisation of various sources similar to those used for FIs, to establish if the principal person or key person has criminal convictions or negative information concerning connections to associated criminals. DNFBPs and VASPs are required to notify the JFSC of any changes concerning the shareholding/control that

²⁶ Virtual currency exchanges were defined as the business of providing, to third parties, the service of virtual currency exchange and virtual currency exchange meant the exchange of virtual currency for money in any form, or vice versa.

serves as a catalyst to commence the respective fitness and propriety checks required, this is applicable since January 2023. A positive development for DNFBPs post April 2023, is the practice of checking applicants against the UK Police National Computer (PNC) database. However, the same concerns in relation to the scrutiny of the criminality checks for FIs equally apply for DNFBPs and VASPs.

550. The JFSC also conducted a retrospective screening exercise of all the existing entities and individuals associated with the existing licensees held in its database utilising *WorldCheck*, with no criminal hits being generated across more than 12 000 records screened. However, this retrospective screening exercise could have been more comprehensive had the JFSC sought to also screen against the other lists it does as standard practice. Additionally, no checks using officially recognised (e.g., national governmental agencies that are officially appointed to hold this type of data, or similar) sources for convictions domestically and abroad were conducted retrospectively.

Detection of unlicensed business

551. In order to identify unauthorised operations, the authorities conduct enquiries on both a reactive basis, such as upon receipt of information, and on a proactive basis, e.g., ad hoc policing through the review of information held on the Companies Registry database, internet searches, review of court listings, media reviews, etc. The enquiries are wide ranging from full-scale investigations using formal investigatory processes or powers, to informal enquiries or provision of words of advice. Unauthorised business investigations are commonly opened following receipt of information from either Supervision, Registry, members of the public/industry and through related cases already under investigation by Enforcement. The JFSC has undertaken enforcement action where unauthorised business has been conducted. The majority of the enforcement actions resulted in written warnings (12) and public statements (47), however, there have also been referrals to law enforcement (12) and the issuance of a single banning direction and public statements.

Exemptions from registration

552. Many persons and business activities (68 scenarios in total that should fall under the FATF covered activities) exempted from registration were in place for most of the review period; these exemptions were lifted in January 2023. For example, private trust companies (PTCs); a service provider to a fund, a professional investor for a regulated scheme (PIRS); and directorship services provided as a business to a supervised person. The JFSC advised that a number of the previously unregulated activities were nevertheless still subject to supervisory oversight due to the close ties to the already regulated sectors, i.e., (i) through client-regulated entity relationship (in case of PIRS, a functionary providing services to private fund or other investment schemes or a TCSP fulfilling AML/CFT requirements in respect of the trust(s) serviced by the PTC), or (ii) having a controlling role over such entities (e.g., directorship). Although this to some extent mitigates the severity of concerns associated with previously exempted business activities, the impact of this shortcoming cannot, however, be fully assessed due to the regulation being implemented recently, whilst there was routine supervisory data collected by the JFSC, it had not been used for the purpose of evaluating the risks of previously exempted activities. The JFSC is in the process of registering the previously exempted activities/services and developing risk-based supervisory plans.

6.2.2. Supervisors' understanding and identification of ML/TF risks

553. The JFSC within Jersey is the sole supervisor responsible for AML/CFT and TFS supervision of FIs, DNFBPs and VASPs. The JFSC maintains a sound understanding of the ML risks across all the material financial and DNFBP sectors. However, TF risk understanding is developed to a lesser degree for these sectors. The understanding of ML/TF risk with regards to VASPs and Casinos is developing. The JFSC has been particularly active in its efforts to increase knowledge in VA related field by undertaking trainings on VASPs activities and engaging with VASPs directly. The institutional ML/TF and TFS (for TFS supervisory controls please see IO.11) risk assessment would benefit from further enhancement. This would assist the JFSC to further increase its risk understanding.

554. The JFSC does not draw a distinction between TF-related and PF-related TFS supervision, thus the supervisory findings in relation to PF-related TFS discussed under IO.11 equally apply here, for TFS related to TF supervision. Please consult IO.11 for further information on TFS supervision.

National risk assessment

555. The JFSC makes good use of the NRA outcomes to inform its sector risk assessments. The banking, securities (funds and investment business), and trust company service providers were the most exposed to ML risk in Jersey, with a medium to high level of exposure, where potentially Jersey would most likely be used to assist in the layering stage of ML. Foreign predicate offences were assigned a higher weighting. Additionally, lawyers were understood to be more exposed to the risk of ML given their role in corporate legal work and complex structures in Jersey.

556. The TF risk assessment was only conducted at a national level and not a sectoral level. The JFSC also engaged with the private sector when seeking to inform its understanding of risk.

557. The JFSC demonstrated that it understood the ML risks associated with its jurisdiction, appreciating that Jersey is a global financial centre, dealing with in excess of a trillion GBP of wealth. It also understood the cross-border risk to Jersey by virtue of the types of business conducted within Jersey.

558. Management services within the TCSP sector was understood to be the most material activity in the sector where the trust company business served as a director, partner, council member of a foundation or trustee in respect of a client structure, followed by fund administration and management services for fund operators. The JFSC evidenced knowledge and appreciation for the relatively quick growth in the number of Jersey Private Funds since its launch in April 2017, although public funds accounted for the majority of investors and assets under management. Similarly, for banks, the JFSC was aware that international corporate, retail, private banking and TCSPs were the most material sectors. The IB sector's exposure to ML risk was high and one of the main reasons was that the clients were mostly non-Jersey based and high net worth individuals.

559. The JFSC appreciated the risks associated with the legal sector and that it was the third largest sector of the Jersey economy, where the law firms typically play a role in large multinational transactions. The first VA and VASP ML/TF risk overview was conducted in March 2022, and the outcome was that the sector is small (six) and the risks are limited, with some entities having indirect exposure to VASP activity.

Sectorial risk assessment

560. The JFSC conducted two sets of sectorial risk assessments (SRA) in 2019 and 2022 respectively, with a heavier focus on qualitative rather than quantitative data. The 2019 SRA methodology considered a minimal number of inherent risk factors, along with some controls' analysis, whereas the 2022 SRA took into account more detailed inherent risk data, as well as information sourced from examinations, off-site supervision, breach notifications and information from intelligence and other sources. The 2022 ML SRA was based on the World Bank Risk Modelling Tool. This was done to ensure that there would be consistency across the national and sectorial models. The JFSC used the sectorial ratings from the ML NRA and the national rating from the TF NRA to inform the risk model, which is adjusted based on the data received through the annual Supervisory Risk Data Collection exercise.

561. The outcome of the NRA in 2020 was also used to inform the focus areas for the SRA by the JFSC. The methodology for the SRA was focused on threats, vulnerabilities and consequences and considered the AML/CFT controls in place, including consideration of the availability of beneficial ownership information and the effectiveness of reporting functions. The JFSC demonstrated a good understanding of risk in 2022 with a strong focus on ML risks only in the materially important FI sectors as well as an assessment of the DNFBP sector (summary of the ratings is provided in the table below). No sectorial TF risk assessment was conducted.

Table 3.3: Sectorial risk ratings of the most material sectors and DNFBPs

Sector	SRA Risk rating (2019)	NRA Risk rating (2020)	SRA Risk rating (2022)
Banking	Medium High	Medium	Medium High
TCSP	High	Medium High	High
IB	Medium	Medium High	Medium High
FSB	Medium High	Medium High	Medium High
DNFBP	Medium Low	Medium Low	Medium

562. The differences in risk ratings as shown in the above table can be explained by more granular data used for the sectorial risk assessments when compared to the national risk assessment, especially when conducting 2022 SRA. Besides the materiality and inherent risks pertinent to different sectors (see chapter on national risk assessment above), the SRA provides good insight into the control-related vulnerabilities.

563. The 2022 sectorial risk assessment shows that additional data considered by the JFSC for TCSPs evidence that the client base drove the higher residual risk rating for the sector in 2022, compared to the medium high-risk rating in the NRA of 2020. The 2022 SRA used more comprehensive data collected from entities through its Supervisory Risk Data Collection exercise. The JFSC clearly identified the areas of concern for TCSPs, namely, (a) control vulnerabilities, such as the lack of controls in place to manage customer risk, a lack of understanding of source of funds and wealth as well as (b) risks and threats, such as increasing involvement in areas of VASPs and VAs, geographic exposure, ownership changes. The JFSC estimates that TCSPs make up 63% of the high-risk entities across all sectors.

564. The JFSC demonstrated an understanding of the control vulnerabilities in the banking sector, that the on-boarding processes of banks were not robust enough and that medium and lower risk rated clients could be lacking with regards to periodic ongoing reviews.

565. Concerning the IB sector, the risk appreciation by the JFSC was that it understood the risk to be medium high and this was due to the observation that the controls in place for the

management of investment services, the dealing and holding of investments and the advice on investments had deficiencies, as well as PEP screening and transaction monitoring system deficiencies. Complex transactions and the ability of systems to record unusual or large transactions was a concern.

566. The funds services business risks were well understood by the JFSC, and the key drivers for the rating of medium high were the various control areas that require improvement. The complexity of the products was well noted, and the risks associated with JPF's was highlighted. The high-risk client base and services by custodians, administrators and MoMEs were regarded as higher risk in the SRA.

567. Across the DNFBP sector, save for the TCSPs, the NRA rating was medium-low and the JFSC in its SRA viewed the risk as being medium, mostly because the legal sector retained higher risk ratings in the SRA. The JFSC appreciated that the DNFBP sector attracted the lowest level of sectoral risk collectively, however, there were concerns raised in relation to potential likelihood of non-compliance and the effectiveness of screening and transaction monitoring systems, more applicable to the smaller DNFBPs rather than the larger ones, with the larger ones being akin to FIs.

VASPS

568. Only 7 VASPS operate in Jersey and the JFSC's understanding of the ML/TF risk associated with the VASPS is moderate, with the JFSC mentioning during engagement that it has access to the transactional data of VASPS and uses this to understand the risks in the sector. The JFSC indicated that there is a low appetite for dealing in VA activities by banks and TCSPs and that the time of the onsite only one of the existing operational VASPs was engaged in serving retail clients on a limited basis. The understanding of VASPS is developing and the data obtained by the JFSC in 2023 is being used to identify anomalies and deepen the understanding of ML/TF risks.

569. Whilst no routine data collection is in place to identify the existing licensees that might be engaged in carrying out virtual assets related activities, data provided by the JFSC shows that some obliged entities, such as securities, TCSPs service clients that are engaged in virtual asset service activities and/or are actual VASPs. Whilst this data might be used to observe inherent risk trends in the sectors, it does not prove a direct engagement in terms of provision of VA related services. However, there are instances where the JFSC's information suggests some TCSPs engaged in initial coin offering, however, it is not clear, in what capacity (as a VASP or a TCSP). Given the regulatory developments in the VASPs sector are quite recent, these trends would require closer monitoring.

Institutional risk assessment:

570. Since 2019 for institutional risk assessment purposes the JFSC utilises a risk tool, which is informed by the data collected from obliged entities. The risk model caters for both ML, TF and sanctions²⁷ risk, with work underway to bring more differentiation into the assessment of sanctions risk, including the introduction of PF into the tool. This tool was enhanced throughout the assessment period, with a last set of developments introduced in 2022. This second version of the model enabled the JFSC to take into account additional information such as meeting outcomes and breach records from examinations, all of which aid in the understanding of the risk presented per obliged entity. The risk tool is automated, customizable, considers both inherent

²⁷ Targeted financial sanctions.

risk and controls to derive a residual risk rating, and allows for monitoring of risk trends. It also enables the JFSC to track and monitor the progress of obliged entities as well as maintain information which can track and record risk concentration, triggers and control analysis.

571. Whilst the functionality of risk tool is evident, the approach to collected risk data would benefit from enhancements to allow further strengthening of risk understanding and risk differentiation across different sectors and individual entities. This is due to the following reasons:

572. Firstly, the data is being collected annually. Whilst this may not be frequent enough in respect of high-risk entities to update the risk profile in a timely manner, the JFSC is able to update its risk tool in the event that there are changes to the entity risk profile which could be determined through other means than periodic off-site data collection, e.g., on-site examination data, intelligence from the FIU, entity meetings or other sources (see also R.26 for a list of trigger events).

573. Second, whilst the risk tool takes into account the inherent risk and the efficacy of the controls to derive a residual risk rating, the data points used for inherent risk assessment and the weight given to them in the overall risk calculation could be further enhanced with a view to better inform the overall inherent risk score. During the discussions with the JFSC it was observed that this model was continually being enhanced as far as factor consideration is concerned. However, the AT is still of the view that inherent risk data points require further improvements in the key areas, such as product/activity risks, transactional activities by the clients (including links to certain products/services), and high-risk client groups. For example, (i) when aspects such as products/services risk are considered the only two data points assessed are correspondent banking and the number of cash transactions (for banks); (ii) the delivery channels seemingly only dealt with the percentage of customers not met and whether or not reliance was placed, as opposed to other considerations such as digital channels, more detailed breakdown of customer groups, etc.; (iii) client data would benefit from more detailed breakdown into high risk client categories; as well as a broader set of transactional data considering number and value of operations broken down by product, service, client type, etc.; (iv) specific data points and weightings thereto shall be considered to allow for a more granular consideration of TF risk level. All in all, a more granular overview of inherent risk data points would be beneficial pertaining to the key areas, such as product/activity risks, transactional activities by the clients (including links to certain products/services), and high-risk client groups.

574. The risk distribution across sectors covered by an annual risk assessment exercise, as shown in the below table, proves some of the AT concerns in relation to the current risk assessment model expressed above. For example, whilst the risk distribution of DNFBPs, non-bank lenders and MSBs towards lower risk scale might be to some extent explained by lower risk of these sectors in comparison to more material FI sectors, it does not evidence the risk distribution in the sector itself. This calls for a better calibration of the risk tool considering sufficiency of meaningful data points that are informative of risk, as well as the weighting attributed to these data points. In addition, to allow for a better differentiation of individual risks in the same sector, the complexity of risk categorisation should also be reconsidered, e.g., in small sectors or sectors that are of limited materiality and risk, distinguishing between 5 categories of risk does not fully serve a purpose.

Table 3.4: The residual risk ratings by sector (2023)

Type of OE	High	Medium High	Medium	Medium Low	Low	Total
Banking	7	6	6	0	0	19
FSB	6	9	9	0	0	24
IB	8	9	25	9	0	51
MSB	0	0	1	7	0	8
Non-Bank Lenders	0	0	1	17	13	31
Accountants	0	0	8	95	6	109
Lawyers	0	4	13	27	0	44
Real Estate Agents	0	0	0	43	1	44
Casinos (online)	0	0	0	1	1	2
TCSP	40	34	33	8	0	115

575. The risk model did not cover some obliged entities, namely insurers, funds (supervised through their FSB), Managed Entities, TCSP-Participating members (Supervised through the TCSP Affiliation Leader), VASPs (to be brought into scope in 2023) and class G TCSPs (natural persons who provide the limited services and act as a director). According to the JFSC, these are typically regarded as the lower risk sectors and the impact thereof is minimal (2627 entities with the majority of these being funds which are supervised through an FSB). However, in the absence of supervisory data indicative of materiality and risk, the impact of this shortcoming cannot be reliably assessed.

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

576. The JFSC applies a risk-based approach to AML, CFT and TF-related TFS supervision for FIs, DNFBPs and VASPs. This approach is followed across the entire supervisory cycle, i.e. from the allocation of resources based on the inherent risk rating of an entity to the selection of entities for on-site examinations, and monitoring of remedial actions. The supervision conducted by the JFSC is driven by the risk rating of the obliged entity, the date of the last on-site examination, the historical breaches and whether or not any remediation is underway. The JFSC does not draw a distinction between TF-related and PF-related TFS supervision, thus the findings and shortcomings discussed under IO.11 equally apply here.

577. In terms of resources for the purpose of supervision, over the assessment period there has been a gradual increase in the number of resources focusing on AML/CFT supervision, and there are 80 people allocated to the supervision of obliged entities. These 80 people are either part of the off-site supervision team, on-site supervision team, the financial crime examinations unit, the heightened risk response team, the authorisations team, the relationship managed supervisions teams (focused on prudential and components of AML/CFT supervision), the newly established DNFBP supervision unit, the supervision examination unit and the supervisory risk and projects team. If only supervision is taken into account, there are 51 FTEs directly deployed to such activities (which represents 77% of the JFSC FTEs). Onsite DNFBP supervision (other than TCSPs) has been on the lower end for the majority of the period under assessment, although the restructuring changes that occurred in 2023 evidence a slight improvement of results in terms of number of onsite inspections, scope of off-site supervision and risk awareness.

578. The JFSC is moderately resourced in terms of staff. JFSC staff is professional, sufficiently skilled and possess the necessary expertise to undertake its functions. It also appears that the majority of the resources are assigned to focus on the high-risk areas. The authorities also mentioned that the JFSC has, on an occasion, called on secondees from the industry to support the examinations team and makes use of third-party vendors to conduct thematic reviews.

579. From 2018, the JFSC began the implementation of its risk-based supervision, by subjecting its most material entities (based on the “footprint score”) to proactive or enhanced supervision. The entities that were outside of the proactive and enhanced supervision were mostly DNFBPs and they were supervised on a reactive basis by the pooled supervision team. A total of 195 obliged entities have been subjected to enhanced and proactive supervision from 2018 up until 2022. A total of 227 entities have been subjected to pooled supervision.

580. In 2019, the Financial Crime Examinations Unit (FCEU) was introduced to deal exclusively with financial crime examinations (full scope) and a case management system was implemented, as well as the first version of the risk tool being launched. In subsequent years the approach was maintained while further refining the risk model and the case management system (allowing them to take into account data from supervisory activities and breaches in an automated manner).

581. As of 2023, there has been a restructure of the supervisory teams into a sector-based structure. In this regard, there are the banking, FSBs, TCSP and IBs supervision teams (in charge of the desk-based AML/CFT (70%) and prudential (30%) supervision of these sectors), the SEU unit (performing supervisory risk, event driven and thematic examinations), the FCEU (performing full-scope financial crime examinations) and a team dedicated to the AML/CFT supervision of DNFBPs (other than TCSPs), NPOs and VASPs (which merges the two previously separated teams of “pooled supervision” and “new regimes”). A sectoral approach is followed by the JFSC, whereby sectoral supervisory engagement plans are derived per sector in the preceding year of the envisaged engagement. The sectorial plans are graduated according to ML/TF risk ratings and determine the types (examinations, reviews, analysis, guidance, etc.) and frequency of supervisory actions to be applied per sector. These plans are, in turn, used to produce individual entity supervision plans (for entities with high or high-medium risk scores), based on relevant risk factors. Despite the planned activity, both at sectorial and individual level, the JFSC also has flexibility to accommodate other unplanned activities in response to risks/events that may arise.

582. The JFSC has revised its supervisory manual in 2023, outlining its risk-based approach to supervision in respect of obliged entities whilst detailing how it is used to prioritise and focus supervisory activities on the areas considered to represent the highest ML/TF risks.

583. The JFSC utilises both on-site and off-site supervisory actions. Regarding on-site examinations, these can be, for all obliged entities: financial crime examinations (as per the supervisory cycle, consisting of holistic assessments with the full AML/CFT obligations), thematic examinations (targeted areas of risk assessed across multiple entities and sectors), supervisory risk examinations (in response to perceived risks or concerns within a particular entity, can have a mixed scope with prudential and AML/CFT elements or not), and event driven examinations (intelligence received or external events causing regulatory concern).

Financial Institutions

584. The frequency of supervision is determined by the JFSC's ML/TF risk understanding and the risk rating of the entities provided by the latest version of the risk model. The current frequency of supervision for FIs is as per the table below:

Table 3.5. Frequency of onsite inspections for FIs

Risk level	Frequency of on-site inspections	Frequency of off-site inspections
High	Every 2 years	Trigger
Medium-High	Every 3 years	Trigger
Medium	Every 4 to 5 years	Trigger
Medium-low	Sample (10% each year)	Trigger
Low	Sample (10% each year)	Trigger

585. The frequency of inspections for high and medium-high risk FIs seems to be adequate given that in addition to the examinations taking place every two and three years respectively, there are other forms of supervisory interventions that occur.

586. The table below sets out the number of inspections carried out over the assessment period:

Table 3.6. Number (and % of coverage) of on-site inspections at FIs and risk-ratings

Type of FI/risk	2022		2021		2020		2019	2018	Total
	Inspections ²⁸	Coverage (%)	Inspection s	Coverage (%)	Inspections	Coverage (%)	Inspections	Inspections	
Banks	10 (3)	58,82%	11 (4)	64,71%	6 (3)	37,5%	8 (0)	2 (0)	37 (10)
High	4	80%	4	66,67%	0	-	-	-	-
Medium high	3	42,86%	4	80%	2	50%	-	-	-
Medium	3	60%	3	50%	4	40%	-	-	-
FSBs	7 (0)	29,16%	7 (4)	33,33%	5 (3)	23,81%	1 (0)	1 (0)	21 (7)
High risk	1	50%	0	-	0	-	-	-	-
Medium high	6	27,27%	7	33,33%	5	23,81%	-	-	-
Investment Businesses	12 (0)	24%	9 (4)	20,93%	5 (3)	11,63%	5 (1)	4 (0)	35 (8)
High risk	3	42,86%	0	-	0	-	-	-	-
Medium high	5	33,33%	1	12,50%	0	0	-	-	-
Medium	4	14,29%	8	22,86%	5	12,82%	-	-	-
Non-bank - MSBs	2 (1)	40%	1 (0)	25%	0 (0)	0	0 (0)	0 (0)	3 (1)
Medium	2	40%	1	25%	0	-	-	-	-
Non-bank - Lenders	0 (0)	-	1 (1)	4,54%	1(0)	4,54%	2 (0)	3 (0)	7(1)
Low	0	-	1	4,54%	1	4,54%	-	-	-
Other FIs²⁹	1 (0)	-	0 (0)	-	1 (0)	-	2 (0)	25 ³⁰ (0)	29 (0)
Total	32 (4)	-	29 (13)	-	18 (9)	-	18 (1)	35 (0)	132 (27)

587. There has been a steady increase from a very low base in 2018, in the number of inspections conducted at banks, FSBs and IBs, which are also the most represented sectors when

²⁸ Numbers of inspections between parentheses correspond to full-scope examinations, with the difference with the overall number corresponding to other types of inspections (supervisory risk, event-driven, thematic, etc.)

²⁹ Property managers who are investing, administering or managing funds on behalf of a 3rd party or acceptance of deposits and other repayable funds from the public.

³⁰ 21 out of the 25 inspections correspond to a thematic examination to property managers, mostly aimed at ascertaining whether the entities were conducting activities subject to AML/CFT obligations.

it comes to onsite inspections, in line with the sectorial risks of the jurisdiction. However, looking at the data, it is unlikely that all high and medium risk entities are being inspected every two and three years. Additionally, while higher risk bands are usually the ones having higher representation, this has not always been the case for all sectors during the period under review (for example, the FSBs and IBs sectors).

588. From the data provided, full scope inspections are in the minority when compared to the overall number of inspections, despite the significant number of high risk and medium-high risk entities, in particular in the banking and FSB sectors. “Focused” or targeted types of examinations (that would include the event-driven and supervisory risk inspections) are also in the minority (under 15% for banks, FSBs and non-bank lenders with 0% for casinos, real estate agents, accountants, and lawyers). It is clear that, for the majority of the financial sectors, thematic examinations are the most abundant (65% of bank examinations, 55% of FSBs and 57% of IBs, approximately), which by their nature provides for the assessment of a single aspect across multiple entities in multiple sectors. This approach may be prudent for the purpose of resource maximisation, however it does present the risk that some areas which are deemed not risky or not sufficiently wide to be part of a thematic by the JFSC may be unassessed for a number of years and be neglected from a supervisory perspective.

589. Regarding the scope of the inspections, the JFSC conducts them by using a thorough route planner to determine which areas of review will take place during the onsite. The AML/CFT/CPF Handbook is important in this regard and sets out the expectations of the JFSC. Examinations can involve questionnaires, desk-based review of information requested prior to the onsite, sample testing (customer files, SARs, etc.) and interviews with employees (MLCO, MLRO, members of the Board or senior management, members of the first line of defence, etc.). The AT has been provided with some examples of inspection reports concerning the banking, IB and FSB sectors (as well as TCSPs and law firms when it comes to DNFBPs). The inspections reports show that the duration of the inspections depends on the scope, type and sector, with full-scope ones normally last 11 days, while thematic ones range between 1 and 7 days. Reports appear to be quite detailed and informative about the adequacy and effectiveness of controls with regards to areas such as governance, screening systems effectiveness or PEP authorisations prior to transactions being conducted, as well as details as to when breaches occurred in these areas. This notwithstanding, it is not always clear if the route planner (covering all aspects of the AML/CFT/CPF Handbook) is routinely followed in its entirety (for those inspections that are not thematic or targeted). It is also not apparent how the determination of the sampling is conducted, although, from the types of files selected (PEP customers, terminated business relationships, customers subject to internal or external SARs, etc.), risk factors are being considered.

590. Regarding the effectiveness of onsite inspections (capacity to uncover breaches or shortcomings), the information provided by the JFSC (including the aforementioned inspection reports) indicates that the on-site inspections can identify shortcomings within the scope of the examination and, in some instances, also identified shortcomings that were outside of the initial examination scope. The shortcomings identified by the JFSC varied and included areas such as the adequacy and effectiveness of systems and controls (most significantly), record keeping, screening of employees, application of EDD measures or ongoing monitoring. Among FIs, and in line with their risks, banks and FSBs account for, respectively, 10% and 9% (approximately) of the overall shortcomings, consistently with their risk profiles.

591. The shortcomings detected through on-site examinations are wide ranging and as follows over the years³¹:

Table 3.7. Shortcomings identified in the JFSC on-site inspections (2019-2023)

Type of breach	No. of shortcomings				
	2019	2020	2021	2022	2023 (until September)
Application of risk- based measures (BRA/CRA) ³²	67	94	88	64	8
Beneficial ownership and control information	9	10	3	5	4
CDD	24	42	52	20	7
Correspondent banking	0	1	0	0	2
Documenting BRAs	18	21	21	25	1
Extent of business refusal when CDD is incomplete	0	1	0	0	0
Effectiveness of systems & controls	22	51	41	46	2
Financial group level controls and procedures	16	33	23	13	1
Frequency and quality of AML/CFT training	21	38	11	17	25
Higher-risk countries identified by the FATF	4	3	2	5	0
Suspicious transaction reporting	35	54	48	40	2
Internal controls and procedures	106	201	201	108	23
Keeping BRAs up-to-date	18	21	21	25	1
On-going monitoring	16	30	13	24	3
PEPs	8	30	8	10	0
Record Keeping	25	30	34	24	0
Targeted financial sanctions relating to TF	0	0	1	5	0
Timely review of SARs	5	4	3	12	0
Tipping off	3	10	10	3	0
Understanding of ML/TF risks	47	54	45	46	6
Use of reliance	26	4	4	6	5
Wire transfer requirements	0	0	2	0	0
Total³³	309	369	362	203	76

592. Another type of supervisory action upon which the JFSC places a significant reliance are thematic reviews and inspections. The areas of ML/TF risk captured in the table below have been explored during the assessed period:

Table 3.8. Areas of ML/TF risk from thematic reviews (2018-2022)

Theme	Year	Sectors covered
Beneficial ownership and controllers	2018	12 TCSPs.
Property managers	2018	21 property managers, 1 accountant.

³¹ Numbers of findings include both FIs and DNFBCPs

³² Business risk Assessment/customer risk assessment

³³ Total number of individual deficiencies. Individual deficiencies are counted in multiple categories, thus explaining the differences between the sum of categories numbers and the “total” number.

Role of the MLRO	2019	11 TCSPs, 7 real estate agents, 4 law firms. 4 accountants, 2 banks, 2 lenders, 2 casinos, 2 IBs. 1 Other FI.
Reliance on obliged persons for identification measures	2019	5 banks, 4 TCSPs, 2 IBs.
Compliance monitoring plans	2020	6 TCSPs, 2 FSBs, 2 banks, 1 Other FI.
Jersey private funds	2020	6 TCSPs
Financial crime thematic	2020	5 law firms. 3 accountants, 2 real estate agents, 1 lender.
Wire transfers	2020	5 banks.
EDD, SDD and exemptions	2021	8 TCSPs, 1 bank, 1 IB.
Customer risk assessment	2021	10 TCSPs, 2 IBs, 1 law firm, 1 FSB.
Legal sector	2021	10 law firm
Transaction monitoring	2021	25 entities (questionnaire only)
Ongoing monitoring	2021	8 TCSPs, 2 FSBs.
AML/CFT training	2021	26 entities (questionnaire only)
AML/CFT Business risk assessment and strategy	2022	4 IBs, 2 FSBs, 2 accountants, 2 real estate agents, 2 law firms, 2 TCSPs, 1 bank, 1 VASP, 1 Other FI,
Role of the MLCO	2022	3 TCSPs, 2 IBs, 2 FSBs, 1 bank, 1 MSB.
Beneficial ownership and controllers	2022	10 TCSPs
Sanctions screening system effectiveness	2022	3 IBs, 4 banks, 2 FSBs, 4 law firms, 10 TCSPs.

593. As observed in the table above, the themes and coverage of sectors selected so far are relevant to the risks Jersey faces, placing higher importance on areas such as BO information, Jersey private funds or the application of EDD, SDD and CDD exemptions. Additionally, at the time of the assessment, the JFSC was either in the process of a thematic review or about to embark on a series of reviews, one of which will focus on TF and PF for 2023.

594. The observations, best practices, expectations and next steps by the JFSC after a thematic review are shared not only with the affected entities but the entire regime of obliged entities via feedback documents on the JFSC website.

595. Overall, the results of the thematic reviews are positive and demonstrate the JFSC's ability to delve into areas of concern emanating from initial supervisory activities where required (i.e. from a questionnaire to a more in-depth assessment of the effectiveness of the controls). This notwithstanding, it appears that the scope of some of these thematic inspections could be further expanded. For example, in the case of the application of CDD exemptions, is questionable whether the number of entities covered (10) is representative of the number of entities (51 entities applying Art.17 exemptions and 118 entities applying Art.18 exemptions in 2022) and sectors applying exemptions (for example, only 1 bank and no legal sector participants are included, when they are significant for the purposes of this theme).

596. Regarding off-site supervision, it includes remediation oversight, periodic meetings with obliged entities, interviews with Boards/senior management of the FIs, review of data submitted by FIs, review of information collected from the FIU (SARs received) and intelligence reports received which requires supervisory action from the JFSC. Overall, it seems that the JFSC makes greater use of its wide range of off-site supervisory mechanisms.

Table 3.9. Number of breaches detected through off-site supervision activities³⁴

	2018	2019	2020	2021	2022
High severity	63	63	48	64	44
Medium severity	86	112	130	106	100
Low severity	72	135	104	103	129
Not rated	0	23	52	22	0
Total	221	334	334	295	273

597. As observed in the table above, the off-site supervisory tools are identifying breaches in the same capacity, if not more, as onsite supervisory actions, even if the majority of them are considered as of medium or low severity. Taking into account the numbers of breaches in the table above in conjunction with the ones detected through onsite examinations, it can be observed that they are significantly high in terms of numbers and that some of them touch areas of significant severity. Authorities explain that “threshold” on what constitutes a breach (or finding) is low, thus explaining the high numbers. This approach can impact the capacity of detecting the really significant, stand-out issues identified through supervision that should merit the most focus.

DNFBPs

598. On-site and off-site supervision for the DNFBP sector is also in line with a risk-based approach, with the same frequency as for FIs.

599. In particular, the following on-site inspections to DNFBPs have been conducted during the assessed period:

Table 3.10³⁵. Number (and % of coverage) of on-site inspections to DNFBPs and risk-ratings

Type of DNFBP/risk	2022		2021		2020		2019	2018	Total
	inspections ³⁶	coverage (%)	inspections	coverage (%)	inspections	coverage (%)	inspections		
TCSPs	39 (14)	35,14%	44 (12)	42,31%	28 (9)	27,18%	28 (2)	21 (0)	160 (37)
High risk	9	37,50%	11	50%	2	66,67%	-	-	-
Medium high	21	40,38%	21	52,50%	15	37,50%	-	-	-
Medium	9	25,71%	12	28,57%	11	18,33%	-	-	-
Law firms	8 (2)	19,51%	11 (0)	35,48%	5 (0)	19,23%	4 (0)	0 (0)	28 (2)
Medium	1	8,33%	0	0	0	-	-	-	-
Medium low	7	24,14%	11	36,67%	5	19,23%	-	-	-
Real Estate Agents	2 (0)	5,13%	0 (0)	0	2 (0)	8%	7 (0)	0 (0)	11 (0)
Low	2	5,13%	0	0	2	8%	-	-	-
Accountants	3 (1)	3,06%	0 (0)	0	3 (0)	3,70%	4 (0)	1 (0)	11 (1)
Medium low	3	3,09%	0	0	3	3,70%	-	-	-

³⁴ Includes all sectors, both FIs and DNFBPs

³⁵ Cells where information is not available are due to a change in methodology for risk rating entities in 2020, not allowing to have a breakdown of inspections per risk band and, as a result, to calculate the percentage of coverage of each band.

³⁶ Numbers of inspections between parentheses correspond to full-scope examinations, with the difference with the overall number corresponding to other types of inspections (supervisory risk, event-driven, thematic, etc.)

Low	0	0	0	-	0	-	-	-	-
Casinos	0 (0)	0	0 (0)	0	0 (0)	0	2 (0)	0 (0)	2 (0)
Medium	0	0	0	-	0	-	-	-	-
Medium low	0	0	0	0	0	0	-	-	-
Total	52 (17)	-	55 (12)	-	38 (9)	-	45 (2)	22 (0)	212

600. As observed, the higher level of ML/TF risk is taken into account by the JFSC and is reflected through the emphasis on the more material DNFBP sectors, namely TCSPs and law firms. Whilst there was a marginal number of DNFBPs that were inspected in 2018 and 2019 (67), the TCSP sector saw a gradual increase of coverage for the purpose of examinations, from 27,18% in 2020 to 35,14% in 2022, with more high risk and medium-high risk entities being examined than lower risk TCSPs (44 in 2021 and 39 in 2022). These two sectors have had 188 on-site inspections conducted over the assessment period, in comparison to the lower risk DNFBP sectors, which indicates that the JFSC is cognizant of the high risks in the TSCP sector in comparison to other DNFBP sectors. Notwithstanding this, and even accounting for the lower materiality of DNFBPs sectors that are not TCSPs or, to a lesser extent, law firms, the numbers for DNFBP inspections are low. It is also worth noting that, excluding TCSPs, the remaining DNFBPs (law firms included) have barely been subject to full-scope AML examinations, if at all, and not subject to any other kind of focused examination, off-site supervision having instead been prioritised.

601. Supervision of TCSPs, is considered by the JFSC, and in practice is comparable, if not more enhanced, to that supervision conducted for the most material FIs. In terms of shortcomings, TCSPs account for an average of 45% of the overall shortcomings detected for all sectors (including FIs), with the most relevant areas being business and customers risk assessments, record-keeping, risk understanding, training or, most notably, internal controls and procedures.

602. Law firms' significance in terms of shortcomings is also relevant, accounting for approximately 17% of the overall shortcomings, with an average of 3,26 per examination.

VASPs

603. Examinations of VASPs commenced recently, with the JFSC asserting that 1 full-scope examination occurred in 2022, and another (business risk assessment) thematic inspection in the same year, with both entities being classified as FSBs providing custodian services³⁷. A thematic review in respect of 5 VASPs occurred in May 2023, specifically focused on testing compliance with SAR obligations and transaction monitoring requirements only, the results of which were not yet available at the time of the onsite. Therefore, compliance with the full scope of AML/CFT obligations (including the "travel rule" requirements) is yet to be assessed across all VASPs (all 7 of which are categorised as low risk, with 2 of them not actively trading at the time of the onsite visit). However, the JFSC has stated it has access to all the transactions linked to VASPs and can assess these transactions to determine if there are any transactions of concern. This is not enough to assess effectiveness.

³⁷ Prior to the requirement for registration of VASP activity as a separate requirement aligned to all categories of VASP activity as catered for under the FATF definition.

6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions

604. The JFSC utilises both remedial actions and sanctions when dealing with breaches identified through supervision. The range of available remedial actions and sanctions, whether administrative or criminal, is broad, and has expanded throughout the assessment period.

Remedial Actions

605. Remedial actions, on their own, are more common when it comes to addressing breaches detected through their supervisory actions, rather than also accompanying them with the imposition of regulatory sanctions. In all cases where breaches have been identified, the obliged entity is required to provide a remedial action plan, subject to approval by the JFSC. Examples provided by the JFSC reveal that there were instances where the adequacy of the proposed remedial action by the supervised entity was questioned by the JFSC in terms of being sufficient to address the risk of wider deficiencies, and the second concerned the observations that the supervised entity seemed to be limiting its efforts to achieving a minimum standard of compliance rather than seeking to enhance its systems and controls. Another example evidenced that the JFSC was of the view that the entity had failed to remediate, and it was required to produce another remediation plan post the initial remediation period. Despite the JFSC assessing their reasonableness, there remained uncertainty about the consistency of the process, as one example demonstrated that the JFSC had concerns about an entity's apparent failure to remediate findings from an examination in 2020, and the JFSC subsequently required a second remediation plan after the initial first 'round' of remediation was unsuccessful.

606. The majority of the remedial actions emanate from on-site examinations conducted by the JFSC as described above. The timeframes for remedial actions vary, as observed below:

Table 3.11. Remediation of examination findings timeframe

As of 27 September 2023	2019	2020	2021	2022
AML/CFT/CPF Exams performed	63	56	84	83
Number of findings	309	369	362	203
Findings Remediated: < 6 months	32%	15%	26%	38%
Findings Remediated: 6-12 months	8%	34%	25%	9%
Findings Remediated: 12-18 months	16%	30%	30%	5%
Findings Remediated: > 18 months	39%	21%	15%	-
Remediation Ongoing	5%	0%	4%	48%

607. The rate at which remedial actions were being completed is steadily improving (most of the findings being remediated in a period of less than 6 months), with the most improvements taking place in 2022. Despite this, at the time of the on-site there was still remediation taking place from the 2019/2020 period in respect of an entity, despite all actions taken by the JFSC (including the imposition of sanctions, reinforced supervision, etc.).

608. For the majority of the remedial actions, the supervisory team is responsible for tracking, via desk-based oversight, the progress to address the deficiencies, with time frames to report back to the JFSC being agreed upon a case-by-case basis. Similarly, the remediation process will not be considered as closed until the obliged entity provides written confirmation of the completion of all actions. This notwithstanding, a case presented to the AT revealed that an action

plan had been reported as fully concluded, however the JFSC subsequently identified that certain actions had not been addressed.

609. However, when the remediation process is unsuccessful or in the event of serious non-compliance, the matters are escalated to the Heightened Risk Response (HRR) team within the Supervision Division of the JFSC. This team was established in July 2021, and its role is to provide support through intensified supervision and monitoring, until the remediation has been concluded. The HRR team requires a documented recommendation from supervision before it commences its work, and a senior member of the HRR team is responsible for taking a decision as to act upon the recommendation or not.

610. Between July 2021 and December 2022 11 cases (3 banks, 6 TCSPs, 1 IB and 1 DNFBP) have been referred to the HRR team to oversee remediation. The cases pertain to material sectors where serious findings emanated from examinations undertaken, or where the outcomes of internal audit reports evidenced concerns about remediation or the capacity of the entity to successfully remediate the breaches. In these cases, intensified supervision occurred, with closer scrutiny given to the remediation of the obliged entity concerned, and the issuance of directions to the obliged entity, which could also include the requirement to appoint an independent reporting professional. This is seen as a positive step, as it entails a more active involvement of the JFSC in the remediation oversight and assurance process.

611. The request by the JFSC to appoint an independent reporting professional at the cost of the respective supervised entity is a positive step. Its task is to prepare a report assessing the effectiveness of the remediation undertaken by a supervised entity or assessing the level of compliance with the AML/CFT obligations. Independent reporting professionals may be engaged voluntarily by the entity (in agreement with the JFSC) or due to a notice issued by the JFSC. The JFSC has issued notices in 4 cases between 2019 and 2022 to require the appointment of independent professionals to review and report about the remediation undertaken and/or the compliance with previously issued directions.

612. Another recent tool at the disposal of the JFSC is the performance of actions to test the effectiveness of remediation (remediation effectiveness testing, or RET), which are also applied in some cases of serious non-compliance. Remediation effectiveness testing is undertaken in much the same way as an onsite examination with the review being specifically designed to assess the effectiveness and sustainability of the remedial actions (regardless of whether it is undertaken by the JFSC or an independent reporting professional). In 2022, effectiveness of remediation has been tested on 30 occasions, corresponding to material sectors (banking, TCSPs, FSBs and IBs), in 4 of which additional concerns were identified and further escalated to either HRR or the Enforcement Division. RET is conducted either by the JFSC or by a reporting professional, the latter being a common practice. This, in combination with the other aforementioned actions, will collectively contribute to strengthening the supervisory regime.

Administrative Sanctions

613. To date, the following administrative sanctions have been imposed³⁸:

³⁸ Note that this data refers to sanctions imposed where there were concerns regarding fit and properness as well.

Table 3.12. Administrative sanctions imposed to FIs and TCSPs (2018-2022)

Type of FI	Year	Inspections	Letter of advice	Private reprimand	Employees removed	License revocation	Restriction of business	Public state-ments	Financial penalties
Banks	2022	10	0	0	0	0	0	5	1 (€ 555,220)
	2021	11	5	0	0	0	0	3	1 (€ 583,053.76)
	2020	6	0	0	0	0	0	1	0
	2019	8	0	0	0	0	0	0	0
	2018	2	0	0	1	0	0	4	0
Total		37	5	0	1	0	0	13	2
IBs	2022	12	1	0	1	0	0	5	0
	2021	9	0	0	0	0	0	16	0
	2020	5	0	0	0	0	1	4	0
	2019	5	1	0	0	0	0	0	0
	2018	4	2	0	0	0	0	0	0
Total		35	4	0	1	0	1	25	0
FSBs	2022	6	0	0	0	0	0	0	0
	2021	7	0	0	0	0	0	2	1 (€ 60,948.91)
	2020	5	0	1	0	0	1	0	0
	2019	1	0	0	0	0	0	4	1 (€453,669)
	2018	1	0	0	0	0	0	0	0
Total		20	0	1	0	0	1	6	2
TCSPs	2022	39	1	1	0	0	0	3	1 (€ 951,052.63)
	2021	44	6	1	0	0	0	3	1 (€ 177,538.66)
	2020	28	1	1	0	0	0	1	1 (€ 130,807.79)
	2019	28	1	0	0	0	1	0	0
	2018	21	2	0	0	0	0	0	0
Total		160	11	3	0	0	1	7	3
Total (overall)		252	20	4	2	0	3	51	7 (€ 2,912,290.75)

614. In relation to sanctions applied to individuals, besides the 2 cases of employees removed, there seems to have been 3 cases where banning directions have also been imposed in relation to individuals concerning the IB, banking and insurance mediation sectors, out of which one of them concerned principal and key persons (MLRO) of the entity.

615. As observed, the use of administrative sanctions available to penalise non-compliance is low, especially in the case of pecuniary sanctions. The seriousness of breaches is determined by following the JFSC's Guiding Principles. During engagements with the JFSC it was conveyed that 90% of the breaches were not deemed serious and did not require enforcement action, which does not appear commensurate with the risk profile of the jurisdiction and the respective obliged entities, as well as the number of breaches emanating from supervisory activities which the JFSC views as severe (in excess of 200) and moderately severe (in excess of 500).

616. Regarding civil financial penalties, contraventions by financial institutions and TCSPs of the Codes of Practice have been in scope of the JFSC's civil financial penalties regime throughout the review period and contraventions of the MLO were explicitly brought into the scope of the regime in April 2022, which is fairly recent in the assessment period. The situation is similar for the DNFBPs. Prior to April 2022, contraventions by FIs and TCSPs of the MLO could be sanctioned with the imposition of a civil financial penalty only where the contravention was the result of underlying failings in systems and controls (i.e. a Code of Practice contravention).

617. Given Jersey's title as an IFC, with a large number of TCSPs (the majority being high risk), as well as material banking and FSB sectors, and the large number of inspections (160 in the case of TCSPs) and breaches detected, in some cases of a serious nature, it is difficult to consider it cogent that for the entire reporting period (and, in the case of banks, for the whole history of the supervision of the sector) there were only 2 pecuniary penalties issued to banks and 3 for TCSPs, with the other types of sanctions also being used in a limited capacity.

618. In this respect, the AT was given access to explanations of all seven cases that resulted in the imposition of a financial penalty. These cases mostly concerned high-risk customers (including PEPs with links to high-risk jurisdictions), inadequate policies and procedures or serious governance issues that were not in line with the risk appetite of the firm. It is also concerning the duration of some of the serious breaches (up to 10 years in certain cases) or a case where the same breaches were detected in several instances via supervision and investigations but were not successfully remediated until the same year where a financial penalty was eventually imposed, which detracts from the effectiveness of remedial actions on their own. In all seven cases deemed worthy of financial sanctions, the circumstances were considerably aggravated, which explains why financial penalties have rarely been considered as a first choice throughout the period under assessment.

619. It is also worth noting that in only 2 of these cases has there been any follow-up actions by the JFSC in the form of reinforced supervision, follow-up inspection or RET, while in the others the remedial actions were decided and progress was reported by the entities (in most cases with the involvement of an external reporting professional), with the agreement and oversight of the JFSC. A more proactive involvement would have been expected from the JFSC in such cases due to their seriousness.

620. Besides civil financial penalties, the other legally recognised types of administrative sanctions that can be imposed are ordered, from "less severe" to "more severe" as follows: private reprimands, public statements, issuance of directions (e.g. banning) and licence revocations. Financial penalties, banning directions and license revocations can also be imposed alongside a public statement. Another means utilised is the issuance of a Letter of Advice (LoA) when the JFSC is of the view that the non-compliance was because of 'poor judgment', rather than it being deliberate or wilful. The LoA is for internal use only and information therein is not to be made public. Out of all the sanctions mentioned in this paragraph the AT considers that, due to their private nature, LoAs and reprimands are not as dissuasive as a public statement, and not as effective or versatile as imposing directions.

621. The JFSC has procedures and guidance in place for the determination and selection of administrative sanctions, based on several factors. There is a sliding scale utilised, and the severity spectrum takes into account guiding principles and contextual factors with multiple sub-categories. Aspects of the guidance (such as the thresholds concerning the compliance record of the supervised person or the previous remediation activities that are given as examples of high

severity) need to be revised, as the manner in which they are presented would result in few findings ever being viewed on the latter end of the severity spectrum and qualifying for a more severe penalty such as a financial penalty, revocation of licence or banning direction.

622. From a process perspective, the Supervision Division or HRR team may refer cases of suspected serious non-compliance to the Enforcement Division, which cases may be accepted or refused, following a so-called “triage” procedure. Where the cases are not accepted, they are returned to the JFSC division which made the referral, with suggestions on alternative forms of action to undertake. Cases can also be initiated by Enforcement on the basis of information already at its disposal or should it receive any other information or it is provided with intelligence by the FIU.

623. The Enforcement Division has accepted most referrals and during the 2018-2022 period (87), and investigation timeframes median resolution length has decreased from 189 to 33 days, showing an improvement in the time taken for investigations. The majority (40%) pertain to TCSPs, in line with the risk profile of Jersey.

624. Following the investigation and when determined so, sanctions will be issued either through settlement or non-settlement, at the discretion of the JFSC. All financial penalties during the period under assessment have been imposed under the terms of a regulatory settlement. Settlements involving financial penalties are always made public. Publication contributes positively towards dissuasiveness of sanctions.

625. When the matter is settled the obliged entity will receive a discount in respect of the initial penalty to be levied, which can be up to 50% of the amount. Therefore, all the financial penalties imposed as shown in table 3.12 are the reduced penalties following discounts afforded to the entity.

626. The different remediation tools and administrative sanctions available to the JFSC are not used in isolation, but in a combined manner depending on the case to achieve the expected results. Below there is an example of the use of several tools related to a single case:

Case study 3.3: application of several remediation and sanctioning tools

In late 2020 a desk-based examination took place at a TCSP, the outcome of which resulted in multiple breaches in areas such as: (i) corporate governance; (ii) non-compliance with the Code of Practice; (iii) ongoing and transaction monitoring; (iv) customer risk assessment (potentially assigning lower risk rating to a higher risk customer); (v) EDD in relation to non-face-to-face business relationships; (vi) measures to establish SoF/SoW; (vii) business risk assessment (generic and not having been considered and discussed at the Board level); or (viii) non-identification of PEP-connected relationships.

Following the outcome of the examination, the TCSP was warned that a failure to remediate significant and material contraventions, as identified by the Examination, within the timeframe agreed by the JFSC, may result in regulatory action being taken against the entity, including the issuance of a civil financial penalty.

Additionally, Directions were issued requiring the entity to refrain from, without JFSC’s written consent: (i) transferring or removing any files, records or documents regarding the entity or its customers from its offices; (ii) taking on new customers, or new entities or structures for existing customers; and (iii) paying, declaring or advancing any dividends or non-contracted sums to shareholders, directors or staff or making shareholder or director loans.

Furthermore, a Notice requiring the appointment of a reporting professional was issued for the purpose of performing a review and to produce a report in respect of the adequacy and completeness of remediation activity performed by the entity.

Once the remedial action was undertaken the HRR Team deemed it necessary to make a written referral to Enforcement, which led to the opening of an investigation that, as of the time of the assessment, was still ongoing.

Other DNFBPs and VASPs

627. In 2021; 3 public statements were issued against law firms and accountants. In 2020; 2 public statements were issued against a law firm and an accountant. In 2019; only 2 sanctions were issued against lawyers, both linked to concerns on fitness and propriety and not for AML/CFT breaches with obligations in terms of the code and MLO. Regarding VASPs, it appears that only 1 public statement was issued in 2021, relating to a scam entity and not to any infringements of the AML/CFT obligations. This seems to be on the lower end given the types of breaches, and could also be attributed to the fact that the ability to impose administrative sanctions for breaches of the MLO only began in the latter part of the assessment period and, in the case of VASPs, the recent implementation of supervision.

Criminal sanctions

628. Jersey's legal framework also provides for the imposition of criminal sanctions for contraventions of MLO and other relevant laws, which have been imposed by the Courts sporadically during the period under assessment (see R.35).

629. Additionally, if a case of the Enforcement division of the JFSC is considered to involve a suspicion of serious criminality, it can be referred to the criminal authorities. There have been 43 referrals during the period under assessment, mostly corresponding to breaches of the MLO prior to 2022, when they were only subject to criminal sanctions. Out of the 43 referrals from the Enforcement Division of the JFSC only 7 ended up as criminal cases dealt with the JFCU or the ECCU. Authorities advised about financial sanctions having been imposed by the Royal Court for contraventions of the MLO in 2 occasions over the assessed period, 1 bank (GBP 475,000) and 1 TCSP (GBP 550,000).

Conclusion

630. Overall, remedial action required by the JFSC to address findings of non-compliance with AML/CFT obligations from inspections is detailed, as observed in the remediation action plans. Some efforts by the JFSC have been undertaken to strengthen the remedial action regime, such as instituting the HRR team or performing tests on the effectiveness of remediation. These efforts also contribute to a more active involvement of the JFSC in the remediation process. Although remedial actions are subject to approval by the JFSC, there remains a degree of flexibility given to the entity on how to approach remediation, its deadlines and frequency of report-back to the JFSC. The AT considers remediation as an indispensable step when addressing breaches identified through supervision, but cannot replace the dissuasive effect and impact of sanctions.

631. Factually, there have been a modest number of administrative sanctions and very few pecuniary sanctions issued to FIs and TCSPs and even fewer to DNFBPs and VASPs. The sanctions regime and guidance utilised in Jersey is elaborate and detailed, however, in practice it operates in a manner that non-pecuniary sanctions prevail over more severe sanctions, including the imposition of financial penalties.

632. Taking into account the risk context of Jersey, along with the numbers and types of breaches emanating from inspections, the penalties imposed do not seem proportionate to the non-compliance. In terms of dissuasiveness, it does not appear that the sanctions imposed so far have significantly contributed as a deterrent of non-compliance by other industry participants, considering how the number of breaches over the assessed period has, overall, remained quite steady and there have been serious cases where the use of remedial actions was proven ineffective to address the detected issues for long periods of time until financial penalties were eventually imposed.

6.2.5. Impact of supervisory actions on compliance

633. The JFSC utilises two main methods to pursue the compliance by FIs and DNFBPs. The first is through remediation as a consequence of examination findings, notifications or through bilateral supervisory engagement. The second is linked to the activities of the JFSC such as guidance, data collection and outreach with the obliged entities.

634. Encouraging aspects indicating a moderate level of positive impact of supervisory actions in compliance is the introduction in 2022 of the aforementioned RET measures. This introduced an additional level of scrutiny to provide assurance on the effectiveness of remedial action (in which the JFSC is not always proactively involved, the participation of independent reporting professionals being more common). The time taken to remediate deficiencies has improved over the assessment period. The JFSC also indicated that in a few instances it sees proactive behaviour displayed by the obliged entity in that remediation occurs before the final inspection report is issued.

635. Additionally, the JFSC held multiple engagements with obliged entities over the assessment period, where the majority of the meetings are said to include some sort of discussion on ML/TF risk, as well as the AML/CFT/CPF controls in place, although no direct link could be made to demonstrate how compliance was improved through the meetings. Whilst this is the case, the engagement does aid in promoting a culture of compliance.

636. Improvement with regards to the timeliness of SAR reporting has also been demonstrated through the information provided by the JFSC (from 19 days reduced to 9 days in 2021), although further improvements are required, as seen in IO.4.

637. Further to this, during the engagement of the AT with the private sector, improvements were noted for a number of obliged entities in areas such as risk understanding and awareness of AML/CFT obligations or giving higher priority to their AML/CFT functions, including more expenditure on resources. This can be attributed to the supervisory and outreach efforts the JFSC, as well as to the subsequent remedial actions undertaken. However, there are still room for improvement concerning compliance of obliged entities with certain obligations, such as transaction monitoring and identification of suspicions or the application of CDD/EDD measures to legacy customers (for more details, see IO.4).

638. Despite all of these aspects, the JFSC has indicated that 90% of its examinations still result in findings requiring remediation. This means that the majority of the examinations result in findings indicating non-compliance/deficiencies with regards to AML/CFT obligations that are assessed. This is based on the data which excludes those entities which have not been inspected across the FI, DNFBPs and VASPs sectors. Authorities advised that the high number of findings is to be explained due to a low threshold regarding what is considered a “finding”, and that even minor shortcomings in overall “largely compliant” entities would still constitute a finding to be

recorded. Consequently, few cases have been referred to the HRR team and the enforcement division of the JFSC throughout the period reviewed.

639. The statistics provided by the JFSC evidenced that for some sectors the ratings of the institutions have increased rather than decreased e.g. prior to January 2023 all law firms were either medium risk and lower, and, after January 2023, there are 4 law firms are classified as medium-high risk for ML. Similarly, for the TCSPS in 2023, the number of high-risk rated entities for ML has almost doubled (from 24 in 2022 to 40 in 2023). For IBs, the number of high-risk entities for ML risk has increased over the assessment period from 0 to 8, and where previously there were no high risk rated IBs for TF risk prior to 2023, there are now 2 high risk entities. Authorities explained the outputs as a result of the changing risk assessment methodologies deployed in the risk model that impacted the institutional scores in 2023, thus resulting in more high-risk entities in some sectors in 2023 than in previous years. As a result of the different risk factors in the risk model being impacted by simultaneous increases and decreases, a correlation between the risk scores of obliged entities and their compliance performance could not be clearly established for the entire assessment period.

640. Additionally, insufficiently dissuasive implementation of the sanctioning regimes diminishes the impact of supervisory actions on compliance.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks

641. The JFSC engages in a broad range of outreach and engagement activity within Jersey across the FI, DNFBP and VASP sector. Overall, the private sector views the JFSC as an active supervisor in this regard and welcomes various forms of outreach activities and direct engagement. The JFSC’s staff is generally well skilled in various AML/CFT topics; moreover, knowledge on emerging risks, new financial products are enhanced through participation in a large number of events, including webinars, trainings and conferences.

642. The JFSC has a good relationship with its FIU and other relevant stakeholders such as the Gambling Commission, Police, Revenue Agency, various associations (funds, banking, compliance officers), which participate in its planned activities. A yearly engagement planner held by the JFSC is what informs its activities for the year ahead.

Type of outreach	Content / Intended use
Supervisory feedback	
Examination feedback	Feedback to the sectors on observations and findings
Thematic programme feedback	Feedback to the sectors on findings and future expectations
Publication of remedial and enforcement actions	
Enforcement action, public statements, and warnings	To inform the industry of penalties levied and enforcement action undertaken.
Awareness raising through direct engagement	
Trainings, webinars	Various AML/CFT topics, national and sectorial risks
Direct entity engagement	Individual consultations and meetings
Social media and internet	
Various email mailboxes	General enquiries sent to the JFSC, sub-cription to newsletters, etc.
Social media profiles on LinkedIn, Twitter, Facebook, and Instagram	Engage the industry on topical matters.
JFSC Website updates	Postings for AML/CFT news, industry updates, new legislation, related consultations, etc.

Email newsletters disseminations	News items published on the JFSC website; public statements about enforcement action, scam warnings; and targeted financial sanctions alerts.
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Guidance notes

643. Whilst AML/CFT implementation guidance in the form of the AML/CFT/CPF Handbook is in place, more formal sector-specific guidance documents would be beneficial, for example, with regards to the identification of suspicious activities by different sectors taking into account specificities of their services and how these can be abused for ML/TF purposes. In addition, DNFBPs would benefit from AML/CFT implementation guidance, for example for the casino sector, travel rule implementation for the VASP sector. This is because the current AML/CFT guidance, albeit detailed, is more tailored to financial services and less detailed for non-financial products and services and virtual assets related services.

644. The detailed AML/CFT handbook serves as the main AML/CFT guidance that is relied upon by the private sector when designing their AML/CFT policies, trainings and internal controls. JFSC guidance on jurisdictional risk is frequently utilised by the private sector to assist in the assessment of the geographical component of their risk exposure. Useful guidance for the sectors given the risk context of Jersey is the guidance on beneficial ownership and controllers. Other guidance issued to the various sectors is more in respect of the processes to be followed and the steps to complete the risk returns for the purpose of the data collection exercises.

645. Whilst the FIU issues some information on typologies, they have limited use for specific sectors in recognition of suspicious activities. This is especially relevant in light of the shortcomings relating to monitoring that led to suspicious transaction reporting (see IO.4 for further information).

Training and other forms of outreach

646. Whilst a high number of trainings and consultations were delivered to the supervised sectors in 2022-2023, the planning of the trainings does not seem sufficiently risk based, i.e., training themes are rather general and the extent to which sectorial and individual risks are being considered cannot be determined. Training/consultation themes mostly focus on supervisory data collection (including its updates), national risks, TFS and updates to the AML/CFT Handbook.

647. During 2020 when COVID restrictions restricted physical engagements, the JFSC utilised the digital platform as a means of communicating with the obliged entities. The JFSC also conducts bespoke outreach to respond to emerging risks and engages on a bilateral basis with those obliged entities it deems it appropriate to do so. The latest examples of ad-hoc outreach themes were the difficulties to conduct CDD in Covid pandemic times and addressing sanctions against Russia following its invasion to Ukraine. The JFSC has also held a number of individual engagements with supervised sectors to discuss how the NRA impacts upon it and targets the materially important sectors.

648. The number of the JFSC's website posts regarding regulatory updates for financial sector has increased steadily over the assessment period from 17 in 2018 to 126 in 2022.

649. Once a thematic review has taken place, feedback reports are published online by the JFSC, which thus shares with the obliged entities the outcome of the reviews and key points to consider when implementing their own AML/CFT controls. Similarly, the JFSC issues a feedback report following examinations, with a feedback report issued in July 2023 detailing the findings and conclusions of the 2022 financial crime examinations, the remediation of the deficiencies

highlighted by examinations, the next steps to be undertaken and some of the key themes emanating from the examinations (i.e., corporate governance, CDD measures, reporting of STs, screening, awareness and training of employees and record-keeping). This is useful feedback for all the sectors. In total, since 2018 the JFSC issued 19 examinations feedback papers, 17 of which covered AML/CFT or targeted financial sanctions related matters.

Overall conclusions on IO.3

650. Throughout the review period, the JFSC has strengthened its market entry controls, however, criminality checks for all sectors require further enhancement. At the sectorial level, the JFSC demonstrates a good understanding of ML risks, however, understanding of ML/TF risks at the institutional level requires further enhancement. This is largely attributed to the areas requiring further improvements of currently used institutional risk assessment model.

651. The JFSC applies a risk-based approach to supervision, which has been continuously revised. The number of resources to assist with supervisory activities has improved. This has translated in an increase of the number of inspections from a low base in 2018. Intensity of supervision is in line with the risks and materiality of the sectors. However, caution is required where the preference for thematic inspections may lead to certain AML/CFT compliance obligations remaining unassessed for an extended period. The use of other types of on and off-site supervisory activities may assist in mitigating this risk. Compliance of the VASP sector with the full range of AML/CFT obligations is yet to be supervised.

652. While the remedial actions in place contribute to entities addressing detected breaches and their shortcomings, there is a significant degree of flexibility given to the entity to propose remedial actions and timeframes. There is a broad range of administrative and criminal sanctions available, but the number of administrative sanctions issued has been modest and, in the case of pecuniary sanctions and other forms of more severe sanctions, minimal. Although there has been a recent increase in the issuance of pecuniary sanctions, these still remain rare and have only been applied in instances where there have been severely aggravating circumstances. This appears incommensurate with Jersey being a highly active IFC that derives a large portion of its profits from the financial sector, the risk profile of obliged entities and the high numbers and types of breaches detected through supervisory actions. Therefore, the application of the sanctioning regime is not proportionate, neither can it be regarded as sufficiently dissuasive.

653. The JFSC supervisory actions have resulted in some improvements in compliance, although there is still room for improvement concerning areas such as monitoring, identification of suspicion or application of CDD/EDD to legacy customers (see IO.4). The number of breaches detected by supervision has remained quite steady during the period reviewed. A broad range of mechanisms to promote the understanding of ML/TF risks and obligations is utilised, however, sector specific guidance would be beneficial, especially in the area of identification and detection of suspicious activities.

654. **Jersey is rated as having a moderate level of effectiveness for IO.3.**

7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 5

- a) Jersey authorities demonstrated a good understanding of the extent to which legal persons and arrangements ('LPAs') can be misused for ML purposes both through the exercise of their activities and through a detailed and comprehensive risk assessment exercise published in July 2023. The risk assessment exercise could have further explored the methods and schemes through which the risks could materialise through different types of LPAs. Understanding of TF risks related to LPAs is less developed and the risk assessment could have benefitted from further consideration of the inherent vulnerabilities of LPAs and their activities for TF purposes.
- b) Jersey has in place a wide range of mitigating measures, including the establishment of a fully populated Central Registry with basic and BO information for legal persons, paired with comprehensive and thorough checks, risk assessment and vetting processes at the registration phase and on an ongoing basis, restrictions on bearer shares and the involvement of TCSPs in the creation, maintenance and operation of most legal persons and legal arrangements.
- c) Basic information of legal persons held in the Central Registry is publicly available. Competent authorities also have unrestricted and direct access to and make effective use of the basic and BO information of legal persons. Accuracy of the Registry information is confirmed annually by the legal persons through provision of a confirmation statement. Authorities also access CDD information from obliged entities in a timely manner, most notably banks and TCSPs, which are a significant source when it comes to BO information. Competent authorities (FIU, ECCU, Revenue Jersey) have an obligation to notify the Registry about any discrepancies with the information held by the Registry, but no discrepancies have been identified so far.
- d) Trusts are by far the most material legal arrangements in Jersey and BO information on trusts is collected, maintained, updated and made available to competent authorities almost exclusively through trustees (except in those cases where a trust is part of the ownership chain of a Jersey company), which, in most instances, are regulated TCSPs. Therefore, there is reliance on the TCSP sector as gatekeeper and as a source of risk mitigation and availability of information. For this reason, the degree of TCSPs' compliance with AML/CFT obligations (which is generally sound although with some, non-systematic, shortcomings in relation to identifying control through other means) impacts the accuracy of BO information of legal arrangements. Supervisory actions conducted in relation to TCSPs have so far uncovered few shortcomings related to their BO information obligations towards legal arrangements.
- e) For legal persons, the authorities have established and used a progressive scale of sanctioning powers ranging from the use of increasing late fees through strike off and

ultimately criminal prosecution (which has been introduced relatively recently). Criminal sanctions have been mostly imposed in relation to the requirements of appointing a nominated person and submitting an annual conformation statement. No sanctions have been applied for the provision of false or misleading BO information and few for not updating BO information to the Registry within 21 days of a change.

Recommended Actions

Immediate Outcome 5

- a) Jersey should further consider potential ML schemes in their risk assessment exercises. This should cover typologies of abuse by particularly complex corporate structures. Jersey should also further develop the understanding of inherent vulnerabilities of LPAs in relation to TF activities.
- b) Jersey should consider extending direct access to the Central Registry to obliged entities and to introduce an obligation for them to report discrepancies should they discover inaccurate, missing or out of date information, to help ensure accuracy.
- c) The JFSC and the Registry Supervision Function should continue to review and refine the scope of their activities with a view to detecting more serious breaches, such as cases of BO concealment.
- d) Jersey should undertake further efforts to have accurate statistics on the number of Jersey-law legal arrangements (trusts) operating in the jurisdiction (including those administered by non-professional trustees).
- e) Jersey should ensure the use of the full scale of sanctions available (in some cases, recently introduced) beyond the use of late fees, strike off notices and breaches of the formal requirements to appoint a nominated person or submit an annual confirmation statement where appropriate breaches are identified.

655. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25.³⁹

7.2. Immediate Outcome 5 (Legal Persons and arrangements)

656. Jersey has the following types of legal persons and arrangements:

Legal persons

657. Companies are incorporated entities that might be either public or private (companies with less than 30 members and with no obligation to submit annual accounts), as well as with limited or unlimited liability. Unless stated otherwise, references to companies will also include cell companies, whether incorporated or protected.

³⁹ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

658. Limited liability companies (LLCs) are hybrids between companies and partnerships, with limited liability to their investors.

659. Limited liability partnerships (LLPs) are a type of partnerships, with separate legal personality, and whose partners have limited liability.

660. Incorporated limited partnerships (ILPs) and separate limited partnerships (SLPs) are partnerships with separate legal personality to that of its partners, who can be general partners (unlimited liability) and limited partners (liability limited to their contribution), the difference between the two types being that ILPs are body corporates and SLPs are unincorporated.

661. Limited partnerships (LPs) are also partnerships with general and limited partners. They are often featured in the structuring of investment funds, thus explaining their relevance in terms of numbers when compared to other types of legal persons and arrangements (except for companies and trusts). The difference with other types of partnerships being that the partnership itself does not have a separate legal personality from its partners. For this reason, Jersey rightfully considers them as legal arrangements, however, given their similarities with other partnerships, including the legislation governing them, their registration and provision of information to the single Registry requirements, and the fact that they are not “trust-type” arrangements, they will be considered as legal persons for the purposes of this report.

662. Foundations are incorporated entities with separate legal personality established for a purpose or for the benefit of beneficiaries.

663. Incorporated associations are incorporated by the Royal Court and are predominantly created with a local, community or philanthropic purpose. Approximately 43% of incorporated associations choose to register with the Jersey Charity Commissioner and a further 60% are registered with the JFSC as NPOs as well. Association between persons is also possible without incorporating an association (affiliations, interests, clubs, etc.), but lacks legal binding force, and, therefore, is not considered as either a legal person or a legal arrangement.

Legal arrangements

664. Express trusts consist of arrangements, governed by a trust deed or instrument, where a settlor divests of assets to one or more trustees who held the legal ownership for the benefit of others. They are mainly regulated in the Trust Law.

665. *Fidéicomis* are trust-type arrangements that may own immovable property (in Jersey). No new *fidéicomis* are being created and are considered by the authorities “an entity for its time”, as only historical arrangements remain. They are regulated by the same legislation as incorporated associations (*Loi 1862*), and also like those, are authorised by the Royal Court and registered in the public Registry of the Judicial Greffe (‘Royal Court Registry’).

666. Customary law partnerships are partnership agreements between 2 or more persons to carry on business, lawful trade or hold an asset in common and share the profits and losses. They are considered as trade names/business names.

Table 5.1. Number of new incorporations and total numbers of legal persons and arrangements in Jersey

Entity Type	2018	2019	2020	2021	2022	Total (31.12.22)
Legal persons						
Registered Company Private	2425	2466	2604	2810	2900	34,384
Registered Company Public	22	23	15	27	15	
Incorporated Cell Company Private	7	6	6	7	4	

Entity Type	2018	2019	2020	2021	2022	Total (31.12.22)
Incorporated Cell Company Public	0	0	0	1	0	
Protected Cell Company Private	6	3	1	8	3	57
Protected Cell Company Public	0	0	0	0	0	
Limited Liability Company	0	0	0	0	1	1
Limited Liability Partnership	18	19	14	24	17	138
Incorporated Limited Partnership	0	0	0	0	0	15
Separate Limited Partnership	13	14	14	16	24	154
Limited partnerships	247	276	263	344	337	2,637
Foundation	18	14	13	16	11	212
Incorporated association	7	2	5	3	2	246
Total legal persons	2516	2547	2672	2912	2977	38,382
Legal arrangements						
Trusts	n/a	n/a	n/a	n/a	n/a	29,338 ⁴⁰
<i>Fidéicomis</i>	0	0	0	0	0	80
Customary law partnerships	n/a	n/a	n/a	n/a	n/a	330 (approx.) ⁴¹
Total legal arrangements	n/a	n/a	n/a	n/a	n/a	29,748
Total entities	2763	2823	2935	3256	3314	68,130

7.2.1. Public availability of information on the creation and types of legal persons and arrangements

667. Jersey legal persons (except for incorporated associations) are all created through Jersey's myRegistry (online user interface through which legal persons, or their authorised representatives (nominated persons) submit the necessary information for their incorporation and manage and update the information the Registry holds about their businesses). Incorporated associations are created through the Royal Court and registered with the Judicial Greffe, same as for *fidéicomis*. Customary law partnerships and trusts are not subject to registration requirements in Jersey.

668. Details regarding the formation requirements of each legal person and arrangement are available publicly on the Government of Jersey website⁴². Additional information on the creation and types of legal persons in Jersey is publicly available through JFSC Registry website. This website provides information on the main steps for creating legal persons⁴³, what basic and beneficial ownership information to submit to the Registry and how to do it⁴⁴, and several other guidance documents. Specific information on the registration process of incorporated associations that are charities is available in the Association of Jersey Charities website⁴⁵, although it does not include any other types of incorporated associations that are not charities. Information about the creation, types and use of trusts is also available on the Government of Jersey website⁴⁶.

669. Private companies are the most common sort of legal person in Jersey. As clarified by the authorities, this is due to the similarities with English law companies, long-standing statutory basis and flexibility of usage. They may be easily incorporated or dissolved at low cost and are

⁴⁰ Express trusts (both Jersey and non-Jersey Law) administered by TCSPs registered with the JFSC.

⁴¹ According to data collected under the Control of Housing and Work Law

⁴² <https://www.gov.je/Industry/Finance/FinancialCrime/Pages/LegalPersonArrangements.aspx>

⁴³ <https://www.jerseyfsc.org/registry/register-or-make-a-change/>

⁴⁴ <https://www.jerseyfsc.org/registry/registry-forms/>

⁴⁵ <https://www.jerseycharities.org/help-and-guidance/starting-a-charity/type-of-charity>

⁴⁶ <https://www.gov.je/SiteCollectionDocuments/Industry%20and%20finance/ID%20What%20is%20a%20trust.pdf>

most notably used for asset holding and private wealth management purposes. Companies (both public and private) account for almost 90% of all legal persons registered in Jersey. Incorporations of Jersey private companies have been steadily increasing year on year since 2018, with annual incorporations increasing by 19.6% between 2018 and 2022.

670. Trusts are the most common type of legal arrangement (approximately 97% of all types of legal arrangements). The number of trusts administered by Jersey TCSPs are estimated to be 29,338, including both Jersey and non-Jersey Law. Information collected for the purposes of the LPA risk assessment allowed to obtain further information on 20,727 trusts, out of which 76,2% are Jersey-law trusts (up to 91,3% if also taking into account the UK and the other Crown Dependencies), most of them being discretionary (50,8%). However, due to not being subject to registration requirements in Jersey, wholly accurate statistics of Jersey-law trusts are not available in the jurisdiction.

671. Regarding unit trusts, it is estimated that there are 322 as of December 2022. Non-fund unit trusts need to obtain a “COBO consent” by the Central Registry after reviewing the details of the trustee, activity of the unit trust, whether the trust will acquire real estate and where and any risk factors detected. Fund (whether private or public) unit trusts also need to obtain COBO consent and applications are dealt by the JFSC authorisations team (as any other public or private fund would).

672. There are no numbers concerning trusts administered by non-professional trustees, which is also acknowledged in the LPA risk assessment. It is estimated, however, that these types of trusts are primarily established for family arrangements such as holding assets for someone without legal capacity.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

673. Jersey identified and assessed the ML/TF risks and vulnerabilities of legal persons and legal arrangements (LPAs) through the 2023 LPA Risk Assessment. This was the country’s first specific analysis of ML/TF risks related to LPAs. Led by the Government of Jersey, the risk assessment process established a working group for conducting the risk assessment, it comprised private sector professionals and key representatives from the competent authorities, including: representatives from TCSPs, the legal sector and TCSP trade bodies; JFSC; Registry; Law Officers’ Department; JFIU and Revenue Jersey. The risk assessment followed the World Bank model. The guidance to the model is the World Bank Guidance to Legal Persons Risk Assessment. The authorities acknowledge that as an IFC Jersey is at a high risk of persons trying to launder the proceeds of crime through Jersey legal persons and arrangements.

674. The risk assessment concluded that overall Jersey has a high level of ML threat posed by LPAs, while overall, the national vulnerability of Jersey LPAs is rated as medium. The AT considers the ratings concerning ML as appropriate. This exercise also provides relevant recommended actions to undertake in relation to areas such as data collection, legislative amendments, development and enhancement of typologies or outreach and engagement.

675. The document is based on the analysis of threats, vulnerabilities, inherent risks and mitigating measures. It looks at issues such as risks related to foreign beneficial owners and controllers of legal entities, while also explaining in detail, and backed up with data, the most common uses of every type of legal person, including their role within complex structures. It is concluded that, out of all types of legal persons, Jersey companies have a higher risk of ML (estimated as medium risk), which is consistent with the scale of their use. It is also acknowledged

that foreign-owned structures are the majority and a specific section of the risk assessment analyses the risks of the attractiveness of Jersey-based entities to non-residents.

676. Actual risks pointed out in relation to companies refer to enabling corruption, fraud and tax evasion, spending or investing proceeds of crime, hiding true ownership of assets, transferring bribe payments or embezzled public funds, co-mingling proceeds of crime with legitimate sources of funds or providing protection for assets acquired with proceeds of crime. Similar risks are highlighted and being looked at regarding the other types of legal persons (partnerships and foundations). When assessing the risks of different types of LPAs, the consideration of methods or schemes through which the risks could materialise could be further explored, including through consideration of typologies of abuse by particularly complex corporate structures. This notwithstanding, the use of LPAs in ML schemes has been considered in some case studies in the booklet issued in January 2023.

677. The 2023 LPA risk assessment also assesses risks related to non-Jersey companies administered by Jersey TCSPs, legal arrangements (most notably, trusts) or the establishment and administration of Jersey law governed trusts outside Jersey, which are also considered as presenting higher ML/TF risk.

678. The reasons why the number of ML prosecutions targeting legal persons and arrangements remains low is also explored. During the relevant period, the one ML prosecution that referenced a Jersey company did not feature direct abuse of the company or any feature of the company. The report considered the limited number of investigations and prosecutions into ML/TF as risk increasing factor that has impacted the ability to draw on typologies.

679. As regards TF risks, the understanding is less developed than for ML risks. The analysis on the use of LPAs for TF purposes is mostly concentrated on the links with TF Target Jurisdictions, for example this included reviewing data on the number of companies reported undertaking their principal activity in at least one of the 21 TF Target Jurisdictions identified as part of the TF NRA or trusts holding assets in target jurisdictions. The analysis could have benefitted from further consideration of the different inherent vulnerabilities of all the different types of legal persons and legal arrangements or their activities for TF purposes.

680. Overall, the ML risk understanding by the competent authorities is comprehensive, especially in the case of the Registry and the JFSC, due to their more direct involvement in the registration and supervision of legal persons. Additionally, authorities were able to articulate risks related to tax avoidance or fraud using Jersey legal persons or complex structures spanning multiple jurisdictions in which the Jersey legal person is a part of, related to actual investigations of the SOJP, ECCU or the FIU.

7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements

681. Jersey authorities rely on a wide range of measures to prevent the misuse of LPAs for ML/TF purposes, including those to ensure transparency. Jersey has adopted a “four cornerstone approach” to prevent the misuse of LPAs for ML/TF purposes: a Central Registry; JFSC supervision of DNFBPs (TCSPs); the “company approach” (information held by legal persons themselves) and the recently introduced “Registry Supervision function”.

Central Registry

682. The Central Registry is the single registry available in Jersey, that encompasses the multiples registers (for companies, LLCs, LLPs, ILPs, SLPs, LPs and foundations) and is housed at and maintained by the JFSC. The Registry structure has been evolving over the period under

assessment, adapting to its increasing responsibilities and is currently well-resourced to undertake its functions. The Registry contains basic and BO information of aforementioned types of legal persons. It constitutes a strong risk mitigating measure to prevent the abuse legal persons.

683. In order to incorporate or register in Jersey, a legal person must appoint a nominated person. This requirement was introduced in the Disclosure Law in 2021. The purpose is to ensure that all legal persons have an appropriate person in the jurisdiction who is authorised by the entity and accountable for providing all basic and BO information and so has access to this information and may be required to provide additional assistance to the JFSC and local competent authorities. Nominated persons can be significant persons of the legal entity (company secretaries or directors, managers of LLCs (or members with management responsibilities), partners of LLPs participating in their management, general partners of ILPs, SLPs and LPs and qualified members of foundations), but only if they are resident in Jersey or are Jersey-based TCSPs (or also lawyers, accountants or FSBs), duly licensed to incorporate or register legal persons.

684. If there are to be any BOs who are not resident in Jersey, the legal person will need to engage a TCSP to make the application to incorporate or register and to provide ongoing services. Legal persons which do not use a TCSP (mostly local trading entities) must have a Jersey-based BO, registered office and nominated person. These measures are aimed at ensuring that there is always a nexus between the legal person and Jersey, which acts as a risk mitigating measure.

685. The Control of Borrowing Law provides that the JFSC, in deciding whether to grant a “COBO consent” or attach conditions to a consent for companies, LLCs, partnerships and unit trusts to issue share or create interests, shall have regard to the need to protect the integrity of Jersey in commercial and financial matters and the best economic interests of Jersey.

686. Powers under COBO legislation are broad enough to allow for the imposition of any condition deemed necessary for the incorporation of the legal person, as shown in the example below.

Box 5.1 – Application for incorporation of a Jersey company where conditions were imposed on the COBO consent.

In November 2021, an application for the incorporation of a company, which was a complex structure, was presented to the Registry. The company was to act as a service company within a structure that owns a mine (activity posing a potential risk according to the JFSC Sound Business Practice Policy) in a jurisdiction with higher risk characteristics according to Appendix D2 of the AML/CFT/CPF Handbook (‘jurisdiction A’), held by special purpose vehicle (SPV) domiciled in jurisdiction A. The company was to replace the function of another company incorporated in jurisdiction B that was providing intergroup services to the SPV.

Due to the risk factors indicated, plus the fact that the TCSP acting as the nominated person was to provide registered office and company secretary services only and adverse media subsequently found by the Registry, it was concluded that the application presented a cumulation of risks that could pose reputational risks. Consequently, it was escalated in accordance with the Registry’s high-risk escalation procedure, which decided that the application would only be reconsidered if certain risk mitigation measures were applied, including half-yearly reviews of the company, daily screening and adverse media alerts for all associated parties or the periodic review by the TCSP of all minutes and financial statements.

In addition, the Registry imposed conditions on the COBO consent issued to the company, requiring the company to be at all times administered by a JFSC-licensed TCSP and having a

Jersey resident director on the board (who must be a principal or key person of the TCSP). With these measures in place, the company was eventually incorporated in January 2022.

687. The Registry has detailed procedures in place regarding the registration process, including all the checks to be conducted upon incorporation of a legal person. These checks are thorough and comprehensive and include: (i) general checks on the basic information of the legal person (name, registered office, basic regulating powers attached (memorandum, articles of association, partnership agreements, declaration, regulations, etc.); (ii) checks on the legal person's activity (nature of business, consideration of sensitive activities, obtention of structure charts whenever the BOs differ from the persons in the incorporation documentation, in order to understand the complexity of the structure); (iii) checks on related parties (application of the 3-tier test to ascertain BOs, identification of parties of a trust (when part of the ownership chain of the legal person) or identification of nominee directors); (iv) vetting; (v) identification of "higher risks"; and (vi) validation or re-checking of previous steps.

688. During this exercise, 3 different types of risk level ("high", "medium" or "standard") can be assigned to the legal structure concerned, that trigger 3 different sets of actions ("interrogate", "investigate" or "validate"), accordingly. Investigative/interrogative actions include consideration of intelligence, reputable open sources of information and, most frequently, contacting the TCSP acting as nominated person, including face-to-face meetings, especially in those cases deemed as presenting significant risk factors or complexity.

689. If any "higher risks" are detected, the high-risk escalation procedure is triggered. Higher risk escalation criteria is in line with the risk appetite statement and sound business practice policy of the JFSC. Examples of higher risk criteria, as determined by the Registry policies, include, associated parties that are designated persons, persons related to "FATF-blacklisted" jurisdictions or persons with financial crime-related convictions, activities that pose a risk of aggressive tax avoidance, or situations where, after all the enquiries from the Registry, the BO, source of funds or rationale for the structure could have not been determined with reasonable assurance, among others. The escalation procedure consists of several instances of revision and approval (or refusal) across the hierarchy of the Registry, including the Executive Director of the Registry, the High-Risk Business Forum, the Director General of the JFSC, the Board of Commissioners or the Sound Business Practice Committee, depending on the risks identified.

690. After conducting the previously described checks, the Registry can require the application of "enhanced measures" as conditions for the registration of legal persons, in addition to any other that may have been imposed in relation to granting the COBO consent. It is worth mentioning that, in most instances, the conditions involve the participation of a Jersey-regulated TCSP in the legal persons in some capacity (as part of its management or administration, by having key persons sitting on the board, by acting as nominated person, by performing EDD on the legal person, etc.), which further reinforces the heavy reliance placed in the TCSP sector as a both a risk mitigating measure and source of legal persons and arrangements information.

691. Overall, the checks conducted by the Registry at the incorporation phase constitute effective measures to prevent the misuse of legal persons (that are subject to registration requirements at the Central Registry) for ML/TF purposes, with an aim to ensure that structures are not incorporated unless appropriate risk mitigating measures can be put in place.

692. Additionally, since beginning of 2023 the Registry has put in place a vetting procedure. It consists in an on-going automated screening system, which is used to complete initial screening

at the time of incorporation/registration and allows for perpetual screening of all BOs, controllers and significant persons associated with Jersey registered entities. For example, these are screened against PEP lists, sanctions, law enforcement or regulatory enforcement lists or negative news feeds, using third-parties screening solutions. All significant persons' information held in the Registry is screened overnight, with a newly established team of screening analysts monitoring all ongoing alerts. The Registry gets monthly reports on matches from the third-party solutions providers, which show that, as of March 2023, approximately in 30% of the names screened, positive matches are found, mostly corresponding to the risk categories of "PEPs" or "multiple categories" (there is a positive hit in more than one of the categories). No matches have been found in relation to sanctions or law enforcement lists.

693. As a result of the previously described controls, the Registry rejects, returns and cancels applications. There have been 45 companies and 3 partnerships rejected in 2022 and 57 companies and 2 partnerships in 2021. Some examples of rejections provided to the AT include cases of jurisdictional risks, lack of sufficient risk management measures (no oversight of high-risk entities by Jersey TCSPs), no clear rationale for the incorporation/migration of the legal person or even BOs with criminal links or entities holding assets acquired with proceeds of crime. These examples prove that the systems put in place by Jersey are able to detect and disrupt cases that are outside the risk appetite of the jurisdiction due to their high risk of misuse for ML/TF purposes.

694. It should be noted that all the previously described controls, concerning the Central Registry, do not apply to incorporated associations or legal arrangements. This notwithstanding, in the case of incorporated associations and *fidéicomis*, they may only be incorporated or created on application to the Royal Court, by presenting all the necessary documentation, which is reviewed by the Law Officer's Department, and incorporations will only take place on confirmation by the Attorney General. In the case of legal arrangements, TCSPs are the main gatekeepers and, therefore, the implementation of mitigating measures by the latter and supervision exercised over them is thoroughly considered.

Other risk mitigating measures

695. Regarding bearer shares, its issuance is prohibited under Article 34(3) of the Companies Law since 2020. Regarding bearer shares that could be issued by non-Jersey companies that are customers of TCSPs, the latter are required to report annually to the JFSC whether any non-Jersey companies have issued bearer shares, of which there were no cases in the latest submission of 2022.

696. On the use of nominee agreements, it should be noted that there are 418 active TCSPs which currently hold a licence to provide nominee services.

697. In the case of nominee directors, there is no difference between executive and non-executive directors, meaning that directors have all the duties and obligations, and not the nominator. Additionally, since 2021, the Disclosure Order introduced the concept of "nominee" and "nominator" in relation to directors and requires, as part of the significant person information to be submitted and updated to the Registry (within 21 days of a change), to also include the name of the nominee director's nominator. As part of significant person information, it is also subject to annual confirmation. It should be noted though that the nominator and nominee director status is held in the Registry (and thus available to competent authorities), but is not publicly available. The same requirements apply to nominee shareholders.

698. Use of nominee directors is limited. Registry extracts from 2023 estimate a total number of 260 active nominee directors corresponding to 258 Jersey companies, out of which 201 are based in Jersey (21 of them being corporate directors) and correspond to 218 companies. The numbers are similar when it comes to nominee shareholders. The limited use of nominee arrangements along the disclosure requirements (and outreach in relation to them) mitigate their potential misuse for ML/TF purposes.

699. It has also been brought to the AT attention that TCSPs may, upon approval by the JFSC, be allowed to incorporate so-called 'reserved' companies. These are inactive companies, owned by the TCSP (this is reflected in the Registry with details of BOs and significant persons of the TCSP), that, within 21 days of change of ownership to the client of the TCSP, the nominated person must provide the Registry with details of the new BOs, significant persons, confirmation of undertaken CDD and intended activity of the company. Authorities are of the view that, given the BO disclosure requirements, reserved companies cannot be assimilated to shelf companies. In any case, the materiality of this issue is low, considering that, at the time of the onsite, there were no reserved companies registered in Jersey. This declining trend is explained by the authorities with the introduction of a "fast-track process" for the incorporation of companies rendering them redundant.

700. Another area of increased focus are private trust companies (PTCs), which are companies or LLCs with the sole purpose to provide trust and company services (including acting as trustees) to trusts (or acting as members of the council of foundations), but that do not provide such services to the public, and are administered by a regulated TCSP. PTCs are commonly used by ultra-high-net-worth-individuals within the context of family offices (in approximately 43% of the cases), to act as corporate trustees or provide services such as structuring or governance. The main benefit to use a PTC is to appoint family members or advisors to the board, instead of members of a TCSP, so a higher degree of control on the family wealth management can be retained. Authorities informed about 1,197 Jersey-registered PTCs (which account for 97% of all PTCs in the TCSP sector, the rest being foreign ones).

701. PTCs were previously subject to notification to the JFSC, but did not fall under the scope of the MLO. Since the lifting of any "scope exemptions" (January 2023 onwards), PTCs themselves (and not just the TCSPs administering them) have become entities obliged to apply preventive measures and identify all the relevant parties of the business relationship, including the parties of the trust, assets held, and other legal persons involved in the structure. This acts as a further mitigating measure, as now two parties are required to apply the MLO measures to the same business relationship. This notwithstanding, the introduction of the measure is quite recent, and no supervision actions have been conducted in relation to PTCs directly so far.

7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

702. Jersey ensures timely access to basic and BO information on legal persons via three sources: the Central Registry, obliged entities (mostly TCSPs) and legal persons themselves. All the competent authorities confirmed that they can and, in fact, obtain, to varying degrees, basic and BO information without any obstacle.

Registry of basic and beneficial ownership information on legal persons

703. The primary source of BO and controller information of legal entities is the Central Registry, which is 100% populated with basic and BO information of legal persons (except incorporated associations, whose information is available in the Royal Court Registry). The

competent authorities (FIU, ECCU, Revenue Jersey) have direct and immediate access to basic and BO information maintained in the Central Registry (prior to 2023 it was only accessible on request, except in the case of the FIU, who has had direct access since 2017 for the purposes of the Exchange of Notes with the UK (see IO.6)).

704. Basic information is largely contained within the entity profile and can be downloaded by any person directly from the Central Registry website. Other information, including certificates of incorporation and registration and previous annual returns may also be purchased from the Central Registry website.

705. In terms of keeping up-to-date information, basic and BO information is to be updated within 21 days of a change (with certain exceptions concerning basic information of LLPs, LPs and foundations). Changes in relation to incorporated associations cannot take place without approval of the Royal Court. When it comes to updating BO information, however, it should be noted that, according to the guidance available in the Registry website, there seems to be an approach of increasing the percentage of ownership (from 10% or more to 25% or more) upon which a BO should be reported when informing the Registry about any changes. Authorities indicated that this corresponds to a historic policy inherited from when the BO submission and updating was dealt exclusively within the context of granting “COBO consents” and due to the Registry checks being more thorough at the incorporation phase (in line with its role as gatekeeper) than in an ongoing basis. The persons reported as BOs are, in any case, within the range of examples of “controlling ownership interest” provided in the FATF Methodology, with the threshold used at registration being stricter.

706. The accuracy of the data contained in the Central Registry is checked by the Registry before incorporation/registration of legal persons and upon any change, through the use of screening tools or additional controls for higher risk situations, such as additional managerial approval or the use of enhanced analytical tools for complex structures. Regarding significant persons and BO information, the Central Registry undertakes verification of their identity upon incorporation and in the event of any change for all legal persons which are not administered by a TCSP (which are estimated as approximately 8,110). All changes to BOs and controllers are not registered until approved by the corresponding team within the Registry. Additionally, Jersey also introduced a system, through the Disclosure law, of annual confirmation statement to confirm that the significant persons and BO information provided is accurate and still valid. At the time of the onsite, 3 annual confirmation cycles had been completed.

707. Another mechanism introduced at the start of 2022 to ensure that the basic and BO information contained in the Central Register is accurate and up to date is the “Registry Supervision function”. This function includes activities such as enhanced automated vetting and monitoring, analysis of Registry data, written notices to legal persons and, most notably, desk-based enquiries and inspections to legal persons. This initiative reduces, in part, the reliance placed on the TCSPs for verification of BO and significant person information of legal persons.

708. When it comes to inspections, high-risk factors, intelligence and data anomalies are taken into consideration, as well as information from the JFSC Supervision and Enforcement divisions and other risks elements (for example, sensitive activities under the Sound Business Practice Policy or cases where multiple entities share registered office without being one of a TCSP). Given the volume of legal persons inspected, many of them are also selected randomly, a figure that seems to be on the rise. This notwithstanding, the risk factors taken into account are relevant and effective at selecting the types of entities where a higher focus should be put on.

709. Inspections check the address verification and identification documents (or certified copies of the original documents in case of non-residents) of associated parties to the legal person (BOs, controllers, significant persons), the availability of the registers of directors, secretaries or members, and the registered office.

710. Post-inspection letters are issued in every case (whether containing findings or not). Minor breaches (small mistakes, typographical errors, etc.) are expected to be remedied by the legal persons within 21 days, while breaches categories as “medium” or “high” (deliberate breaches or accumulation of breaches) would be escalated to the Head of Registry Supervision, and the appropriate follow-up actions are decided (reassessing the entity risk rating, informing the JFSC Supervision or Enforcement divisions, conducting a follow-up inspection or desk-based supervision or even internal SAR reporting).

711. Inspections in 2022 were based on risk factors such as sensitive activities, individuals linked to high-risk jurisdictions or to criminal offences (dishonesty), multiple entities using the same registered office, cases where BOs, members or significant persons do not appear to match the legal person’s activity, same nominated person providing services to a high number of entities, queries or liaison with JFSC Supervision/Enforcement or previous history of late or non-compliance. This selection of factors demonstrates the effective use of the information that is available to the Registry to target the inspections based on risk.

712. A more detailed look at the number of inspections conducted so far and the associated findings can be seen in the table below:

Table 5.2. Number of Registry supervision inspections, associated parties and findings

	#inspections	Type of entity			TCSP connection	Findings (not maintaining Registers)		
		Companies	Foundations	LLPs		Directors	Secretaries	Members
2022 (Apr-Dec)	560	558	1	1	197	14	21	21
2023 (Jan-June)	787	786	0	1	0	122	141	121

		Type of associated party				
		Directors	Secretaries	Members	BOs	Controllers
2022 (Apr-Dec)	#associated parties reviewed	4,843				
	#findings (inaccuracies)	239	189	126	260	232
2023 (Jan-June)	#associated parties reviewed	2,247				
	#findings (inaccuracies)	332	193	289	146	162

713. The findings uncovered so far related to minor inaccuracies in the information. The efforts of establishing a supervisory function to enhance the accuracy of information held in the Registry and the number of inspections conducted so far is very commendable. However, the fact that, so far, all the findings detected correspond to minor inaccuracies, despite the inspections being focused on high-risk scenarios, or that legal persons other than companies (despite being much less significant in terms of numbers) are barely taken into consideration (specially in relation to LPs, who are in the scope of the Registry and relatively significant in terms of numbers) show that there is still room for improvement. Authorities are of the view that, considering the degree of regulation present in the jurisdiction and the checks put in place, more serious cases other than minor inaccuracies are unlikely to happen. Since the introduction of the function is relatively recent in the overall period under assessment, conclusions on its effectiveness are still premature.

Access to information by authorities

714. The following types of information are available, in a timely manner, to competent authorities:

Table 5.3 Basic and BO information accessible to each type of competent authority

Data held by	Type of information	Accessible by	Method of access	Timeframe to provide information
JFSC (Registry)	Basic	Public / All competent authorities	Registry website search	Immediate
	Basic & BO	FIU ⁴⁷ / Attorney General / Revenue Jersey	Direct access to the register	Immediate
	Basic & BO	FIU	Request under Proceeds of Crime Regulations	Specified in the request (aim for 5)
	Basic & BO	SOJP / Attorney General	Production order	21 days (aim for 5)
	Basic & BO	Revenue Jersey	Email request under TIEA ⁴⁸	30 days (aim for 2-5)
Legal persons	Basic & BO	All competent authorities	Article 9 notice (Disclosure Law)	Specified in the notice
	Basic & BO	SOJP / Attorney General	Production order	21 days
Nominated persons	Basic & BO	All competent authorities	Article 9 notice (Disclosure Law)	Specified in the notice
		SOJP / Attorney General	Production order	21 days
Significant persons	Basic & BO	All competent authorities	Article 9 notice (Disclosure Law)	Specified in the notice
		SOJP / Attorney General	Production order	21 days
TCSPs (and other REs)	Basic & BO	JFSC Supervision	Powers under Financial Services Law and Supervisory Bodies Law	Specified in the notice
		JFCU	Liaison notice ⁴⁹	Specified in the notice
		FIU	Request under Proceeds of Crime Regulations	Specified in request
		SOJP / Attorney General	Production order	21 days

715. Most of the requests for information are channelled through TCSPs as approximately 84 % of legal entities is administered by local TCSPs, therefore any information on legal persons is rarely collected from legal entities.

716. The number of times authorities have accessed or requested BO information about Jersey legal persons is detailed in the table below:

⁴⁷ The FIU was part of the SOJP for the majority of the review period. The SOJP continues to have direct access to Registry via FIU, with whom premises are shared. Direct access by SOJP will continue when FIU moves location.

⁴⁸ Tax information exchange agreement between Revenue Jersey and the Central Registry

⁴⁹ Only used in the context of criminal offences. They can concern BO information when legal persons or arrangements are connected to an individual charged with a crime.

Table 5.4 Number of BO information requests sent by competent authorities

#BO notices / orders ⁵⁰	FIU					ECCU ⁵¹					Revenue Jersey				
	2022	2021	2020	2019	2018	2022	2021	2020	2019	2018	2022	2021	2020	2019	2018
Companies	0	0	0	0	0	5	2	2	0	0	53	75	36	39	19
TCSPs	578*	825*	942*	806*	621*	10	3	0	2	0					
Banks						5	9	3	6	2	22	28	9	14	12
JFSC	0	0	0	0	0	0	0	0	0	0	28	41	27	31	13
Total	578	825	942	806	621	20	14	5	8	2	103	144	72	84	44

* It includes all obliged entities, although most of the notices are sent to banks and TCSPs.

717. As it can be seen, competent authorities consult the Registry and other available sources (legal persons, obliged entities) for collecting BO information on legal persons, although in a limited capacity, except for the FIU and Revenue Jersey. The breakdown of statistics does not allow to fully determine the frequency and scope of consultation (as statistics are kept in relation to the overall number of notices or orders sent, which, in the majority of occasions, are going to also request BO information) or the types or numbers of legal persons consulted (or whether consultations, in the case of other sources different from the Registry, concern legal persons, arrangements or both).

718. Regarding the Central Registry, competent authorities consider it as a trusted source for collecting basic and BO information. The Central Registry has received a total of 3103 requests from all competent authorities between 2018 and June 2023, out of which 2962 (95,45%) concerned legal persons' basic information. The Registry reported that almost all of these responses included the provision of beneficial ownership information alongside basic information. However, the statistics provided to the AT do not allow to have a breakdown per authority of all the requests received by the Registry between 2018 to 2023. In 2023 authorities have made use of the direct access to the Registry in 218 cases (FIU), 49 cases (Revenue Jersey) and 12 cases (ECCU). Additionally, the FIU has made use of this access in 40 cases in 2018, 7 cases in 2019, 28 cases in 2020, 35 cases in 2021 and 22 cases in 2022. Obligated entities (in particular, TCSPs) are also a very significant source of access to BO information for the competent authorities. Authorities report that this is the case because they will usually seek information from both the Registry and the obliged entity in order to ensure the application of a multi-pronged approach to gather all available information.

719. There is a formal mechanism established for competent authorities (FIU, Attorney General, Revenue Jersey) to report to the Registry any discrepancies concerning BO information, according to their information sharing agreements. Authorities claim that no discrepancies have been uncovered between the information they hold and what is available in the Registry. Obligated entities do not have access to the Registry BO information. Overall, Jersey's framework would

⁵⁰ The statistics show the total number of notices/orders issued by the competent authorities concerned, which, in most of the occasions, are going to also include BO information.

⁵¹ ECCU is accessing the Registry information through the access granted to the Attorney General.

benefit from promoting further use of the BO information held in the Registry by extending direct access to obliged entities and from establishing discrepancy reporting requirements for them.

720. Access to basic or BO information for the purposes of international cooperation (MLA and others) is explored under IO.2.

7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

721. Jersey does not have a central register of BO information for trusts and other legal arrangements. Competent authorities obtain BO information on legal arrangements directly from trustees that are obliged to undertake CDD measures (including BO identification) and apply ongoing monitoring. These measures apply to both professional (TCSPs) and non-professional trustees, whether corporate trustees or natural persons, as well as to PTCs. Identification of BO includes all relevant parties to a trust or, in the case of unit trusts, any unit holder with material controlling interests of 25% (or less in higher risk scenarios).

722. Other sources of BO information regarding trusts besides trustees include the Central Registry in certain particular circumstances. These would be cases where a legal person is held in a trust (meaning that the trustee owns or controls the legal person and fulfils the criteria to be considered as BO). In those cases, information on some parties of the trust has to be submitted to the Registry as part of the BO submission and updating process of the legal person. It is only in those cases where the trustee is not a licensed TCSP that is required that the information has to be submitted and updated. Also, settlors not having retained control powers are not recorded as controllers, but their information is obtained by the Registry. Beneficiaries with a percentage of vested interest under the threshold defined by the nominated person of the legal person following the application of a risk-based approach (normally 10%) are not reported. This is explained by the fact that the BO information that is being submitted is that of the legal person (therefore, the persons to be informed need to exercise control over the legal person) and not that of the legal arrangement. The Registry website contains useful guidance⁵² containing relevant examples (including cases of discretionary beneficiaries or beneficiaries for which the percentage of interest of every individual is not known) on how to apply the 3-tier test in these, more complex, cases.

723. Considering that TCSPs are the main source of information when it comes to BO information of legal arrangements, their compliance with the CDD requirements and the effectiveness of supervisory activities is particularly important to ensure the adequacy and accuracy of the BO information on legal arrangements available in the jurisdiction.

724. In this regard, the JFSC monitors compliance with this requirement for TCSPs. Ascertaining correct BO identification of legal arrangements has a significant focus in the full-encompassing, financial crime examinations of the JFSC. In order to achieve that purpose, within the scope of examinations the JFSC checks the trust deed, the identity of any economic settlors and the relationship to those within the trust deed, information on the intended purpose and nature of the business relationship, details of source of wealth, results of ongoing monitoring (scrutiny of transactions and activity), documented authority of trustees to act as such and

⁵² <https://www.jerseyfsc.org/industry/guidance-and-policy/beneficial-ownership-and-controller-guidance/#5-trusts>

whether structure charts have been obtained to understand the structure and purpose of the trust and to identify the correct BOs and controllers.

725. Between 2019-2022, BO-related breaches have been found in 9% of the inspections conducted to TCSPs, on average. These breaches represent, on average, 1.20% of the breaches concerning the TCSP sector. These cases mostly correspond to failures to identify or verify the identity of one or more BO and/or controller, inadequate policies and procedures relating to identification measures or failures to adequately establish the source of funds or conduct ongoing monitoring.

726. A supervisory effort that is especially relevant is the last BO thematic review from 2022. The review focused on companies where at least 50% of the ownership was held by a trustee on behalf of a trust, covering 120 customer files across 10 TCSPs (following the JFSC risk classification), which included complex ownership structures with multiple layers and cross-border ownership. 84% of the covered trust population was governed by Jersey law (9 other governing laws were also included, such as the UK or the Cayman Islands, most notably), which equated to 82 trusts. The numbers are quite low when compared to the overall population of trusts operating in Jersey. The actions conducted during the examinations focused in ascertaining the correct identification of BOs, the rationale regarding who to identify and verify and the understanding of the ownership structures.

727. Most of the findings uncovered in the exercise related to areas other than beneficial ownership identification (corporate governance, internal policies and procedures, training of employees, risk assessment, etc.) and the few BO-related findings (present in 7 of the TCSPs part of the examination) corresponded to minor findings (failure to identify a nominee and minor findings in relation to verification documents), and none of them corresponded to any of the trusts reviewed (whether governed by Jersey law or not).

728. While these are positive actions to help to ensure that accurate and adequate BO information is available in Jersey, the results attained so far seem to be below those to be expected in a jurisdiction with the risk profile of Jersey, given that the BO-related findings tend to be on the lower end of the spectrum (specially in relation to legal arrangements) and in no case a serious finding that would warrant the imposition of more severe sanctions than remediation has been uncovered.

729. As acknowledged in IO.4, it can be concluded that TCSPs understanding of risks and AML/CFT obligations, as well as their capacity to apply the 3-tier test when identifying the BO, is, overall, good, even if instances of some TCSPs struggling to articulate the concept of control through other means other than ownership interest may impact the accuracy of BO information on legal arrangements held by those TCSPs.

730. Regarding other types of legal arrangements (*fidéicomis*), authorities advised that the information publicly accessible from the registry of the Royal Court is limited to the “documents by means of which they proposed to establish the *fidéicomis*” (contract), information on the *fidéicomisaire*, settlor, purpose of the structure and property held in it, the Act of incorporation and any subsequent changes or appointments approved by the Royal Court. There is no indication that authorities access information regarding *fidéicomis*.

Access of information by the authorities

731. The statistics of BO information requests to TCSPs are presented in the previous section. The granularity of the information does not allow determine the number of requests concerning BO information on legal arrangements, nor the number or types of legal arrangements concerned.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

732. Jersey can apply administrative and criminal sanctions for failing to provide basic and BO information. In the case of legal persons, these fall into three broad categories: late fees; strike off; and criminal offences.

733. Regarding late fees, these can be applied to legal persons for the late (later than 21 days from the date the obligation should have been complied with) submission or notification of: (i) the annual confirmation statement; (ii) updates of significant persons or BO information or informing about errors or inaccuracies; (iii) special resolutions (in the case of companies); (iv) accounts (in the case of public companies) and compliance with notices in writing. The fees are daily and increase for every subsequent month up to six months. The amounts range from GBP 61 to 484, depending on the number of days/months after which the information has been submitted late (ranging from 21 to 180 days, or 1 to 7 months in the case of the annual confirmation statement), according to public information⁵³.

⁵³ <https://www.jerseyfsc.org/registry/registry-fees/>

Table 5.5. Late fees imposed by the Registry (annual conformations, accounts, special resolutions) (approximate amounts in EUR)

Type of late fee		2018	2019	2020	2021	2022	2023 (Jan-Aug)
Annual confirmation	Amount	EUR 261,965.24	EUR 235,316.47	EUR 44,457.62	EUR 10,037.46	EUR 744,774.17	EUR 607,770.11
	Number	756	549	211	97	1,221	1,175
Company accounts	Amount	EUR 36,907.95	EUR 48,933.67	EUR 4,624.70	-	EUR 17,097.61	EUR 4,380.38
	Number	49	50	3	0	35	7
Other (special resolutions)	Amount	-	-	-	-	EUR 66,589.77	EUR 41,930.39
	Number	-	-	-	-	624	387

734. As observed in the table above, all late fees imposed are limited to the annual submission statement and special resolutions of companies (when it comes to the submission and updating of basic and BO information). This can be explained due to the system applying fees automatically where information is updated after the 21-day period, meaning that, for potential cases of inaccurate BOs being informed or non-updated information, it would be required for the legal person to still input the information at a later date, indicating the date when the change (or the realisation that the information submitted was inaccurate) really took place, so the system can calculate and automatically impose the late fees.

735. Regarding striking-off, the measure can be applied, according to the Disclosure Law, to cases of not updating significant persons of BO information within 21 days, not providing the annual confirmation statement, details of the nominated person (or its replacement) or not complying with a notice in writing, as well as to inactive companies, under the Companies Law. Strike-offs could also be applied to cases of findings being detected by the Registry supervision function that are not remediated within 21 days.

736. The striking-off process requires the Registry to send a notice to the concerned entity warning about the strike-off in 3 months if the breach is not remediated before. During the period from 2018 to 2022, 1,488 legal persons had been struck off the register, while notices have been sent to 4,185 entities, the vast majority of them concerning companies. The difference in numbers is to be explained with the entities having remediated the breach within the 3-month period given. The list of entities to which notices have been sent is published on the Registry website, as well as those eventually struck-off.

737. As is the case for late fees, strike off has been predominantly applied for failing to submit an annual confirmation statement, while it has also been applied in the case of some companies (applying powers under the Companies Law) not carrying on business, not being in operation or whose duration has expired. While providing BO information is a necessary requirement for the registration of a legal person, there have been no cases of strike-offs related to not timely updating or presenting inaccurate BO information.

738. Regarding criminal sanctions, the practice of using them is relatively recent. High rated breaches are referred to the Attorney General. The Criminal Division of the Law Officers' Department makes the decision on behalf of the Attorney General whether to prosecute. The decision is taken on a case-by-case basis, in accordance with the published 'Code on the decision to prosecute'. Upon conviction, the penalty is decided by the Court and would depend upon the

circumstances of the offence and any available mitigation. The list of prosecuted entities is also published.

739. So far, the criminal sanctions imposed to legal persons concern the cases seen in the box below.

Box 5.2 – Criminal sanctions imposed to legal persons

Registry Supervision carried out a desk-based analysis to identify all entities without a current nominated person. 21 entities that had failed to appoint a nominated person or notify a replacement nominated person within 21 days were sent a warning letter. As a result, 16 of these cases were referred to the Attorney General via the Law Officers' Department, due to the breaches having been assessed as of medium/high seriousness. As of September 2023, a total of 36 cases concerning legal persons breaching the requirement to appoint a nominated person or not submitting the annual confirmation statement had been referred by the Registry to the Attorney General. So far (between April and September 2023), 33 cases have appeared before the Magistrate's Court, resulting in 31 legal persons being convicted for offences under Art.6 of the Disclosure Law and fined (18 legal persons with GBP 8,000, 4 with GBP 4,000, 5 with GBP 3,000 and 4 with GBP 2,000). The penalties have been imposed at the discretion of the Court. Higher penalties have been imposed when there has not been any representative of the legal person appearing in Court or any other mitigating factors.

740. Regarding LPs, registration cancelling powers have been exercised in 98 occasions during the period under assessment. No sanctions have been imposed to incorporated associations.

741. In the case of legal arrangements, it is relevant to consider the sanctions imposed to TCSPs, as the source of BO information for trusts. In this regard, results of JFSC inspections to TCSPs very rarely lead to imposition of sanctions (14,27% of the inspections between 2018 and 2022, on average, 1,68% if referring exclusively to pecuniary sanctions), findings being mostly addressed via remediation, and it is unclear whether the cases that end up in a sanction correspond to failures of BO obligations in relation to legal arrangements (trusts). Additional cases of collaboration (for serious breaches) between the Registry and the Enforcement Division of the JFSC regarding TCSPs have been provided to the AT (the 4 cases have led to sanctions, 3 of them to pecuniary ones, one of which of a criminal nature (GBP 600,000)), but, similarly, these do not appear to concern BO obligations towards trusts.

742. Regarding other types of trustees, no criminal sanctions (under the POCL) have been imposed to non-professional trustees for failures to comply with the Obligations of Non-Professional Trustees Order and it appears that there are no sanctions that would be applicable to *fidéicommissaires*, except for that the Royal Court can recourse them if they fail to fulfil the purposes of *fidéicommissis*, of which there have not been any cases.

743. Finally, while there has been no detection, and, as a result, no sanctions, for serious cases of provision of false or misleading BO information, authorities have demonstrated the capacity to identify cases where applicants have failed to submit all the relevant BO information at the registration phase. Such cases were considered by the authorities a result of negligence, and, consequently, did not entail the initiation of any criminal proceedings.

Overall conclusions on IO.5

744. Jersey has demonstrated good risk understanding of the extent to which legal persons can be misused for ML purposes, especially authorities more directly involved in their registration

and supervision. Jersey conducted a detailed and comprehensive risk assessment exercise in 2023 concerning legal persons and arrangements. The risk assessment exercise could have further explored the methods and schemes through which the risks could materialise through different types of LPAs and their inherent vulnerabilities for TF purposes.

745. Jersey undertakes a multi-pronged approach to obtain accurate, adequate and up to date basic and BO information in a timely manner. This is mainly achieved through a fully populated Central Registry with basic and BO information for legal persons. The Central Registry has established comprehensive and thorough checks, especially at the registration phase. Positive weight is also given to the Registry Supervision function, for which there is room for improvement in light of the results achieved so far.

746. BO information of legal arrangements is kept almost exclusively by TCSPs. Ascertaining the accuracy of that information is mostly done through supervision of the sector, but the breaches identified by these supervisory actions in relation to BO requirements of legal arrangements have been on the lower end. Authorities have established and used a progressive scale of sanctioning powers for legal persons (late fees, strike offs and criminal prosecutions). Sanctions imposed so far for BO-related requirements have been mostly related to cases concerning the requirements of appointing a nominated person or submitting the annual confirmation statement. No sanctions for serious cases of provision of false or misleading BO information have been imposed so far, although some cases of lesser severity associated to negligence have been uncovered by the authorities.

747. **Jersey is rated as having a Substantial level of effectiveness for IO.5.**

8. INTERNATIONAL COOPERATION

Key Findings

Immediate Outcome 2

- a) Jersey demonstrates commendable efficiency and timeliness in addressing MLA and extradition requests. However, some internal delays in processing MLA requests have occurred, particularly in earlier years of the review period. Simplified extradition measures resulted in rapid proceedings. Jersey has successfully extradited its own nationals, displaying a strong commitment to international legal cooperation.
- b) In recent years, the island has significantly increased its efforts to seek legal assistance, including the extradition of persons to Jersey, to pursue domestic ML. Shortcomings identified in IO.7 may have impacted the island's ability to seek MLA, particularly in earlier years of the review period.
- c) The competent authorities in Jersey actively seek and provide other forms of international co-operation in pursuance of ML or for regulatory purposes. This notwithstanding, the number of outgoing requests from the FIU is notably low, and not commensurate with Jersey's risk profile. Therefore, there remains some room for improvement.
- d) LEAs frequently seek informal cooperation via FIU Jersey. Although the inter-agency cooperation is strong and effective, this approach has impacted the FIU's ability to focus on its own core operations.
- e) The FIU, commendably, regularly shares information with other FIUs on a spontaneous basis although this poses a resource challenge for the FIU team.
- f) Jersey authorities consistently and proactively share BO information related to legal entities and arrangements with foreign authorities. The process of sharing this information has been notably smooth, without significant practical obstacles.

Recommended Actions

Immediate Outcome 2

- a) Jersey authorities should continue implementing their plan of increasing the MLA team's capacity through improvements in technology and additional resources. LEAs should continue their increased efforts to seek and pursue pending MLAs, especially in complex cases and in line with Jersey's risk profile.
- b) FIU and LEAs should take a more proactive approach in seeking formal and informal cooperation from their foreign counterparts, aiming to analyse and investigate ML as well as to trace and seize proceeds of the crime, in line with the priorities set out in Jersey NRA and other strategic documents.
- c) Jersey is encouraged to reduce the average time frames for FIU replies to incoming requests and should explore the possibility of establishing a dedicated team within the

FIU to handle incoming requests, as this may help mitigate potential delays in responses and disruptions to operational and strategic analysis.

- d) Jersey should encourage LEAs to seek, more frequently, informal cooperation directly from their counterparts, rather than through the FIU.
- e) While the FIU is encouraged to continue sharing spontaneous reports, it should seek feedback regarding their utility and prioritise and allocate resources accordingly, to enhance operational efficiency.

748. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

8.1. Immediate Outcome 2 (International Cooperation)

749. Overall, Jersey's proactive approach and multifaceted engagement in international cooperation underscore its role as a cooperative jurisdiction in the fight against financial crime. Over the entire review period, it has consistently demonstrated a strong commitment to facilitating international cooperation for AML/CFT and predicate offences, particularly when it comes to providing formal and informal cooperation. This is evident through the proactive efforts of various authorities. It's worth noting, however, that while Jersey has been effective in providing information, there have been, to some extent, weaknesses in its efforts to seek information, mostly during the initial years of the review period. Ongoing efforts in this regard are underway, but room for further improvement remains.

750. This assessment was based on comprehensive statistics, case studies, feedback from the international AML/CFT community, and interviews with the relevant Jersey authorities.

8.1.1. Providing constructive and timely MLA and extradition

751. Jersey's commitment to providing MLA is commendable. During the review period, it has consistently demonstrated a good level of efficiency and timeliness in addressing requests. Feedback from the global network membership highlights the positive outcomes of Jersey's efforts. Particularly noteworthy is the expeditious processing of requests that do not necessitate coercive measures, resulting in a swifter response. On average, the duration for replying to MLA requests is good, and has improved during the review period. Furthermore, Jersey has established simplified extradition measures, which lead to rapid extradition proceedings. It is also noteworthy that Jersey has extradited its own nationals, displaying a strong commitment to international legal cooperation. In addition, Jersey demonstrated successful outcomes in international formal cooperation when it comes to asset tracing and confiscation.

Mutual Legal Assistance Procedures

752. Jersey provides a wide range of MLA under the International Conventions to which it is a signatory, via the UK, and based on the principle of reciprocity. There is an assumption of reciprocity when requests are first received, and this assumption applies unless and until experience suggests otherwise.

753. The Attorney General (Law Officers' Department or LOD) is the central authority for Jersey for receiving MLA and extradition requests. Within the LOD, there is a dedicated MLA Team responsible for carrying out this function. It is responsible for making and receiving MLA requests in respect of investigation and prosecution of crime, criminal asset tracing, restraint and confiscation, and civil recovery (non-conviction-based confiscation).

754. Public guidelines in multiple languages have been available, for several years before the review period, on the Law Officers' webpages hosted on the gov.je website. These provide useful information to foreign authorities, including on the channels and points of contacts to be used to submit an MLA, the types of assistance that may be provided, and sets out what should be included in the request.

755. Many a time, prior to submitting an MLA, requesting jurisdictions informally contact the LOD with initial queries in respect of a potential new request. In such cases, the guidelines are sent to foreign authorities along with any specific information requested. Also, the MLA team offers to review and provide feedback on draft Letters of Request (LORs) to speed up their subsequent formal execution.

756. All incoming MLAs are shared with the FIU of Jersey in case the FIU might have any relevant information. Where the FIU has any relevant information, it will proactively reach out to the MLA team – a process that has proved to be helpful in many instances. In an example provided to the assessment team, an incoming MLA identified a trust by the name, but did not disclose the identification information of the respective trustee. The FIU had intelligence on this case and reached out to the MLA team with information which indicated that the trustee was situated outside Jersey. This certainly presents good practice in dealing with MLA requests.

757. Incoming MLAs are assessed by the ECCU team to determine whether there is scope for initiating a criminal investigation in Jersey. During the review period, the ECCU undertook 68 'domestic criminality reviews', some of which resulted in criminal investigations in Jersey as further detailed in IOs 6 and 7.

758. MLAs are treated as confidential. If a request is made to disclose a LOR, the MLA Policies and Procedures Manual sets out the process that should be adopted which includes liaison with the requesting jurisdiction, to establish whether an exception to the general principles of confidentiality applies.

HR and expertise

759. The MLA team comprises 2 Legal Advisers, 2 Assistant Legal Advisers, and 1 MLA Liaison Officer, all of whom are fully dedicated to MLA responsibilities. Considering the total number of incoming and outgoing MLAs, the complexity of certain cases, and some delays observed particularly in the earlier years of the review period, the assessment team is of the view that the team could benefit from additional resources. Authorities confirmed that the MLA team has an approved growth plan for another two full-time lawyers in 2024. The MLA team has a long-standing experience in international cooperation matters. It also benefits from external consultancy provided by an English barrister, with whom the assessment team met, and who has significant experience in dealing with international fraud and ML cases. He is routinely engaged in relation to more complex cases. In periods of high volume of work, additional counsel are employed on a consultancy basis.

Case Management, prioritisation, and timeliness

760. The MLA team has in recent years undertaken steps to formalise certain procedures and improve case management. In particular, a useful internal manual on MLA policies and procedures was released in 2022, however, processes and some of the systems it discusses, have been in place much before 2022. The manual provides criteria for assessing the urgency of incoming MLAs; sets out different key performance indicators (KPIs) depending on urgency of an MLA; formalises chasing procedures; explains how IT systems are to be used and updated; provides country-specific information, including contact information, etc.

761. The MLA team uses three distinct IT tools to manage its case work. These are SharePoint, Prescient +, and Excel. While the efforts to combine different software for managing the international cooperation matters is commendable, the use of multiple IT tools to process MLAs is less than ideal and may create some day-to-day practical difficulties. However, at the time of the onsite, the MLA team was in the process of testing a new system with a view to going live in late 2023 or early 2024. The new system should be able to automate processes and amalgamate some, if not all, of these different functions in one place.

762. Incoming MLAs normally reach the MLA team in a dedicated and generic MLA email inbox, which is monitored daily by the team, and is reviewed by the head of MLA who then assigns it a priority rating. There are four ratings, namely: Urgent, Priority, Standard, and Complex. The vast majority of cases have a KPI which should allow for execution within 3 months, however the head of MLA may instruct quicker turnarounds if a particular case demands it.

763. The “complex” rating is only used in exceptional circumstances where it is clear, either at the outset or as the case progresses, that the other three KPIs are unrealistic. The KPI for complex cases is set to a 180 days, however, on average there tend to be fewer than 5 of these per year. Examples include cases where proceedings are contested in Court, or a complex exercise is required in relation to the tracing of funds. Also, the rating of a case as “complex” means that it may be appropriate to consider instructing external counsel.

764. The timeliness of Jersey’s response to incoming MLAs has improved significantly during the review period with the average duration having been almost halved. This is largely attributed to the improved case-management processes adopted by the MLA team as described above. This improvement may be noted in the following table, which however excludes a total of 9 outlier cases over the review period which, due to their exceptional nature, endless legal challenges, and, at times internal delays, took over 500 days to execute. Also, the number of matters pending has reduced by over 50% since 2020, and the average execution time at the time of the onsite was over a month less than in 2021.

Table 2.1: Incoming MLA - Average Response Times

	2018	2019	2020	2021	2022
Response (days)	137.6	114.4	113.3	111.6	71.9
Response (months)	4.6	3.8	3.8	3.7	2.6

765. It is noteworthy to see that the MLA team maintains an MLA feedback log which is used to record requests for feedback from other jurisdictions, and any responses to such requests. Feedback obtained by Jersey indicates that, in many cases, the information/evidence provided by

Jersey was significantly useful, provided new information about suspects, and triggered new investigations or further queries in the requesting country.

766. Feedback from the FATF Global Network on Jersey's replies to ML/TF related MLAs, indicates that the quality and timeliness of responses, is good. No negative comments were received. Jurisdictions were regularly assisted where Jersey was requested to freeze, seize, forfeit, and/or share assets, including in complex matters. Jersey had successfully handled litigation challenges and restrained, forfeited, and returned assets in several recent cases (see IO8). Jurisdictions also reported that the assistance provided by Jersey was useful and was provided within the requested timeframe.

Refusals

767. Incoming requests for MLA/extradition are rarely refused. All in all, figures demonstrate an effective and strong willingness by Jersey to respond to incoming MLAs. During the review period Jersey received 260 MLAs, of which only 14 were refused. A further 49 were withdrawn as explained hereunder, 210 were executed and only 14 were pending as at June 2023. None of the refused MLAs were on ML/TF. Satisfactory justifications for refusals have been provided to the AT. One of the more common justifications is met under the terms of the 1959 Council of Europe Convention, and/or there were human rights concerns. Other reasons were because insufficient information was provided to Jersey, or because the MLA was sent to the incorrect jurisdiction. In Jersey, MLAs cannot be refused on the grounds that the matter involved is a fiscal matter. Also, there is no dual criminality requirement. In cases where a refusal is made, Jersey seeks to provide alternatives and informal assistance, where possible, to the requesting jurisdiction. The assessment team could not identify any malpractice in relation to the reasons for MLAs refusal.

768. MLA requests are withdrawn more frequently than they are refused. There were 49 withdrawals over the review period. This occurs either where the requesting jurisdiction withdraws the MLA request, which is most common reason, or where, due to a lack of engagement by the requesting jurisdiction, and despite a minimum of three chasers sent by Jersey authorities, no response is received and the request is then deemed to be 'withdrawn' and the requesting country is informed that their request will be treated as withdrawn, but will be re-opened as soon as any communication is forthcoming.

Provision of Mutual Legal Assistance

769. Throughout the assessment period, Jersey received MLA requests from more than 40 jurisdictions, clearly demonstrating Jersey's global cross-border exposure. The UK, by far, is the primary sender of MLA requests to Jersey, which is understandable given its proximity and business connections with Jersey. This is followed by Portugal and Poland (as explained by the authorities, this is largely due to the presence of sizeable Portuguese and Polish communities in Jersey) and the US.

770. The requests made to Jersey cover a range of different types of assistance. The majority, or 68%, of MLAs received by Jersey are requests for evidence. As indicated in the table below, other requests received by Jersey are for the service of process (34), freezing/confiscation requests (21) and for advice (10). Extradition requests are the least common types of MLAs received, with 9 such requests over the review period. None of the incoming MLAs executed by Jersey authorities during the review period required the use of coercive measures.

Table 2.2: Type of incoming MLA/Extradition Requests received

Year	Evidence	Freeze / Confiscation	Extradition	Service of Process	of Advice	Total
2018	28	6	3	7	1	45
2019	40	5	1	8	0	54
2020	34	4	1	6	0	45
2021	29	1	2	4	2	38
2022	28	5	2	9	7	51
Total	159	21	9	34	10	233

771. Depending on the nature of the case, assistance is generally provided under the Investigation of Fraud Law or the Criminal Justice (International Co-operation) Law. Some requests may be able to be executed under either Law. The former operates specifically in relation to serious or complex fraud; whereas the Criminal Justice (International Co-operation) Law operates in respect of any form of criminality.

Case Study 2.1: Incoming MLAs seeking the return of assets

In 2014, the US Courts issued a civil forfeiture order concerning around \$500 million linked to individuals who embezzled billions from the government of another jurisdiction (Country X). Laundered through US financial institutions, these funds triggered three MLAs from the US Department of Justice to Jersey for assistance in investigating and restraining funds in local financial institutions.

The Jersey Attorney General obtained a Property Restraint Order in 2014 and a lengthy litigation ensued, including interventions by a third-party lawyer claiming costs on behalf of country X. After five years of complex legal battles and exhaustion of appeals, in 2019 the US Department of Justice issued a further request to Jersey for the enforcement of the forfeiture order.

Upon the Jersey Court's registration of the US civil forfeiture order, funds were transferred to the US Department of Justice. This process was subject to an agreement involving Jersey, the US Department of Justice, and the government of country X. Once the forfeited funds were received by the US Department of Justice, a tripartite agreement was reached to determine the use of the funds in country X for specific infrastructure projects benefiting the people of Country X. The funds have since been returned to country X, and used accordingly in infrastructure projects.

772. The Investigation of Fraud Law allows for investigative interviews to be administered under an 'anti-caution' (i.e. no right to silence, but any answers cannot be used against the person except if it is later found that they have made false/misleading statements); whereas the Criminal Justice (International Co-operation) Law enables oral evidence to be taken at a hearing. Both the Investigation of Fraud Law and the Criminal Justice (International Co-operation) Law are engaged by Notices signed by, or on the authority of, the Attorney General. This enables expeditious execution as there is no requirement for an application to Court, unless a search warrant is required. In practice, search warrants are very rarely used. They are usually required if a person hasn't complied with previously issued Notice, where it is not practicable to service a Notice, or

where a Notice might seriously prejudice and investigation required. There were none in the reporting period.

773. Of particular significance is the fact that the Attorney General has discretion in respect of the timeframe within which persons must respond to Notices. Therefore, the timeframes specified can take account of the urgency of the request. In general, the Attorney General applies a standard timeframe of 21 days. However, this can be reduced if there is particular urgency, or extended should the entity required to produce documents have good reason.

774. More than a third of the incoming MLAs concern ML. The predicate offences of incoming MLAs are broadly in line with the risk profile of Jersey, with several MLAs submitted in relation to fraud, tax offences and corruption among others.

Table 2.3: Overview of incoming MLA statistics

	2018	2019	2020	2021	2022	2023, H1	Total
Incoming MLA requests, of which:	45	54	45	38	51	27	260
<i>ML - related (includes ML related to tax offences)</i>	1	5	5	9	9	7	36
<i>ML - secondary criminality</i>	13	9	12	12	9	4	59
<i>Main risk 1 (Fraud - tax)</i>	13	11	7	7	9	4	51
<i>Main risk 2 (Fraud - other)</i>	9	9	14	10	7	6	55
<i>Main risk 3 (Corruption)</i>	7	6	2	1	6	3	25
<i>Terrorism</i>	0	0	0	0	0	0	0
<i>TF</i>	0	0	0	0	0	0	0
<i>Others</i>	15	23	17	11	20	7	93
<i>Pending (carried forward)</i>	43	43	45	29	21	14	-
<i>Refused</i>	1	0	2	2	7	2	14
<i>Withdrawn</i>	3	7	7	7	15	10	49
<i>Executed</i>	39	46	33	42	36	14	210
Average exec. (days)	138	114	113	112	79	66	-
Average exec. (months)	5	4	4	4	3	2	-

775. The MLAs' response rate is high and within the timeframes which, relative to the resources and complexity of the jurisdiction's financial and DNFBPs sectors, is reasonable. It is also noteworthy that the number of MLAs pending execution steadily declined in 2021 and onwards, largely resulting from better case management. Case examples demonstrate the country has the capabilities to deal with a variety of MLA requests. These include the taking of evidence from persons, executing searches and seizures, providing information and evidentiary items, providing originals or certified copies of relevant documents and records, including administrative, bank, financial, corporate, or business records, identifying or tracing proceeds of crime, etc.

776. Given the cases presented to the AT, statistics provided, and the authorities' (primarily LOD) competence and expertise to deal with MLAs, the AT is of the view that the country exhibits proficiency in handling a wide range of MLA requests.

Asset recovery

777. Jersey has demonstrated, in several cases, that it has successfully assisted requesting jurisdictions in recovering assets/proceeds of crime, under both conviction and non-conviction-based regimes. The context of the jurisdiction is such that majority of cases include a cross-border component where assets are held in Jersey or are linked to foreign jurisdictions through ownership by legal persons or arrangements in Jersey (see also IO8).

778. Over the reporting period, 20 requests for restraint or confiscation were received under both regimes. Eight of these requests were withdrawn, one was refused, nine were executed and two have been carried over. The two cases that remain pending are highly complex.

779. The total value of confiscated proceeds of crime resulting from incoming MLAs during the assessment period amounted to approximately the equivalent of GBP 247 million. In January 2015, Jersey entered into a permanent asset sharing agreement with the U.S., and in March 2022, it entered into its first case-specific asset sharing agreement which provides a mechanism to send monies directly to third party organisations.

Extradition

780. Requests for extradition made to Jersey authorities are relatively infrequent. Despite this, Jersey has demonstrated that it has successfully extradited several persons over the review period, including its own nationals, which happened once during the review period, and another before. In order for someone to be extradited, a person must be accused or convicted for carrying out an extraditable offence, which, in practice, means it must carry a minimum sentence of 12 months' imprisonment, or, where a person has been convicted, a minimum sentence of 4 months' imprisonment. To extradite a person, Jersey is not required to enter into an extradition agreement.

781. The MLA manual, referred to earlier, also applies to extradition requests received by Jersey. The execution times of extradition requests varies significantly, partly due to when extradition is consented to, in comparison to when it is challenged through the Court process. For example, an extradition request that had been challenged and finally executed in 2022 took almost 9 months, which included a four-month period between the date of arrest and the date of hearing. Extraditions executed in 2020 and 2021 were consented to by the subjects of the extradition, which led to a much quicker execution time of 1.4 and 3 months respectively. In another two cases, however, execution times took much longer reaching approximately two and four years, which resulted from internal delays coupled with legal contestations. The introduction of the policies and procedures as well as the addition of IT tools as explained earlier, should mitigate the risk of such delays reoccurring.

Case Study 2.2: SAR led to an extradition

A bank had carried out an open-source check in respect of a customer, which showed a person with the same name as wanted by Country Y. The bank subsequently submitted a SAR. The banking intelligence was shared by the FIU with Country Y. Once his identity was confirmed, an extradition request was made by Country Y. The subject of the extradition request had been wanted for attempted murder in the requesting jurisdiction for 14 years.

On receipt of the request, identity checks were undertaken with government agencies to confirm identity and possible addresses to locate the suspect. A certificate of validity was obtained from the Attorney General, and a court bundle for an arrest warrant submitted.

The arrest warrant was issued by the Magistrate and the subject arrested. At the first Court appearance the subject consented to his extradition. The subject was extradited 42 days after the extradition request was received.

8.1.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

Mutual Legal Assistance

782. Outgoing MLA requests are also processed by the MLA Team within the LOD and are therefore largely subject to the same oversight and case management protocols in place as described in core issue 2.1, including the procedure set to ensure that chasers are sent should there be a lack of response from the receiving jurisdiction. The procedures also require the MLA team to send out MLAs within two weeks since instructions are provided by competent authorities in Jersey. During 2022, this target has been met in 88% of the cases.

783. Jersey is quite active in seeking mutual legal assistance from foreign jurisdictions, particularly in recent times. During the review period, Jersey sent out 208 MLA requests, 104 of which were sent in 2022 and the first half of 2023. More than 90% of ML-related MLAs were sent in 2021 and after. Shortcomings identified in IO.7 may have impacted the country's ability to seek ML-related MLAs in the initial years of the review period, however, there has been a marked increase in the number of outgoing LORs as the Country's efforts to pursue complex ML-related cases has increased.

Table 2.4: Outgoing MLA requests statistics

	2018	2019	2020	2021	2022	2023, H1	Total
Outgoing MLA requests, of which:	16	33	19	36	64	40	208
ML-related	0	2	5	21	31	20	79
ML - secondary	2	12	7	10	16	8	55
Drugs	2	13	8	10	15	2	50
Fraud – other	9	7	2	1	9	12	40
Murder/GBI	2	2	1	0	3	1	9

Corruption	1	1	0	2	2	2	8
Robbery/Theft	1	5	1	0	1	0	8
Terrorism	0	0	0	0	0	0	0
TF	0	0	0	0	0	0	0
Others	1	3	2	2	3	3	14
Pending execution	10	24	16	34	41	57	-
Refused	0	0	0	0	3	0	3
Withdrawn	0	1	5	2	10	4	22
Executed	11	18	22	16	43	21	131
Average execution (days)	343	206	261	346	230	170	

784. Outside of formal LORs, the MLA team makes significant efforts to engage in informal ways with foreign authorities, such as by way of virtual or in-person meetings and emails, to reduce where possible the number of formal requests required, and to follow-up or discuss ongoing formal requests. Case examples have been shared with the AT where officers from ECCU and the MLA team travelled long distances to hold meetings with foreign authorities in support of their outgoing MLA requests. This and similar practices (see below) are welcome, and the AT encourages the LOD and other competent authorities to continue with them.

785. As noted in I07, the authorities advised that often unsatisfactory responses (in terms of information and/or evidence submitted based on Jersey's outgoing MLAs) from foreign jurisdictions is one of the key reasons why a number of ML investigations have not yet resulted in prosecutions. Consequently, several efforts have been made by Jersey authorities and the MLA team to build a network of international contacts for the purposes of facilitating the seeking and provision of MLA. The UK, in particular, is one of Jersey's key international partners and is the recipient of more MLA requests from Jersey than any other jurisdiction. The MLA team has quarterly meetings with members of the Proceeds of Crime division of the UK's Crown Prosecution Service (CPSPOC) in order to keep track of cases, share best practice, and work on ways to enhance the assistance between the jurisdictions. CPSPOC has also assisted Jersey in connection with other (non-UK) MLAs, when Jersey experienced challenges in communicating with jurisdictions. This has proved useful to the team on several occasions. The Jersey MLA team also make use of other international networks, including CARIN and the European Judicial Network (EJN), both of which have been used to identify specific persons to contact in jurisdictions with which Jersey had not had a prior relationship.

786. The International Centre for Asset Recovery ("ICAR") at the Basel Institute for Governance has also proved particularly useful. The MLA team has engaged with various ICAR representatives who have expertise and knowledge of particular jurisdictions in order to progress requests which have otherwise stalled. For example, in two recent cases the direct contacts provided by ICAR representatives answered within a matter of days where there had been no communication for several months.

787. These ongoing efforts appear to have paid off. It is indeed noteworthy that out of the closed MLAs, only 3 have been refused, and over 130 MLAs during the review period have been

executed, suggesting that the outgoing MLAs by Jersey are of good quality. Feedback provided by the global community also confirms that the quality of MLA requests submitted by Jersey is good, and save for one exception, Jersey authorities are responsive should any requests for clarifications be made to Jersey.

Case Study 2.3: Multi-jurisdictional co-operation

ECCU is investigating a Jersey individual and legal entity linked to foreign persons and entities involved in suspected corruption abroad. The investigation involved eleven MLAs sent to ten jurisdictions, with varying acknowledgment times, two of which were acknowledged after six months.

Regular follow-ups were conducted, and alternative channels were used in cases of delays. For example, in one MLA, after no acknowledgement was received despite chasers, contact was made with the British High Commission located within the jurisdiction. When this contact also failed, Jersey obtained email details of an individual in the requested jurisdiction's central authority through ICAR. It is this contact that has enabled the LOR to be actioned.

Of the eleven LORs, two were executed within three months, two within nine months, and one has been executed in stages as it has involved interviews in the requested jurisdiction, attended by ECCU officers. The remaining six LORs present various statuses:

- a) Partially executed after a year.
- b) Pending in a jurisdiction for over a year.
- c) Court application being drafted one year post-LOR.
- d) FIU-FIU contact established, but the LOR has not been executed as yet (over a year since issue).
- e) Not executed over 18 months, despite extensive efforts and unanswered chasers.
- f) Evidence sent to the British Embassy in the requested jurisdiction, but has yet to be transmitted to Jersey.

Efforts to obtain updates and execute pending LORs continue, including additional chasers.

788. The overwhelming majority of outgoing MLA requests are to obtain evidence. Over the reporting period, Jersey has sought legal assistance from 44 jurisdictions. The UK consistently receives the majority of requests, however, there are other jurisdictions with which Jersey engaged frequently, in particular, the U.S. and Ireland.

Asset recovery

789. Where assets relating to domestic offences may be located abroad, efforts have been made by Jersey authorities to restrain and confiscate assets. During the review period, a total of 9 requests were sent of which 7 have been executed. None of these were in relation to ML. Some of these cases were presented to the assessment team include confiscation of assets in Scotland and Switzerland. These two confiscations were executed in 2021, the sums of which amounted to an equivalent of EUR 324,309.

790. Jersey has successfully sought and obtained its first restraint and confiscation of cryptocurrency located abroad valued at circa USD 35,000. The assets were found to be the

proceeds of crime associated with a person who was convicted of drugs offences. An approach has been made by Jersey for an asset share, and exchanges are ongoing in this regard.

Case Study 2.4: Request to restrain and confiscate assets

The JFCU commenced an investigation into Mr X in relation to fraud offences in respect of a business of which he was a director, and in relation to the estate of his late business partner. At around this time, Mr X left Jersey and later was found to be residing in a foreign jurisdiction. Following an extradition request from Jersey, in 2018, Mr X was extradited to Jersey and subsequently pled guilty to five counts of fraudulent conversion and sentenced to six years' imprisonment.

LORs had been sent to a number of jurisdictions to investigate and identify suspected criminal proceeds. In respect of one of the jurisdictions approached, following two LORs for banking documents, a request was made in January 2019 seeking restraint of assets held at two banks.

The MLA team was notified that one of the bank accounts had been closed. The MLA was executed in respect of the remaining bank account, with approximately £200k restrained. A Confiscation order was subsequently made in respect of the restrained assets, and a draft supplementary MLA seeking registration and enforcement was sent to the requested jurisdiction. Specifically, confirmation was sought as to whether the MLA would meet the receiving jurisdiction's requirements for execution, and it was proposed that a phone call might be held to facilitate further discussion.

Liaison continued and there were several iterations of the draft MLA based on feedback provided. The final version was sent, and thereafter executed. It has been agreed that the requested jurisdiction will share assets with Jersey on a 50:50 basis. At the time of the onsite, an asset sharing agreement is in the process of being finalised.

Extradition

791. Extradition requests are rare. There have been 3 extradition requests (2 regarding fraud offences and 1 regarding drugs offences) during the review period, two of which were executed. One request remains outstanding. Given the risks and context of the jurisdiction this number appears as reasonable and taking into account findings identified in IO.7.

8.1.3. Seeking other forms of international cooperation for AML/CFT purposes

FIU

792. The FIU has been a member of the Egmont Group of FIUs since 1999, and primarily uses the Egmont Secure Web system to exchange information with FIUs. The FIU plays a very important role within the context of informal international cooperation in Jersey. As described in IO.6, it actively supports LEAs in Jersey during investigations and regularly contacts foreign FIUs to seek intelligence in support of such investigations. It also sends out requests in pursuance of its own operational analysis.

793. The jurisdictions which the FIU has reached out to is very wide-ranging, reflecting Jersey's position as an IFC. Non-EU European FIUs have consistently been the main receivers of requests

from the FIU Jersey, largely due to Jersey’s exposure to the UK. More than 40% of the FIU’s outgoing requests were directed to non-European jurisdictions.

Table 2.5: Outgoing FIU requests by region

Region	2018	2019	2020	2021	2022	Total
Non-EU Europe	8	17	45	53	42	165
Europe	6	10	31	39	28	114
Asia Pacific		10	20	17	11	58
Eastern & Southern Africa	1	2	12	19	15	49
North America		5	12	5	6	28
Caribbean	5		2	8	11	26
Middle East & North Africa	3	2	7	4	2	18
Latin America		2	7	3	1	13
Eurasia		1	6	4	2	13
West Africa		1	1	5	6	13
Grand Total	23	50	143	157	124	497

794. The number of outgoing requests in 2018 and 2019 was particularly low and not commensurate with that of an IFC and with Jersey’s risk profile. During these two years, less than 2% of incoming SARs/MIRs gave rise to an outgoing FIU request for information to other FIUs. In the following years, the equivalent figure was below 4%. These statistics indicate that Jersey’s FIU was not sufficiently proactive in seeking informal cooperation as part of the analysis of its own cases, which is consistent with the several of the findings presented under IO.6. Although the FIU’s propensity to seek information from its foreign counterparts in pursuance of its own cases increased in 2020 and the following years, taking into account the fact that most SARs have a cross border element, the Assessment Team is of the view that further room for improvement remains.

795. Approximately 20% of all FIU outgoing requests for information were initiated by the FIU Jersey on behalf of other authorities, notably the JFCU and ECCU, once again, consistent with findings discussed under IO.6. While commendable in terms of their efforts in aiding other authorities within Jersey to access overseas intelligence, it is imperative that Jersey maintains vigilance to prevent any disruptions to the core functions of the FIU during this process.

796. Almost 80% of the FIU’s outgoing requests for information to other FIUs were in relation to cases where the suspected predicate offence was either fraud, or tax crimes, or corruption, which is largely in line with Jersey’s risk profile. Between 2018 and June 2023, the FIU also sent 15 requests for information to foreign FIUs concerning TF.

Case Study 2.6: Outgoing RFA from FIU

In August 2021 the FIU Jersey received a SAR from a local TCSP regarding an individual with a complex trust structure. The wealth in this structure was derived from a foreign company (Company B) of which the individual was a shareholder and director alongside a business partner.

Company B was under investigation by foreign authorities concerning allegations of fraud, tax evasion and ML. Foreign authorities entered into a settlement agreement with Company B in 2012. Company B had an ownership with a joint venture Company A. It was noted that several of the parties involved in the joint venture had significant adverse media.

The individual who was a suspect of the SAR was also linked to an individual in another country, again with significant adverse media. It was from this connection that the wealth was generated for the Jersey structure. In October 2021, intelligence was shared with the IACCC and other authorities in the respective countries.

In December 2022 the IACCC requested the FIU Jersey for permission to share the report with the country of incorporation of Country A. Permission was given on the same day. Since then, several further shares were made with the relevant countries.

797. Before the review period, the FIU signed eight bilateral information exchange agreements (MoUs) with the counterpart FIUs, even though it is free to exchange information in the absence of an MOU. None have been signed during the review period.

States of Jersey Police (SoJP)

798. Most of SoJP's investigations concern domestic criminality and few have cross border elements, as the latter would typically fall under the remit ECCU, and to a lesser extent, the JFCU.

799. The SoJP maintains strong operational and open lines of communications with UK police forces and the UK's National Fraud Intelligence Bureau (NFIB), a lot of which however isn't formally recorded in statistical form. Informal exchanges between the SoJP and the UK LEAs have mainly been used to identify intelligence in relation to OCG and fraud typologies involving both the UK and Jersey.

800. Given its constitutional position SoJP has indirect access to Interpol via the UK's Interpol Bureau. Jersey law enforcement authorities have been part of the Camden Asset Recovery Interagency Network ("CARIN") since its inception. The CARIN Law Enforcement SPoC sits within the JFCU. Using the CARIN network, the SoJP sent out 13 requests during the review period. In 22 instances, the SoJP made use of the FIU-to-FIU channel to obtain intelligence from overseas.

JCIS

801. JCIS enjoys a close long-standing relationship with both the Police Aux Frontières ("PAF") and the Direction Nationale du Renseignement et des Enquêtes Douanières ("DNRED"), the French National Directorate of Intelligence and Customs Investigations – a useful key partner to JCIS considering Jersey's proximity to the shores of France and daily ferry connections between the two countries. Informal information is exchanged regularly on both policy and operational issues.

802. Also, operational arrangements involving the Guernsey Border Agency, JCIS and DNRED Echelons based in Normandy and Brittany have been in place for several years. Through these arrangements, intelligence concerning movements of suspected offenders – including potential cross-border cash movements – are regularly exchanged, and have resulted in several drug and cash seizures, arrests, extraditions and convictions.

LOD / ECCU

803. As explained in core issue 6.2, the MLA team, that sits within the LOD and supports the LOD and ECCU in obtaining information, including evidence from foreign authorities, has developed contacts and is part of formal and informal international networks which it actively uses to seek informal cooperation before and after sending out MLAs and in support of domestic criminal investigations.

804. It also uses a range of other networks, including the following: CARIN; International Centre for Asset Recovery (“ICAR”); the UN Globe Network; the UK Foreign, Commonwealth & Development Office (FCDO); British Embassy contacts in foreign jurisdictions; and UK Crown Prosecution Service (“CPS”) Liaison officers which also assists Jersey in establishing contacts in several jurisdictions. In several cases the LOD has used contacts in ICAR to obtain contact details for jurisdictions where engagement has been difficult. Statistics and case studies confirm that a variety of communication channels, including emails, in-person meetings and remote meetings, are used regularly by ECCU in obtaining information through informal means.

JFSC

805. The JFSC regularly receives and sends information and intelligence to and from local and international authorities in relation to matters pertaining to regulatory compliance supervision and enforcement. The JFSC is a signatory to the multilateral MoU of the International Organisation of Securities Commissions (“IOSCO”) and has signed up to more than 80 separate bi-lateral MoUs with other agencies.

806. At the JFSC, both the Supervision and Enforcement Departments send requests to foreign counterparts seeking information and intelligence relevant to their respective roles, however, the two departments liaise regularly and carry out internal checks with each other for any relevant information before sending an international request for information. In this regard, the JFSC also has an internal database referred to as CRIMS, which is used in the JFSC’s authorisation process and to which both departments have access.

Table 2.6: Outgoing international requests by the JFSC

Division	2019	2020	2021	2022	Total
Supervision	451	280	383	200	1,314
Enforcement	-	-	7	2	9
Grand Total	451	280	390	202	1323

807. Authorities advised that JFSC participates in a number of supervisory colleges and forms part of various networks that facilitate the informal exchange of information. Many exchanges are not necessarily recorded for statistical purposes. One of the networks that the JFSC is a member of is the Financial Crime Information Network (“FIN-NET”), which is a network of over 130 organisations from around the globe.

Case Study 2.7 - JFSC formal cooperation (CS97)

The JFSC received SAR intelligence from the FIU related to suspected insider dealing. The JFSC shared the intelligence with the relevant overseas regulator. As a result, a formal request was received (under the IOSCO MoU) from the overseas regulator. Following the sharing of information, feedback was received stating that the information shared was significant to the overseas regulator's investigation.

8.1.4. Providing other forms international cooperation for AML/CFT purposes

808. Throughout the review period, Jersey has demonstrated a strong commitment to providing international co-operation for AML/CFT and predicate offences. The authorities that are mostly active in this regard are the FIU, JFSC, the Registry, the LOD, ECCU and Revenue Jersey among others.

FIU

809. The FIU frequently receives requests for assistance from overseas FIUs through the ESW concerning ongoing matters within their jurisdictions. Additionally, at times it serves as a preferred choice for foreign authorities, including non-FIUs, who utilize their national FIU to solicit intelligence from Jersey by submitting requests to the FIU Jersey. Given Jersey's position as an IFC, the FIU receives incoming requests from jurisdictions from all over the world, but mostly from Europe. Feedback provided by the international FATF community members on the quality and timeliness of the FIU's replies has been very positive.

Table 2.7: Incoming FIU requests by region

Region	2018	2019	2020	2021	2022	Total
Non-EU Europe	58	42	44	36	34	214
Europe	26	25	23	31	25	130
Asia Pacific	7	11	11	6	11	46
North America	6	9	4	4	5	28
Eastern & Southern Africa	1	7	4	3	4	19
Eurasia	5	3	3	5	2	18
Middle East & North Africa	0	0	0	6	6	12
Caribbean	2	2	3	0	4	11
West Africa	1	1	0	2	1	5
Latin America	1	0	1	1	2	5
Total	107	100	93	94	94	488

810. The suspected criminality indicated within the incoming requests to the FIU Jersey are reflective of Jersey's risk profile, with fraud, tax crimes and corruption among the top three. All incoming FIU requests are recorded in the FIU's databases and checked by the FIU's grading officers. By default, all requests are given the highest priority code. In practice, TF-related requests are expedited. The FIU reported that in some cases, TF-related requests were replied to within a matter of hours. Given its size and resource limitations, the FIU does not have a

dedicated team to handle incoming requests. Requests are assigned to FIU officers by the grading officers taking into account the nature of request, their skills and their workload.

811. The timeliness of the replies provided by the FIU Jersey to foreign FIU's is adequate, standing at an average of 25 days throughout the review period. While the assessment team considers this to be acceptable, and within the norms of the Egmont Group of FIUs, improvements could be made to ensure that the provision of information to FIUs is more rapid.

812. The FIU is able to use its domestic powers to compel reporting entities to provide it with information also for the purposes of obtaining information for foreign FIUs. Although concrete statistics could not be provided to this effect, the FIU confirmed that it often issues POC notices to obtain information from reporting entities for onward sharing with a foreign FIU.

813. For several years, the FIU Jersey has had in place a feedback mechanism. Feedback provided to the FIU of Jersey indicates that its replies have generally been helpful to requesting jurisdictions, especially in providing new information, verifying existing information and in identifying new leads/suspects. Additionally, 92% of its replies were deemed to have been received in time to be useful to the requesting jurisdiction.

814. Incoming requests are also considered by the FIU as potential source of information to trigger its own domestic analysis – a very important element for an IFC. As covered in IO.6, the FIU of Jersey has initiated a number of operational analysis cases based on incoming requests that it received from other FIUs.

815. The FIU regularly shares information with foreign counterparts and LEAs. The FIU Jersey is laudably proactive in spontaneously sharing information with other FIUs, with an estimated 80% of its gathered intelligence being disseminated outward, 75% of which is spontaneous. This commendable practice, however, places a heavy manual and resource burden on the FIU, given its relatively small team during most of the review period. This focus on sharing information has sometimes come at the expense of developing its own cases for Jersey's law enforcement agencies, a matter further explored in IO.6.

816. Statistics provided to the assessment team indicate that during the review period, spontaneous disseminations and onward shares in foreign jurisdictions led to foreign authorities to submit 41 MLA requests. A further 27 MLA requests were also received by Jersey following replies provided to foreign FIUs by the FIU Jersey. These figures and cases confirm effective information exchange by the FIU.

Case Studies 2.8: Outgoing FIU reply leads to incoming MLA

In October 2018 the FIU Jersey received a RFA from the FIU of Country A regarding a number of individuals on the suspicion of bribery, fraud and money laundering. The FIU responded by sending out a POC notice to a bank to obtain account documentation and statements covering the specific period, following which the financial service provider filed a SAR. The intelligence was shared with the FIU of Country A 13 days after the FIU Jersey received the RFA. A few weeks later, authorities in Country A submitted an MLA request to Jersey. The FIU was informed of the incoming MLA request and assisted the Jersey LOD by sharing intelligence in its possession with the LOD.

FIU cooperation with IACCC

In 2022 FIU Jersey conducted operational analysis in respect of a corruption case in which funds from a Middle Eastern company were held in Jersey. The FIU analyst in charge of the case made direct contact with IACCC and shared intelligence relating to the case. This intelligence was then passed to various jurisdictions including the Middle Eastern jurisdiction resulting in an MLA request being sent to Jersey to convert the intelligence into evidence.

SoJP

817. As set out in core issue 2.3, the SoJP is a member of the CARIN network and responds to incoming requests received via this route. During the review period, 18 requests came in through CARIN.

818. SoJP also cooperates with UK law enforcement on an informal basis without the requirement for an MoU or other exchange mechanism. SoJP officers are currently in correspondence with the Southern District of New York, the Delhi Economic Crime Unit in India, The FCA, Police Scotland, HMRC, The Metropolitan Police (London), Police Service of Northern Ireland and Humberside Police (England). SoJP do not keep separate data on such informal contact as this is recorded within individual crime report logs and case actions lists.

LOD / ECCU

819. The LOD and ECCU regularly provide intelligence to foreign law enforcement agencies, including on a spontaneous basis.

820. The ECCU has received 22 informal requests for intelligence during the period under review. Overall, the ECCU responds in a timely fashion, with an average response time of 7 days.

JFSC

821. The JFSC receives intelligence from various sources and through different channels, including among others, email, inter-agency meetings, telephone calls, via a whistleblowing line, and via secure portals. Incoming requests are received by both the Supervision and Enforcement divisions at JFSC. Due to the volumes of intelligence and incoming requests that go to the Supervision division, a dedicated team of six employees has been established within this division.

822. The average time taken for the Supervision division to reply to international requests in 2021 and 2022 was of 24 and 13 days respectively. In 2021, the Supervision division implemented a practice of seeking feedback in those cases where adverse information is shared. Since then, out of the 26 instances of adverse information being shared, feedback has only been received in 7 instances, 6 of which indicated that the information provided by the JFSC was useful or 'significantly' useful. The Enforcement division also receives requests for information. During the period under review, it received a total of 49 requests with an average response time of a month. Additionally, the enforcement division proactively shared 347 disseminations with counterparts in more than 40 jurisdictions, including US, UK, British Virgin Island, Mauritius, Switzerland, South Africa, Germany and other Crown Dependencies. All information and intelligence are shared by the JFSC with safeguarding instructions that the information and intelligence should not be shared without the expressed permission of the JFSC and is normally subject to the condition that it cannot be used as evidence.

Revenue Jersey

823. Given Jersey's position as an IFC and its risk exposure to ML stemming from foreign tax-crimes, Jersey's tax authority, Revenue Jersey, plays an important role in the country's framework for informal cooperation. The island's tax system, consisting of three tax rates (0%, 10%, and 20%), plays a pivotal role in shaping its interactions with various sectors of the business community. The jurisdiction was an early adopter of the Common Reporting Standards.

824. The Exchange of Information (EOI) regime in Jersey is robust, with a considerable volume of information exchanged annually. On average, Revenue Jersey receives approximately 170 international requests per year in the context of TIEAs, almost all of which involve overseas taxpayers.

825. Production notices are typically issued by Revenue Jersey to the JFSC, banks and TCSPs. However, the process to obtain BO records is not without its challenges. While the revenue authority possesses enforcement powers, in some instances, the threat of JFSC involvement or legal action was necessary to compel cooperation, with reporting entities often exhibiting a stronger fear of the JFSC than Revenue Jersey.

826. Jersey law mandates Revenue Jersey to inform the taxpayer of an incoming request from a foreign authority unless the requesting authority explicitly requests non-disclosure. Requesting authorities are generally well-informed about this legal requirement, which is also stipulated in the standard information request template.

827. Usually, the receipt of a request suggests that a tax-related civil or criminal investigation may be taking place in the requesting jurisdiction. Requests are therefore considered as a potential source of information to trigger domestic cases. However, incoming requests come with strict confidentiality obligations, and Revenue Jersey is prohibited from sharing information without the permission of requesting country.

828. During the review period, Revenue Jersey requested permission to share information with domestic authorities (such as the FIU) on 343 occasions, and sent regular chasers, but obtained permission only in 2 instances. Despite this, when production notices are served by Revenue Jersey to reporting entities, it is common for them to then file a SARs with the FIU.

8.1.5. International exchange of basic and beneficial ownership information of legal persons and arrangements

829. Jersey authorities consistently and proactively share BO information pertaining to legal entities and arrangements with foreign authorities. In general, these authorities demonstrated to respond well to foreign requests for co-operation in respect of basic and BO information held on legal persons and arrangements. Their experience in this regard has been notably smooth and largely devoid of any practical obstacles.

830. International requests for information for BO information usually are submitted to the following: LOD (in the form of MLA requests), Revenue Jersey (in the form of a TEIA), the FIU and the JFSC. There are provisions in the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 for the registry to provide information pursuant to international requests. In addition to this the FIU, LOD and Revenue Jersey have direct access to BO information held in the

registry via standalone computer terminals. In replying to requests for information, BO information is also sourced directly from the company itself and/or Banks/TCSPs.

Table 2.8: Incoming MLA requests seeking BO Records

	2018	2019	2020	2021	2022	Total
N° of incoming MLAs	15	8	7	15	5	50
N° of Jersey legal persons referred to	5	6	4	8	5	28
N° of non-Jersey legal persons referred to	9	4	4	8	1	26
N° of Jersey Trusts referred to	5	4	2	2	0	13
N° of non-Jersey Trusts referred to	1	0	0	0	0	1

831. The LOD has received 50 MLA requests over the review period in which BO information was requested. As covered in core issue 2.1, the execution times for these requests have reduced significantly in 2022. To obtain the requested BO records, the LOD issued a total of 57 Production Notices to reporting entities or the JFSC. As witnessed from the statistics provided (see the table above) the average execution time to reply to these MLAs improved significantly during the review period.

832. Informal requests tend to come either through CARIN or from the FIU via Egmont. The FIU received 194 requests from FIUs for BO information. In 38 requests, the FIU was unable to provide the requested BO information. The authorities reported that many of these cases consisted of phishing requests with no links to Jersey, which the FIU, as a matter of policy, does not reply to. Also, in other cases, the requesting FIU had reason to believe that there was a connection to Jersey which, upon further analysis by the FIU Jersey, turned out not to be the case. Furthermore, in July 2017, Jersey entered into an agreement with the United Kingdom, allowing the exchange BO information via Exchange of Notes (“EoN”) requests. Under this arrangement, UK authorities can request BO records via e-mail from the JFIU, which in turn obtains the requested records using its direct access to the Registry via a standalone JFSC terminal within the JFIU’s office, created for the specific use set out in the EoN agreement. The limitation of having only one terminal with direct access to the registry is suboptimal.

Case Study 2.9: Request for beneficial ownership information

The Requesting Jurisdiction was investigating Mr X in relation to making material misrepresentations and omissions to persons in the art industry.

The proceeds of the offending were sent to various company bank accounts outside of the Requesting Jurisdiction. The Requesting Jurisdiction believed that Mr X and others may have transferred significant funds from the criminal scheme to bank accounts in Jersey, associated with Jersey companies in respect of which Mr X was the beneficial owner, in order to facilitate the fraud.

The Requesting Jurisdiction sought assistance in obtaining banking and company records relating to the Jersey companies, and Mr X. This would enable them to further their investigation in tracing the proceeds of the criminal scheme and assist in identifying assets for confiscation purposes and/or to compensate the victims of the offending.

The Requesting Jurisdiction estimated that total losses to victims amounted to circa €80m. A number of queries were made to the Requesting Jurisdiction to obtain additional information required to action the request. Following receipt of this information, it was determined that there were grounds to issue Notices to a Jersey bank and the JFSC, which included a request for BO information.

Notices were issued in February and March 2021. There were delays in the sharing of the evidence due to some IT issues on the part of the Requesting Jurisdiction which took several weeks to resolve. The evidence was eventually shared in April 2021.

Mr X pled guilty and was sentenced to 84 months' imprisonment in April 2022.

833. The Registry and the JFSC also play an important role in providing basic and BO information to foreign authorities and counterparts. In total, during the review period, more than 2,600 requests for BO information were received.

Overall conclusion on IO.2

834. Jersey demonstrates commendable efficiency and timeliness in addressing MLA and extradition requests and is actively providing other forms of international cooperation. Competent authorities regularly exchange basic and BO information on legal persons and arrangements with their counterparts. Whereas some internal delays in processing MLA requests have occurred, particularly in the earlier years of the review period, this does not have a major impact on the overall assessment on effectiveness in these areas.

835. Whilst shortcomings identified in IO.7 may have impacted the country's ability to seek MLA, particularly in earlier years of the review period, competent authorities (and predominantly the LOD) have demonstrated a sufficient level of proactiveness and competence when dealing with cases involving cross border components.

836. The number of outgoing requests from the FIU was not significant and thus not commensurate with Jersey's risk profile. Progress in this area has been registered however further improvements are needed. The FIU, commendably, regularly shares information with other FIUs on a spontaneous basis.

837. Overall, the AT is of the view that Jersey has achieved the immediate outcome to a large extent, this also being confirmed by the substantially positive feedback of the global network.

838. **Jersey is rated as having a substantial level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2015. This report is available from <https://www.coe.int/en/web/moneyval/jurisdictions/jersey>.

Recommendation 1 – Assessing risks and applying a risk-based approach

Criterion 1.1 (Met) – Jersey performed its first national risk assessment (NRA) from 2017-2021. The results of the NRA on money laundering (ML) and terrorist financing (TF) risks have been published. The initial ML NRA was published in September 2020, updated September 2023, with the TF NRA published in April 2021, updated May 2023. In addition, the authorities have conducted and published a risk assessment regarding the identification and assessment of risks related to the use of legal persons and arrangements to disguise beneficial ownership (and associated risks linked to Trust and Company Service providers (TCSPs) (July 2023), and the Virtual Asset Service Providers (“VASPs”), notably virtual currency exchange business (May 2022). Apart from these the NPOs’ risks of being abused for TF purposes was assessed and a report was published in April 2022

The Jersey authorities relied on the World Bank Methodology (adjusted to fit the specific circumstances of Jersey) for developing the NRA.

The NRA provides the assessment of ML/TF residual risks, grounded on the evaluation of threats; the assessment of residual ML risks; and the assessment of overall ML threats and vulnerabilities.

Considering the threats and vulnerabilities together with the context of Jersey, ten residual risks have been developed which describe the initial areas of greatest focus for ML when considering the totality of the NRA process. Furthermore, the NRA outlines the cross-border risk to Jersey based on the analysis/methodology aimed to indicate where the greatest threats to Jersey may exist from business arising from other jurisdictions. The NRA therefore provides a list of high risk jurisdictions given Jersey’s context, business and other ties and specific threats arising from these.

The ML risk relevant for individual sectors is also considered in the NRA by assessing threats and vulnerabilities for each sector.

Further to the 2021 TF NRA, in May 2023 an update building on the initial was released. Whilst the 2021 TF NRA considers TF threats and vulnerabilities and, based on these summaries, determined the overall TF risk level of Jersey, the 2023 update includes an analysis of a range of information which was not available for the previous TF NRA iteration. As a consequence, the 2023 TF NRA provides an updated overview of the TF related threats and vulnerabilities and includes hypothetical scenarios of how TF may occur in Jersey (including a list of red flags for reporting entities and competent authorities). It also summarises the actions Jersey has taken since the first TF NRA was approved and assesses impact. As a result, the updated TF NRA concludes that the risk of Jersey being used as a conduit for TF remains medium to low.

Overall, the risk assessments carried out by Jersey are well founded, they have reasonable conclusions which were reached further to the comprehensive process that involved all relevant stakeholders.

Criterion 1.2 (Met) – The Government of Jersey leads the NRA work, while the actions and efforts in assessing all ML/TF/PF related risks are ultimately overseen by the Political Steering Group (“PSG”) under the National Financial Crime Structure (the “National Structure”). The National Structure is ultimately the mechanism to co-ordinate actions to assess risks.

Under the Terms of Reference for the National Structure the PSG shall agree a National Financial Crime Work Programme (the “Programme”) and the priorities in that Programme. The Programme shall make up *inter alia* actions concerning the NRA.

The National Structure has been responsible for delivery of the recommended actions in the 2020 and 2021 ML and TF NRAs. The allocation of actions is done through the National Level Risk working group which meets monthly and whose membership includes all AML/CFT competent authorities in Jersey. The primary objective of the National Level Risk working group is to progress key actions related to risk in the National Financial Crime Workplan.

Criterion 1.3 (Met) – Although there is no formal requirement to keep the NRA up to date, the authorities indicated that risk assessment work occurs periodically, both on a thematic basis, and because of any trigger event. This statement has been confirmed through the activities the authorities carried out during the period under review (ML/TF NRAs initially released in 2020 and 2021 respectively and their second iterations finalised and published in 2023).

Criterion 1.4 (Met) – The authorities advise that each new risk assessment report is discussed at large industry events both during the course of it being drafted, and post-publication. The results of the NRAs are published and they are also subject to wide dissemination by AML/CFT competent authorities and through engagement directly with the private sector at trade associations and other industry presentations. Whilst noting that a formal requirement for these actions is not embedded in the legislation, Jersey has demonstrated that, in practice, this is done and that such practice confirms that such a mechanisms, de facto, exists. In addition, industry is required to refer to the NRA results when completing their risk assessments - an obligation set out in law. This, though indirectly, means that without communicating the results, FIs and DNFBPs would not be in a position to complete their obligations as set out in law.

Criterion 1.5 (Met) – Development of a sustainable and long-term resourcing model for financial crime is one of the strategic priorities under the National Strategy. The authorities have provided information on the actions undertaken by competent authorities based on the results of the 2020 ML NRA and 2021 TF NRA, including an increase of resources in the competent authorities. In line with this, the bid for Government Plan funding directly considered the application of resources based on the outcomes of the 2020 ML NRA and the 2021 TF NRA. The authorities advised that this was particularly the case regarding vulnerabilities identified in the National Vulnerability module of the World Bank tool, where resource had been identified in the analysis as an area for improvement. The table below broadly outlines the additional resource obtained in the 2021 Government Plan process:

Agency	2022 FTE increase	Risk to address (based on 2020 ML NRA and 2021 TF NRA)
Department of the Economy	+5	Quality of AML policy and strategy

JFCU – FIU	+15	Quality of FIU intelligence gathering and processing
JFCU – Operations	+4	Capacity of resources for Financial Crime investigation
Economic Crime and Confiscation Unit	+6	Capacity of resources for Financial Crime investigation / capacity and resources for Financial Crime prosecutions
Total	30	

The above allocation shows that resources can be and are obtained due to the NRA results – in line with the risks relevant to the conclusions of the NRAs.

In addition to the above allocations, some re-structuring in the Law Officers’ Department Mutual Legal Assistance Team has taken place in 2022.

Criterion 1.6 (Met) – Jersey has a limited set of exemptions which do not apply in a general manner, but rather can only be used where a supervised person can demonstrate and record that the exemption is being used in a low-risk circumstance. If the supervised person can meet these circumstances, they can choose not to apply certain elements of CDD, as long as further risk-mitigating conditions are met. The circumstances in which exemptions in these circumstances can apply are set out in the MLO. The exemptions fall into two categories: exemptions from applying third party identification measures, where the customer is itself regulated and supervised for AML/CFT; and exemptions from applying certain identification requirements. Jersey has analysed the risks related to a set of exemptions from CDD requirements which can be applied by a supervised person. The criteria written into legislation, which facilitates the permissive CDD exemptions, were specifically included such that the exemptions can only be utilised in a low risk scenario. Any deficiencies due to the lack of a formal documented risk assessment is considered minor given the criteria that must be met before the exemption can be utilized and the usage monitoring that occurs.

Criterion 1.7 (Met) – Article 15 of the MLO sets out the customer circumstances that require the application of enhanced CDD measures, as clarified by the authorities these circumstances mirror the higher risk scenarios identified in the 2020 ML NRA. Article 11(1) and (2) of the Money Laundering Order require a supervised person to maintain policies and procedures for the application of risk assessment, and management (Article 11(1)(f)), taking into account:

- the level of risk identified in a national or sector-specific risk assessment in relation to ML/TF carried out in respect of Jersey, and
- the type of customers, business relationships, products and transactions with which the supervised person’s business is concerned.

Criterion 1.8 (Met) – Jersey allows FIs and DNFBPs to apply simplified customer due diligence in the following circumstances:

- 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;
- 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, the financing of terrorism, or the financing of proliferation.

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.

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

- where a supervised person suspects money laundering, the financing of terrorism, or the financing of proliferation;
- in any situation which by its nature can present a higher risk of money laundering, the financing of terrorism, or the financing of proliferation;
- 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.

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, 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;
- 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, 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.

The application of these simplified measures – in the strictly limited circumstances allowed – is consistent with the findings of the NRA.

Criterion 1.9 (Met) – The legislation sets forth requirements for FIs and DNFBPs to assess and manage their ML/TF risks, as described under the analysis for c.1.10 and c.1.11 below.

Supervision over activities of FIs and DNFBPs regarding their compliance with the requirements of the Money Laundering (Jersey) Order 2008 (MLO) is conducted by the Jersey Financial Services Commission (JFSC) (Article 2(a)(ii) in conjunction with Articles 5 and 6 of the Supervisory Bodies Law).

See analysis of R. 26 and R. 28 for more information.

Criterion 1.10 (Met) – FIs and DNFBPs are required to take appropriate steps to maintain appropriate and consistent policies and procedures, which include risk assessment (for their customers, the countries or geographic areas in which they operate, their products and services, their transactions and their delivery channels) (Articles 11(1) and 11(2) of the MLO).

This includes being required to:

- a) Record risk assessment (Section 2.3 of the AML/CFT/CPF Handbook);
- b) Consider all relevant risk factors in determining the level of overall risk and the relevant mitigation measures (section 2.3 of the AML/CFT/CPF Handbook);
- c) Keep their assessments up to date (section 2.3 of the AML/CFT/CPF Handbook; and
- d) Have appropriate mechanisms to provide risk assessment information to the JFSC (section 2.3.1, para 19 of the AML/CFT/CPF Handbook).

Criterion 1.11 (Met) –

- a) FIs and DNFBPs are required to have regard to the following factors when considering the risk of ML/TF (Section 2.3 of the AML/CFT/CPF Handbook):
 - National or sector-specific risk assessments carried out in Jersey (Article 11(2)(a) of the MLO);

- The specifics of their business e.g. type of customers, business relationships, products and transactions;

The AML/CFT/CPF Handbook also includes an enforceable requirement which requires senior management (the board of a company) to: (i) document (approve through documented Board minutes) the supervised persons systems and controls (including policies and procedures); (ii) clearly apportion responsibilities for countering money laundering, the financing of terrorism, or the financing of proliferation, in particular, the responsibilities of the MLCO and MLRO; (iii) assess both the effectiveness of, and compliance with, systems and controls (including policies and procedures); (iv) take prompt action necessary to address any deficiencies; (v) consider what barriers (including cultural barriers) exist to prevent the operation of effective systems and controls (including policies and procedures) to counter money laundering, the financing of terrorism, or the financing of proliferation, and (vi) take effective measures to address any identified barriers.

- b) Supervised persons are required to establish and maintain adequate procedures for monitoring compliance with and testing the effectiveness of their policies and procedures (Article 11(11) of the MLO). However, there is no legal requirement to enhance these controls if necessary.

- c) Supervised persons are required to apply enhanced CDD measures in any situation, which by its nature can present a higher risk of ML/TF. (Article 15(1)(g) of the MLO)

Criterion 1.12 (Met) – Reference is made to the analysis for c.1.8 and c.10.18 on the application of simplified measures, for c.1.9 on the supervision to ensure implementation of obligations under R.1, as well as for c.1.10 and c.1.11 on the implementation of risk assessment and mitigation measures.

Weighting and Conclusion

All criteria are met. **R.1 is rated Compliant.**

Recommendation 2 - National Cooperation and Coordination

Criterion 2.1 (Met) – The four-year national strategy published in 2022 is based on the findings from the 2020 ML NRA and the 2021 TF NRA. The obligation to update the national strategy is prescribed in the strategy itself, which sets out that the national strategy will be reviewed every two years. The review of the national strategy is also linked with a significant trigger event. The strategy is endorsed by the highest levels of Government and regularly reviewed by the Political Steering Group (PSG).

Criterion 2.2 (Met) – Co-operation and co-ordination on AML/CFT matters are entrusted to the National Structure, which consists of the PSG (the most senior national committee that includes the relevant Government Ministers), a Co-ordination and Delivery Group (“CDG”), which includes the main officials across authorities and a number of thematic working groups that address specific policy co-ordination needs.

The National Structure, inter alia, serves as a platform for co-operation and co-ordination between the competent authorities in the jurisdiction’s continuous fight against financial crime and illicit finance. The PSG is responsible for developing strategy and policy concerning financial crime matters for Jersey.

Criterion 2.3 (Met) – Policy makers and other relevant competent authorities are represented in PSG and CDG. These groups provide mechanisms for co-ordination and exchange of information domestically between the competent authorities on the development and implementation of AML/CFT policies and activities at both policymaking and operational levels.

Criterion 2.4 (Met) – Combating Proliferation Financing (CPF) Operational Working group has been established with representatives from the JFSC (Registry, Policy and Supervisory teams); Jersey Customs and Immigration Service (JCIS); Ports of Jersey; FIU; Economic Crime and Confiscation Unit (ECCU); Law Officers Department (LOD); Office of the Jersey Charity Commissioner; Government of Jersey (GoJ) (International Compliance and Financial Crime Strategy teams). This focuses on work around the threat and risk to Jersey concerning PF. Terrorist Financing, Proliferation Financing and Targeted Financial Sanctions (TFPFTFS) acting under CDG is established to deal with co-operation and co-ordination at a policy level.

Criterion 2.5 (Met) – The Office of the Information Commissioner is the main supervisor for compliance with data protection and privacy legislation and co-operates extensively with AML/CFT competent authorities, but notably with the JFSC as the AML/CFT supervisor. With regards to the matters of policy and legislation in relation to data protection and privacy, there is a regular and consistent direct party to party engagement with the Jersey Office of the Information Commissioner (JOIC), before or during consultation to ensure their view is considered in policy development and effective implementation. At an operational level, co-operation occurs with the JOIC as and when specific matters concerning data protection and privacy arise on a case-by-case basis. In addition, Article 18 of the Data Protection (Jersey) Law 2018 requires prior consultation for high risk legislation concerning data protection.

Weighting and Conclusion

All criteria are met. **R.2 is rated Compliant.**

Recommendation 3 - Money laundering offence

Jersey was rated LC with R.1 in the 2015 MER due to the deficiencies related to effectiveness issues. R2 was not assessed at the time (but Jersey was rated C in the previous round).

Criterion 3.1 (Met) – The ML offence, as provided for under Proceeds of Crime Law (POCL), covers all the material elements required by the Palermo and Vienna conventions, including:

(i) *Concealing, disguising, converting, transferring, or removing* criminal property (POCL, Art. 31(1)). Reference to concealing or disguising property includes reference to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it (POCL, Art. 31(2)).

(ii) *Acquiring, using, possessing, or controlling* criminal property (POCL, Art. 30(1)).

(iii) *Entering or becoming concerned in an arrangement* and knowing or suspecting that arrangement facilitates by any means the acquisition, use, possession, or control of criminal property by or on behalf of another person (POCL, Art. 30(3)).

Criterion 3.2 (Mostly Met) –The definition of ML offence refers to the term “criminal property” (POCL, Articles 30 and 31), the definition of which in turn refers to “criminal conduct” (POCL, Art. 29), defined under Art. 1 of the POCL by reference to Schedule 1 thereof as “*any offence in Jersey for which a person is liable on conviction to imprisonment for a term of one or more years (whether or not the person is also liable to any other penalty)*”. This threshold covers all the offences defined as “designated categories of offences” by the FATF Glossary, with the exception of *environmental crime*. *Environmental crime* as an offence is not explicitly criminalized whilst the importation and exportation of specimen without a permit, as well as possession, sale, purchase and transport of specimens is punishable with imprisonment for a term of 7 years according to the Endangered Species (cities) (Jersey) Law 2012, Articles 12 -14 and Part 6. Thus, these offences could therefore be predicate to ML.

Criterion 3.3 (Met) – Jersey applies a threshold approach (*a person is liable on conviction to imprisonment for a term of one or more years*) in accordance with c.3.3(b) (see c.3.2. above).

Criterion 3.4 (Met) – The ML offences under article 30 & 31 POCL extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime (POCL, Art.29).

Criterion 3.5 (Met) – A person does not have to be convicted for a predicate offence for the property to be able to be considered proceeds of crime. Neither Articles 30 and 31 of the POCL nor the definitions of criminal conduct and criminal property (Articles 1 and 29 of the POCL) stipulate such a requirement. The authorities indicate that this has been confirmed by case law (e.g., *AG v. Bhojwani (2010)*).

Criterion 3.6 (Met) – The predicate offences for ML cover conduct (POCL, Art. 1 and Schedule 1) that occurred outside Jersey, and which would have constituted an offence rendering the person liable to one or more years imprisonment in Jersey had the conduct taken place domestically.

Criterion 3.7 (Met) – ML offences apply to persons who commit the predicate offence (POCL, Art. 29). For the purposes of laundering offences “*it does not matter whether the criminal conduct was conduct of the alleged offender or of another person*” (POCL, Art.29(2)(a)).

Criterion 3.8 (Met) – Authorities advised that, in Jersey, it is a general rule of evidence that intent, knowledge can be inferred from objective circumstances, and that the courts draw inferences from circumstantial evidence. Two cases (*AG v. Umurzokov and Ors (2022)* and *AG v. Fish & Hinds (2016)*) provided by the authorities demonstrate this.

Criterion 3.9 (Met) – Jersey law punishes ML with a maximum penalty of 14 years' imprisonment and/or an unlimited fine. The authorities mention that aside from murder (which attracts a mandatory life imprisonment penalty), 14 years is the highest statutory maximum penalty and that hence ML would be treated as one of the most serious offences. Sanctions applicable to ML are generally comparable in severity to those applied by other countries in the global AML/CFT network. Consequently, they appear dissuasive and proportionate.

Criterion 3.10 (Met) – Proportionate and dissuasive sanctions apply to legal persons convicted of ML, without prejudice to the criminal liability of natural persons. Jersey law provides for corporate criminal liability by operation of Articles 3 and 4 of the Interpretation (Jersey) Law 1954. The ML offences and the monetary element of the sanctions apply to legal persons. The authorities provided two cases in that respect, *AG v. Abu Dhabi Commercial Bank PJSC (2020)* and *AG v. LGL Trustees Ltd (2021)*. Parallel proceedings (civil, administrative) are not precluded, although often stayed as criminal proceedings take priority.

Criterion 3.11 (Met) – There is a sufficient range of ancillary offences under Jersey law (Criminal Offences (Jersey) Law, Art.1, Interpretation (Jersey) Law 1954, Art. 3 and 4)). These include aid, abetting, counselling, conspiracy, incitement, and attempt.

Weighting and Conclusion

Environmental crime is not explicitly criminalized, which is as a minor shortcoming considering that some of the offences related to this category are covered (c.3.2). **R.3 is rated LC.**

Recommendation 4 - Confiscation and provisional measures

Jersey was rated LC with the previous R.3 in the 2015 MER. The deficiencies identified were following: (i) "value confiscation" of criminal assets given as gifts was limited; and (ii) gaps identified with respect to the confiscation/provisional measures regime. These deficiencies have been addressed with amendments to the POCL (Articles 1(1), 2 and 5 of the POCL) and Schedule to the Proceeds of Crime (Enforcement of Confiscation Orders) (Jersey) Regulations 2008.

Criterion 4.1 (Met) – Jersey has measures (including legislative measures) that enable their competent authorities to confiscate the property referred to in paragraphs (a) – (c) of this criterion by virtue of provisions of Part 2 of the POCL, the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001, the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 and Terrorism (Jersey) Law 2002 (Terrorism Law).

Jersey law provides for the confiscation of the following:

(a) *(Met) Property laundered* may be confiscated pursuant to the provisions of Part 2 POCL as it will be property obtained from criminal conduct (as defined in the POCL).

(b) *(Met) Proceeds of crime (including income or other benefits derived from such proceeds) used or intended for use in ML or predicate offences* may be confiscated as it is also property obtained from criminal conduct (cf. Part 2 POCL and Part 1 (1)(1)). *Instrumentalities used or intended for use in*

ML or predicate offences may be confiscated under either Art. 28B POCL or Art. 2 of the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001. In addition, a non-conviction-based forfeiture regime, the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 allows the seizure and forfeiture of tainted cash or money in bank accounts.

(c) *(Met) Property that is the proceeds of, or used in, or intended or allocated for use in financing of terrorism, terrorist acts or terrorist organisation* is subject to confiscation either under the provisions of POCL mentioned above (i.e., it is proceeds of crime and caught under Part 2 of the POCL), or if there is a TF conviction under the Terrorism Law (Art. 27).

(d) *(Met) Property of corresponding value* can be confiscated in accordance i.e., with Articles 4 and 5 of the POCL.

Criterion 4.2 (Met) – Jersey has measures, including legislative measures, that enable the competent authorities to:

(a) *(Met) identify, trace and evaluate property that is subject to confiscation* through adequate powers given to law enforcement authorities (LEAs) under the POCL (Articles 40, 41, 41A and Schedule 3), in the Terrorism Law (Articles 31 – 33, Schedules 5 – 7) and in the Police Procedures and Criminal Evidence (Jersey) Law 2003 (PPCE).

(b) *(Met) carry out provisional measures, such as freezing or seizing, to prevent any dealing, transfer, or disposal of property subject to confiscation* through application of *Saisie Judiciaire* and other measures as follows:

Where proceedings have been instituted against a defendant or where the court is satisfied proceedings are to be instituted, or when a criminal investigation has been started in Jersey in respect of alleged criminal conduct and the Court is satisfied there is reasonable cause to believe the offender has benefited from criminal conduct, the Attorney General may apply to Court for a *Saisie Judiciaire*. On the making of a *Saisie*, all realizable property (defined in Article 2 POCL) of the defendant vests in the Viscount (Articles 15, 16 POCL).

Schedule 3 of the Terrorism Law provides for restraint orders in respect of property liable to forfeiture under the Terrorism Law. A *Saise* can also cover offences under the Terrorism Law.

Pursuant to the Civil Forfeiture Law, an authorized officer may seize cash for up to 96 hours if they have reasonable grounds for suspecting that it is tainted cash (Article 5 Civil Forfeiture Law). The Attorney General may apply to the Bailiff for an order authorizing the detention for a longer period. Article 12 Civil Forfeiture Law provides for “Property Restraint Orders”, i.e. orders by the Court that prohibit the withdrawal, transfer or payment out of the bank account of the property, or part of the property, as specified in the application by the Attorney.

Applications for provisional measures such as the *Saisie* can be made *ex parte* without notice, to a judge in chambers.

(c) *(Met) take steps that will prevent or void actions that prejudice the country’s ability to freeze or seize or recover property that is subject to confiscation* as follows:

Assets seized are managed by and under the control of the Viscount, preventing the defendant from dealing with their realisable property.

The authorities advise that there is also case law covering powers to void or unwind contracts in respect of assets subject to confiscation. As a matter of common law, courts will void contracts

contrary to public policy. The authorities cite the case *Basden Hotels Ltd v. Dormy Hotel Ltd*. 1996 to that effect. Contracts made for a matter or thing which is prohibited or made unlawful by statute is a void contract (*Jameson TW Ltd v. Cumming Butler* 1981).

(d) (*Met*) take any appropriate investigative measures which include:

General investigative powers (i.e powers for entry, search and seizure, questioning, surveillance, etc.) under PPCE.

Comprehensive investigation powers are also available under POCL - Articles 40 (production orders), 41 (search powers), 41A and Schedule 3 (financial information orders and account monitoring orders) and in the Terrorism Law (Articles 31-33 and Schedules 5-7 (production orders, search powers, financial information orders and account monitoring orders)).

For civil forfeiture, there are comprehensive investigation powers in Part 4 of the Civil Forfeiture Law.

Criterion 4.3 (Met) – The rights of *bona fide* third parties are protected pursuant to articles 4(3), 16(7) and 17(2) POCL, article 27(4) and Schedule 3, paragraph 5 of the Terrorism Law and article 16 of the Civil Forfeiture Law.

Criterion 4.4 (Met) – Jersey has mechanisms in place for managing seized, frozen and confiscated property. The Viscount is entrusted by Jersey law to perform these tasks.

Weighting and Conclusion

All criteria are met. **R.4 is rated C.**

Recommendation 5 - Terrorist financing offence

In the 2015 MER, Jersey was rated largely compliant with SR.II with the identified deficiency focused on the aspect of TF not qualifying as a predicate offence to ML under Jersey law when not involving "*criminal property*" as defined in article 29 of the POCL. This has been mitigated by changes to the definition of criminal property, to include property obtained through the commission of an offence. It was also unclear, whether the financing a "*proscribed organization*" (Part 2 of the Terrorism Law 2002 – further referred to as Terrorism Law) would be covered under Article 15 of the mentioned legislation. The issue was clarified with an amendment, indicating that the offence in Article 15 applies also in cases of support of a terrorist entity, which in accordance with the definition under Article 4 of the same Act encompasses a proscribed organization.

Criterion 5.1 (Met) - In Jersey, TF offences are criminalised through the Terrorism Law, in particular Articles 2-3 defining "terrorism" and "terrorism property" and Articles 15-16 indicating specific TF offences.

Under Article 15, Jersey criminalizes activity, which would involve the provision or collection of funds, directly or indirectly, unlawfully, and wilfully, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences, as indicated in Article 2 of the Terrorist Financing Convention. In addition, it is also an offence to conduct activities intended to cause death/serious injury, risk to health and safety of public, serious damage to property, disrupting/interfering with infrastructure or the emergency

services, or an act involving serious prejudice to national security or defence – as defined in Article 2(2) of the Terrorism Law.

Terrorism is defined in Article 2 of the Terrorism Law to mean *inter alia* an act which constitutes an offence under the laws of Jersey and is listed in Schedule 10 of the Terrorism Law. Schedule 10 indicates domestic legislation covering the offences listed in the annex to the Terrorist Financing convention, namely: the Aviation Security (Jersey) Order 1993, the Internationally Protected Persons Act 1978 (Jersey) Order 1979, the Nuclear Material (Offences) Act 1983 (Jersey) Order 1991, the Maritime Security (Jersey) Order 1996 and the Taking of Hostages (Jersey) Order 1982. In total, these incorporate into domestic law the offences of eight of the nine instruments listed in the annex to the Convention. Article 2 of the International Convention for the Suppression of Terrorist Bombings from 1997 is partially covered by the aforementioned Article 2(2) of the Terrorism Law, criminalizing certain acts not previously covered in Article 2(1)(a) (concerning the offences listed in Schedule 10) intended to cause death/serious injury, risk to health and safety of public, serious damage to property, disrupting/interfering with infrastructure or the emergency services, or an act involving serious prejudice to national security or defence. This is further reinforced by Article 2(3) indicating, that an act or the threat of an act falling within Article 2(2) which involves the use of firearms or explosives is considered terrorism whether or not the conditions laid out in Article 2(1)(b) have been satisfied. The definition of explosives as laid out in the Terrorism Law does not cover weapons aimed at causing death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material – as defined in the convention. An act involving the use of such weapons, will need to fulfil the conditions regarding purpose and intent specified in Article 2(1)(b) to be considered as terrorism. These conditions are broad enough to allow the funding of activities involving the mentioned weapons to be pursued as a TF offence.

Criterion 5.2 (Met) - Under Article 15(2) (b) it is an offence for a person to possess property, to provide or invite another to provide, property or a financial service, or to collect or receive property, intending that the property or service be used, or knowing, suspecting, or having reasonable grounds to suspect that it may be used, for the purposes of terrorism (including the support of a terrorist entity). Article 15 (3) further indicates that the use of property includes the use in whole or in part, directly or indirectly, and that the provision of property or a financial service is a reference to the service being given, lent or otherwise made available, whether or not for consideration. In accordance with Article 15(3) (c) of the same act, the support of a terrorist entity includes, but is not limited to, support by way of providing or subsidizing educational or other day-to-day living expenses.

Article 16 of the Terrorism Law provides that it is an offence to do any act which facilitates the retention or control of terrorist property.

Article 1(1) of the Terrorism Law defines “*property*” as all property, whether movable or immovable, or vested or contingent, and whether in Jersey or elsewhere, including any legal document or instrument evidencing title to or interest in any such property, any interest in or power in respect of any such property and in relation to movable property, any right, including a right to possession. This falls in line with the TF convention definition of “*funds*”. “*Terrorist property*” is defined in Article 3 of the aforementioned act, as property which is intended to be used or likely to be used, in whole or in part, directly or indirectly, for the purposes of terrorism

or for the support of a terrorist entity and includes, but is not limited to, the resources of a terrorist entity. The definition of “*terrorist entity*” stipulated in Article 4 includes an organization (whether or not proscribed), and a legal or natural person.

In Article 2 of the Terrorism Law, the law refers to the “use or threat” of specified action which indicates that the law does not require property to be actually used to carry out or attempt a specific terrorist act.

Criterion 5.2 bis (Met) - Jersey has provisions explicitly criminalizing the financing the travel of individuals who travel to another jurisdiction for the purpose of perpetrating, planning, preparing, or participating in terrorist acts or terrorist training. Article 15 (2A) of the Terrorism Law, specifies, that it shall be an offence for a person to a) provide, or to invite another to provide, property or a financial service; or b) collect or receive property, intending that the property or service be used, or knowing, suspecting or having reasonable grounds to suspect that it may be used (whether in whole or in part) for the purpose of travel by an individual to a state or territory other than his or her state or territory of residence for the purposes of terrorism (including, for the avoidance of doubt, the purposes of planning or preparation of acts of terrorism, providing or receiving training in or for the purposes of terrorism, and support of a terrorist entity).

Criterion 5.3 (Met) - Property defined in Article 1 of the Terrorism Law does not differentiate between funds from a legitimate or illegitimate source. Likewise, the definition of terrorist property in Article 3 of the same makes no reference to whether funds can be considered terrorist property based on their origin. In result, both definitions are to be understood in a broad sense, covering both legitimate as well as illegitimate funds.

Criterion 5.4 (Met) - The TF offences in Jersey do not require that the funds or other assets were actually used to carry out or attempt a terrorist act or have to be linked to a specific terrorist act. Article 15 of the Terrorism Law refers to the intent for property or service to be used, or knowledge, suspicion, or occurrence of reasonable grounds to suspect that it may be used to commit an FT offence, including support of a terrorist entity. In accordance with Article 4(2) of the same law defining “terrorist entity”, it does not matter, whether the entity in question did commit a specific act of terrorism or (if it had committed such an act), whether it was committed by an entity charged with an offence under the Terrorism Law or any other enactment, or by a related entity.

Criterion 5.5 (Met) - The intentional element of TF offences may be inferred from objective factual circumstances. This is based on common law principles and Jersey’s courts, like those of England and Wales, have always drawn inferences from circumstantial evidence. While no criminal proceedings concerning TF have been initiated, examples of inference of intent and knowledge required to prove the offence are identified in ML cases – the authorities refer to the case analysis of *Attorney General vs Bhojwani* as an example.

Criterion 5.6 (Met) - In accordance with Articles 15 and 16 of the Terrorism law, TF is punishable by a maximum penalty of 14 years imprisonment or an unlimited fine (or both) for natural persons. The aforementioned sanctions can be considered proportionate and dissuasive, although they have not been applied in practice due to the absence of TF prosecutions and convictions.

Criterion 5.7 (Met) - Criminal liability and the monetary element of sanctions apply in Jersey also to legal persons, without prejudice to the criminal liability of natural persons (sanctions can apply

to either or both). In accordance with Article 3 of the Interpretation Law 1954, the expression "person" (used inter alia in the Terrorism Law) shall, unless the contrary intention appears, include a body corporate.

Parallel proceedings are not precluded although criminal proceedings take priority and any civil or administrative proceedings and the latter are often stayed pending the outcome of the criminal proceedings, in line with the customary law maxim *Le criminel tient le civil en état*.

Criterion 5.8 (Met) - Ancillary offences to TF are not explicitly specified in the Terrorism Law but are stipulated in general provisions of the Criminal Offences Law 2009. Under Article 1 of the aforementioned act, a person who aids, abets, counsels or procures the commission of a statutory offence; or conspires, attempts or incites another to commit a statutory offence, is guilty of an offence and is liable to the same penalty as a person would be for the statutory offence.

Criterion 5.9 (Met) - Jersey authorities indicate that TF offences, being offences for which a person is liable on conviction to imprisonment of one or more years (Proceeds of Crime Law 1999, Schedule 1) is a predicate offence to ML. Under Article 1(1) of this Act, the definition of money laundering also incorporates TF offences as defined under Articles 15 and 16 of the Terrorism Law. Articles 30 and 31 of the Proceeds of Crime Law 1999 limit ML offences to "criminal property" defined in Article 29 of the same Act. Criminal property is to be understood as any property derived from or obtained, in whole or in part, directly or indirectly, through criminal conduct, if the alleged offender knows or suspects that the property is derived from or obtained, directly or indirectly, through criminal conduct and any property that is used in, or intended to be used in, criminal conduct, if the alleged offender knows or suspects that the property is used in, or is intended to be used in, criminal conduct. Criminal conduct is defined under Article 1 as conduct that constitutes an offence specified in Schedule 1 – hence including TF offences.

Criterion 5.10 (Met) - In accordance with Article 2(4) of the Terrorism Law, Jersey explicitly claims jurisdiction over TF offences committed by a person in Jersey or abroad or in a country other than the one where the terrorist organisations is located or where the terrorist attack occurred or will occur. Furthermore, Article 17 of the same act specifies, that a person who does anything outside Jersey which, if it were done in Jersey, would constitute a TF offence under Article 15, 16 or 16A of the Terrorism Law, may be charged with that offence and if found guilty, shall be liable to the penalty provided for that offence.

Weighting and Conclusion

All criteria are met. **R.5 is rated C.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

Jersey was rated LC in SR.III The shortcomings identified with regard to R.3, especially with regard to the scope of provisional measures, could hamper action taken against funds with regard to SR.III whenever this involved criminal proceedings regarding assets belonging to a terrorist organisation designated under UNSCR 1373. There were also concerns about the timeliness of communication of UN designations and thus the effectiveness of the freezing regime. The aspect of provisional measures was addressed with amendments to the Proceeds of Crime Law 1999.

The authorities have taken efforts to mitigate the concerns of timely communication of UN designations (see below).

The Jersey TFS regime is partially dependant on the UK framework. As Jersey does not have a direct relationship with the United Nations, the Island can make proposals for asset-freezing designations to the UN via the UK. To this extent, a MoU has been signed between the Minister of External Relations and the UK Foreign and Commonwealth Office to facilitate proposals for listing and requests for de-listing from international sanctions measures in relation to Jersey. The TFS regime in Jersey is regulated by the Sanctions and Asset Freezing Law 2019 (further referred to as the SAFL) and the Sanctions and Asset-Freezing (Implementation of External Sanctions) Order 2021 (further referred to as the Sanctions Order).

Criterion 6.1 (Met)

a) Under Article 45B(1) of the SAFL the Minister of External Relations is the competent authority with responsibility for proposing persons or entities to be designated under the 1267/1989 and 1988 sanctions regimes.

If the Minister of External Relations reasonably believes that a person, who is not an UN-listed person, should be an UN-listed person, the Minister must request His Majesty's Government in the UK to initiate efforts to secure that the person becomes an UN-listed person under the relevant resolution. The process for requesting such a listing proposal is defined in the MoU with the UK Foreign and Commonwealth Office. Such a proposal must be provided with an underlying reasoning and any information that can be disclosed to support the request. A new, revised MoU was prepared in June 2023. The MoU indicates that a listing proposal from Jersey or a request for de-listing undergoes the same procedures that would be used for proposals for listing or delisting requests from within the United Kingdom.

b) Article 45B(1) and (3) of the SAFL further indicates, that when considering a designation proposal, the Minister for External Relations should take into consideration in particular any designation criterion or procedure established by any organ of the United Nations for the purpose of the relevant resolution, have regard to any recommendation adopted by the FATF in relation to the relevant resolution and consult the financial intelligence unit. In accordance with Article 37A, the Minister for External Relation's *Procedure of Requesting to the UN for a Terrorism Designation* was published in December 2022 and last updated in July 2023. The procedure further specifies, that when considering a designation proposal, the Minister for External Relations should additionally consider information and intelligence received from reporting entities, and financial crime agencies, including the Financial Intelligence Unit.

c) The evidentiary standard of proof applied to a designation proposal is 'reasonable suspicion' which can be considered as equivalent to "reasonable grounds", as required by the FATF standard. Article 45B (5) of the SAFL explicitly indicates, that the existence of a criminal proceeding is not a prerequisite for a designation proposal.

d) As mentioned in criterion 6.1 (b), Article 45B(3) of the SAFL along with the Minister for External Relation's procedure of requesting to the UN for a terrorism designation implies the consideration of designation criteria and procedures established by the United Nations for the purpose of the relevant resolution. While there is no explicit obligation to use the standard forms, such requirement would not be feasible, given the fact, that it is the United Kingdom formally making the proposal to the UN.

e) See 6.1 (d). The designating state would be the United Kingdom, acting on behalf of Jersey. The procedure obliges the Minister for External Relations to provide specific information in the request for designation and to disclose as much underlying evidence as possible to support the proposal. The United Kingdom 2018 Mutual Evaluation Report confirms that UK authorities follow the relevant UNSC Committee Guidelines (including the use of standard forms for listing/de-listing, as adopted by the relevant UNSC Committees) when making a proposal for a listing or request for de-listing. Jersey has not made any requests for designation so far.

Criterion 6.2 (Met)

a) Under Article 20 and 22 of the SAFL, the Minister for External Relations is the competent authority with responsibility for designating persons or entities that meet specific criteria for designation, as set forth in UNSCR 1373. The Minister for External Relations can conduct an either interim (Article 20) or final (Article 22) designation. As a matter of course, the Minister will first make an interim designation in the interests of ensuring that the assets of a person or entity linked to terrorism are frozen as soon as possible. This will allow up to an additional 30 days to establish whether the Minister can make a final designation. In accordance with Article 23 SAFL, a final terrorism designation of a person remains in effect until it is revoked, apart from situations where its effect is suspended during a period when the person is a designated person under a provision of the SAFL other than Article 20 or 22. In both cases, protecting members of the public (whether in Jersey or elsewhere) from terrorism, preventing terrorism (whether in Jersey or elsewhere), or otherwise complying with UN resolution 1373, serves as a basis for issuing a designation (SAFL, Art. 20(2)(b)). The procedure for making an asset-freeze designation under Article 20 and Article 22 SAFL is further specified in *Procedures for Making a Terrorism Asset-freeze Designation*, published in March 2023.

Article 45A of the SAFL regulates the process of handling a request from another country for terrorism designation, indicating the need to consult the FIU, assess the appropriateness of the designation and inform the overseas country of the decision. The procedure for dealing with the requests from another country is further specified in *Requests to or from another country for Terrorist Designation* of December 2022. Under 45A, the Minister for External Relations is also empowered to request designation to an overseas country.

b) The authorities advise that although the Minister for External Relations may receive requests for designation from a wide array of domestic authorities (i.e., ECCU, JFCU, JFSC, LOD, CTPI and JCIS), the identification of targets for designation would primarily be the responsibility of the FIU and the Jersey Financial Sanctions Implementation Unit (FSIU). As mentioned in 6.2 (a), Jersey has a procedure for considering and, if appropriate, giving effect to actions initiated under the freezing mechanisms of other countries under UNSCR 1373 (2001). The *Procedures concerning the identification of targets for designation* have been prepared by domestic authorities, such as the LOD, FIU, FSIU and JFSC.

c) Article 45A of the SAFL provides for the Minister to receive a request for another country for a terrorism designation. This includes a requirement that the FIU is consulted, that a decision is made as to whether it appears to appropriate to designate the person and that the overseas country is informed. The process must take place promptly and in any event within 7 days. The Minister is required to determine whether the request from another country is supported by the reasonable grounds (procedure concerning requests to or from another country for a terrorism designation).

d) The evidentiary standard of proof for a designation by the Minister for External Relations under the SAFL is 'reasonable suspicion'. In addition, designations under Article 20 and 22 of the SAFL are not conditional upon the existence of any criminal proceedings – Articles 20(2A) and 22(2A).

e) Under Article 45A of the SAFL, when the Minister for External Relations requests designation to an overseas country, he must provide a reason for the request, along with any information that he is able to disclose to support the request.

Criterion 6.3 (Met)

a) In accordance with Articles 33 and Article 34 of the SAFL, the Minister for External Relations has power to request information from a person (including an organisation and any other association or combination of persons) and order the production of documentation. Under Article 33(5)(aa) SAFL information can be requested (also from relevant financial institutions) for the purpose of deciding whether to make, vary or revoke an interim terrorism designation or a final terrorism designation. Failure to comply is an offence subject to sanctions envisaged in Article 35.

b) It can be deduced from the SAFL, that the Minister for External Relations can operate *ex parte* (no provisions require notification, consultation or presence of the person concerned in the designation process). Articles 20 (5A) and 22 (3A) SAFL explicitly state, that nothing in these Articles requires the Minister for External Relations to notify a person, before making the designation, that the Minister is considering making an interim or final terrorism designation of that person. The same applies to requests from or to another country for terrorism designation (Article 45A(5) of the SAFL) and requests to the UN for terrorism designation (Article 45B(6)).

Criterion 6.4 (Met) - Under Article 19(1)(a) of the SAFL, a person is designated for the purpose of an asset-freeze immediately upon designation by the UK Secretary of State under the Sanctions and Anti-Money Laundering Act 2018 (SAML). Under Article 3 of the Sanctions Order, a person (natural or legal) is designated for the purpose of an asset-freeze immediately upon designation by the UK Secretary of State for any UK sanctions Regulations made under the Sanctions and Anti-Money Laundering Act 2018, listed in Schedule 1 of that Act, inter alia: the Afghanistan (Sanctions) (EU Exit) Regulations 2020; the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019; the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019; and the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019. In addition, Article 19 (1)(c) of the SAFL explicitly indicates, that designations pursuant to the UN sanctions regimes as maintained and amended from time to time by the Committee established by the UN Security Council under resolutions 1267 and 1988 are immediately effective in Jersey. As for the implementation of UNSCR 1373, according to the procedure concerning requests to or from another country for a terrorism designation, the Minister for External Relations should publicise the designation or share information on the designation with selected persons (Article 24 of the SAFL) on the day of the designation. The (general) publication would be conducted in the form of a Financial Sanctions Notice posted on the Jersey Gazette.

Criterion 6.5 (Mostly Met)

a) Under Article 9 of the SAFL, a person becomes a designated person inter alia by virtue of an operation under Article 19 (implementation of relevant UN or UK sanctions) or designations made in line with Article 20 and 22 of the same Act. Article 10 of the SAFL specifies, that a person

must *not deal with* funds or economic resources owned, held or controlled by a designated person if he knows, or has reasonable cause to suspect, that he is dealing with such funds or economic resources. The definition of a “*not deal with*” (Art. 10(2) of the SAFL)⁵⁴ fulfils the requirement “to freeze” funds and economic resources. The definition of a person includes an organisation or any other association or combination of persons (Art. 1(1) of the SAFL). Whilst the prohibition to deal with funds and economic resources is in place, the law is not explicit that freezing actions should be executed “without delay” and “without prior notice”. The authorities, however, consider this to be required by the nature of the legal framework itself as no time period or prior notice in relation to designees is required to trigger the freezing obligation (see c.6.3 (b)). A person who fails to comply with a requirement to freeze funds or other assets, commits an offence (Art. 10(3) of the SAFL). The SAFL (Art. 10(3)) merges the obligation to freeze funds and economic resources with the circumstances necessary to apply criminal liability. In effect, the provision narrows the requirement to freeze funds or other assets of designated persons and entities to situations, where a person knows or has reasonable cause to suspect, that person is dealing with such funds or assets.

b) The freezing obligation under Article 10 of the SAFL is not dependant on the connection to particular terrorist acts, plots, or threats. The terms “funds” and “economic resources” are defined in Article 2 of the SAFL (funds - financial assets and benefits of every kind, including virtual assets; economic resources – assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, that are not considered as funds but can be used to obtain funds, goods or services). In accordance with Article 2(8), the Minister for External Relations may, by Order, make amendments for an alternative or supplementary provision as to the meaning of “financial services”, “funds”, “economic resources” and related expressions, if he is satisfied, that it is appropriate to do so to give effect to any enactment of the UK, to any UN sanctions resolution or to any standard promoted by FATF or by any other international body.

Article 2A of the same Law specifies the meaning of phrases “owned”, “held”, “controlled”, “directly” and “indirectly” and allows the freezing obligation specified under Article 10 to apply equally to those resources wholly or jointly owned or controlled, directly or indirectly, by designated persons. The broad definition of “funds” encompasses interest, dividends and other income or value accruing from or generated by assets (Article 2(3)(d)). This also covers funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

c) The requirements to freeze funds and assets, extends to all persons and entities in Jersey. Article 45 of the SAFL further specifies, that an offence may be constituted by conduct (including acts and omissions) wholly or partly outside Jersey, by individuals ordinarily resident in Jersey, and Jersey-incorporated or constituted legal persons, whether operating inside or outside Jersey.

⁵⁴ “deal with” means:

- (a) in relation to funds – (i) use, alter, move, allow access to, or transfer, the funds, (ii) deal with the funds in any other way that would result in any change in their volume, amount, location, ownership, possession, character or destination, or (iii) make any other change that would enable use of the funds, including by way of, or in the course of, portfolio management; or
- (b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

Articles 11-14 of the SAFL place a prohibition for funds, financial services and economic resources to be made available to a designated person or for benefit of a designated person. The aforementioned provisions cover prohibition of making available in the following circumstances:

(i) **funds and financial services** - directly or indirectly to a designated person or for the benefit of a designated person (Art.11(1), 12(1), SAFL). This also covers entities owned or controlled directly or indirectly; as well as persons and entities acting on behalf of, or at the direction of, designated persons and entities. The SAFL (Art. 11(2) and 12(3) merges the prohibition of making funds and financial services available with the circumstances necessary to apply criminal liability. While covering the aspects of both prohibition and enforcement, such a solution narrows the scope of obligations not to make funds available, for example: a) funds or financial services must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect, that person is making the funds or financial services so available; (b) funds are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(ii) **economic resources** - directly or indirectly to a designated person or for the benefit of a designated person (Art.13(1) and 14(1), SAFL). This also covers entities owned or controlled directly or indirectly; as well as persons and entities acting on behalf of, or at the direction of, designated persons and entities. Similarly as in the case of funds and financial services, the SAFL (Art. 13(1)(a-b) and 14(2) narrows the scope of obligations not to make economic resources available, for example: (a) economic resources must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect that person is making the economic resources so available; and that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services (Art.13(1), SAFL); (b) economic resources are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible (Art. 14(2), SAFL).

The issuance of licences to designated persons to authorise access to frozen funds is covered under criterion 6.7.

d) Authorities indicated that all changes of asset-freeze designations (which includes the relevant UN Security Council sanctions regimes) are published online in a Financial Sanctions Notice at the Jersey Gazette. Notices on new listings and de-listings are usually published on the day of designation. The Financial Sanctions Notice provides also guidance on what actions should be taken by a person in reference to the notice. Further guidance on financial sanctions is available on the Government of Jersey and JFSC websites. The JFSC also publishes updates to sanctions lists on its website and email alerts are sent to its subscribers alerting them of any changes.

e) Reporting obligations of FI and DNFBPs are covered under Article 32 of the SAFL. DNFBPs are included in the definition of a “relevant financial institution” indicated in Article 1(1) of the Act – further referring to the Proceeds of Crime (Jersey) Law 1999 and business defined as “financial services business” in Article 1(1) and specified in Schedule 2 of that Act. The relevant financial institution must inform the Minister for External Relations, as soon as practicable, if it holds an account of a person, has entered into dealings or an agreement with a person or has been

approached by or on behalf of a person who it knows or has reasonable cause to suspect is designated or has committed, is committing or intends to commit an offence under SAFL. No specific reference is made to 'frozen assets' however, such a disclosure should describe the nature and amount or quantity of any funds or economic resources held by the institution for the person at the time when the institution first had the knowledge or reasonable cause for suspicion. Article 32(2)(d) of the SAFL requires relevant financial institutions, when making a report to the Minister for External Relations, to include information on any actions taken in compliance with obligations imposed under Article 37 the Proceeds of Crime (Jersey) Law 1999 (under which the Money Laundering (Jersey) Order 2008 is made). This would cover the requirement to report 'actions taken in compliance' with sanctions prohibitions to the competent authority, as stated in the FATF standards. The obligations set out under Articles 10-14, along with the criminal liability for failing to report under Article 32 of the SAFL allow to conclude, that the reporting requirement is covered, although indirectly. While attempted transactions are not explicitly covered, Article 32 of the SAFL also requires relevant financial institutions to inform the Minister for External Relations as soon as practicable, if they hold an account of a person, enter into dealings or an agreement with a person or have been approached by or on behalf of a person, that has committed, is committing or intends to commit an offence described in the SAFL.

f) The rights of bona fide third parties are explicitly protected under Article 46A of the SAFL.

Criterion 6.6 (Met)

a) In accordance with Article 43A(1-2) of the SAFL a designated person listed by the UN can make an application to the Minister for External Relations for assistance with UN de-listing. The Minister must consider the request and decide whether or not to comply with it and make a request to the UK Government to use its best endeavours to secure that the person is de-listed (recognising that Jersey, as a Crown Dependency, does not have a direct relationship with the UN). A procedure detailing the process for requesting assistance with a UN delisting is publicly available online as well as a guidance on "requests for assistance with the UN De-Listing" of December 2022. As in the case UN designation proposals, the process is subject to a Memorandum of Understanding between the Minister for External Relations and the UK FCDO. The UK FCDO has a mechanism in place to submit de-listing requests to the UN Sanctions Committees. No provisions cover the necessity, for procedures and criteria for de-listing to be in accordance with procedures adopted by the 1267/1989 Committee or the 1988 Committee, however, as noted in the procedure for requesting assistance with a United Nations de-listing, this is conducted in arrangement with the UK authorities, which identify it as a standard to follow the relevant UNSC Committee Guidelines.

b) In line with Article 25 of the SAFL, the Minister for External Relations may at any time vary or revoke an interim or final UNSCR 1373 designation. Unfreezing of funds and economic resources would automatically follow de-listing. Under the current legislation (Article 23 of the SAFL) a final designation is valid until revoked, with a mandatory obligation to reconsider the designation at least once a year. The Minister is required to give a written notice of that fact to the designated person and also bring the expiry or revocation of a designation to the attention of persons that were informed of the designation (Art. 25, SAFL). A procedure for requesting a review of a designation made by the Minister under SAFL, which explains the unfreezing process, is publicly available.

c) In cases of an interim terrorism designation and a final terrorism designation (Articles 20 and 22 of the SAFL) the person in question may appeal to the Royal Court (Article 40 of the same Act). The procedure for requesting a review of a designation made by the Minister under SAF has been made available to the public.

d) and e) Requests for assistance of the Minister for External Relations with UN de-listing are covered under Article 43A of the SAFL. MoU sets out the Procedure for making such requests through the UK FCDO. Relevant guidance in respect of the availability of delisting procedures of the UN Office of the Ombudsperson is accessible online in the *Challenging designations* guidance section on gov.je. Those wishing to make a de-listing request are in the first instance encouraged to do so directly to the UN, using the UN mechanisms of the UN Office of the Ombudsperson (UNSCR 1267/1989 designations) or the UN Focal Point mechanism (UNSCR 1988 designations).

f) The *Challenging designations* guidance section on gov.je suggests, that in the case of false positives, the FSIU may assist with unfreezing any assets in the Jersey to which this applies, if it is satisfied that the assets are not linked to a designated person. Additional guidance has been provided in respect of handling false positives and unfreezing assets.

g) De-listing is notified via the Financial Sanctions Notices, which are published on the Jersey Gazette (all de-listings are also stored there). Notices on new listings and de-listings are usually published on the same day. De-listing implies the necessity of immediate unfreezing. An up-to-date sanctions list is also available on the JFSC website. No guidance is available on the obligations of financial institutions and other persons or entities holding targeted funds or assets to respect the delisting (unfreezing measures).

Criterion 6.7 (Met) - Article 16(2) of the SAFL provides the Minister for External Relations with broad powers to issue licences to designated persons. A licence granted must specify the acts authorised by it (Art. 16(3)(a), SAFL), including to authorise access to frozen funds, including those determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses. The law does not explicitly indicate the purposes of issuing a licence, however the Minister must seek to ensure, that the granting of a licence, will not lead to a UN sanctions resolution being contravened or the purpose of the person's designation being frustrated.

Licence granting may also be based on Article 16(3A)(b) of the SAFL – in which case the Minister for External Relations may rely on licencing grounds set in the relevant UK Sanctions Regulations implemented under the Sanctions Order. These implemented UK Sanctions Regulations include the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 and Afghanistan (Sanctions) (EU Exit) Regulations 2020, which implement, inter alia, UNSCRs 1267, 1452, and 1988. In this case, the purpose of granting the licence is specified under Regulation 29 in conjunction with Schedule 2 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 and Regulation 28 in conjunction with Schedule 2 of the Afghanistan (Sanctions) (EU Exit) Regulations 2020. These cover areas such as: basic needs, legal services, maintenance of frozen funds and economic resources, extraordinary expenses, and prior obligations.

The FSIU has developed the *Internal Procedure for Sanctions Licence Applications*. The document sets out the roadmap for processing licence applications, their prioritization and facts for consideration when analysing an application. The procedure specifies, that UN procedural,

reporting or notification requirements have to be taken into account, when considering to issue or not to issue a Licence.

Article 15 of the SAFL provides exemptions from the sanctions' regime where a relevant financial institution can credit a frozen account (inter alia interest or other earnings due on the account). In case of pursuing such an exemption, it has to be reported to the Minister for External Relations within 14 days.

Weighting and Conclusion

Recommendation 6 is rated LC. Shortcomings remain concerning provisions that tend to narrow the scope of TFS obligations (c.6.5 (a) and (c)), such as: (i) the requirement to freeze funds or other assets of designated persons and entities to situations, where a person knows or has reasonable cause to suspect, that person is dealing with such funds or assets; (ii) funds or economic resources are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; (iii) economic resources must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect that person is making the economic resources so available; and that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

Recommendation 7 – Targeted financial sanctions related to proliferation

These requirements were not previously assessed.

Criterion 7.1 (Met) - UNSCRs applying targeted financial sanctions relating to the financing of proliferation of weapons of mass destruction are implemented in Jersey through the incorporation of UK SAML A Regulations made under the Sanctions Order (Schedule 1 of the Act lists the UK regulations in question). UNSCRs 1718(2006) and successor resolutions are specifically covered by the Sanctions Order through the application of the UK's Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019. UNSCR 2231 (2015) is in turn covered by the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019. Both have immediate effect in Jersey, in accordance with SAFL provisions.

Criterion 7.2 (Mostly Met) - The Minister of External Relations is the competent authority responsible for implementing PF related TFS. Breaches of the provisions of the Sanctions Framework (such as the failure to freeze funds associated with designated persons) are offences, and subject to enforcement by Jersey law enforcement authorities. Offences related to UNSCR PF sanction regimes are incorporated in the definition of 'money laundering' for the purposes of Article 37 of the Proceeds of Crime (Jersey) Law 1999 ("POCL"). Article 37(11) of the Act refers directly to any provision of the SAFL, and any provision of an Order issued under Article 3 of the SAFL.

a) Under Article 9 of the SAFL, a person becomes a designated person inter alia by virtue of a provision included, under Article 3(4)(c), in an Order implementing a UK sanctions provision. As indicated under criterion 6.5, Article 10 of the SAFL specifies, that a person must not deal with funds or economic resources owned, held or controlled by a designated person if he knows, or has reasonable cause to suspect, that he is dealing with such funds or economic resources. The definition of a person includes an organisation or any other combination of persons. Whilst the prohibition to deal with funds and economic resources is in place, the law is not explicit that the

freezing actions should be executed “without delay” and “without prior notice”. The authorities, however, consider this to be required by the nature of the legal framework itself - see criterion 6.5 a). A person, who fails to comply with a requirement to freeze, commits an offence. The shortcomings identified in that criterion equally apply here.

b) The freezing obligation extends to the range of funds or other assets required by R.7 – see criterion 6.5 c). The shortcomings identified in that criterion equally apply here.

c) The definition of “person” under the SAFL encompasses any organisation or any other combination of persons. Articles 11-14 of the SAFL prohibit persons from making funds, financial services (as defined in Article 2 SAFL), and economic resources available to designated persons (Under Article 45 of the SAFL individuals ordinarily resident in Jersey) and Jersey-incorporated or constituted legal persons may also commit by conduct (including acts and omissions) such an offence wholly or partly outside Jersey. Information on the licencing regime is available under criterion 7.5.

d) The mechanism for communicating designations and de-listings to FIs and DNFBPs is described under criterion 6.5 (d). In accordance with the procedure on issuing financial sanctions notices, notices on new listings and de-listings are to be published on the same day. Each financial sanctions notice provides guidance on a person’s obligations with regard to SAFL’s asset-freezing provisions. More information on PF sanctions and obligations is available on FSIU and JFSC websites.

e) FIs and DNFBPs must immediately provide to the competent authorities all information to facilitate compliance with prohibition requirements. Article 32 of the SAFL requires financial institutions and DNFBPs operating in or from or incorporated in Jersey to provide a range of relevant information to the Minister for External Relations where they have identified a business relationship or any dealings or agreements with or have been approached by a designated person, including the information or other matter on which the knowledge or reasonable cause for suspicion is based, any information about the person by which the person can be identified and if the person is a client, the nature and amount or quantity of any funds or economic resources held by the institution. Attempted transactions are included in the reporting obligation by virtue of Articles 32(1)(a) and Article 32(1)(b)(ii) of the same Act – see criterion 6.5 e). As indicated under criterion 6.5 e) Article 32 of the SAFL requires FIs and DNFBPs, when making a report to the Minister for External Relations, to also include information on any actions taken in compliance with obligations imposed under Article 37 the Proceeds of Crime (Jersey) Law 1999 (under which the Money Laundering (Jersey) Order 2008 is made). This would cover the requirement to report ‘actions taken in compliance’ with sanctions prohibitions to the competent authority, as stated in the FATF standards.

f) Bona fide third-party rights are explicitly protected under Article 46A of the SAFL and subject of common law principles.

Criterion 7.3 (Met) - The SAFL sets out breaches of financial sanctions prohibitions as criminal offences. Those related to breaches of asset-freeze provisions are punishable by a term of imprisonment of up to 7 years and an unlimited fine. Others concerning identified failures in the course of reporting duties or concerning the obligation to provide information involves imprisonment for a maximum term of 12 months and a fine of level 3 (£10,000) on the standard scale (with the exemption of Article 35(2) – a maximum of 2 years imprisonment and an unlimited

fine). The Economic Crime and Confiscation Unit (“ECCU”) within the Law Officers’ Department is responsible for investigating such breaches. The obligation to monitor and ensure compliance by FIs and DNFBPs with regard to the proliferation financing sanctions regime is entrusted to the Jersey Financial Services Commission (JFSC). PF-TFS are included in the definition of money laundering under Article 37(11) of the Proceeds of Crime (Jersey) Law 1999 (“POCL”), and this reads across to the MLO. In accordance with Article 2 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, the JFSC is responsible for supervising compliance with the MLO. As a result, remedial actions and administrative sanctions are applicable in the case of identified non-compliance of OEs with their obligations under the MLO, related to the implementation of PF TFS. Further, if the JFSC identifies potential sanctions TFS (including PF-TFS) breaches as part of their supervisory activities, they must report this to the Minister under Article 32 of SAFL.

Criterion 7.4 (Met)

a) A procedure detailing the process for requesting assistance with a UN delisting is publicly available online. Relevant guidance in respect of the availability of delisting procedures is accessible online in the *Challenging designations* guidance section on gov.je. Those wishing to make a de-listing request (in the case of PF TFS) are in the first instance encouraged to do so directly to the UN, using the UN Focal Point mechanism established pursuant to UNSCR 1730. In addition, as indicated in criterion 6.6, for de-listing Jersey depends on the relevant UK authorities and procedures. Under Article 43A of the SAFL a person can make an application to the Minister for External Relations for assistance with UN de-listing. The Minister may then request the UK Government to use its best endeavours to secure that the person is de-listed (see criterion 6.6 (a)).

b) As mentioned, guidance on applicable delisting procedures is available on the website gov.je in the *Challenging designations* section. The FSU may assist with unfreezing any assets in Jersey, if it is satisfied that the assets are not linked to a designated person. The process of handling false positives and unfreezing assets is covered in guidance on the GoJ website.

c) As indicated under Criterion 6.7, Article 16 of the SAFL provides the Minister for External Relations with broad powers to issue licences to designated persons to authorise access to frozen funds. Licence granting can also be based on Under Article 16(3A)(b) of the SAFL – in which case the Minister for External Relations may rely on licencing grounds set in the relevant UK Sanctions Regulations implemented under the Sanctions Order. The UK’s Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (the “DPRK Regulations”), inter alia, implements UNSCR 1718(2006). The DPRK Regulations include licensing provisions in respect of basic needs, pre-existing judicial decisions etc., and extraordinary expenses, as required by UNSCR 1718(2006) – Regulation 88 in conjunction with Part 1 of Schedule 3 of the Act. The UK’s Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (the “Iran Nuclear Regulations”), inter alia, implements UNSCR 1737(2006). Regulation 40 in conjunction with Schedule 2 Part 1 provides for licensing provisions in respect of basic needs, extraordinary expenses, pre-existing judicial decisions and prior obligations, as required by UNSCR 1737(2006). Schedule 2 para 7 of the Regulation also envisages a licensing provision in respect of activities related to the Joint Comprehensive Plan of Action, meeting the requirement as set out at Article 13(d) UNSCR 1737(2006). When deciding whether to grant or refuse a licence, and whether to impose specific conditions in connection to that licence, the Minister for External Relations must seek to ensure that the granting of a licence will not lead to a UN sanctions resolution being contravened (Article

16(3A)(a)(i) of the SAFL). The *Internal Procedure for Sanctions Licence Applications* further specifies, that UN procedural, reporting or notification requirements have to be taken into account, when considering as to whether or not to issue a licence.

d) Financial sanctions' notices published on the Jersey Gazette are used for communicating delistings. Removal of a designation amounts to the immediate lift of an asset freeze. Notices are usually provided on the same day of delisting. An up-to-date sanctions list is also available on the JFSC website. Guidance is published on the Government of Jersey website on unfreezing assets for delisted persons / entities. In addition, a note about this guidance and a link to it is now included in each Financial Sanctions Notices published on the Jersey Gazette.

Criterion 7.5 (Met)

a) As indicated under Criterion 6.7, exemptions to prohibitions apply automatically in certain defined circumstances as set out in Article 15 of the SAFL, and in UK Sanctions Regulations implemented in Jersey under the Sanctions Order. Article 15(1) further specifies, that the prohibitions in place do not prevent a relevant financial institution from crediting a frozen account with interest or other earnings due on the account or payments due under contracts, agreements or obligations, that were concluded or arose before the account became a frozen account. Any such funds credited to a frozen account must remain frozen and reported to the Minister for External Relations within 14 days.

b) In accordance with Article 16(3A)(b) of the SAFL, when issuing a licence, the Minister for External Relations may rely on a ground given effect by the Sanctions Order. The Order gives effect to the licensing provisions in the UK's Iran Nuclear Regulations. The Prior Obligations derogation (Schedule 2 paragraph 6) along with Regulation 40 of the Act allows licencing for the making payments due to contracts entered into prior listing. The *Internal Procedure for Sanctions Licence Applications* further specifics, that UN procedural, reporting or notification requirements have to be taken into account, when considering to issue or not to issue a licence.

Weighting and Conclusion

Recommendation 7 is rated LC. As in Recommendation 6, deficiencies remain concerning provisions that tend to narrow the scope of obligations to freeze funds or other assets and not to make funds available (c.7.2), such as: (i) the requirement to freeze funds or other assets of designated persons and entities to situations, where a person knows or has reasonable cause to suspect, that person is dealing with such funds or assets; (ii) funds or economic resources are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; (iii) economic resources must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect that person is making the economic resources so available; and that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

Recommendation 8 – Non-profit organisations

Special Recommendation VIII was rated C in the 2015 MER of Jersey.

Criterion 8.1 (Met)

a) Jersey distinguishes three different NPO categories for the purposes of CFT efforts: a) non-FATF NPOs (out of scope of FATF definition and domestic NPO Law) b) in-scope NPOs (falling within the FATF definition implemented into Article 1 of the Non-Profit Organizations Law 2008 –NPO law –registered according to that law) and c) Prescribed NPOs being a subcategory of in-scope NPOs, identified in the course of a NPO risk assessment as the organisations most vulnerable to potential TF abuse. In the past, Jersey NPOs were additionally distinguished within in-scope registered NPOs by a separate category known as “regulated NPOs”, dedicated for NPOs which received prescribed services from a local TCSP. Currently, regulated NPOs along with registered NPOs have the same obligations under the NPO Law. Additional conduct and prudential requirements are also in place in relation to NPOs that are Jersey charities. In accordance with the NPO Law Articles 1 and 4, NPOs established or administered in Jersey falling within the scope of the FATF definition are required to register with the JFSC. This obligation is regardless of whether the NPO carries out any activity in Jersey. The application form includes data on the structure of the NPO, its purpose and objectives, funding information and activities. Among the TCSP administered (regulated) NPOs, 390 were deemed orphan structures – which were not taken into account in the NPO NRA. This was because, as non-charitable purposes trusts established for the benefit of a stipulated purpose, their inclusion would distort the outcomes of the risk assessment.

Prior to January 1st, 2023, the NPO Law used to provide for a registration exemption for NPOs who raise or disburse funds of less than £1,000 within any 12-month period. Some of these NPOs registered voluntarily, inter alia, in order to apply for a local bank account. In the course of carrying out the TF NPO risk assessment, the authorities reached out not only to registered and regulated NPOs, but also conducted extensive outreach to identify and engage those NPOs, which were subject to the exemption and not registered (via the Jersey Charity Commissioner, public domain searches, radio campaigns and use of local knowledge). While no statistics were available on the overall amount of exempted and unregistered NPOs the authorities were not able to reach at that time, this had no negative impact on the risk assessment due to the perceived low risk of these NPOs (the reason they were subject to the exemption of registration) and overall small amount of NPOs subject to such an exemption in general.

Out of the 1544 NPOs registered altogether under the NPO law in Jersey in July 2023, around 78% fulfil the FATF definition (the remainder registered voluntarily). Out of those, around 11% were ultimately identified in legislation as “Prescribed NPOs”, by features deemed as more vulnerable to TF abuse.

At the time of the risk assessment, all registered NPOs and TCSPs providing services to regulated NPOs received a first, general questionnaire. A second, more detailed questionnaire was only provided to those NPOs identified as having a potentially higher risk of being abused for TF.

The Terrorist Financing National Risk Assessment (TF NRA), published in April 2021, classified the risk for financial services and NPOs being abused for TF purposes as medium-low. Following up on the recommendations from that document, in 2022 Jersey conducted its first dedicated NPO risk assessment, which was focused on the identification of those in-scope NPOs with a heightened risk exposure to TF along with setting recommendations for legislative amendments (new obligations for NPOs at higher risk of TF abuse) and providing adequate guidance to the sector. The 2022 NPO NRA confirmed the perception of the risk of abuse of the NPO sector for TF purposes to be medium-low. The assessment was based on the analysis of 9 different factors, involving inter alia inherent risks, e.g., geographical elements such as the jurisdiction involved in raising/dispersing funds and vulnerabilities, e.g., the lack of adequate and robust systems and controls for NPOs established in Jersey. This exercise resulted in risk categorisation of the assessed NPOs - low, standard and high risk. Circa 90% of the assessed NPO sector (fulfilling the

FATF definition) fell within the low (75%) or standard (14%) risk categories. The entities identified as most prone to TF abuse had either connection with the 34 target jurisdictions with a high TF risk or their payment remittance practices could still allocate the NPO as a higher risk, if it extended a specific threshold (value of threshold depending on whether the NPO was administered by a TCSP).

The main finding of the NPO NRA was the identification of specific features associated with the most vulnerable NPOs, having in general a higher risk exposure and/or vulnerabilities associated with internal control environment, rendering them more prone to TF misuse and abuse; see also 8.1 (b). The authorities in result introduced a set of risk mitigation measures, including legislative amendments creating tighter regulation aimed at preventing organisations considered more vulnerable from being abused for TF purposes. The NPOs subject to the new regulation were defined as “Prescribed NPOs”.

b) The authorities described example scenarios of TF abuse in NPOs in the NPO NRA, these, however, were generic. More specific scenarios of how terrorists could take advantage of an NPO, referring to known cases within Jersey’s proximity, are provided on the JFSC website. The aspect of using NPOs for TF purposes was also given consideration in the 2021 TF NRA. Out of the four distinct elements to TF (raising; moving; storing; and using funds) it was identified that Jersey as an IFC is most exposed to being used for moving or storing funds. Consideration has been given to the potential that non-profit organisations operating in or from Jersey may be unwittingly (or knowingly) used to raise funds to finance terrorists, although no such cases in practice have been identified. Jersey authorities reached the conclusion, that NPOs identified as vulnerable to TF abuse tended to operate in higher risk jurisdictions, such as conflict zones, failed states and disaster areas where support such as humanitarian aid and disaster relief is desperately needed, and which equally are areas where terrorists also tend to undertake activities. They also may use partners with the aim to seek to reduce risk, however, this practice may also bring additional transfer risk requiring careful management. Vulnerable NPOs were noted to use money remittance methods, such as cash, which may render the tracing of funds to legitimate beneficiaries more challenging.

c) On the basis of the findings of the NPO NRA 2022 Jersey has inter alia taken legislative actions to address the identified risks and vulnerabilities concerning the subset of NPOs prone to potential TF abuse. As a result, a new category of “Prescribed NPOs” was introduced into Jersey Law. Under Article 1 of the Prescribed NPO Order 2022, a Prescribed NPO is an NPO that, during the preceding 12 months, has raised funds exceeding £1,000 from outside Jersey, Guernsey, the Isle of Man, England and Wales, and Scotland or disbursed funds exceeding £1,000 outside those jurisdictions. The criteria for being recognized as a Prescribed NPO to some extent reflect the factors used in the NPO NRA 2022 to identify NPOs which were more vulnerable to TF abuse (apart of the jurisdiction of fundraising/disbursal, other factors were considered such as the structure of the NPO, associated partners, activities, objectives, payment remittance practices etc). Prescribed NPOs are subject to more obligations in comparison with other low and standard risk NPOs registered under the NPO Law (see criterion 8.2). A Prescribed NPO additionally considered a ‘supervised persons’ within the meaning of Article 1 of the Proceeds of Crime (Supervisory Bodies) Law 2008 (further referred to as the Supervisory Bodies Law). The JFSC has the power to proactively supervise Prescribed NPOs, using a risk -based approach. To this extent, it has divided the Prescribed NPOs into 3 main risk categories (high, medium and low – see 8.1 table), depending on the risk factors taken into account during the NPO risk assessment. The association to a specific risk category defines which supervisory measures will be applied.

Table 8.1. NPO TF risk-related statistics: Prescribed NPOs (as of March 2023)

Type of NPO	Total number	Fall under the FATF definition	Subject to assessment	Response rate	Risk categorization ⁵⁵
Registered NPO ⁵⁶	993	660	49 (i.e., a subset of 660)	85%	High = 5, Medium = 10, Low = 34
Regulated NPO ⁵⁷	551	551	82 (i.e., a subset of 551)	100%	High = 13, Medium = 32, Low = 37
TOTALS	1,544	1,211	131	N/A	High = 18 , Medium = 42 , Low = 71

d) The NPO NRA 2022 was the first comprehensive review of the NPO sector. No periodicity of review of the NPO sector or update of the NPO NRA is explicitly specified in the law, although the JFSC has data collection, supervision observation and monitoring powers under the NPO Law and Prescribed NPO Order which allows it to update the risk data in order to conduct periodic reviews of the risk profiles of NPOs to identify any emerging risks. The first JFSC’s Supervisory Risk Data Collection exercise of NPO sector should be initiated in early 2024.

Criterion 8.2 (Met)

a) Under Article 13 of NPO Law, 2008, all NPOs covered by the act are obliged to provide on a request to a person information on their purpose, objectives and intended activities and details of its structure. In accordance with Article 14 of the same Act, the JFSC maintains an NPO register and must, upon being requested to do so, inform a person if a name specified by the person appears in the register as the name of an NPO. This method allows members of the public to verify the true existence of the NPO and receive contact details.

Further measures promoting the accountability, integrity, and public confidence in the administration and management of NPOs refer to the subset of Prescribed NPOs and have been introduced through the Prescribed NPO Order 2022. Prescribed NPOs are subject to additional obligations, such as (Prescribed NPO Order, Articles 2-6): the provision of financial statements to the JFSC on request, the possession of appropriate accounting systems and controls, record keeping requirements concerning the identification of owners and controllers of an NPO record keeping requirements on the identification of significant donors and record keeping requirements on the identification of partner NPOs, to ascertain these NPOs and connected beneficiaries are not assisting or being used to assist terrorism of TF. Mandatory CFT Codes of Practice and Guidance for Prescribed NPOs are also provided in Section 17 of the AML/CFT/CPF Handbook. These concern primarily risk assessment, defining risk appetite and the establishment of internal systems and controls to mitigate the identified risk.

The Jersey Charity Commissioner publishes and maintains guidance on the operation of the Charities Law for NPOs which are also charities. These are identifiable in the charities register, which is publicly accessible. Each year, every registered Jersey charity must provide an annual return to the Commissioner to maintain registration. Under Article 26 of the Charities (Jersey) Law 2014, the Commissioner may require a charity or charity Governor to provide any information or document that the Commissioner reasonably requires. What’s more, all charities that make overseas disbursement are required to provide additional information about how they

⁵⁵ Incorporates the *Prescribed NPO* population only.

⁵⁶ Stand alone, that have registered as an NPO.

⁵⁷ Receiving services from regulated TCSP that have registered as an NPO.

identify and mitigate the risks related to their activities. Such documents may, for example, include risk assessments, risk mitigation measures, additional information about partner agencies or beneficiaries, structure charts or financial information beyond annual accounts. In addition, the JFSC also has a close working relationship with the Association of Jersey Charities, which led to the co-hosting of an event, to promote awareness among its members.

b) The authorities have taken a series of measures to conduct outreach to raise and deepen awareness among NPOs about potential vulnerabilities of NPOs to TF abuse and TF risks. A series of webinars have been prepared concerning NPOs and terrorist risks. The NPO NRA is publicly available, and a separate webinar was held for the industry promoting its results. Additional obligations and guidance on how to comply for Prescribed NPOs was included in the JFSC Handbook for the prevention and detection of ML/TF/PF. A special section dedicated to NPOs was posted on the JFSC website. The authorities have prepared special informal consultation and drop-in sessions where NPO representatives could arrive and ask questions. Some of the activities conducted were also dedicated to measures that NPOs can take to protect themselves against being abused for TF. Outreach was also conducted to the donor community.

c) The authorities have collaborated with NPOs to develop and refine best practices to address TF risks. The NPO section of the Handbook on prevention and detection of ML/TF/PF was consulted with representatives of the overall NPO sector. It explains the mandatory obligations of Prescribed NPOs and guidance on best practices in areas such as initiating cooperation with associate NPOs or raising awareness among employees and volunteers of NPOs. The Jersey Overseas Aid Commission - the Island's official, publicly funded relief and development agency with an NPO status is represented on the TFS-TF-PF Policy Working Group.

d) The AML/CFT/CPF Handbook refers to the use of certain payment methods falling outside the formal banking system as a potential TF risk. In addition, the aspect of using different payment remittance methods was indicated as one of the factors determining the risk level in the NPO NRA 2022 (with unregulated channels signalled as higher risk of abuse for TF).

Criterion 8.3 (Met) - The NPO Law 2008 (Articles 4-13) applies a series of obligations allowing the JFSC to monitor the activities of all registered NPOs. Apart from the registration obligation, such NPOs must inter alia on request provide the JFSC with further information and documents, allowing it to assess TF risk and notify the JFSC about changes in the registered information in a timely manner (Art. 4, 7, 9 of the NPO Law). More strict obligations are in place for the selected Prescribed NPOs (see criterion 8.2). Since January 2023, the JFSC introduced risk-based supervision of those NPOs that fall within the definition of Prescribed NPOs, in accordance with the obligations set out in Articles 2-6 of the Prescribed NPO Order. Prescribed NPOs identified so far have been initially divided into high risk (18 NPOs), medium risk (38 NPOs) and low risk (71 NPOs). Up to the onsite visit, primarily awareness raising activities (emails, phone calls, meetings) and activities aimed at gaining information on the sector have been conducted. The JFSC has contacted all 135 initially identified Prescribed NPOs and verified their status. In result, it was determined that as of 10 March 2023, there are 127 Prescribed NPOs and not 135. In September 2023 the first thematic examination was finalized, involving in total 8 NPOs from different risk categories (high, medium and low risk).

New Prescribed NPOs would be upon registration identified by virtue of the information provided. Should an NPO be deemed to be a Prescribed NPO, the JFSC's Central Authorisations Team would liaise with the NPO Supervisor prior to the application being granted to discuss any risk factors or points of note. At registration, the NPO would be reminded of the obligations for Prescribed NPOs and provided with links and guidance. In accordance with article 9 of the NPO

Law 2008 NPOs are obliged to inform within 3 months the JFSC should any information change post registration, or subsequently following any additional updates.

Criterion 8.4 (Met)

a) The JFSC is legally empowered to oversee NPOs for CFT purposes. Under Article 17 of the NPO Law, the JFSC (i) is obliged to consider if (upon receiving an application) it raises any suspicion that an existing NPO or proposed NPO undergoing registration is assisting or being used to assist terrorism or the financing of terrorism or is likely to assist or be used to assist terrorism or the financing of terrorism and (ii) may also use other methods of monitoring NPO activity. When in receipt of any information, including financial statements relating to an NPO, the JFSC considers any potential TF risks. For example, a sample of annual returns were provided to the JFSC from the Jersey Charities Commissioner, and an assessment was undertaken to determine if the NPO could be at risk of TF abuse or assisting terrorism. According to the supervisory programme developed by the JFSC in 2023, risk-based supervisory oversight actions include bilateral communication, data collection, full and thematic inspections. A close working relationship was established between the Jersey Charities Commissioner and the JFSC, involving exchange of information and the sharing of best practices. This relationship has been evidenced within the sector and community through joint presentations, drop-in sessions attended by both agencies, a formal memorandum of understanding, as well collaborating on communications and performing onsite examinations together where there is commonality between NPOs and Charities selected (implemented during the NPO thematic inspection). Training has been provided to TCSP supervisors whose TCSP's provides prescribed services to Prescribed NPOs. Whilst the NPO supervisory staff may share information with the TCSP supervisory staff for the supervisory purposes, there are clearly defined responsibilities to avoid any unnecessary duplication of the oversight activities of the Prescribed NPOs.

b) Administrative and criminal sanctions are available for violations by NPOs or persons acting on behalf of NPOs that are considered to be proportionate and dissuasive. Sanctions apply for breaches of obligations under the NPO Law and for breaches of the obligations set out for Prescribed NPOs.

All NPOs: All NPOs covered by the legislation are subject to a fine of £ 10,000 for: offences concerning the failure to register, passing off as registered, supplying false information, failure to provide information along with offences in respect of financial records, offences in respect of supplying information by an NPO (NPO Law, Art. 24-27, 29-31). A person who aids, abets, counsels or procures the commission of an offence under the NPO Law is also guilty of an offence and liable to the same manner as a principal offender to the penalty provided for that offence (NPO Law, Art. 34). An NPO can also be forcibly deregistered on the basis of an order from the Royal Court – in cases where a forfeiture order in respect of the funds of the NPO has been made or the NPO was convicted of an offence under Jersey Law. An NPO can also be deregistered if the Chief Minister orders the JFSC to do so or provides reasons for doing so. Such an event can be ordered, if the NPO has persistently failed to comply with any of its obligations under the NPO Law or no longer exists or is not carrying out and is not likely to carry out the activity specified in the register in respect of the NPO.

Prescribed NPOs: The JFSC may refuse an application to register an NPO or a proposed NPO if the Commission is of the opinion, that the NPO or proposed NPO has potential links with TF or terrorism (NPO Law, Art. 8). Furthermore, Prescribed NPOs are considered 'supervised persons' under the Supervisory Bodies Law 2008 that provides the JFSC with the same sanctions and supervisory powers across all sectors of its AML/CFT/CPF supervisory regime. The catalogue of enforcement powers of the JFSC may include warnings and public statements, directions and

conditions, applications to the Court, objections and revocation, application of a civil penalty (including monetary fines) and criminal prosecution (with the consent of, the Attorney General). In the case of Prescribed NPOs, failure to comply with obligations indicated in Article 13A (which refers to any imposed obligations on a Prescribed NPO) of the NPO Law may be subject to a fine (Article 30A). Depending on the gravity of the identified failure, the fine can reach up to 8% of average annual turnover or up to £400,000 against an individual who is in scope of the civil financial penalties' regime (Financial Services Commission (Financial Penalties) Order, Art. 3).

Criterion 8.5 (Met)

a) The JFSC may share information gathered by it with a range of domestic authorities (the Minister for External Relations, Attorney General, Jersey Charity Commissioner, the Jersey Gaming Commission and law enforcement authorities) as described under Article 19 of the NPO Law. This includes. Information may be shared with foreign counterparts having a similar role as the JFSC in the context of NPO monitoring. The JCC has the power to share information gathered on charities with the JFSC for the fulfilment of its task under the NPO Law (Charities Law, Art. 30-31). The JFSC and JCC have in February 2023 signed in order to provide a formal basis for co-operation, including for the exchange of information and investigative assistance. Co-operation and coordination amongst appropriate authorities holding relevant information on NPOs is also conducted through national working groups forming part of the National Structure.

b) Whilst no TF investigations concerning NPOs have been carried out in Jersey to date, the FIU had the opportunity to acquire expertise through the relationship with the UK National Terrorism Financial Intelligence Unit, which inter alia provided specialist training on TF matters and other trainings on TF typologies. In May 2022 the trainings have been also provided by the UK Charity Commission, the Terrorist Offender Management Unit, UK Fin-Net, and Her Majesty's Treasury.

c) As indicated above, legal provisions in place encompass access by the JFSC on request to information on the purpose, objectives and intended activities of particular NPOs subject to the NPO Law (all NPOs falling within the FATF definition). The JFSC can also request the provision of financial records (Article 10 of the NPO Law). Additional information can be gathered by the JFSC in relation to Prescribed NPOs, which are subject to further obligations. Article 34 of the Supervisory Bodies Law 2008 gives the JFSC the power to request information from Prescribed NPOs. This information can be further disseminated in accordance with Article 36 of the same Act, with a view to the investigation of a suspected offence, or to the institution of, or for the purposes of, any criminal proceedings. Information gathered by the JFSC under the NPO Law, can be shared in accordance with Article 19 with other domestic authorities, namely the Minister for External Relations and Financial Services, the Attorney General, the JCC, the Jersey Gambling Commission, and Bodies that exercise functions of a public nature in Jersey, that are concerned in the prevention, investigation, detection or prosecution of ML or TF. Under Article 19(3) of the same act, the information exchange can be conducted inter alia for the purpose of investigating a suspected offence in or out of Jersey or for instituting criminal proceedings in or out of Jersey. In addition, special powers for the Jersey Police force to obtain information related to terrorist investigations, also from NPOs (Schedule 5, Article 4, Terrorism Law).

d) Under Article 19 of the current version of the Terrorism Law, there is a general duty to disclose information to the FIU concerning the TF offences under Articles 15, 16 and 16A of the Act. This also concerns an obligation for NPOs, to report potential TF suspicion, also in the in the context of work undertaken on a voluntary or an unpaid basis on their behalf (Article 39). In cases, where the NPO is also a charity, the suspicion of an offence being committed relating to money laundering (ML) or TF would mean suspicion of "misconduct" under Article 2(10)(b) of the Charities Law and would enable the JCC to serve a written notice to a Governor or Charity.

Such an issue would also be a “reportable matter” (Article 19 of the same Act) and enable the Commissioner to apply to the Court to suspend or remove the Governor (Article 20).

Criterion 8.6 (Met) - Jersey authorities have indicated the FIU as the main contact point for international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support. To this extent, such requests are handled in accordance with the general provisions concerning cooperation of the FIU with foreign counterparts (see R.40). Information on the role of the FIU in analysing the potential abuse of NPOs for TF purposes is also publicly available on the FIU and JFSC websites. The Law Officers’ Department responds to Mutual Legal Assistance requests concerning suspicion of TF in connection with NPOs. Information gathered by the JFSC under the NPO Law can be shared in accordance with Article 19 with bodies that outside Jersey exercise functions that are similar to JFSC functions under the NPO Law. Similarly, provision of information is also allowed under the Supervisory Bodies Law.

Weighting and Conclusion

Recommendation 8 is rated C.

Recommendation 9 – Financial institution secrecy laws

Jersey was rated LC with the former R.4 in the 4th round MER.

Criterion 9.1 (Met) – There are no financial institution secrecy laws that inhibit the implementation of AML/CFT measures in Jersey.

Ability of competent authorities to access information they require to properly perform their functions in combating ML or FT

There are also common law principles on customers information, such as the Decision of the Court of Appeal in *Tournier v National Provincial and Union Bank of England* [1924] 1KB 461 that set out a bank’s duty of confidentiality and states that there are four exemptions to an FI’s duty to not disclose client information. These exemptions include the situation where the disclosure is compelled by law (such as POCA, the Investigation of Fraud (Jersey) Law 1991, the Criminal Justice (International Co-operation)(Jersey)Law 2001, the TJL and the PPCE). Analysis under R.27, 29 and 31 sets out the statutory powers available to competent authorities to request information from FIs.

Issues of legal professional privilege (LPP) are dealt with in line with the ruling of the European Court of Human Rights: *Michaud v France* (2014) 59 E.H.R.R. 9 [RD059] and further detail is contained in R.23 and c40.5(b).

Sharing of information between competent authorities, either domestically or internationally

A range of mechanisms exist to exchange information between agencies at an operational level (see R.2). There are no financial institution secrecy laws that inhibit this sharing. Information sharing between competent authorities also occurs at an international level (see R.40).

Sharing of information between FIs

Sharing of information between FIs is not impeded in any way where this is required by recommendations 13, 16 or 17.

Weighting and Conclusion

All criteria are met. **R.9 is rated C.**

Recommendation 10 – Customer due diligence

In the 4th round MER of 2015, Jersey was rated LC with former R.5. The deficiencies identified included the exemption of FIs from certain CDD requirements when applying simplified due diligence measures (e.g. verifying the authorization of persons acting on behalf of customers).

Criterion 10.1 (Met) – FIs are prohibited from *setting up* an anonymous account or an account in a name which they know, or have reasonable cause to suspect, is fictitious (Money Laundering Order (MLO), Art. 23B). However, the MLO does not explicitly prohibit the *maintaining* of anonymous accounts (or accounts in obviously fictitious names). Nonetheless, when the MLO came into force in 2008, and pursuant to Article 13, FIs were required to apply CDD measures to existing customers at times that were appropriate having regard to the degree of ML/TF risk or suspicion of ML/TF. Moreover, December 2014 was set as the deadline for obliged entities to identify all existing customers. A number of exceptions to postpone the application of CDD measures were granted, but only until December 2017. Therefore, it appears that the required identification measures had been applied to all anonymous accounts or accounts in obviously fictitious names (if any) existing in the past.

Criterion 10.2 (Mostly Met) – Article 3(1)(2) of the MLO defines CDD as comprising both “identification measures” and “ongoing monitoring”. Identification measures (MLO, Art.3(2)) are set to include the identification of the customer, of any person acting on behalf of the customer, any third parties the customer may be acting for (including beneficial owners) and obtaining information on the purpose and intended nature of the business relationship.

FIs are required to conduct identification measures:

(Met) (a) before the establishment of a business relationship (MLO, Art. 13(1)(a)) and on-going monitoring during a business relationship. Business relationship is defined as a business, professional or commercial relationship with a customer, which is expected, at the time when contact is established, to have an element of duration (MLO, Art. 1(1)).

(Mostly Met) (b) before carrying out a one-off transaction (MLO, Art. 13(1)(a)), which is equal to or above EUR 15,000 (MLO, Art. 4(1)(a)). The same requirement applies to situations where the total amount of two or more linked transactions equals to or is above EUR 15,000 (MLO, Art. 4(1)(b)). This threshold is reduced to EUR 1,000 for transactions carried out in the course of any money service business (e.g. bureau de change, cheque cashing services) or a virtual currency exchange business. The MLO also considers the possibility that FIs may identify linked transactions after their execution, but requires FIs to conduct identification measures as soon as reasonably practicable (MLO, Art. 13(5)), rather than immediately after or as soon as it has been identified that the transactions are linked.

(Mostly Met) (c) before carrying out a one-off transaction (MLO, Art. 13(1)(a)), which involves transmitting or receiving funds by wire or other electronic means (definition of “money service

business” under Art.1(1) of the Financial Services Law) and is equal to or above EUR 1,000 (MLO, Art. 4(1)(c)). The same requirement applies to situations where the total amount of two or more linked wire transfers equals to or is above EUR 1,000 (MLO, Art. 4(1)(d)). The MLO also considers the possibility that FIs may identify linked wire transfers after their execution, but requires FIs to conduct CDD as reasonably practicable (MLO, Art. 13(5)), rather than immediately after or as soon as it has been identified that the transactions are linked.

(Met) (d) when there is a suspicion of ML/TF (MLO, Art. 13(1)(c)) except when FIs reasonably believe that the application of identification measures will likely tip-off the customer and instead file a SAR (MLO, Art. 14(6)).

(Met) (e) when there are doubts about the veracity or adequacy of documents, data or information previously obtained through CDD measures (MLO, Art. 13(1)(c)(ii)).

Criterion 10.3 (Met) – FIs are required to undertake the identification measures (MLO, Art. 13(1)), which include both identifying the customer and obtaining the relevant evidence on the basis of reliable and independent source data, information or documents verifying the customer’s identity (MLO, Art. 3(4)). The customer is defined as a “person” (MLO; Art.1(1)) and in the AML/CFT/CPF Handbook the definition is further clarified by referring to “a person with whom a business relationship has been formed or a one-off transaction is carried out” and stating that “a customer may be an individual (or group of individuals) or a legal person”.

In the case of legal arrangements, apart from identifying and verifying the identity of the person acting on behalf of the legal arrangement (e.g. trustee), FIs are also bound (by virtue of the definition of identification measures under Article 3(2)(b)(iii) to (i) identify the legal arrangement and understand its nature (e.g. type of trust in case of a trust), (ii) identify and verify each person involved in that arrangement set out under article 3(7) (see. c.10.5) and (iii) where any such person is not an individual, understand the ownership and control of that person and identifying each individual who is that person’s beneficial owner or controller.

The Handbook further elaborates on the required identification data and the proof of identify. In particular, the following data must be obtained to identify individuals: name, principal residential address, date and place of birth, nationality, gender identity, and the passport number or the national identity number (Section 4.3.1, Para. 18).

The Handbook also specifies the independent and reliable sources that can be used for verifying the individual’s identity such as a current passport, national identity card, driving license or copy of these documents certified by a suitable certifier and providing photographic evidence of identity. In order to verify a residential address, correspondence from government institutions, a letter confirming residential address from supervised entities, bank statements, utility bills, tenancy agreements, etc. are considered acceptable sources (Section 4.3.2, Para. 31).

Identification measures in relation to legal persons and arrangements are specified in Sections 4.4 and 4.5 of the Handbook (assessed under Criteria 10.8-10.11).

Criterion 10.4 (Mostly Met) – FIs are required to identify persons purporting to act on behalf of a customer and verify their identity. FIs are also required to verify a person’s authority to act on behalf of a customer (MLO, Art. 3(2)(aa)). The Handbook specifies that the evidence for such an authority may include a certified copy of the power of attorney or in case of limited partnerships,

the partnership agreement or the records held in the companies' registry on the identity of a general partner (Section 4.6, Para. 240).

However, there are exemptions to CDD measures in relation to persons purporting to act on behalf of a customer. In particular, FIs are allowed to not carry out required measures for the purpose of identifying a person and verifying the identity and the authority to act on behalf of a customer when the customer is a public authority or a legal entity listed on a regulated market (or its subsidiary) (MLO, Art. 18(4)). Similarly, exemptions apply when a person acting on behalf of a customer is a regulated FI (MLO, Art. 18(5)). (see c.1.6).

Criterion 10.5 (Mostly Met) – FIs are required to identify individuals who are beneficial owners of legal persons (MLO, Art. 3(2)(c)) and obtain the relevant evidence on the basis of independent and reliable source data, information or documents verifying their identity (MLO, Art. 3(4)).

FIs are also required to determine whether a customer is acting for a third party and, in relation to third parties that are individuals, identify those individuals and verify their identity based on independent and reliable source data, information or documents (MLO, Art. 3(2)(b)(i), Art.3(4)(b)). Where a third party is a legal person, FIs are required to understand its ownership and control structure, and to identify and verify their beneficial owners (MLO, Art. 3(2)(b)(ii)).

If a customer acts for a legal arrangement, FIs must understand the nature of that arrangement and identify/verify a trustee or a general partner (as a customer) and a settlor or protector (in case of a trust), and any other individual exercising ultimate effective control over a legal arrangement. (MLO, Art. 3(2)(b)(iii), Art. 3(7)(a)(c)). Persons that hold beneficial interest or are objects of a trust power in a trust must also be identified (MLO, Art. 3(7)(b)(ii)). FIs must have regard to ML/TF risks in determining who holds beneficial interest or is an object of a trust power in a trust. Where these persons are not individuals, their beneficial owners must also be identified in a similar fashion (MLO, Art. 3(2)(b)(iii)(c)). Further guidance on the identification of beneficial owners of legal arrangements are provided by the Handbook (Section 4.4.1).

The beneficial owner is defined as an individual who is directly/indirectly an ultimate beneficial owner of a customer, and who directly/indirectly ultimately controls or otherwise exercises control over the management of a customer (MLO, Art. 2(1)(2)). In identifying a beneficial owner, FIs are required to take into account all relevant circumstances, including the size of beneficial ownership and the degree of control (MLO, Art. 2(4)). Although this definition does not encompass the natural persons on whose behalf a transaction is being conducted, the MLO provides for the identification of third parties and, when applicable, their beneficial owners in those situations where a customer is acting on their behalf (Art. 3(2)(b)).

However, there seems to be an exemption to the obligation to identify the beneficial owner of a customer when such customer is a legal person whose securities are listed on a regulated market (Art.2(3) of the MLO and Para.157, section 7.6.13 of the Handbook) without a corresponding requirement to still obtain the relevant identification data from a public register, the customer or other reliable sources, which is not consistent with FATF standards.

Criterion 10.6 (Met) – FIs are required to *obtain information* on the purpose and intended nature of the business relationship (MLO, Art. 3(2)(d)). The mandatory provision of the Handbook further stipulates that FIs must *understand* the purpose and intended nature of a business relationship (Section 3.3, Para. 33).

Criterion 10.7 (Mostly Met) – FIs are required to conduct ongoing monitoring of the business relationship (MLO, Art. 13(1)(b)). Art.3(3) further clarifies that the ongoing monitoring includes:

(Met) (a) scrutinizing transactions undertaken throughout the course of a business relationship to ensure that transactions carried out are consistent with the FI’s knowledge of the customer, including the customer’s business and risk profile, and where necessary, the source of the funds;

(Met) (b) ensuring that documents, data or information obtained through CDD measures are kept up to date and relevant by undertaking reviews of existing records, particularly in relation to higher risk categories of customers.

The Handbook further clarifies measures that must be taken by FIs to demonstrate that CDD data, information and documents are kept up-to-date and relevant (Section 3.4), including by reviewing those on a risk-sensitive basis and also in cases where circumstances occur that may impact the customer’s business and risk profile (Para. 118). However, FIs may also demonstrate that CDD data, information and documents, data or information are kept up-to-date and relevant by requesting a customer to provide an assurance that it will provide the relevant CDD information on a timely basis in the event of a subsequent change (Para. 117).

Criterion 10.8 (Mostly Met) – FIs are required to understand the ownership and control structure of legal persons (Art. 3(2)(c)), which is further developed by Section 3.3.1 of the Handbook. FIs are also required to understand the nature and scope of the business activities generating a customer’s funds/assets under the mandatory provisions of the Handbook (Section 3.3. para. 34). Furthermore, FIs are required to understand the nature of an arrangement when the customer is acting for a third party that is a legal arrangement (e.g. type of trust) (MLO, Art. 3(2)(b)(iii)), however are not specifically required to understand the nature of the legal arrangement’s business/activities, since the obligation concerns customers and not third parties. FIs are required to gather sufficient information in order to understand fully the nature of the customer’s business when establishing a correspondent relationship (Art. 15B(2)(a)).

Criterion 10.9 (Mostly Met) –

(Met) (a) FIs are required to identify legal persons by obtaining a person’s name and legal status (i.e. proof of existence and legal form) (MLO, Art. 13(1)) and verify their identity by obtaining reliable and independent source data, information or documents (MLO, Art. 3(4)).

The authorities clarified that legal arrangements cannot establish a business relationship or carry out an occasional transaction. Instead, a trustee of a trust and a general partner of a limited partnership (or an equivalent person in similar legal arrangements) enters into a business relationship with FIs, while legal arrangements are considered as third parties on whose behalf a trustee and a general partner act. FIs are required to identify third parties that are legal arrangements and understand their nature (e.g. type of trust) (MLO, Art. 3(2)(b)).

However, it appears that there are no explicit legal requirements in Jersey that address all elements of sub-criteria (b) and (c).

(Mostly met) (b)-(c) The Handbook advises FIs to obtain the following data on legal persons (Section 4.5.1), including foundations (Section 4.5.3): name; trading name (if any); date and country/territory of incorporation/registration; official identification number; address of registered office; mailing address and principal place of business/operations (if different from the registered office); names of all persons holding a senior management position (incl. council

members of a foundation). FIs must verify the data on the basis of the memorandum and articles of association or charter (or an equivalent document) or a duly certified copy, and at least one more evidence such as a certificate of incorporation or a latest audited financial statement. These requirements are, however, established in a “guidance” section of the Handbook.

In relation to legal arrangements, the Handbook advises FIs to obtain the following data (Section 4.4.1; Section 4.4.3): name; date of establishment; official identification number (e.g. tax identification number); mailing address of trustee(s); date of appointment of trustee(s); nature of a trustee’s powers. FIs are also advised to obtain additional data on limited partnerships: trading name (if any); country/territory of registration/establishment; registered office/business address; mailing address and principal place of business/operations; names of general partners and those limited partners that participate in management (if any). These requirements are, however, established in a “guidance” section of the Handbook.

These data for limited partnerships may be verified by FIs based on partnership agreement or a duly certified copy therein and at least one more evidence such as a certificate of registration or a latest audited financial statement (Section 4.4.4). In relation to trusts, the Handbook provides an option for FIs to either obtain and review the trust instrument (or an equivalent document) as a whole for verifying the identification data or only copies of relevant extracts from the trust instrument (Section 4.4.2). However, there is no guidance to have those copies of trust instruments duly certified. It is also not clear whether the copies of relevant extracts from the trust instrument should cover powers that regulate and bind a trust and names of all persons involved in senior management of a trust.

Criterion 10.10 (Met) – Criterion 10.5 explains the general obligation of FIs under the MLO to identify beneficial owners and verify their identity based on reliable and independent source data, information or documents. The Handbook advises FIs in more detail that a three-tier system must be used for identifying beneficial owners (Section 4.5.1, Para. 191). In particular, the following individuals must be identified as beneficial owners of a company:

(Met) (a) natural persons who hold a material controlling ownership interest in the capital of a legal person (through direct or indirect holdings of interests or voting rights) or who exert control over a legal person through other ownership interests (e.g. holding convertible stock or outstanding debt that is convertible into voting rights).

(Met) (b) To the extent that there is doubt as to whether the persons holding material controlling ownership interest of a legal person are beneficial owners, or where no individual exerts control through ownership interests, natural persons who exercise control over a legal person via other means (e.g. personal connections, financing, family relationships, default on payments).

(Met) (c) Where no natural person is identified under (a) or (b), natural persons who exercise control through positions held (e.g. exercising strategic decision-taking power, holding senior management position).

The Handbook further specifies that for lower risk business relationships, a threshold of 25% is considered as a material controlling ownership interest and where the distribution of ownership interests is uneven, a material interest may be less than 25% (Section 4.5.1, Para. 195).

The Handbook contains similar provisions in subsequent sections (4.5.3 and 4.5.5) in relation to other forms of legal persons that are not companies, namely foundations and partnerships.

Criterion 10.11 (Mostly Met) – As stated by the authorities, the legal arrangements recognized in Jersey (e.g. limited partnerships, trusts) are considered to be third parties, while trustees and general partners act on their behalf, as customers. Thus, legal arrangements cannot establish a business relationship with FIs, nor can they undertake occasional transactions.

(Mostly met) (a) FIs are required to identify trustees and verify their identity as customers based on reliable and independent source data, information and documents (MLO, Art. 3(4)). The MLO also requires FIs to identify and verify a settlor or protector, or any other individual exercising ultimate effective control over a trust. (MLO, Art. 3(2)(b)(iii), Art. 3(7)(a)(c)). Persons that hold beneficial interest or are objects of a trust power in a trust must also be identified (MLO, Art. 3(7)(b)(ii)). FIs must have regard to ML/TF risks in determining who holds beneficial interest or is an object of a trust power in a trust. Where these persons are not individuals, their beneficial owners or controllers must be similarly identified (MLO, Art. 3(2)(b)(iii)(c)).

The Handbook (Section 4.4.1) advises that persons holding any beneficial interest in a trust may be identified as beneficiaries with a vested right, or FIs may resort to identifying beneficiaries in a trust (except for a unit trust) presenting a higher risk, and investors holding a material interest (25%) in the capital of a unit trust (Paras. 137-139). Other non-binding provisions of the Handbook also advise FIs to consider the classes of beneficiaries, including any charitable causes named in the trust instrument, when assessing the risks related express trusts (Section 3.3.2 Para. 43). This however falls short of the requirement for FIs to obtain sufficient information on beneficiaries of trusts designated by characteristics/class to satisfy themselves that they will be able to identify them at the time of the pay-out or when intending to exercise vested rights.

(Mostly met) (b) Another type of legal arrangement recognized in Jersey (other than a trust) is a limited partnership. A general partner of a limited partnership must be identified and verified when, as a customer, is acting on behalf of a limited partnership (MLO, Art. 3(4)). The Handbook (section 4.4.1, Paras. 148-153) also provides further guidance on the identification of BOs (persons holding a beneficial interest) of limited partnerships, which closely resembles the provisions highlighted for trusts in sub-criterion (a) above. The MLO also requires the identification of persons exercising ultimate effective control over a legal arrangement. There are no specific requirements to identify and verify the identity of persons holding equivalent positions to settlor, trustee or protector in other types of legal arrangements, only in relation to beneficiaries and other persons exercising control.

Criterion 10.12 (Mostly Met) – It appears that the MLO includes the relevant provisions related to beneficiaries of life insurance policies, but not to beneficiaries of other investment-related policies. For life insurance policies,

(Mostly met) (a) The MLO allows to complete the verification of the identify of beneficiaries of life insurance policies after the establishment of a business relationship only in lower risk situations (Art. 13(6)(7)) but does not explicitly establish the obligation to take the name of the beneficiary of a life insurance policy as soon as identified or designated. Although section 3.3, Para. 25 of the Handbook clarifies that the “identification measures” set in the MLO are considered to also include named beneficiaries of a life insurance policy, this is a non-mandatory provision.

(Partly met) (b) The Handbook further elaborates that, where there is no named beneficiary and beneficiaries are designated by characteristics or by class or by other means, FIs should obtain sufficient information about beneficiaries to enable the assessment of risks of a business

relationship and to allow the identification of beneficiaries and verification of their identity at the time of the pay-out (Section 3.3 – para 25). This is however a non-mandatory provision.

(Met) (c) Verification of the identity of beneficiaries of life insurance policies must in any case be completed before a payment is carried out under the policy or any right vested under the policy is exercised (MLO, Art. 13(6)(7)) (Handbook, Section 3.3).

Criterion 10.13 (Mostly Met) – There are some indications in the MLO and the Handbook in relation to considering beneficiaries of life insurance policies as a relevant risk-factor in determining whether EDD measures are applicable. In particular, the Handbook includes a non-mandatory provision advising FIs to obtain sufficient information concerning beneficiaries designated by characteristics/class or by other means when implementing a risk-based approach to the application of identification measures (Section 3.3). In addition, the MLO requires the application of EDD measures in relation to business relationships related to life insurance policies, where the beneficiary is a PEP. These EDD measures must include informing the senior management before a payment is carried out or any right is exercised, and considering the submission of a SAR (MLO, Art. 15A (2)(d)). However, the measures described above do not amount to a legal requirement to consider a beneficiary of a life insurance policy as a relevant risk factor in all situations and to take reasonable measures to identify and verify the identity of beneficial owners of beneficiaries at the time of payout in *all higher risk situations*.

Criterion 10.14 (Mostly Met) – FIs are required to identify customers and beneficial owners and verify their identity before the establishment of a business relationship and conducting a one-off transaction or linked transactions above threshold (See Criterion 10.2).

The MLO stipulates that the verification of the identity of a customer and beneficial owner can be completed after the establishment of a business relationship (Art. 13(4)) provided that:

(Met) (a) this occurs as soon as reasonably practicable;

(Met) (b) this is necessary not to interrupt the normal conduct of business;

(Met) (c) ML/TF risks-related to the belated verification are low and are effectively managed;

The MLO also considers the possibility that FIs may identify linked transactions after their execution and requires FIs to conduct CDD measures (incl. identification and verification of a customer's identity) as soon as reasonably practicable (MLO, Art. 13(5)), which is not among the situations for which this is allowed under c.10.14.

Criterion 10.15 (Met) – FIs are required to maintain appropriate policies and procedures to ensure that (i) the senior management is periodically informed about cases where the verification of a customer or a beneficial owner was completed after the establishment of a business relationship and to enable the assessment of appropriateness of arrangements that were put in place to manage ML/TF risks and ensure that the verification is completed as soon as reasonably practicable; (ii) the risks in relation to the conditions under which a customer may utilise a business relationship prior to verification are effectively managed (MLO, Art. 11(3)(fa)(fb)).

Criterion 10.16 (Mostly Met) – FIs have been required to conduct CDD in relation to business relationships established before the MLO entered into force (4th February 2008) at appropriate times (MLO, Art. 13(2)(b)(ii)). In determining appropriate times, regard must be given to the degree of ML/TF risk, taking into account the type of a customer, business relationship, product

or transaction concerned (MLO, Art. 13(3)(a)(i)). FIs are also required to apply identification measures to existing customers where they suspected ML/TF (MLO, Art. 13(3)(a) (ii)).

In relation to establishing the identity of a customer (as opposed to applying all required CDD measures), the deadline was set at no later than 31 December 2014, although this could be postponed with the approval of JFSC (MLO, Art. 13(3A)). There is however no specific requirement to apply CDD requirements to existing customers on the basis of materiality. In addition, when determining appropriate times to apply CDD measures to existing relationships, FIs have not been required to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Criterion 10.17 (Mostly Met) – The MLO lists a number of specific higher risk customer types and situations where FIs are always required to apply EDD measures such as personal asset-holding vehicles, non-face-to-face identification, customers connected to higher-risk jurisdictions, private banking, bearer shares, nominee shareholding, PEPs and foreign correspondent relationships (Art. 15(1), Art. 15A, Art. 15(B)). The MLO goes further by requiring to apply EDD to all other high-risk customers and situations (Art. 15(1)(g)).

In order to assess risks related to business relationships and one-of transactions, FIs are required to obtain appropriate information (MLO, Art. 3(5)). The Handbook elaborates as to what risk-factors may be taken into account (Section 3.3.4). In particular, factors related to a country, product/service, delivery channel risk, and also customer-specific risk factors must be assessed to determine a cumulative level of risk of a customer.

The MLO sets down specific EDD measures that must be applied to PEPs such as obtaining senior management approval, understanding SOF/SOW and enhanced on-going monitoring (Art. 15A), and to foreign correspondent relationships including determining the quality of supervision, assessing AML/CFT policies and obtaining senior management approval (Art. 15B). It does not prescribe, however, specific measures in relation to other high-risk customers and situations.

The Handbook requires EDD measures in respect to customers connected to enhanced risk countries (i.e. FATF “black list”) such as obtaining senior management approval and where a customer’s assets are held in or derived from an enhanced risk country, taking reasonable measures to find out the source of wealth (Section 7.5.1, Para. 33). Non-mandatory provisions of the Handbook further advise FIs on other EDD measures applicable to some additional higher risk situations, customers referred to above and other customers and situations considered to be of high-risk, such as customers not physically present for identification measures, non-resident customers or private banking customers (Sections 7.4-7.11).

In particular, for all other higher-risk customers, the Handbook advises: (i) taking reasonable measures to find out the SoF/SoW before the start of a business relationship and prior to carrying out a one-of transaction (Section 7.3, Para. 15); (ii) reviewing available information on the SoF/SoW for existing business relationships (Section 7.3, Para. 16); (iii) updating more regularly the identification data of customers or obtaining additional proof to validate the photo of the identification document (Section 7.3, Para. 17); (iv) conducting enhanced monitoring of a business relationship by reviewing CDD data, information and documents at least once a year and considering lower thresholds for transactions (Section 7.3, Para. 18).

Neither the MLO, nor the Handbook require any specific EDD measures as required (i.e. increasing the degree and nature of monitoring of the business relationship) or recommended by

the FATF standards in relation to higher-risk customers and situations beyond PEPs, correspondent banking relationships and enhanced risk states.

Criterion 10.18 (Met) – The Handbook allows SDD in relation to a customer who is a natural person and wants to transfer funds from his/her own account held at a regulated FI provided that a service or product requested by a customer is very low risk (e.g. a product/service where funds may not be paid in by, or paid out to, external parties). In these circumstances the receipt of funds from his/her own account may be considered as sufficient to verify the identity of a customer (Section 7.18). This is however not allowed if there is an ML/TF suspicion or in high-risk scenarios, including the customer being connected to or resident of a FATF high-risk jurisdiction.

Criterion 10.19 (Met) –

(Met) (a) Where FIs are unable to apply all required CDD measures, they must not establish a business relationship or conduct a one-off transaction (MLO, Art. 14(1)(4)). In situations where verification of a customer and beneficial owner is allowed after the establishment of a business relationship and FIs are unable complete the required CDD, they must terminate the relationship (MLO, Art. 14(2)). Similarly, FIs are required to discontinue an existing business relationship if relevant CDD measures cannot be carried out as part of ongoing monitoring (MLO, Art. 14(3)).

Section 12.2.6 of the Handbook allows for trustees to delay the termination of their relationship with the trust if unable to conclude the identification measures (in application of Art.14 of the MLO), when this is conflicting with the Trust Law or impacts the beneficiaries/persons object of a power, until such conflict or impact ceases to exist. A theoretical example of this would be situation when a trustee could not resign, because this it would result in leaving the position of a trustee vacant. In this case a trustee would have to delay the resignation until a new trustee is in place. However, the authorities explained that there have been no cases where such a conflict necessitated a delay in the termination of a business relationship.

(Met) (b) In all situations referred to above (inability to conduct CDD), FIs are required to consider whether to submit a STR (MLO, Art. 14(8)).

Criterion 10.20 (Mostly met) – FIs are allowed to not pursue CDD whenever they suspect ML/TF and reasonably believe that the application of CDD measures will likely tip-off the customer (MLO, Art.14(6)). However, the discontinuation of CDD is only allowed after submitting a SAR (as opposed to after forming a ML/TF suspicion), which is not fully consistent with Criterion 10.20.

Weighting and Conclusion

There is no explicit requirement for FIs to understand the nature of the legal arrangement's business/activities (c.10.8). There are no specific obligations under enforceable means covering all requirements set out under c.10.9(b-c). FIs are also not required to obtain sufficient information on beneficiaries of trusts designated by characteristics/class to be able to identify them at the time of pay-out/exercise of rights (c.10.11). There are some minor deficiencies regarding requirements related to beneficiaries of life insurance policies not being established in enforceable means (c.10.12-c.10.13). FIs were not required to apply CDD requirements to existing customers on the basis of materiality (c.10.16). **R.10 is rated LC.**

Recommendation 11 – Record-keeping

In the 4th round MER of 2015, Jersey was rated as Compliant with former R.10. Although there was no explicit requirement for FIs to keep transaction records in a way so as to provide, if necessary, evidence for prosecution of criminal activity, the assessment team concluded that this requirement was implicitly covered by the MLO.

Criterion 11.1 (Met) – FIs are required to keep a record of details of transactions carried out in the course of a business relationship and one-off transactions (MLO, Art. 19(2)(b)) for at least 5 years following their execution (MLO, Art. 20(3)). The Handbook provides further guidance as to what details must be kept, including a customer’s name, address and account number; data on a counterparty; the date, currency, amount, nature and other details of a transaction (Section 10.3). These requirements cover both domestic and cross-border transactions since no distinction is made between the two.

Criterion 11.2 (Met) – FIs must keep copies of evidence of identity and all other supporting documents, data or information that were obtained concerning a business relationship and one-off transactions following the application of CDD measures, including the results of analyses undertaken (MLO, Art. 19(2)(a)(b)). The Handbook further elaborates that FIs are also required to keep account files and business correspondence (Section 10.2). These records must be maintained for at least five years following the termination of a business relationship or execution of a one-off transaction (MLO, Art. 20(1)(2)).

Criterion 11.3 (Met) – The MLO stipulates that transaction records must include sufficient information to enable the reconstruction of individual transactions (Art. 19(3)). In addition, the Handbook states that records kept by FIs must be providing a clear and complete transaction history of both incoming and outgoing funds or assets (Section 10.3). The effect of these requirements is to make it possible to provide, if necessary, evidence for prosecution of criminal activity.

Criterion 11.4 (Met) – FIs are required to keep the records referred to above in such a manner that they can be made available swiftly to competent authorities – the JFSC, the FIU, a police officer or customs officer (MLO, Art. 19(4)). The Handbook specifies that records relating to evidence of identity, other CDD measures, and transactions must be accessible within 5 workdays (whether kept in or outside of Jersey) or a longer period as agreed with the JFSC. Other records must be accessible within 10 workdays and a longer period may also be agreed with the JFSC (Section 10.5, Para.36). The authorities explained that the term “other records” aims to encompass all other data, information and documents not covered by R.11 that may still be relevant for the work of the relevant competent authorities (e.g. meeting notes or file notes of the supervised person).

Weighting and Conclusion

R.11 is rated C.

Recommendation 12 – Politically exposed persons

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.6. The implementation of latest requirements concerning PEPs was not yet fully effective for some FIs.

Criterion 12.1 (Met) – Foreign PEPs are defined as natural persons who have been entrusted with prominent public function in a foreign jurisdiction (Art. 15A(3)). The MLO provides a non-exclusive list of PEPs, which is in line with the FATF standards: heads of state, heads of government and senior politicians; senior government, judicial and military officials; senior executives of state-owned corporations; and important political party officials.

FIs are required to carry out EDD measures in relation to foreign PEPs both in relation to a business relationship and one-off transactions, which include the following:

(Met) (a) FIs must put in place appropriate policies and procedures for determining whether a customer or beneficial owner is a foreign PEP (MLO, Art. 11(3)(c)). In addition, the binding provision of the Handbook (Section 7.6.2, Para. 54) emphasizes that these policies and procedures must recognize that customers may subsequently acquire PEP status after the establishment of a business relationship. Apart from screening customers and beneficial owners through an external PEP-related data sources, the Handbook also provides guidance to FIs to additionally assess those jurisdictions that pose higher corruption risks and to which customers are connected, and to exercise particular vigilance where customers are involved in business activities that are vulnerable to corruption (Section 7.6.2).

(Met) (b) FIs are required to obtain the senior management approval before establishing/continuing a business relationship or carrying out a one-off transaction whenever a customer or beneficial owner is a foreign PEP (MLO, Art. 15A(2)(a)).

(Met) (c) FIs are required to establish the source of wealth of foreign PEPs, and also the source of funds involved in a business relationship or a one-off transaction whenever a customer or beneficial owner is a foreign PEP (MLO, Art. 15A(2)(b)).

(Met) (d) FIs are required to conduct the enhanced on-going monitoring on a business relationship where a customer or beneficial owner is a foreign PEP (MLO, Art. 15A(2)(c)).

Criterion 12.2 (Met) – The definition of domestic PEPs in the MLO repeats that of foreign PEPs. The Handbook provides a more detailed list of examples of Jersey officials who can be considered as domestic PEPs (Section 7.6.2, Para. 55). International organization PEPs are defined as natural persons who have been entrusted with a prominent public function by an international organization without giving specific examples (MLO, Art. 15A (3)).

(Met) (a) The requirements provided in the MLO that apply to the identification of foreign PEPs (See Criterion 12.1(a)) are also applicable to domestic and international organization PEPs (Art. 1(1); Art. 11(3)(c)).

(Met) (b) According to the MLO, Art.15A(1)(b), whenever a business relationship with a domestic or international organization PEP is rated as high risk, FIs are required to apply same EDD measures as described above with respect to foreign PEPs (i.e. senior management approval, establishment of source of wealth and source of funds, enhanced ongoing monitoring).

Criterion 12.3 (Mostly Met) – The definition of foreign, domestic and international organization PEPs includes their immediate family members and close associates. Therefore, the requirements that apply to foreign and domestic PEPs are also applicable to their immediate family members and close associates.

The definition of immediate family members is in line with FATF standards and includes a spouse or partner who is equivalent or broadly equivalent to a spouse; children and their spouses or partners; siblings, parents, grandparents and grandchildren (MLO, 15A(3)).

The definition of close associates is however appears limited and includes those natural persons who are known to maintain a close business relationship with a PEP, including those in a position to carry out substantial financial transactions on behalf of a PEP (MLO, 15A(3)). This definition does not however specifically refer to individuals closely connected to a PEP either socially or professionally.

Criterion 12.4 (Mostly Met) – FIs must put in place appropriate policies and procedures for determining whether a beneficiary of a life insurance policy or its beneficial owner is a PEP (MLO, Art. 11(3)(c)). In relation to business relationships involving high risk life insurance policies, FIs are required to inform the senior management before any payment is made or any right vested is exercised under the policy, and to consider submitting a SAR (MLO, Art. 15A(2)(d)). However, there is no specific requirement in such situations to also conduct enhanced scrutiny on the whole business relationship with a policyholder.

Weighting and Conclusion

The definition of close associates is limited and does not refer to individuals closely connected to a PEP either socially or professionally. There is also no requirement to conduct enhanced scrutiny on the whole business relationship with a life insurance policyholder where higher risks are identified. **R.12 is rated LC.**

Recommendation 13 – Correspondent banking

In the 4th round MER of 2015, Jersey was rated as Compliant with former R.13. Provisions of the EU AMLD (Art. 13(3)) that limit the application of EDD measures to correspondent relationships with FIs from non-EU member countries were not implemented by Jersey.

Criterion 13.1 (Met) – The MLO requires FIs to undertake the EDD measures in relation to banking and other similar relationships with FIs outside of Jersey (MLO, Art. 15B). The Handbook (Section 7.11, Para. 95) elaborates that the provision of banking services to foreign FIs includes:

- current or other liability accounts;
- payable-through accounts;
- foreign exchange services
- cash management;
- international funds transfers;
- cheque clearing.

The Handbook also provides examples of “other similar relationships” to banking such as those established with foreign FIs for the benefit of customers of the respondent, including for example, those established for securities transactions (Section 7.11, Para. 96).

FIs must undertake EDD measures in relation to banking and other similar relationships with foreign FIs, including:

(Met) (a) gather sufficient information about a respondent FI to understand fully the nature of its business and to determine the reputation of a respondent FI and the quality of supervision,

including whether it has been subject to a ML/TF investigation or regulatory action (MLO, Art.15B(2)(a)(b)).

(Met) (b) assess a respondent institution's systems and controls for combating ML/TF in order to determine whether they are consistent with the FATF recommendations (MLO, Art.15B(2)(c)).

(Met) (c) obtain approval from the senior management for any new relationship (MLO, Art.15B(2)(d)).

(Met) (d) clearly understand and record responsibilities of each institution in the area of preventing and detecting ML/TF (MLO, Art.15B(2)(e)).

Criterion 13.2 (Met) – With respect to payable-through accounts, FIs are required to satisfy themselves that a respondent FI (MLO, Ar. 15B(2)(f)):

(Met) (a) Has applied CDD measures to customers who have access to payable-through accounts that are at least equivalent to those required by the MLO;

(Met) (b) Will provide copies of the evidence, documents, data and information obtained through those CDD measures at the request of a correspondent FI.

Although the EDD obligations under the MLO are applicable on a risk-sensitive basis, the Handbook (Section 7.11 – para 109) explicitly requires FIs to satisfy themselves as to the adequacy of the respondent's CDD measures, and its ability to provide relevant CDD information and documents on request, and provides guidance how this may be achieved.

Criterion 13.3 (Met) – Deposit-taking institutions are prohibited from entering/continuing a banking relationship with a shell bank (MLO, Art. 23A(1)). They must also take appropriate steps to ensure that a banking relationship is not established/continued with a respondent that permits its accounts to be used by shell banks (MLO, Art. 23A(2)). Shell banks are defined as banks that are incorporated in a jurisdiction in which they have no physical presence (i.e. meaningful decision-making and management) and are not subject to supervision by a regulatory authority by reason of its connection with any other FI (MLO, Art. 23A(4)(b)).

Weighting and Conclusion

R.13 is rated C.

Recommendation 14 – Money or value transfer services

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former SR.VI. The deficiency identified was the lack of training and experience needed for the full and effective implementation of this Special Recommendation.

Criterion 14.1 (Met) – Natural and legal persons providing MVTS (hereafter referred to as MVTS providers) are required to be registered with the JFSC, as Art.10(1) of the POCL (Supervisory Bodies) Law prohibits to carry out any Schedule 2 business without the proper registration, including those businesses requiring registration under the Financial Services Law.

Financial Services Law defines a money service business as the provision of services related to a bureau de change, cheque cashing and transmitting or receiving funds by wire or other electronic means (Art. 2(9)). In addition, POCL stipulates other financial services that refer to MVTS activities as defined in the FATF Glossary (Schedule 2, Paras. 6, 14, 17):

- (i) issuing and managing means of payment (such as credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, and electronic money);
- (ii) Investing, administering or managing funds or money on behalf of other persons;
- (iii) providing the service of money broking to third parties.

Criterion 14.2 (Met) – MVTS providers that do not register with the JFSC commit an offence, which is punishable with imprisonment for a term of 7 years and with a fine (POCL (Supervisory Bodies), Art. 10(4)). The JFSC's Intelligence Team examines local media, internet, court lists and social media to detect possible unauthorised MVTS provision. No unauthorised MVTS activity has been discovered so far.

Criterion 14.3 (Met) – The JFSC is a designated supervisory authority for AML/CFT purposes in relation to MVTS providers. The POCL (Supervisory Bodies Law) provides powers of the JFSC to carry out risk-based supervisory measures to ensure compliance of MVTS providers with the relevant AML/CFT requirements (Art. 8 and 8A).

Criterion 14.4 (Met) – MVTS providers are required to maintain a list of agents (name, address) that were appointed to conduct money service business on their behalf and to notify the JFSC of any changes made to the list within 5 workdays (Money Service Business Code of Conduct, Para. 3.4.7).

The authorities also argued that the domestic legislation does not as such define agents of MVTS providers and that agents providing MVTS are being treated the same as MVTS providers and thus, were required to be registered with the JFSC.

Criterion 14.5 (Partly Met) – MVTS providers are not specifically required to include agents in their AML/CFT programs and monitor their compliance with those programs. The Handbook provides guidance for FIs that have agent relationships with other natural or legal persons to ensure sufficient oversight over or understanding of their agents' operations in order to be able to demonstrate the adequacy of systems and controls in place concerning such relationships (Section 2.4.1). The Handbook also advises FIs to carefully identify, manage and document the bespoke risks related to agents (Section 2.3.1), with a specific reference being made to the risks of MVTS agents. However, these provisions of the Handbook are not mandatory.

Weighting and Conclusion

MVTS providers are not specifically required to include agents in their AML/CFT programs. **R.14 is rated LC.**

Recommendation 15 – New technologies

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.8. There was limited guidance on specific ML/FT risks of new technologies, including those related to electronic money and commerce.

Criterion 15.1 (Mostly Met) – FIs are required to have appropriate policies and procedures in place that provide for the assessment and management of risks (MLO, Art. 11(1)(f)) and take into account the risks identified through national or sector-specific risk assessments, and the type of customers, business relationships, products and transactions that FIs are dealing with as part of their business activity (MLO, Art. 11(2)). Furthermore, Art. 11 (3) (ba) of the MLO requires

assessment of risks related to the development of new products, services or practices, however this assessment is limited due to (Art. 11 (3) (b) of the MLO) to those products, services or practices that are susceptible to anonymity.

The Handbook further requires the senior management of FIs to conduct business-wide risk assessments, which must include the FIs' exposure to ML/TF risks in relation to products and services provided and the way those products and services are delivered (Section 2.3). The Handbook also advises FIs to consider characteristics of products and services, and to assess associated vulnerabilities posed by each of them when conducting business-wide risk assessments, including those related to products and services that make use of new or developing technologies, such as virtual assets (Section 2.3.1). The Handbook also advises the senior management of FIs to put in place a due diligence process in order to analyse and understand the risks of new and developing technologies, and apply a framework for how they are monitored and managed.

Overall, these provisions amount to requiring FIs to identify and assess ML/TF risks related to new products, services, delivery mechanisms and technologies. However, there is no specific requirement to conduct the risk assessment concerning new business practices other than those that favour anonymity (except for delivery mechanisms).

Regarding the assessment of ML/TF risks associated to the development of new products and business practices and the use of new or developing technologies at a national level, the analysis is conducted within the scope of updating the NRA and is also part of the National Strategy, however there is no specific legal obligation requiring such.

Criterion 15.2 (Mostly Met) – FIs are required to have appropriate policies and procedures in place to ensure that:

(Mostly Met) (a) risks related to the development of new products, services or practices, including new delivery mechanisms that are “susceptible to anonymity” are identified and assessed prior to their launch (MLO, Art.11(3)(b)(ba)), as well as those risks related to the use of new or developing technologies for new or existing products and services (MLO, Art.11(3)(bb)); and that

(Mostly Met) (b) in both cases, appropriate measures are taken to manage and mitigate the identified risks (MLO, Art. 11(3)(b)(ba)(bb)).

These requirements are however limited to those products, practices and technologies that are considered by FIs as favouring anonymity and do not apply to other relevant types of products, practices and technologies that may also be susceptible to abuse for ML/TF purposes.

Criterion 15.3 (Mostly Met) –

(Met) (a) Given the limited data currently available to undertake an in-depth NRA focusing on the virtual asset sector in Jersey, a risk overview that considers the VA and VASP ML and TF risks in Jersey has been published by the Government in May 2022. VASP Risk Overview was conducted at a high level, considering the general ML/TF risks prevalent in the sector. The VASP Risk Overview considers the contextual factors and their impact on the VA related risks, the information regarding the sizes and types of firms providing VA services that was available at the time of the assessment and the legislative framework existing in the jurisdiction.

Based on the information available the VASP Risk Overview concludes on the residual risk existing in Jersey.

(Partly met) (b) While VASPs are subject to the risk-based considerations of the JFSC supervision, the authorities have not yet applied risk-based approach based on their understanding of risks to ensure that measures to prevent or mitigate ML/TF are commensurate with the findings of the VASP Risk Overview.

Authorities advised that measures to further identify ML/TF risks relevant to the VASP sector to be able to apply commensurate risk mitigation and prevention measures are underway, including risk assessment questionnaires to be issued to VASPs upon registration and also to those already providing services considering risk factors like the organisation and structure, business model and strategy and control environment and sectorial risks of VASPs.

This notwithstanding, authorities also advised about some risk mitigating measures in place regarding VASPs. In relation to issuer's offers of VAs (so-called "initial coin offerings"), these would be required to be issued by a company incorporated in Jersey which would have to seek consent from the JFSC under the Control of Borrowing Order ("COBO consent"). Additionally, VASPs can also seek to be "incubated" by TCSP that will, temporarily, administer and provide the compliance function to the VASP, with the expectation of the VASP gradually detaching from these services and eventually performing these functions on their own. In any case, it is still the VASP who would be responsible to comply with the registration and AML/CFT requirements.

(Met) (c) The same requirements that apply to other supervised persons apply also to VASPs. Therefore, the analysis of c.1.10 apply also to VASPs.

Criterion 15.4 (Mostly Met) –

(Met) (a) Article 11 of the Supervisory Bodies law requires any person who intends to carry on a business under the scope of the Schedule 2 of the POCL to make an application to the JFSC to be registered. Article 10 of the same law specifies that the prohibition to carry on unauthorised Schedule 2 business (non-registered) applies to any persons carrying on that business in or from within Jersey.

The definition of virtual assets and VASPS provided by POCL are consistent with the FATF standards. In particular, virtual asset means a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes (Schedule 2, Part 1), while VASPs are defined as natural or legal persons or arrangements that conduct any of the following activities for or on behalf of another person (Schedule 2, Part 4):

- (i) exchange between virtual assets and fiat currencies;
- (ii) exchange between one or more forms of virtual assets;
- (iii) transfer of virtual assets;
- (iv) safekeeping or administration of virtual assets or instruments enabling control over virtual assets;
- (v) participation in and provision of financial services related to an issuer's offer and or sale of a virtual asset.

The POCL also defines "transfer" in relation virtual assets as a transaction on behalf of another natural or legal person that involves moving a virtual asset from one virtual asset address or account to another.

(Mostly met) (b) Article 14(3) of the Supervisory Bodies Law establishes that the JFSC may refuse an application of registration on the grounds that the applicant or a “principal person” or a “key person” related to the applicant is not a fit and proper person, considering the lack of fitness and properness, among others, having been convicted of an ML, TF, fraud or dishonesty offences or have infringed any of the provisions under the Supervisory Bodies Law, the regulatory laws or any regulation or order made under any of those laws, whether committed in Jersey or in a territory outside Jersey (Supervisory Bodies Law, Art.14(4)). Infringements of the POCL, MLO or the Code of Practice sections of the AML/CFT/CPF Handbook would also be included, taking into consideration that the article also makes reference to having been convicted of an offence under any anti-money laundering and counter-terrorism legislation, which would encompass the aforementioned ones.

A key person is defined in Article 1(1) of the Supervisory Bodies Law as compliance officer, a MLCO or MLRO. Under the same article, a principal person is considered to be the proprietor (sole traders), a person who directly or indirectly holds 10% of the share capital, is able to exercise or control not less than 10% of voting rights or exercises a significant influence over the management of a company, a director or a person instructing a director, a partner of a partnership, the person who is responsible to conduct the supervised business in Jersey of a person whose registered office and principal place of business is outside Jersey or appointed liquidators. Therefore, the definition of principal person would include the concept of beneficial owner. The JFSC is responsible for executing the vetting process in respect of all applicants, principal persons and key persons, including beneficial owners, and criminality tests are also conducted in respect of same.

While there is no explicit requirement for ongoing checks for fitness and propriety besides the initial registration of the VASP, the JFSC may be able to determine if there are subsequent breaches through on-site examinations or ongoing monitoring and when the VASP informs about any changes in the identity of any key or principal person or whether a key or principal person has been convicted of any offence mentioned above, pursuant to their obligations in Article 34(2) of the Supervisory Bodies Law. Additionally, since September 2023, the key persons and principal persons of VASPs are subject to an overnight screening process aimed at detecting any criminality links.

While the JFSC has the power to remove principal and key persons, and replace them by another that the supervisor deems to be “acceptable”, it seems that it is limited to directions issued in the event that a supervised business no longer meets its registration conditions or it has incurred in a contravention of any relevant laws of Codes of Practice (Supervisory Bodies Law, Art.23(2)(b)).

Criterion 15.5 (Mostly Met) – Article 10(4) of the Supervisory Bodies Law establishes a sanction of a 7-year term of imprisonment and a fine for persons who carry on unauthorized Schedule 2 (POCL) business, including virtual asset service provider activity.

Authorities advised that the JFSC follows a reactive and proactive approach, receiving information as well as utilising open-source information, social media screening and intelligence to detect unregistered VASP activity, as part of its supervisory actions. The Intelligence team conducts enquiries and investigations into possible unauthorised activities including VASP activity. For the assessment period, two unauthorised VASP businesses were identified in 2021 and 2022. These came about due to a complaint from a member of the public as well as information that came to light from the Registry. It is not clear that any enforcement action was

taken against these unauthorised businesses, however a public notice to the Public was issued on the website of the JFSC.

Criterion 15.6 (Mostly Met) –

(Mostly Met) (a) The Designation of Supervisory Bodies Order and article 5 of the Supervisory Bodies Law appoints the JFSC as the supervisory body for all persons carrying on supervised businesses, therefore including VASP activities covered under Schedule 2 of the POCL. Regarding the risk-based supervision capacities of the JFSC, considerations under R.26 apply.

(Met) (b) Supervisory powers of the JFSC are mostly set out in Article 8 and 14 of the Supervisory Bodies Law, including the capacity to conduct examinations, compel the production of information and revoke the registration of supervised entities, including VASPs. These powers are further explained under the analysis of R.27.

Criterion 15.7 (Mostly Met) – The AML/CFT/CPF Handbook and other Codes of Practice issued under the Supervisory Bodies Law also apply to VASPs and constitute guidance on compliance with AML/CFT requirements for all supervised entities.

Additionally, the JFSC has conducted, during the assessed period, multiple training and outreach actions with the sector, such as webinars, issuance of guidance, meetings, presentations, consultation papers or establishment of working groups. While there is no specific guidance addressed at the sector covering the aspect of identification and reporting of suspicious transactions, it should be noted that all 5 operative VASPs in the jurisdiction have been subject to a thematic on-site examination that cover the aspect of SAR reporting in June 2023, although the individual reports and the aggregated feedback paper were yet to be issued at the time of the onsite.

Criterion 15.8 (Met) –

(Met) (a) The range of criminal, civil and administrative sanctions mentioned under c.35.1 can equally be imposed to VASPs.

(Met) (b) The range of criminal, civil and administrative sanctions mentioned under c.35.2 can equally be imposed to key persons, principal persons and senior management of VASPs.

Criterion 15.9 (Partly Met) – The requirements and identified shortcomings regarding the preventive measures (R.10-R.21) that apply to FIs are also applicable to VASPs - subject to qualifications (a) and (b) below.

(Met) (a) VASPs are required to conduct CDD whenever a one-off transaction or linked transactions are equal to EUR 1,000 or above (MLO, Art. 4(1)(c)).

(Partly Met) (b) Amendments to the EU legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017 (hereafter referred to as the “Jersey TFR”), in force since 1st September 2023, extend the scope of application of the Jersey TFR to VASPs by defining “payment service providers” as also including virtual asset service providers and inserting the definition of virtual assets in the regulation.

However, Jersey TFR does not define a virtual asset account (as opposed to a payment account), thereby preventing the transmission of complete payer/payee information which is equivalent in the context of virtual assets (i.e. virtual asset account number). Jersey TFR also does not satisfy the requirement of R.16 to treat all virtual asset transfers as cross-border transfers. In particular,

Jersey TFR considers transfers that are carried out by VASPs or FIs established within the borders of the British Islands (i.e. United Kingdom, Jersey, Bailiwick of Guernsey and the Isle of Man) as domestic transfers and allows the application of limited information requirements (c.16.5-16.6).

Furthermore, Jersey TFR does not specifically consider situations where the full payer or payee information cannot accompany a virtual assets transfer due to limitations in the underlying technology i.e. where a virtual assets transfer is conducted from/to a “self-hosted” address. However, the authorities explained that the general requirements of the Jersey TFR would apply in such circumstances: (i) a payer’s VASP or FI shall not be allowed to carry out a transfer if unable to transmit the full payer/payee information; (ii) a payee’s VASP or FI shall have to consider whether to make virtual assets available to a payee in cases where the full information has not been received.

Jersey TFR does not take into account that a payer’s VASP or FI may not be able to ensure that a payer/payee information *accompanies* virtual asset transfers at all due to limitations in the underlying technology. Therefore, the FATF standards require that a payer/payee information be transmitted immediately with the execution of a virtual assets transfer (as opposed to accompanying a transfer), which is not envisaged by the Jersey TFR.

Criterion 15.10 (Mostly Met) – In accordance with the POCL, virtual asset service providers, operating in or from within Jersey, or incorporated/constituted under Jersey law, are incorporated in the definition of “relevant financial institutions”. Under Article 32 of the SAFL relevant financial institutions are obliged to report to the Minister for External Relations in with regard to the implementation of restrictive measures. Breaches of the provisions of the sanctions framework are offences, and subject to enforcement by Jersey law enforcement authorities. Relevant shortcomings identified under Recommendation 6 apply.

Criterion 15.11 (Mostly Met) – There are no specific rules or regulations in so far as the exchange of information on ML, predicate offences, and TF relating to virtual assets is concerned, and so the general laws and mechanisms for competent authorities to provide international cooperation, as assessed under Recommendations 37 to 40, apply also to VASPs.

The JFSC is able to exchange information with its foreign counterparts, including information held by VASPs (Article 36 of the Supervisory Bodies Law), which, as of 1 September 2023, are required to obtain, and hold required and accurate payer information and required payee information on virtual asset transfers, and make such information available on request to appropriate authorities.

Weighting and Conclusion

FIs are required to identify and assess the ML/TF risks related to new products, services, delivery mechanisms and technologies, but there is no specific requirement in relation to business practices (c.15.1, c.15.2). Regarding the risk assessment of VASPs, Jersey has conducted a Risk Overview exercise, although it is based on limited data (c.15.3). VASPs are defined in accordance with the FATF definition and are required to be registered at the JFSC, but there is no explicit legal requirement to undertake fit and proper checks on an ongoing basis (c.15.4). The JFSC carries out actions and has detected unauthorised VASPs, although it is unclear whether any regulatory action was taken besides issuing public statements (c.15.5). While specific guidance or feedback targeted to VASPs is absent on the topic of detection and reporting of suspicious transactions, all VASPs have been inspected on this topic (c.15.7). Regarding preventive measures, shortcomings

identified under R.10-21 are also applicable (c.15.9(a)). The “travel rule” requirements have been established for VASPs since September 2023, although there are certain limitations (c.15.9(b)). Considerations under R.26, 27, 35, 6-7 and 37 to 40 also apply to VASPs (c.15.6, c.15.8, c.15.10, c.15.11). **R.15 is rated LC.**

Recommendation 16 - Wire Transfers

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former SR.VII. The country was criticized for FIs’ liberal interpretation of the risk-based approach when dealing with incoming wire transfers that lacked full originator information.

For Jersey, domestic wire transfers include the chain of wire transfers that are carried out entirely within the borders of the British Islands (i.e. United Kingdom, Jersey, Bailiwick of Guernsey and the Isle of Man).

Regulation (EU) 2015/847 concerning information accompanying transfers of funds was implemented by Jersey subject to certain exceptions and modifications as provided in the Implementing Regulation and outlined below.

Ordering financial institutions

Criterion 16.1 (Mostly Met) - (a) All cross-border wire transfers above EUR 1,000 must be accompanied by the following information on the payer (Regulation (EU) 2015/847, Art. 4(1)):

- (i) the name of the payer;
- (ii) the payer's payment account number; and
- (iii) the payer's address, official personal document number, customer identification number, or date and place of birth.

Whenever a wire transfer is not carried out from/to a payment account, the PSP of the payer must ensure that the transfer is accompanied by a unique transaction identifier (Regulation (EU) 2015/847, Art. 4(1)(3)).

PSPs are required to undertake CDD measures when carrying out one-off transactions that are wire transfers and thus, the accuracy of payer information must be verified (see Criterion 10.2).

(b) All cross-border wire transfers above EUR 1,000 must be accompanied by the following information on the payee (Regulation (EU) 2015/847, Art. 4(2)):

- (i) the name of the payee; and
- (ii) the payee's payment account number.

Whenever a wire transfer is not carried out from/to a payment account, the PSP of the payer must ensure that the transfer is accompanied by a unique transaction identifier (Regulation (EU) 2015/847, Art. 4(2)(3)).

Transfers of funds that equal EUR 1,000 are not covered by these requirements, however, this is considered as minor shortcoming.

Criterion 16.2 (Met) - When a batch file transfer is carried out from a single payer and the PSP of the payee is established outside the British Islands, the batch file must contain the payer and payee information referred to in Criterion 16.1 that is fully traceable. Individual transfers must

carry the payment account number of the payer or a unique transaction identifier (Regulation (EU) 2015/847, Art. 6(1)).

Criterion 16.3 (Met) - Cross-border wire transfers not exceeding EUR 1,000 must be accompanied at least by the following information (Regulation (EU) 2015/847 (Art. 6(2)):

(i) the names of the payer and of the payee; and

(ii) the payment account numbers of the payer and the payee or (whenever a transfer is not made from/to a payment account) the unique transaction identifier.

Criterion 16.4 (Met) - The PSP of the payer is not required to verify the information on the payer referred to in Criterion 16.3 unless it has reasonable grounds to suspect ML or TF (Regulation (EU) 2015/847, Art. 6(2)).

Criteria 16.5 & 16.6 (Met) - Domestic wire transfers must be accompanied by at least the payment account number of both the payer and the payee, or by a unique transaction identifier (Regulation (EU) 2015/847 (Art. 5)). The PSP of the payer is required, within three working days of receiving a request for information from the PSP of the payee or from an intermediary PSP, to make available the information referred to in Criterion 16.1 or Criterion 16.3 as appropriate (Regulation (EU) 2015/847, Art. 5(2)).

The PSP of the payer is required to respond fully and without delay to requests for information from appropriate AML/CFT authorities (Regulation (EU) 2015/847, Art. 14). LEAs have the power to compel immediate production of such information through financial information and account monitoring orders.

Criterion 16.7 (Met) - The PSP of the payer must retain records of all the information referred to above for a period of five years (Regulation (EU) 2015/847, Art. 16(1)).

Criterion 16.8 (Met) - The PSP of the payer is not allowed to carry out a transfer of funds before ensuring the full compliance with the requirements referred to above (Regulation (EU) 2015/847, Art. 4(6)).

Intermediary financial institutions

Criterion 16.9 (Met) - The intermediary PSP is required to ensure that all the information received on the payer and the payee that accompanies a transfer of funds is retained with the transfer (Regulation (EU) 2015/847, Art. 10).

Criterion 16.10 (Met) - No exemption is allowed concerning technical limitations that prevent the appropriate implementation of requirements on domestic wire transfers.

Criterion 16.11 (Met) - The intermediary PSP is required to implement effective procedures including, where appropriate, ex-post or real-time monitoring, in order to detect whether the required payer or payee information is missing (Regulation (EU) 2015/847, Art. 11(2)).

Criterion 16.12 (Met) - The intermediary PSP is required to establish effective risk-based procedures for (i) determining whether to execute, reject or suspend a wire transfer that lacks the required payer and payee information and for (ii) taking the appropriate follow up action (Regulation (EU) 2015/847 (Art. 12(1)).

In the case of repeated failures of the PSP to provide the required payer or payee information, the intermediary PSP must take steps, which may initially include issuing warnings and setting

deadlines, before either rejecting any future transfers from that PSP, or restricting or terminating the business relationship with that PSP. The intermediary PSP must also report those failures and the steps taken to address them to the competent supervisory authority (Regulation (EU) 2015/847 (Art. 12(2)).

Beneficiary financial institutions

Criterion 16.13 (Met) - The PSP of the payee must implement effective procedures, including, where appropriate, ex-post monitoring or real-time monitoring, in order to detect whether the payer or payee information is missing in a cross-border wire transfer (Regulation (EU) 2015/847, Art. 7(2)).

Criterion 16.14 (Met) - In case of wire transfers above EUR 1,000, the payee's PSP must verify the accuracy of the identification information on the payee before crediting the payment account or making the funds available to the payee (Regulation (EU) 2015/847, Art. 7(3)).

The verification of the accuracy of payee information is deemed to have taken place when a payee's identity has been verified in accordance with requirements of the MLO (Regulation (EU) 2015/847, Art. 7(5)). The PSP of the payee must also retain records of all the information referred to above for a period of five years (Regulation (EU) 2015/847, Art. 16(1)).

Criterion 16.15 (Met) - The PSP of the payee is required to implement effective risk-based procedures for (i) determining whether to execute, reject or suspend a wire transfer that lacks the required payer and payee information and for (ii) taking the appropriate follow-up action (Regulation (EU) 2015/847, Art. 8). In case of repeated failures of the PSP to provide the required payer or payee information, the PSP of the payee must take the steps described in Criterion 16.12 for the intermediary PSP.

Money or value transfer service operators

Criterion 16.16 (Met) - The requirements discussed above apply equally to all types of PSPs providing services related to the transfer of funds, in any currency, which are sent or received by a payer, intermediary or payee PSP in Jersey (Regulation (EU) 2015/847, Art. 2(1)). The term PSP includes the providers of services related to transfer of funds as defined by Art. 1(1) of Directive 2007/64/EC and covers MVTs providers.

MVTs providers must be registered with the JFSC and are subject to CDD requirements (POCL (Supervisory Bodies), Art. 10(1)). The authorities also explained that the domestic legislation does not as such define agents of MVTs providers and that agents providing MVTs are being treated the same as MVTs providers and thus, were required to be registered with the JFSC.

Criterion 16.17 (Partly Met)

(a) PSPs must take into account the missing information on the payer or the payee in order to determine whether a transfer of funds, or any related transaction, is suspicious, and whether a SAR must be submitted (Regulation (EU) 2015/847, Art. 13).

(b) There is no requirements to submit a SAR in each country affected by a suspicious wire transfer or to make the relevant transaction information available to the FIU.

The Handbook (Section 8.2, Para. 14) advises FIs that where a SAR is made concerning a wire transfer and a transaction in question was carried out with group counterparties, a SAR should also be made in each jurisdiction to which the transaction relates. A SAR can be filed either by the

FI in question or the group counterparty, which was also subject to the same transaction. This provision is however non-mandatory and is limited to situations where FIs transact with group entities.

Implementation of Targeted Financial Sanctions

Criterion 16.18 (Met) - PSPs are subject to the requirements of UNSCRs 1267, 1373, and successor resolutions by virtue of the Sanctions and Asset-Freezing Law (SAFL).

Weighting and Conclusion

R. 16 is rated LC.

The following shortcomings apply: (i) transfers of funds that equal EUR 1,000 do not fall under the scope of wire transfer regulation (c.16.1); (ii) MVTs providers are not required to submit a SAR in all countries affected by a suspicious wire transfer and make the relevant transaction information available to the FIU (c.16.17(b)).

Recommendation 17 – Reliance on Third Parties

In the 4th round MER of 2015, Jersey was rated as Partially Compliant with former R.9. The deficiencies identified concerned the effectiveness of the application of legal requirements in practice.

Criterion 17.1 (Met) - FIs are permitted to rely on other FIs to perform CDD measures such as identification/verification of customers (both natural and legal persons), persons purporting to act on behalf of customers, and beneficial owners and controllers, and for understanding the nature of legal arrangements and the ownership and control structure of customers that are legal persons (MLO, Art. 16(1)). Third party reliance is allowed for conducting CDD measures before the start of a business relationship or prior to carrying out a one-off transaction, or where FIs have ML/TF suspicions or doubts about the veracity and adequacy of previously obtained customer identification data (MLO, Art. 16(2)). The authorities confirmed that there are no business introducers used in Jersey.

The MLO stipulates that the ultimate responsibility for CDD measures remains with relying FIs (MLO, Art. 16(10)). Similarly, the Handbook states that to the extent that reliance is placed on a third party, FIs must be able to demonstrate that the requirements of the MLO are met (Section 5.1).

(a) (Met) Third party reliance is only permitted if FIs immediately obtain the relevant CDD information from a third party (MLO, Art. 16(2)(b));

(b) (Met) FIs must also obtain adequate assurance in writing from a third party that the evidence of identity and other CDD data, information or documents (MLO, Art. 16(4)(d); Art. 16(5)):

(i) Will be kept until that evidence is provided to a FI or until a third party is notified by a FI that keeping the evidence is no longer required;

(ii) Will be provided to a FI upon request without delay.

The MLO also requires FIs to conduct tests in order to determine the effectiveness of these measures, including whether a third party keeps evidence of CDD measures and is able to provide

that evidence without delay (Art. 16(8)). Where a third party fails, FIs are required to immediately apply CDD measures themselves (MLO, Art. 16(9)).

(c) (Met) FIs are allowed to only rely on obliged persons as defined by the MLO, which include FIs under the JFSC's supervision and those foreign FIs that are regulated and supervised for AML/CFT requirements by a foreign supervisory authority (Art. 1(1); Art. 5).

The MLO requires relying FIs to obtain written assurance that a third party applies CDD measures that satisfy the requirements on the Recommendation 10 and has not itself relied on another party for CDD purposes, and is required to (and does) keep the relevant CDD records (Art. 16 (4)). As part of conducting tests referred to above in (b) FIs must also examine whether a third party has appropriate policies and procedures in place to apply the relevant CDD measures (Art. 16(8)).

The non-mandatory principles in the Handbook provide further guidance to FIs, i.e., that they must consider the adequacy of the AML/CFT framework and supervisory regime of the jurisdiction where a third party is based, and the CDD measures applied by a third party (Section 5.1.1).

Criterion 17.2 (Met) - FIs are not allowed to rely on other FIs that are connected with an enhanced risk state (MLO, Art. 16(11)). The "connection" is defined by the MLO and includes entities that are resident of or have a principal place of business in an enhanced risk state (Art. 15(2)(b)). "Enhanced risk state" includes jurisdictions in relation to which the FATF has called for the application of countermeasures and EDD measures – Iran, Democratic People's Republic of Korea and Myanmar (Burma) (MLO, Art. 15(1)(c)). The Jersey authorities stated that they systematically review the lists of higher-risk countries (incl. countries subject to the call for action by the FATF) published as Appendix D2 of the AML/CFT/CPF Handbook (e.g. three times per year based on FATF/FSRB Plenary publications).

Furthermore, The MLO states that reliance can only be placed on foreign FI that conduct equivalent business, i.e., their business is subject to the AML/CFT requirements that are consistent with the FATF standards (Art. 1(1); Art. 5). The non-mandatory principles of the AML/CFT/CPF Handbook further advice FIs to consider risks posed by a jurisdiction where a third party is located when assessing the risks of a business relationship with that third party, including the risk of a failure to provide the evidence of CDD measures upon request without delay (Section 5.1.1).

Criterion 17.3 (Mostly Met) - FIs are allowed to rely on a third party, which is a member of the same financial group and carries out a financial services business in other countries (but is not an obliged person for AML/CFT purposes, i.e., not subject to AML/CFT requirements consistent with the FATF standards) provided the following conditions are met:

(a) (Met) the financial group applies the CDD and record-keeping measures required by the MLO or provided in the FATF Recommendations 10, 11 and 12 and maintains the relevant AML/CFT programs (MLO, Art. 16A(2)(c)(d)). The necessary elements of the group AML/CFT programme are described in 18.2.

(b) (Met) the implementation of measures referred to above in (a) is supervised by a foreign country supervisory authority (MLO, Art. 16A(2)(c)(d)(f)).

(c) (Mostly met) any higher ML/TF risk is adequately mitigated by the policies and procedures applied by entities relied upon for CDD purposes (MLO, Art. 16A(2)(e)). There is, however, no

explicit requirement to ensure that any higher country risk is adequately mitigated by a financial group's AML/CFT policies.

Weighting and Conclusion

R.17 is rated Largely Compliant. Where reliance is placed on a third party, which is a member of the group, there is no explicit requirement to ensure that any higher country risk is adequately mitigated by a financial group's AML/CFT policies (c.17.3(c)).

Recommendation 18 - Internal Controls and Foreign Branches and Subsidiaries

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.15. There was no legal requirement to maintain an adequately resourced and independent audit function, while the requirement to ensure timely access to records by compliance officers was not sufficiently detailed.

Criterion 18.1 (Partly Met) - FIs are required to implement AML/CFT programs that have regard to ML/TF risks, including the national and sector-specific risk assessments and the type of FIs' customers, business relationships, products and transactions (MLO, Art. 11(1)(2)). It is however not explicit that AML/CFT programs should have regard to the size of the business. The latter is addressed by non-mandatory provisions of the AML/CTF/CFT Handbook according to which AML/CFT programs should be appropriate to the circumstances of a FI (Section 2.4) and take into account:

- (i) a FI's size, and the nature, scale and complexity of its operations, and the number of business lines;
- (ii) the types of services and transactions provided by a FI and the delivery channels used;
- (iii) a FI's overall risk profile.

(a) (Met) The MLO requires FIs to include in their AML/CFT programs the compliance management and monitoring arrangements (Art. 11(1)(g)). There is no explicit requirement to appoint a compliance officer at the management level. However, FIs are required to appoint compliance officers at an appropriate level of seniority (MLO, Art. 7(1A)(a)). In addition, the mandatory provisions of the Handbook further require FIs to ensure that a compliance officer reports regularly and directly to the Board and has sufficient authority so that the Board reacts to and acts upon the reports made by a compliance officer (Section 2.6. Para 91). This in effect implies that a compliance officer must be appointed at the management level.

(b) (Met) FIs are required to include screening of employees in AML/CFT programs (MLO, (Art. 11(1)(d)). The Handbook explains that the purpose of screening is to ensure that hired employees are competent, alert to ML/TF risks and well-trained in the identification of suspicious activity/transactions (Section 9.1). The Handbook also provides details of what information must be obtained as part of employee screening, including their employment history and qualifications, details of any regulatory actions or criminal convictions applied against them, etc. (Section 9.2).

(c) (Met) FIs are required to provide training to employees in the area of identification of suspicious activity/transactions and to make sure that employees are aware of AML/CFT policies and procedures and are informed of any relevant changes in the legislation (MLO, Art. 11(9)(10)). The Handbook elaborates that FIs must provide employees with adequate training at appropriate frequencies and that those trainings should be tailored to the responsibilities of employees and

cover key aspects of AML/CFT legal requirements (Section 9.5). The Handbook also specifies the timing of training: new employees must be provided with the induction training within 10 workdays of the commencement of employment; all employees must undergo training at least once in two years, but more frequent trainings should be provided to relevant employees on the basis of risk (Section 9.5.1).

(d) (Partly met) There is no explicit requirement for all FIs to have an independent audit function to test the AML/CFT system. According to the Code of Practice for deposit-taking business (Section 3.3), banks are required to have an internal audit function that is responsible for assessing whether risk management policies, procedures and practices (incl. AML/CFT) are complied with. Sectorial legislation also requires banks, FSBs, funds and TCSPs to issue a declaration regarding compliance with AML/CFT legislator requirements which later should be used by their auditors to produce a report on the declaration. However, it is unclear whether the aforementioned reports can be considered as equivalent to an internal audit aimed at testing AML/CFT systems. The Handbook further advises that larger or more complex FIs may also require dedicated risk and internal audit functions to assist in the assessment and management of ML/TF risks (non-mandatory provisions of Section 2.3).

Criterion 18.2 (Mostly Met) - Financial groups are required to maintain group-wide AML/CFT programs that include all of the above referred to in Criterion 18.1 (MLO, Art. 11A) and thus, same deficiencies apply in Criterion 18.2.

There are two definitions of a financial group in the MLO. One definition is fully consistent with the FATF standards and includes a group of FIs in relation to which a parent company or other legal person that exercises control over every member of the group (Art. 11A (4)). This definition applies to requirements related to group-wide AML/CFT program and confidentiality (c.18.2(a)(c)). In relation to sub-criterion (b), a limited definition of a financial group applies, where a parent company or a legal person, exercising control and coordinating functions over the group, is subject to requirements of group-wide supervision under the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions, and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors (Art. 1(5)). This definition is not fully consistent with the FATF definition, because it is limited to situations where core financial institutions are parent entities.

In addition:

(a) (Met) Group-wide AML/CFT programs must include policies and provisions on the disclosure of information between members of the same financial group for the purpose of ML/TF prevention and detection and for the management of ML/TF risks, including CDD information (MLO, Art. 11A(2)(a), Art. 11A (3)).

(b) (Met) Financial groups are allowed to disclose information to a member of the same financial group, but only where such disclosure is appropriate for the purpose of preventing and detecting money laundering or managing money laundering risks (MLO, Art. 11A(2)(a)); it is further clarified that information may be disclosed to any person or institution with whom or which the relevant person shares common ownership, management or compliance control, or any person with the same financial group (MLO, Art. 22A(c)). Information that can be exchanged includes (i)

information or evidence obtained from applying CDD measures (ii) customer, account and transaction information; (ii) analysis of transactions or activities that are considered unusual (MLO, Art. 11A (3)). The disclosure of SARs is permitted where such disclosure is appropriate for the purpose of ML/TF prevention and detection (MLO, Art. 22A (a) and (c)).

The non-mandatory provisions of the Handbook advises FIs to ensure that a financial group's policies and procedures include: (i) the provision of a customer, account, and transaction information to group-level compliance, audit, and/or AML/CFT functions when needed for AML/CFT purposes, including the information and analysis on unusual activity/transactions and SARs; (ii) the provision from these group-level functions to members of a financial group of similar information when relevant and appropriate to risk management (Section 2.8).

(c) (Mostly met) Group-wide AML/CFT programs must provide for adequate safeguards for the confidentiality and use of information referred to in (a) and (b) above, although there is no specific mention of safeguards to prevent tipping-off in the MLO (Art. 11A(2)(b)).

Criterion 18.3 (Met) - FIs are required to make sure that their foreign majority-owned subsidiaries and branches apply measures that are at least equivalent to the requirements of the MLO (Art. 10A (2)(3)(4)(6)). Where a host country prevents or prohibits the application of these measures to a full extent, FIs are required to: (i) inform their supervisory body; and (ii) take other reasonable steps to effectively deal with ML/TF risk (MLO, Art. 10A(6)(b)).

Weighting and Conclusion

R. 18 is rated Partly Compliant. The following deficiencies apply: (i) there is no explicit requirement that AML/CFT programs of FIs should have regard to the size of the business (c.8.1); (ii) There is no explicit requirement for all FIs to have an independent audit function to test the AML/CFT system (c.8.1(d)); (iii) there is no group-wide specific requirement to have safeguards to prevent tipping-off (c.18.2(c)).

Recommendation 19 – Higher Risk Countries

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.21. The deficiency identified was the limited power of the country to use countermeasures and its dependence on the FATF action.

Criterion 19.1 (Met) FIs are required to apply risk-sensitive EDD measures in relation to business relationships and one-off transactions where customers (or persons purporting to act on behalf of customers, third persons on whose behalf customers are acting or beneficial owners) are connected to an enhanced risk state (MLO, Art. 15(1)(c)).

The “connection” to an enhanced risk state is defined to include state authorities and PEPs of that state, and natural persons who have residential address and legal persons that are registered or have an address for business in that state, or persons (natural or legal) having source of funds in or derived from an enhanced risk state (Art. 15(2)(b)). Although this does not explicitly cover nationality or citizenship of an individual, requirements of c.19.1 are broadly satisfied as all key sources of risks related to enhanced risk states are covered.

“Enhanced risk state” includes jurisdictions in relation to which the FATF calls for the application of countermeasures and EDD measures – Iran, Democratic People’s Republic of Korea and

Myanmar (Burma) (MLO, Art. 15(1)(c)). The MLO defines EDD to involve specific and adequate CDD measures to compensate for the higher ML/TF risks (Art. 1(a)).

The Handbook elaborates (through mandatory provisions) on the EDD measures that must be applied to customers connected to an enhanced risk state: the senior management approval of a business relationship or a one-off transaction; and, where connection to an enhanced risk state is a customer's source of funds, taking reasonable measures to find out a customer's source of wealth (Section 7.5.1). The Handbook also advises FIs to more frequently update customer identification data and set lower thresholds for transactions, where applicable (non-mandatory provisions of Section 7.5.1), and also requires FIs to examine, as far as possible, background and purpose of transactions connected to an enhanced risk state and set forth their findings in writing (Section 6.2.2).

Criterion 19.2 (Met) - Jersey has the legal requirements in place to ensure that FIs apply risk-sensitive EDD measures to customers from higher risk countries and to prohibit reliance on third party FIs based in those countries for CDD purposes whenever this is called for by the FATF (See Criterion 19.1).

There are a number of mechanisms for imposing additional countermeasures when called upon to do so by the FATF and independently of any FATF call. The JFSC has power to recommend to the Chief Minister to prescribe conditions applicable to all obliged entities (Supervisory Bodies Law, Art. 17(1)). Where the Minister considers that it is expedient in the public interest to do so, he/she can give to the JFSC a written guidance and written general directions in respect of policies in relation to the supervision of FIs in Jersey and the manner in which supervisory functions of the JFSC are to be exercised. Furthermore, the JFSC can, at its own initiative, enforce requirements related to higher-risk countries through its licensing policy and has repeatedly do so in the past.

Criterion 19.3 (Met) - High-risk jurisdictions subject to a call for action by the FATF and jurisdictions under increased FATF monitoring are published as appendices (D1, D2) to the Handbook and are updated accordingly when the lists are amended. Appendix D2 is more detailed and incorporates multiple sources of country risks (ML, TF, PF) other than FATF and provides user-friendly formats for FIs to view particular risks (corruption, trafficking in human beings, etc.) identified in relation to specific countries. The JFSC also publishes on its website the industry updates concerning government actions and FATF decisions taken in relation to jurisdictions.

Weighting and Conclusion

R.19 is rated Compliant.

Recommendation 20 – Reporting of suspicious transaction

Jersey was rated largely compliant with the previous R.13 and SR.IV. For both recommendations, shortcomings were identified only with regard to their effective implementation.

Criterion 20.1 (Met) -The requirement to report knowledge, suspicion, or reasonable grounds for suspicion of ML is provided for in Article 34D of the POCL and Article 21(2) of the MLO. Article 11 of the MLO and Article 37 of the POCL are also of relevance.

Article 11 of the MLO requires financial institutions to maintain procedures for staff to report where there is knowledge or suspicion or there are reasonable grounds for knowing or suspecting

that another person is involved in ML. The failure to maintain such procedures constitutes an offence (by virtue of Article 37(4) of POCL).

Article 21(2) of the MLO states that if a person considering a report under paragraph (1)(d) or (1)(f) knows or suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in ML, the first person must, as soon as is practicable, make a disclosure to the FIU.

The requirement to file a SAR also extends to when there is suspicion, or when one has reasonable grounds to suspect, that funds are the proceeds of a criminal activity or are intended to be used in criminal conduct (definition of ML provided for under Article 1(1) of the POCL, and Articles 29, 30 and 31 of the POCL).

Article 34D of the POCL criminalises the failure to file a SAR when such filing is required in terms of the Law. A person who is guilty of an offence under this Article is liable to imprisonment for a term not exceeding 5 years or to a fine or to both.

Also, Article 3 of Interpretation (Jersey) Law 1954 stipulates that in the construction of every enactment relating to a punishable offence, whether passed before or after the commencement of this Law, the expression “person” shall, unless the contrary intention appears, include a body corporate.

The requirement to report knowledge, suspicion, or reasonable grounds for suspicion of TF, or that property is terrorist property, is provided for in Article 21 of the Terrorism Law. Further, references to ML in POCL and the MLO are also references to TF (as the definition of ML under Article 1(1) of the POCL, from which the MLO emanates, also covers conduct that is criminalised under Articles 15 and 16 of the Terrorism Law).

Criterion 20.2 (Met) – The legal provisions covered in criterion 20.1 provide for a general obligation to report suspicions and make no references to any de minimis rules. Further, the wording in Article 34D of POCL (which criminalises the failure to report) does not require a transaction to take place. Thus, if a person knows, suspects or has reasonable grounds for suspicion (irrespective of whether a transaction takes place or not) and does not report, it is an offence.

Weighting and Conclusion

R.20 is rated Compliant.

Recommendation 21 – Tipping-off and confidentiality

Jersey was rated compliant with the previous R.14.

Criterion 21.1 (Met) – A report made by a person (including corporate bodies – Article 3 Interpretation (Jersey) Law) in good faith under Article 34D to the FIU or a designated officer (an MLRO), shall not be treated as a breach of any restriction imposed by statute, contract or otherwise (Article 34D(9) of the POCL). Furthermore, Article 32(2)(b) of the POCL provides that a disclosure shall not involve the person making it in liability of any kind, and furthermore Article 37(3) of the POCL provides that no disclosure in accordance with the MLO shall be treated as a breach of any restriction on disclosure imposed by any enactment or contract or otherwise or involve the person making it in liability of any kind.

Article 22 of the Terrorism Law gives similar legal protection in relation to terrorism financing offences disclosures. Any disclosures made in good faith shall not constitute a breach of any restriction on the disclosure of information (however imposed) where the information or matter disclosed came to the person making the disclosure in the course of the business of a financial institution and the discloser knows or suspects or has reasonable grounds to suspect a TF offence has been committed.

Both Articles 34D POCL and Article 22 of the Terrorism Law do not require precise knowledge of the criminal activity or for it to actually occur. Permitted disclosures are made on the basis of knowledge, suspicion of, or reasonable grounds for suspecting ML/TF.

Criterion 21.2 (Met) – Article 35(4) of POCL and Article 35 of the Terrorism Law make it an offence for a person (including financial institutions, their directors, officers and employees), who knows or suspects that a disclosure has been or will be made, to disclose to another person the fact that a disclosure will be or has been made, or any information relating to that disclosure.

Tipping off is an offence which may be punished by up to five years imprisonment or a fine or both.

The tipping-off provisions apply unless otherwise permitted under the Proceeds of Crime and Terrorism (Tipping Off – Exceptions) (Jersey) Regulations 2014. The limited exceptions include internal disclosures between employees of the disclosing business, disclosures within a financial group, disclosures between relevant persons where it relates to a customer or transaction of both persons. None of these provisions inhibit information sharing under Recommendation 18. Further, Article 11A of the MLO permits sharing information in certain circumstances, for example in relation to transactions or activities which are unusual within a financial group, and Article 22A of the MLO permits similar disclosures to a relevant person's organization.

Weighting and Conclusion

R. 21 is rated Compliant.

Recommendation 22 – DNFBPs: Customer due diligence

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.12. Some DNFBPs were exempted from the application of AML/CFT measures, although the risk was not always proved to be low. Other deficiencies concerned the effectiveness of application of certain CDD measures.

Criterion 22.1 (Mostly Met) – DNFBPs are required to comply with CDD requirements in circumstances set out in Criterion 10.2 unless specified differently below. The deficiencies identified in respect to FIs under Rec. 10 likewise apply to DNFBPs.

(Met) (a) Casinos (POCL, Schedule 2, Part 3, Para.18) are required to apply CDD measures in relation to transactions (or linked transactions) that are equal to or above EUR 3,000 (MLO, Art. 4(1)(f)). There is no specific requirement to link a customer's CDD information to the transactions that a customer conducts in the casino. However, the requirement to identify transactions that appear linked and in the context of online casinos (there were no land-based casinos in Jersey during the period under review), the general requirement to scrutinize transactions during the course of business relationship in effect require to also link a customer's CDD information to transactions.

(Mostly met) (b) Real estate agents are considered obliged entities and are subject to CDD requirements when providing services related to the buying or selling of freehold or leasehold property to their customers (POCL, Schedule 2, Part 3, Para. 19) (MLO, Art. 1(1)). The Handbook also specifies that they must comply with CDD obligations with respect to both purchasers and vendors of the property (Section 14.2.1 (mandatory provision)).

The MLO however provides exemption for real estate agents to verify the identity of a customer who is registering a contract for purchasing a land and has to provide verification documentation to the Population Office prior to the grant of permission to purchase land in Jersey in the form of a registration card (Art. 18 (6)(b)).

(Met) (c) Dealers in precious metals and stones (DPMS) and other high value dealers are considered obliged entities and are subject to CDD requirements when they receive payment (or linked payments) by means of cash (incl. notes, coins, travellers' cheques, and bearer negotiable instruments) or virtual assets that are equal to or above EUR 15,000 (POCL, Schedule 2, Part 3, Para. 20) (MLO, Art. 1(1)). The Handbook encourages DPMS to apply CDD measures in relation to payments in cash or virtual assets with a value of GBP 1,500 or more as part of good industry practice (Section 14.1.2).

(Met) (d) Lawyers, notaries and other legal professionals are considered obliged entities and are subject to CDD requirements (POCL, Schedule 2, Part 3, Para. 21) (MLO, Art. 1(1)) when providing legal or notarial services to third parties in relation to the following transactions:

- (i) buying and selling of immovable property;
- (ii) managing of client money, securities or other assets;
- (iii) opening or management of bank, savings or securities accounts;
- (iv) organization of contributions necessary for the creation, operation or management of companies;
- (v) creating, operating or management of trusts, companies or similar structures; or
- (vi) buying and selling of business entities.

Accountants are also subject to CDD requirements in relation to transactions referred to above (POCL, Schedule 2, Part 3, Para. 22) (MLO, Art. 1(1)). In addition, they are required to apply CDD measures when providing other services such as:

- (i) external accountancy services;
- (ii) advice about the tax affairs;
- (iii) audit services; or
- (iv) insolvency services.

Lawyers, notaries, other legal professional and accountants are not considered obliged entities when they are sole practitioners, partners or employed professionals within professional firms. Thus, the CDD requirements do not apply to "internal" legal professionals and accountants that are employees of other types of businesses or work for government agencies, which is consistent with the FATF standards.

(Met) (e) Trust and company service providers (TCSPs) are considered obliged entities and are subject to the CDD requirements concerning services related to:

- (i) acting as a formation agent of legal persons or arrangements.

- (ii) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons or arrangements;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (iv) acting as, or arranging for another person to act as, a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- (v) acting as, or arranging for another person to act as, a nominee shareholder for another person.

Criterion 22.2 (Met) – The record-keeping requirements described in R.11 for FIs are equally applicable to DNFBPs.

Criterion 22.3 (Mostly Met) – The requirements concerning PEPs and relevant shortcomings described in R.12 for FIs are equally applicable to DNFBPs.

Criterion 22.4 (Mostly Met) – The requirements concerning new technologies and relevant shortcomings described in R.15 for FIs are equally applicable to DNFBPs.

Criterion 22.5 (Mostly Met) – The requirements concerning reliance on third parties and relevant shortcomings described in R.17 for FIs are equally applicable to DNFBPs.

Weighting and Conclusion

The shortcomings identified in relation to FIs under R.10, R.12, R.15 and R.17 are also relevant for DNFBPs. **R.22 is rated LC.**

Recommendation 23 - DNFBPs: Other Measures

In the 4th round MER of 2015, Jersey was rated as Largely Compliant with former R.16. The deficiencies identified concerned the effectiveness of the SAR regime, which was affected by the quality of reports and the level of awareness of DNFBPs concerning their reporting requirements.

Criterion 23.1 (Met) - POCL requires DNFBPs to submit a SAR when they know, suspect or have reasonable grounds to suspect that a person is engaged in ML/TF, or a property constitutes or represents proceeds of criminal conduct or has been, is being or is intended to be used in criminal conduct (Art. 34D(2)).

The requirements concerning the SAR regime described in R.20 for FIs are equally applicable to DNFBPs with one exception: professional legal advisers are allowed to not submit a SAR when the information or other matter comes to their attention in circumstances of legal privilege (POCL, (Art. 34D(5)(b))). Jersey follows the English Common Law in defining the legal privilege, which normally includes giving of legal advice and the conduct of litigation. However, neither of those situations can be used as an excuse to prevent or restrict the disclosure of information or documents which are generated in the commission of crime or fraud.

Criterion 23.2 (Partly Met) - The requirements and shortcomings concerning the internal controls described in R.18 for FIs are equally applicable to DNFBPs. In addition, there is no explicit requirement for an independent testing of internal AML/CFT system in the DNFBPs.

The MLO permits the disclosure of SARs among persons or institutions that share common ownership, management of compliance control (Art. 22A (c)). This is relevant for lawyers, notaries, other legal professionals and accountants that are frequently members of professional networks.

Criterion 23.3 (Met) - The requirements concerning higher-risk countries described in R.19 for FIs are equally applicable to DNFBPs.

Criterion 23.4 (Met) - The tipping-off and confidentiality requirements described in R.21 for FIs are equally applicable to DNFBPs with one exception: professional legal advisers are allowed to disclose a SAR-related information to their clients, or to client representatives, in connection with the provision of a legal advice or for the purpose of actual or contemplated legal proceedings (POCL, Art. 35(6)(a)). This disclosure however should not be made for furtherance of a criminal purpose.

Weighting and Conclusion

R.23 is rated Largely Compliant. The shortcomings concerning the internal controls described in R.18 for FIs are equally applicable to DNFBPs.

Recommendation 24 – Transparency and beneficial ownership of legal persons

In the 4th round MER, Jersey was rated LC on former R33. The identified deficiencies were that the information collected on UBOs in respect of customary law partnerships was not fully in line with the definition of UBO in the Money Laundering Order; the risk related to unlawful use of incorporated associations was not fully mitigated. Further, the evaluators had concerns on the frequency of updating of the publicly available register. Since then, the FATF standards have changed substantially and the legal framework in Jersey has developed.

Criterion 24.1 (Met) –

(Met) (a) The types of legal person that can be established in Jersey are: companies (including incorporated cell companies and protected cell companies), limited liability companies (LLC), limited liability partnerships (LLP), incorporated limited partnerships (SLP), foundations and incorporated associations. Limited partnerships (LPs) are also considered under R24 due to their similarities with other partnerships (besides legal personality) and the fact that they are not “trust-type” arrangements.

Jersey has measures in place to identify and describe the different types, forms, basic features and formation requirements of legal persons. This information is centrally located on the website of the Government of Jersey⁵⁸.

(Met) (b) The process for the creation of legal persons, information on how to incorporate and register all types of legal person through the company registry, the list of documents to be submitted and fees to be paid is also publicly available on the company registry website, as follows⁵⁹.

Information on how to obtain basic and beneficial ownership information is also publicly available and refers individuals to the provisions of the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 (‘Disclosure Law’) (Article 9-11). This information

⁵⁸ [Legal persons and arrangements \(LPAs\) \(gov.je\)](https://www.gov.je)

⁵⁹ The relevant information on registration and registration forms can be found at:
<https://www.jerseyfsc.org/registry/register-or-make-a-change/>
<https://www.jerseyfsc.org/registry/registry-forms/>

is also repeated on the JFSC Registry website. Incorporated associations are Jersey-specific entities, which are predominantly created with a local, community or philanthropic purpose. Information on the registration process is available through the Association of Jersey Charities website.⁶⁰

Criterion 24.2 (Met) – Jersey has conducted a risk assessment of the ML/TF risks associated with each type of Jersey legal persons and legal arrangements, as well as those administered by TCSPs, using World Bank methodology consisting of four modules: a mapping exercise, an assessment of the ML threat, national vulnerability and a risk assessment at the entity level. The report was published in July 2023.

Criterion 24.3 (Met) – All legal persons created in Jersey are required to be registered in a single registry (save for incorporated associations), housed at the JFSC Companies Registry (hereinafter ‘Central Registry’ or ‘Registry’). In order to incorporate or register in Jersey, a legal person must appoint a nominated person (Article 6, Disclosure Law). A nominated person can be a Jersey based TCSP providing services to the entity (as defined in Article 6(1)(a), a lawyer ordinarily resident in Jersey (as defined in Article 6(1)(c)), an accountant ordinarily resident in Jersey (as defined in Article 6(1)(d)), or a fund services business (as defined in Article 6(1)(e)); a significant person of the entity who is ordinarily resident in Jersey; such other person as may be prescribed.

Under each type of legal person’s legislation the basic information to be submitted to the Registry is prescribed, including: (i) for companies, the memorandum (containing the name of the company, its status and details of its share capital), articles of association, registered office in Jersey and a list and information on directors; (ii) for LLCs, the LLC agreement and a declaration (containing the name, form, registered office in Jersey and name and address of members, managers and secretaries); (iii) for LLPs, a declaration (containing the name, term, registered office in Jersey and name and address of partners and secretaries, basic regulating powers); (iv) for ILPs and SLPs, a declaration (with the name, registered office in Jersey, confirmation that there is a partnership agreement (only ILPs), duration and name and address of the general partners); (v) for LPs, a declaration (stating the name, intended registered office and full name and address of each general partner); and (vi) for foundations, a charter (specifying the name, objectives and name and address of first council members), a set of regulations (basic regulating powers) and business address in Jersey of the qualified member (which would be a regulated TCSP), information on the guardians is available through the qualified council member.

Information on the directors, partners, managers or other significant person are made available for public inspection (Regulation 2, Financial Services (Disclosure and Provision of Information) (Jersey) Regulations 2020) (‘Disclosure Regulations’). As indicated by the authorities, in Jersey, under customary/common law system, the Registrar has powers to determine what information is required and made publicly available. The requirement on the registrar to register certain information is found in each law and Disclosure Law. The requirement allowing any person to inspect any document provided to the Registry and to request a certified (for a fee) or uncertified copy of the certificate of incorporation or any other record kept in the Registry is found in each law. All basic information is available for no charge to the public online.

⁶⁰ <https://www.jerseycharities.org/help-and-guidance/starting-a-charity/type-of-charity>

Regarding incorporated associations, the Act of incorporation and the constitution is held in the Registry maintained by the Judicial Greffe (office of the Royal Court ('Royal Court Registry')). One or more officers/members may be named to represent the association (this would normally include chairs, vice-chairs, secretaries, etc.). This information is also recorded in the Royal Court Registry, which is publicly available.

Criterion 24.4 (Mostly Met) – The basic information set out in c.24.3 should be maintained by the legal entities at their registered address (which must be in Jersey) as prescribed by the following legal provisions:

In relation to the companies, the name appears in the Registry and will be updated once change occurs, the proof of incorporation is also available in the Registry, as well as the information on the legal form and status, which are included in the proof of incorporation. The company's memorandum (containing details of share capital) and articles of association (basic regulating powers) are also delivered to the registrar (Companies Law, Art.7). Companies are required to have a registered office in Jersey and this information is available in the Registry (Art.67, Companies Law). The register of directors and secretaries (Article 83, Companies Law) and the register of members (Article 44, Companies Law) should be kept in the registered office. There is no requirement for companies to keep their articles of association, memorandum or certificate of incorporation in their registered office.

LLCs are required to maintain a register containing the name and address of each member, manager, and secretary and deputy secretary at the registered office. Information on the significant persons should be notified to the Registry. A register containing the name and address of each member, manager, secretary and deputy secretary should be maintained at the registered office. The statement of contribution of members must be maintained at the registered office as well. (Articles 4 and 8 Limited Liability Companies Law)

LLPs are required to maintain a document containing the name and address of all partners and the secretary at the registered office. The details of partners involved in the management of the LLP are disclosed to the Registry, which is publicly available. A document containing the name and address of the current secretary and a list showing the name and address of each partner should be maintained at the registered office (Article 7 LLP Law).

ILPs and SLPs are required to maintain a register containing the name and address of each partner at the registered office. Details of the general partner must be provided to Registry and are publicly available. The name and address of each partner and the amount and nature of any contribution made must be maintained at the registered office (Article 8(6) of the ILP and SLP Laws).

Foundations are required to keep at their business address a register of the names and addresses of the council members, a copy of their charter and regulations and the name and address of the guardian (Article 36, Foundations Law).

Incorporated Associations are formed under the customary law legal system of Jersey, therefore the practice of incorporation in the Court is not set out in statute but defined by custom. In practice, the person charged to represent the incorporated association is declared to the Royal Court. This information appears in the Royal Court Registry. (Article 5, *Loi 1862*). The constitution of the incorporated associations is the regulating powers and is available in the same registry. The address of incorporated associations that are NPOs is declared in the NPO registration form.

The incorporated associations that are Jersey charities must declare their address and the names of each of the governors to the Charity Commission and this information appears on the public Register of the Jersey Charity Commissioner (Article 8(3)(b)-(c) Charities Law). There are no requirements for any type of incorporated association to keep basic information in their addresses.

Criterion 24.5 (Mostly Met) – The Disclosure Law (applicable to all types of legal persons, except for incorporated associations) establishes mechanisms to notify the Registry about any changes in the legal persons’ basic information, in order to ensure that the information in the Registry is kept up-to-date. In particular, Art.4(3) requires all entities covered by this law to inform the JFSC about any change, error or inaccuracy in the information held in the Registry in relation to “significant persons” within 21 days of the change taking place or becoming aware of the error or inaccuracy, subject to be liable for an offence in case of failures (Disclosure Law, Art.4(4)), including being struck off the Registry or the registration process being cancelled. Significant persons include: (i) directors and secretaries of companies, (ii) managers of LLCs (or members with management responsibilities), (iii) partners of LLPs participating in their management, (iv) general partners of ILPs and SLPs; and (v) qualified members of foundations.

Additionally, the Companies Law defines obligations for informing the registrar (via special resolutions) in 21 days on the changes on its name, memorandum or articles of association (Companies Law, Art.100). To change its registered office the Company should also notify the registrar within 14 days (Companies Law, Art.67). Changes have effect from the date on which an altered certificate is issued.

Transfers of shares of companies must be recorded in the register of members. If a change of member leads to a change in beneficial ownership, the beneficial owner information must be updated within 21 days of change under the Disclosure Law. Plus, membership information is confirmed annually. Authorities also place emphasis on the legal transfer of ownership not being enforceable until the transfer is entered into the share register.

Any amendment to the declaration which contains the name and registered office of the LLC must be notified to the registrar within 21 days (Art.5, LLC Law). Any changes will only take effect on notice being given to the registrar. The list of members, managers and secretaries must be amended within 28 days of any change (Art.8, LLC Law). The changes to the LLC agreement are not notified to the Registry, but to be kept at the registered office.

The LLP’s name and registered office is contained in the declaration. Any change to the declaration must be notified to the registrar within 28 days (Art.19, LLP Law). A change to the name or registered office does not take place until the registrar has issued a new certificate (Articles 6 and 7, LLP Law). The list of secretaries and partners has to be amended within 28 days of any change occurring and be kept in the registered office (Art.7(9)).

The name and registered office of ILPs and SLPs must be specified in the declaration. ILPs and SLPs must keep a copy of their declarations, partnership agreements (and each amendment made to them) and register with names and addresses of all limited partners at their registered office and update those within 21 days of a change (Art.8, ILP and SLP Laws). Changes to the declaration must also be notified to the registrar within 21 days (Art.5, ILP and SLP Laws). Any change to the registered office of an ILP or SLP will only take effect on notice being given to the registrar.

Any changes to the declaration must be notified to the Registry within 21 days after taking place (LP Law, Art.5(1)), except for the registered office, for which it is only required to “give notice to the Registry”, without specifying any timeframe (LP Law, Art.8(2)). Information in the registered office also has to be kept updated within 21 days of any change taking place (LP Law, Art.8(5)(b)).

The name of a foundation and the business address (which is that of its qualified member) must be specified in the foundation’s charter (Foundations Law, Art.4,8). A foundation must notify the registrar of any amendments to its charter. Any change to the charter is not effective until notification has been made to the registrar and entered in the Registry (Foundations Law, Art.38).

The constitution of an incorporated association, including its name, cannot be amended without permission of the Court. Incorporated Associations do not have directors. The persons charged to represent the incorporated association are detailed in the declaration. Any change to those persons must be notified to the Royal Court (Articles 4 and 5, *Loi 1862*). Incorporated associations that are registered NPOs must update the JFSC within 3 months of change of any registered information, including its name, (NPO Law, Art.9(1),(3)), however the timeframe of 3 months does not amount to the requirement to update information in a timely manner. Incorporated associations that are registered charities must notify the Charity Commissioner promptly of any change in registered information, including its name, principal address and the names of each of its governors (Charities Law, Art.13(6)(a)-(c)).

Criterion 24.6 (Met) – There are different sources for obtaining BO information on legal persons:

(Met) (a) First, for registration or establishment of an entity information on BOs should be provided to the JFSC (Article 4(1) Disclosure Law). BO information is maintained by the JFSC in the Registry. The definition of BO provided under the Disclosure Law complies with the definition of BO provided in the FATF Methodology. In the case of LPs, a consent from the JFSC must be obtained in order to issue interests under the Control of Borrowing Law (“COBO consent”). Authorities advised that the consent contains a condition that BO information has to be provided to the JFSC and updated within 21 days of a change.

(Met) (b) Authorities advised that, prior to the introduction of the Disclosure Law, legal persons were obliged under their consents issued under the Control of Borrowing Order to disclose details of their beneficial owners to the JFSC.

(Met) (c) In addition, information is held by TCSPs on beneficial ownership in respect of a large proportion of Jersey legal entities that are not incorporated by a local individual are required to be incorporated and administered by a local TCSP who is subject to financial supervision by the JFSC and the provisions of the MLO. Obligations under the MLO apply to identify and conduct ongoing monitoring of beneficial owners and controllers (Article 3 MLO). These obligations apply before the establishment of a business relationship or before carrying out a one-off transaction (Article 13(1)(a) MLO) and must be applied on an on-going basis during a business relationship (Article 13(1)(b) MLO). Further obligations to conduct identification of beneficial owners are described under R.10. All the measures described under this sub-criterion also apply to all other obliged entities.

These requirements are not extended to incorporated associations, as it is considered that they do not have beneficial owners, being instead established for a (in most cases, charitable) purpose.

Criterion 24.7 (Met) – If an entity becomes aware of a change occurring in beneficial ownership information or an error or inaccuracy with the beneficial ownership information they must notify the Registry of the change, error or inaccuracy not later than 21 days after the entity becomes aware of it (Article 4 Disclosure Law). In the case of LPs, as explained, the obligation to submit and update BO information within 21 days of a change stems from the “COBO consent”.

MLO also requires TCSPs to review and keep up to date information on beneficial ownership of legal entities they administer as part of the CDD process (please see R.10). This would also include TCSPs acting as general partners of LPs.

Criterion 24.8 (Mostly Met) – An application to the Registry to register or establish an entity must specify the appointment of at least one of the following persons (an “eligible person”) as nominated person for the entity:

(Met) (a) A significant person of the entity who is ordinarily resident in Jersey (Disclosure Law, Art.6(1)(b)).

(Met) (b) A Jersey based TCSP or FSB (Disclosure Law, Art.6(1)(a)&(e)) or a lawyer or accountant ordinarily resident in Jersey (Disclosure Law, Art.6(1)(c)-(d));

Nominated persons have to provide the JFSC/Registry with any information requested and must cooperate with local competent authorities for the purposes of carrying out their functions (Art. 9(1)-(2), Disclosure Law).

None of the considerations above apply to incorporated associations. Regarding LPs, authorities advised that the role of the nominated person would be fulfilled by the general partner, given that LPs are also required to be registered and provide information to the Registry as the other types of partnerships that have legal personality.

(Not applicable) (c) There is no other approach adopted by the jurisdiction besides the ones mentioned in the criteria above.

Criterion 24.9 (Mostly Met) – The JFSC must keep and maintain the information and records provided by an entity under the Disclosure Law for at least 5 years after the date on which the entity is dissolved or otherwise ceases to exist as a registered entity (Article 13 Disclosure Law). BO information is, therefore, kept by the Registry, but there is no legal requirement for legal persons to also keep it. This notwithstanding, the registers of members, shareholders, partners and directors will, in most cases, contain the BOs of the entity.

Article 194 of the Companies Law establishes that the records (including those relevant for R.24) of the Company may not be disposed after 10 years from the company’s dissolution. Similarly, Art.53 of the Limited Liability Partnerships (Dissolution and Winding Up) Regulations and Art.38 of the Foundations (Winding Up) Regulations require to keep record for 10 years after the entity’s dissolution. The provisions available for all other types of legal persons refer to the Registry as the body responsible for the record retention and, after 10 years of the dissolution, their eventual destruction, and not the legal persons themselves or their administrators, liquidators or other persons involved in their dissolution.

In the case of LPs, the retention of records for 10 years relies both on the Registry and the general partner (LP Law, Art.33(2)).

Regarding incorporated associations, record-keeping requirements are established in Art.11(1) of the NPO Law, only for those associations that can be considered NPOs, and limited to “financial records”, not including other basic or BO information. While the period of retention is stated to be 5 years, it is not established from when the period starts to count. There do not seem to be any further record-keeping requirements for any other type of incorporated association.

When it comes to information held by REs (including TCSPs), Art.19(2)(a)(b) requires to keep copies of documents, data or information obtained concerning a business relationship or an occasional transaction following the application of CDD measures, including BO information and the results of analysis undertaken, for at least 5 years following the termination of the business relationship or execution of the occasional transaction (see R.11).

Criterion 24.10 (Met) – Competent authorities have all the powers necessary to obtain timely access to basic and beneficial ownership information, including from subject persons.

Article 11 of the Disclosure Law provides a broad power for the Registry to disclose information in connection with their to:

- A local competent authority, as soon as practicable, at the request of that authority; and
- For any purpose specified by Regulations.

The FIU and the law enforcement authorities can access basic and beneficial ownership information from legal persons (that would also include LPs). As for the JFSC, any information can be requested to reporting entities.

Criterion 24.11 (Met) – Companies are prohibited from issuing bearer shares (Art.34(3), Companies Law). LLCs are prohibited from issuing bearer LLC interests, certificates or coupons. (Art.13(12), LLC Law). Other types of entities are not able to issue bearer shares or bearer warrants.

Criterion 24.12 (Met) – An entity must disclose to the Registry the identity of any proposed nominee shareholder and their nominator on application to register or incorporate, unless the proposed nominee is registered by the JFSC (Article 4(1)(c) Disclosure Law).

The Financial Services (Disclosure and Provision of Information (Jersey) Order 2020 (‘Disclosure Order’) defines a nominator and a nominee director. This information is “significant person” information and required to be provided on application to incorporate/register and updated within 21 days of a change.

The nominator and nominee information is held in the Registry and available to competent authorities.

Criterion 24.13 (Met) – Jersey has a range of proportionate and dissuasive sanctions for non-compliance with the requirements of R.24.

Legal persons covered by the Disclosure Law are subject to criminal liability (a fine and imprisonment of 4 years) for failure to update the BO or significant person information (Art.4, Disclosure Law) and for knowingly or recklessly providing the JFSC, a nominated person or other person entitled to information with false or misleading information (a fine and 7 years’ imprisonment) (Art.14, Disclosure Law).

Companies are subject to a level 3 fine (£10000) for failures to have a registered office in Jersey, maintain a register of directors and secretaries, keep the register of members, failing to notify the Registry of changes to information (special resolutions) or keep records for 10 years after dissolution of the company (Companies Law, Schedule 1), as well as an additional daily fine of GBP 1,000, except for the offences related to registered office, special resolutions and record-keeping..

LLCs are subject to fine not exceeding level 3 (£10000) for failure to maintain information defined in the LLCs Law and for failure to advise the registrar of changes to declaration (Art. 59(1), LLC Law). The delivering to the registrar of any document, material evidence or information that is false or misleading is subject to a fine and 2 years imprisonment (Art.59(2), LLCs Law).

LLPs are subject to a fine not exceeding level 3 fine (£10000) for failure to maintain at the registered office information defined in the LLPs Law and for failing to advise the registrar of changes to its (Article 36(1), LLP Law). Non-compliance with record-keeping requirements is subject to a fine of the same amount (LLP (Dissolution and Winding Up) Regulations, Art.55(1)). It is a criminal offence to make a statement in a document or material to be delivered to the registrar that is false or misleading, punishable with a fine and 2 years imprisonment (Art. 36(2), LLP Law).

ILPs and SLPs are subject to a level 3 fine (£10000) for failure to maintain at the registered office address information specified under the respective Laws and for failing to advise the registrar of changes to the declaration (name, registered office, list of partners) (Art 5, ILP and SLP Law). It is a criminal offence for a person to knowingly or recklessly make a statement that is false or misleading, in any document, material, evidence or information required to be kept or deliver to the registrar (Art.33, ILP Law, Art.40, SLP Law).

In the case of LPs, any contravention to the “COBO consent” (including the provision and updating of BO information) is subject to 5 years of imprisonment, a fine or both (Control of Borrowing Order, Schedule 1, Para.1). Additionally, not notifying the Registry of a change in the declaration within 21 days (LP Law, Art.5(4)) or not keeping or updating the information required to be kept in the registered office (LP Law, Art.8(6)) is subject to a level 2 fine (GBP 1,000) and a daily GBP 200 fine afterwards. Providing to the Registry or keeping at the registered office false or misleading information is punishable with a 2 years’ imprisonment and a fine (LP Law, Art.36).

Foundations are subject to a £10000 fine for failure to maintain information required by c 24.3 at their business address (Art. 36, Foundations Law) and for failure to keep records for 10 years after dissolution (Foundations (Winding Up) Regulations, Art.38).

Incorporated associations are subject to a daily level 1 fine (£200) for the failure to update the declaration of persons in charge to represent the incorporated association (*Loi 1862*, Art.5). Incorporated association that are registered NPOs are guilty of an offence if they do not provide (level 3 fine) or provide false or misleading information (an unspecified fine) in response to a request for information (Article 30, NPO Law).

Criterion 24.14 (Met) – Under Article 11 of the Disclosure Law provides that a local competent authority (the JFSC, the JFCU, the SOJP, the Attorney General (Law Officers’ Department) or the Chief Minister) may:

(Met) (a) Facilitate access by the foreign competent authority to information held by the local competent authority.

(Met) (b) Exchange information with the foreign competent authority on shareholders, including nominee shareholders.

(Met) (c) Obtain beneficial ownership information on behalf of foreign competent authority.

Criterion 24.15 (Mostly Met) – There are no policies or procedures covering monitoring of the quality of assistance that is received.

Nevertheless, authorities indicated that they monitor responses to requests for assistance. In particular, Revenue Jersey maintains records of the type of information requested and the responses received, per jurisdiction requested for assistance, and provides annual feedback on the level and type of information requested to revenue authorities with which it has exchange of information relationships.

Weighting and Conclusion

Information on the types of legal persons and their registration and incorporation requirements is public (c.24.1). In July 2023, Jersey conducted a risk assessment exercise on legal persons and legal arrangements (c.24.2). There are requirements for submitting and notifying changes on basic information to a single Registry as well as for legal persons to keep it and update it, although there are some minor shortcomings regarding the maintenance in the registered office and update of certain types of information for companies and incorporated associations (c.24.4, c.24.5). There are similar requirements for the submission and notification of changes of BO information to the Registry (c.24.6). There are no relevant record-keeping requirements imposed on legal persons themselves besides for companies, LLPs and foundations and those do not cover BO information (c.24.9). There are requirements for disclosure of the identity of nominators of nominee directors and shareholders (c.24.12). There is a range of criminal and administrative sanctions available for non-compliance with the requirements of R.24 (c.24.13). Authorities can facilitate access and exchange basic and BO information of legal persons with foreign counterparts. There are no policies or procedures covering the monitoring of the quality of assistance received, although authorities indicated that they monitor responses to requests for assistance (c.24.15). **Jersey is rated as LC for R.24.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In the former MER, Jersey was rated largely compliant with these requirements. The technical deficiencies were: no adequate measures were in place to ensure that accurate, complete and current beneficial ownership information was available for trusts administered by any trustees not covered for family trusts or administered by PTCs. These standards were significantly strengthened since the former MER.

General information

Trusts and *fidéicomis* are considered for the purposes of R.25. Limited partnerships and customary law partnerships are not considered, despite their lack of legal personality, due to not being “trust-type” arrangements.

Criterion 25.1 (Mostly Met) –

Trusts

(Met) (a) Article 21(5) of the Trusts Law imposes an express obligation on all trustees of Jersey Law trusts to keep accurate accounts and records of the trustee's trusteeship, including information on the settlor, protector, beneficiaries, persons who are the object of a power, and co-trustees.

The MLO applies to professional trustees and non-professional trustees by extension through the Duties of Non-Professional Trustees Order.

Section 12 of the AML/CFT/CPF Handbook provides guidance (not Code of Practice) on how to interpret the MLO obligations when concerning trusteeship relationships rather than business relationships or occasional transactions between a regulated entity and a customer. In particular, section 12.2.4.1 clearly defines settlors, co-trustees, protectors, any beneficiary/person object of a power with a vested right or being deemed as high risk by the trustee in application of its risk assessment obligations and any other person exercising ultimate effective control over the trust (including enforcers and, in general, any person with rights to appoint/remove trustees, direct or veto the distribution of funds/assets or the investment decisions of the trustee, amend the trust deed or revoke the trust) as the "customers" of the trustee and, as such, subject to the obligations of the MLO, including identification (MLO, Art.3(2)), verification of the identify (MLO, Art.3(4)), ongoing monitoring (MLO, Art.3(3)) and identification of their beneficial owners in those cases where they are not individuals (MLO, Art.3(2)(b)(ii)). These obligations would not include the identification of discretionary beneficiaries until their right becomes absolute or their discretionary status changes.

This section is explicitly stated to not be applicable to unit trusts. This notwithstanding, trustees of unit trusts would be either TCSPs or funds services business who are also subject to the requirements of the MLO and who should identify the investors (holding material controlling interests of 25% or less in higher risk scenarios), or any person acting on their behalf, as their customers (Section 13 of the AML/CFT/CPF Handbook).

(Partly met) (b) Article 21(5) of the Trust Law states that trustees shall keep accurate accounts and records of their trusteeship. Authorities interpret this provision to be as broad as to encompass basic information regarding those advisors and other agents with which the trustee has a relationship during the course of the trusteeship. However, there is no explicit requirement for trustees to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

(Met) (c) Article 19 and 20 of the MLO specify that professional trustees must keep records relating to the trust for at least 5 years.

Fidéicommiss

There is no requirement for the *fidéicommissaires* to fulfil the requirements under c.25.1.

Criterion 25.2 (Mostly met) – The MLO and the AML/CFT/CPF Handbook place obligations on both professional and non-professional trustees to complete ongoing monitoring (Article 13(1)(b) of the MLO and Article 3(2) of the Duties of Non-Professional Trustees Order, respectively). Art.3(3) of the MLO defines ongoing monitoring, including making sure that records, documents and data relating to the customer are kept up to date and relevant.

No similar obligations are in place for *fidéicommissis*.

Criterion 25.3 (Met) – Article 2 of the Provision of Information by Trustees Order requires a trustee to declare their status of trustee when forming a business relationship with a relevant business or when conducting a one-off transaction with a relevant business. This applies to professional and non-professional trustees.

Regarding *fidéicommissis*, the *fideicommissaire* has fiduciary duties, which would include record keeping and requirements to disclose its status to FIs/DNFBBPs. Additionally, from the documents the *fidéicommissaire* provides to FIs/DNFBBPs when establishing the business relationship will allow the FI/DNFBBP to identify the arrangement is a *fidéicommissis*.

Criterion 25.4 (Mostly Met) – There are no provisions which prevent: (i) competent authorities from obtaining timely access to information held by trustees; or (ii) trustees providing FIs and DNFBBPs, upon request, with information on BO and assets of the trust. In the case of the latter, trustees are required to provide covered FIs and DNFBBPs with BO information when they are conducting CDD.

Article 3(1)(a) of the Provision of Information by Trustees Order requires trustees to provide a Jersey competent authority with “any information” requested by it. Competent authority is defined, under Art.3(4) the same Order, to include the FIU, the JFSC, the Attorney General, the Minister for External Relations and “any other person or body having supervisory, regulatory or disciplinary functions in relation to financial services” (thus, the SOJP and the JFCU would not be included). This provision prevails over any other provision “of any trust document” or “any other enactment”.

Art.3(1)(b) of the same Order requires trustees to provide FIs and DNFBBPs when establishing a business relationship and on their request, information regarding the beneficial ownership of the trust, the settlor, protector or enforcer of the trust (if any) and the assets of the trust that are to be held or managed by the FI/DNFBBP under the terms of the business relationship (but not include occasional transactions). However, Art.1(1) of the Order defines “beneficial ownership” as only including the beneficiaries of the trust or, if not individuals, their BOs, therefore any other person exercising ultimate effective control over the trust would not be covered.

Regarding *fidéicommissis*, authorities advised that the information held by the Royal Court Registry, which would include the contract, the Act of incorporation and any subsequent changes or appointments approved by the Royal Court, is accessible to all competent authorities. The trust deed, indicating the relevant parties of the *fidéicommissis* is also subject to be disclosed and scrutinised by the Attorney General’s Law Officers’ Department, but is not kept in the Registry. Additionally, the information held in the charities register and the registration information of NPOs is to be made publicly available as well (Art.10 of the Charities Law and Art.14 of the NPO Law), although in none of these cases this would include the information related to the relevant parties to the *fidéicommissis*. In any case, there is no provision preventing *fideicommissaires* to provide the necessary information to FIs or DNFBBPs.

Criterion 25.5 (Mostly Met) – Competent authorities can obtain any information regarding a trust from the trustee in a timely manner by using the powers contained in Article 3 Provision of Information by Trustees Order.

The FIU can obtain timely access to information held by trustees and other parties on the beneficial ownership and control of a trust by serving a notice on the trustee specifying a timeframe in which the information must be provided using articles 3(1)(b) and 3(3) of the FIU Regulations and through Article 21(4) MLO.

Under Article 40 POCL and Article 31 of the Terrorism Law, a police officer may, for the purposes of an investigation, apply to the Bailiff for an order in relation to particular material that is “of substantive value to the investigation”. This power is considered as broad as to also include trust information held by trustees and FIs/DNFBPs. Following an application, the Bailiff may require a person to produce this material to the police officer with a specified period.

Revenue Jersey is also able to obtain information held by trustees in a timely manner by serving a general notice on the trustee requiring any information to be provided within a specified timeframe (Article 16 and 16A Income Tax Law).

Article 8(2) of the Supervisory Bodies Law provides the JFSC with a general power to conduct routine examinations of a relevant person that is providing services to trusts. As part of this general power, the JFSC can require a relevant person to: (i) supply information in a specified format and times; (ii) provide answers to questions; and (iii) allow officers or agents to enter the relevant person’s premises.

The JFSC is able to require the provision of information and documents under Article 30 Supervisory Bodies Law, to conduct investigations under Article 31. Permission may also be sought under Article 32 Supervisory Bodies Law to enter and search premises to obtain information. Corresponding powers for the JFSC to obtain information and documents and to enter and search premises also exist under Articles 32 and 34 of the Financial Services Law.

Regarding *fidéicomis*, competent authorities cannot access information from *fidéicommissaires* themselves, but authorities advised that they can access the Royal Court Registry, as well as registered information from the Charities Commissioner (which would be available to Revenue Jersey, the JFSC, the Attorney General or “any person for the purposes of the investigation or prosecution of any offence”, according to Art.31 of the Charities Law) and the JFSC on NPOs (which would be available to the Minister, the Attorney General, the Charitie Commissioner, the Gambling Commission, and any public body concerned with the prevention, investigation, detection or prosecution of ML/TF, according to Art.19(2) of the NPO Law). None of this registered information would include the residence of the *fidéicommissaire* or the assets of the *fidéicommis*.

Criterion 25.6 (Mostly Met) – The provision in Article 3 Provision of Information by Trustees Order permits an external or foreign competent authority to make a request for the same information via a competent authority in Jersey. This applies to professional and non-professional trustees.

Jersey’s FIU also receives requests for assistance from international FIUs through the Egmont Secure Web. Locally, requests are made to the FIU through the MLA process. It is able to facilitate the necessary access and exchange information using its powers under Article 21(4) MLO and Regulation 3 FIU Regulations.

Revenue Jersey, as a competent authority, also assists in responding to international requests, facilitating access to information and exchanging information (Regulation 3 Taxation (Exchange

of Information with Third Countries) (Jersey) Regulations 2008 and Regulation 7 of the Taxation (Double Taxation) (Jersey) Regulations 2010). Jersey has also adopted the CRS and FATCA and exchanges information on trusts under these provisions (Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015).

The authorities have explained that *fidéicomis* are used for domestic purposes, therefore there are no mechanisms to provide international cooperation relating to these entities, however this does not seem to prove that there cannot be any international requests relating to these entities.

Criterion 25.7 (Mostly Met) – Article 37 POCL provides that if a person that fails to comply or contravenes any measures of any Order arising from the same article of the POCL, that person is guilty of an offence. This includes both the MLO and the Duties of Non-Professional Trustees Order. The penalty for the offence is a fine (unlimited), if the person is a body corporate, or if the person is not a body corporate, imprisonment for a term not exceeding 2 years, or a fine, or both can be applied (Article 37(7), POCL).

A person carrying on trust company business (professional trustee) may also be subject to a civil penalty (Article 21A of the JFSC Law) for breaches of the MLO or the Trust Company Business Code of Practice.

For more information on the sanctions available for contraventions of the MLO, please see R.35.

A person carrying on TCSP or FSB business is subject to the provisions of the Financial Services Law and may be subject to public statements (Art.25) or directions (Art.23) for breaches of the Financial Services Law and the Trust Company Business Code of Practice.

There are no provisions to ensure legal liability for failure to perform the duties relevant to meeting their obligation and there are no proportionate and dissuasive sanctions for *fidéicomis*.

Criterion 25.8 (Mostly Met) – A trustee who fails to provide information under Article 3 FIU Regulations is liable to imprisonment of up to two years and an unlimited fine, or both (Article 5).

A trustee who fails to provide additional information to a designated police officer or designated customs officer under Article 21(4) MLO is liable to imprisonment of a term of 2 years or an unlimited fine, or both.

A trustee who fails to comply with an Order made under Article 40 POCL or obstructs a police officer who is acting or attempting to act in pursuance of such an Order is liable to imprisonment for a term of 2 years or to a fine or both.

A trustee who fails to comply with a notice served under Article 16 and 16A of the Income Tax Law is liable to an unlimited fine.

A trustee that knows or suspects that an investigation is likely to be carried out under Article 31 of the Supervisory Bodies Law or that information or documents will be required under Article 30 is guilty of an offence if he or she falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of information or documents which he or she know or suspects would be required or would be relevant to an investigation commits an offence. Such an offence is punishable with 2 years' imprisonment and a fine. Additionally, non-compliance with the obligation to provide "any information and documents" to the JFSC, as requested by it, set out in Art.30(1) of the Supervisory Bodies Law and Art.32(1) of

the Financial Services Law is to be sanctioned with 6 months imprisonment and a fine (SBL, Art. 30(11), FSL, Art.32(11)).

There are no sanctions for failing to grant to competent authorities' timely access to information by *fidéicomis*.

Weighting and Conclusion

The obligation to obtain, retain and keep trust information up-to-date in Jersey mostly remains with regulated TCSPs and their compliance with obligations of the MLO (c.25.1(a), c.25.1(c), c.25.2), with some of those also being extended to non-professional trustees, although there is no explicit requirement for this information to also encompass other service providers to the trust (c.25.1(b)). Non-compliance with the MLO obligations is, consequently, subject to the same sanctions as analysed under R.35 (c.25.7). The general provision of trust information to the authorities arises from the Provision of Information by Trustees Order (c.25.4). Non-submission of trust information to the competent authorities constitutes, in many occasions, a criminal offence, sanctioned with unlimited fines and imprisonment terms (c.25.8). Competent authorities have the powers to provide international cooperation regarding trust information (c.24.6). Regarding *fidéicomis*, they are incorporated by the Royal Court, who also retains this information in a publicly accessible registry. Most of the criteria of R.25 is not complied with or not applicable to *fidéicomis*, but the materiality of this type of legal arrangement is low. **R.25 is rated LC.**

Recommendation 26 – Regulation and supervision of financial institutions

In the 2015 MER Jersey was rated LC with former R.23 due to certain exemptions and cases of SDD did not attract sufficient attention in the supervisory approach; high monetary threshold applied to the MSBs for the supervisory activity; one identified case of overreliance on foreign supervisor.

Criterion 26.1 (Met) - The JFSC is the designated supervisory body for all supervised businesses carried on by any regulated person (Art. 2, Art.5, Supervisory Bodies Law). Regulated business is defined under Art. 1(1) of the same Law and the financial services covered are further specified under Schedule 2 and include the activities covered by FATF as per the FATF Recommendations and Methodology.

Criterion 26.2 (Mostly Met) - Core principles FIs within Jersey are required to be registered rather than licenced. Registration requirements for banks and other categories of deposit-taking business stipulated under Article 8 of the Banking Business Law; Insurance businesses – under Article 5 of the Insurance Business (Jersey) Law or Article 7 and 8 of the Financial Services (Jersey) Law, if it is an Investment Business, Funds Services Business or Trust Company Business. Collective investment funds, and functionaries of such funds must be registered under the Collective Investment Funds (Jersey) Law 1988. Under this law, Article 8 and 8A are pertinent if it is an unclassified fund and Article 5 and 6 if it is a recognised fund functionary. Article 5 of Collective Investment Funds (Jersey) Law 1988 and Article 7 of Financial Services (Jersey) Law 1998 are applicable to securities firms – CIF service providers. Non-regulated securities issuers also require a consent under the Control of Borrowing (Jersey) Order 1958.

Other FIs: Money Service businesses and exchange houses are subject to registration, as defined under Article 2(9) of the Financial Services Jersey Law. All other FIs that are to carry on financial services business under Schedule 2 of the POCL must apply to the JFSC for registration under the

Supervisory Bodies Law. Unregistered businesses are prohibited from operating (art. 10, of the same Law).

Shell banks: The JFSC is required to refuse an application for registration or revoke a granted registration where the person has no physical presence in Jersey involving meaningful decision-making and management (Art. 10, the Banking Business Law). This prevents the establishment and operation of shell banks.

Criterion 26.3 (Mostly Met) - The JFSC may refuse to register the applicant on the ground that the applicant, a principal person in relation to that applicant or a key person in relation to that applicant, is not a fit and proper person (Art. 14, the Supervisory Bodies Law). Where there is a change to the shareholding or change of Principal or Key Person, the written notification to the JFSC is required (Art. 14 (change of control, including increased control), Art. 24 (change of director, key person, etc.) of the Banking Business Law; Art. 14(1-4) of the Financial Services Law; Art. 12B of the Collective Investment Funds Law; Art. 23 of the Insurance Business Law, i.e., and only if the JFSC provides a no objection to such change can the change take effect. The JFSC undertakes a fit and proper assessment of these individuals prior to issuing a letter of “no objection.”

Applicant is defined as a person who intends to carry out the activities for which registration is required (encompass all the businesses subject to AML/CFT), Art. 1 and 11(1), Supervisory Bodies Law.

Principal person includes recognition of the proprietor of sole traders, where companies are pertinent then the principal person is a person who, either alone or with any associate or associates directly or indirectly holds 10% or more of the share capital issued by the company, is entitled to exercise or control the exercise of not less than 10% of the voting power in general meeting of the company or of any other company of which it is a subsidiary, or has a holding in the company directly or indirectly which makes it possible to exercise significant Influence over the management of the company, other than a person holding shares only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means), Art.1, the Supervisory Bodies Law. In terms of beneficial ownership and specifically with regards to what is meant by ownership and control, Article 2 of the MLO specifically sets out that a beneficial owner or controller of a person is an individual who is an ultimate beneficial owner of that other person (whether or not the individual is its only ultimate beneficial owner), and an individual who ultimately controls or otherwise exercises control over the management of that other person. It is immaterial whether an individual’s ultimate ownership or control is direct or indirect. In determining whether an individual is a beneficial owner or controller of another person, regard must be had to all the circumstances of the case, in particular the size of an individual’s beneficial ownership or degree of control having regard to the risk of that individual or that other person being involved in money laundering.

Principal person also includes a director, a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity). Where partnerships are concerned the key person is the partner, and where a partner is a company, any person who, in relation to that company, falls within the requirements applicable to companies. In relation to a person whose registered office and

principal place of business is outside Jersey, it includes a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person's supervised business in Jersey, and a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs.

Key person in terms of the Supervisory Bodies Law means the compliance officer, the money laundering compliance officer, and the money laundering reporting officer.

When considering criminality, Jersey does not via its legislation apply an *all-crimes* approach, emphasis is placed on AML/CFT compliance failures and fraud, whereas some other serious crimes fall outside the scope. Art. 14(4) of the Supervisory Bodies Law stipulates that a person does not comply with the fitness and propriety requirements if that person has been convicted of an offence under AML/CFT legislation of Jersey or any offence under the foreign law similar to one that falls within that legislation, or has been convicted of an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty, including an offence set out in different regulatory legal acts governing the activities of some sectors such as banking sector, collective investment funds, financial services, insurance; offences relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing, perjury or conspiracy, or is otherwise considered not to be fit and proper by the relevant supervisory body for reasons related to the risk of money laundering or the financing of terrorism.

The provisions of the Banking Business Law seem to cover a wider range of persons than those in the Supervisory Bodies Law, for example the Commission in terms of the Supervisory Bodies Law can refuse to register a person or revoke the registration if *any person employed by or associated with* the applicant has been convicted of an offence etc. (Art. 10 (d)). Art. 10 (3) also makes reference to the persons who are *directors, controllers or managers* in relation to the applicant. A similar situation exists in terms of the Insurance Business Law, Financial Services Law and Collective Investment Funds Law. The definition of controller in the Banking Business Law seems to have a lower threshold in terms of voting power consideration (15%) in comparison to the 10% contained in the Supervisory Bodies Law. The JFSC explained that where multiple requirements apply in terms of differing legislative Acts, all the thresholds would apply because each type of obliged entity is required to follow the notification requirements in terms of the regulatory law applicable to it. This means that a bank with multiple other licences for example TCB/IB would also ensure it meets the requirements of the regulatory law applicable to TCBs/IBs.

The JFSC may revoke a registration on the grounds that the registered person, a principal person or a key person is no longer a fit and proper (Art. 18(1)(d), the Supervisory Bodies Law). Similarly, the regulatory legal acts provide that the JFSC may refuse the registration or revoke the registration or prevent individual from being employed or appointed for a key position because of integrity related considerations, Art. 10, Banking Business Law, Art.7 and 23 of the Insurance Business Law, Art. 9 and Art. 13 of the Financial Services Law; Art. 7, 8B and 12A of the Collective Investment Funds Law. The power to remove any principal person or a key person is granted under the Supervisory Bodies Law, Art. 23(2).

Criterion 26.4 (Partly Met) - The MLO specifically refers to the core principles for effective banking supervision published by the Basel Committee on Banking Supervision (BCBC); the

Objectives and Principles of Securities Regulation issued by the International Organisation of Securities Commission (IOSCO); and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors (IAIS) in the context of group supervision.

No formal assessment has been conducted against all core principles since 2008 except for assessment of the funds' sector in 2015 and 2016 by ESMA. Whilst Jersey informed that an informal update was conducted in 2023, the results have not been made available to the AT. No further comprehensive information was made available to the AT to support that the regulation and supervision of the entities operating in banking, securities and insurance sector are in line with the core principals of the BCBS, IAIS and IOSCO.

The AML/CFT Supervision Manual for Supervisors as issued by the Jersey Financial Services Commission specifically mentions that it is applicable to supervised persons listed in Schedule 2 of the Proceeds of Crime (Jersey) Law 1999. This includes all types of FIs and does not segregate Core Principle FIs or mention the specific core principles taken into account. For more information see c.26.5.

Criterion 26.5 (Mostly Met) - The frequency/intensity of supervision of the financial institutions is informed by the risk rating allocated to the financial institution. These rules are set out in the JFSC Supervision Manual. The basis for risk-based supervision is formed through the institutional risk assessment exercise. The Manual stipulates that the JFSC reviews the results of risk assessments both periodically and when there are trigger events that may impact the ML/TF risk profile.

At the institutional level, the risk model takes into account the inherent risk and controls to derive a residual risk rating. The AML/CFT inherent risk data is collected on an annual basis and consists of footprint data and sector model under specific data questionnaires. The AML/CFT internal controls' assessment is not carried out for every entity and is informed by other sources of information rather than a routine data collection exercise, such as supervisory examinations. The extent of the granularity of the tool is not documented fully, however, giving regard to the evidence provided, it is clear that NRA risk and SRA risk have been factored in. However, the data points used to arrive at the inherent risk rating is not sector-tailored enough; additional enhancements would be also beneficial in determining the institutional risk profile, such as products/service risk, transactional activities and more detailed breakdown of clients' groups, see more on institutional risk model under IO.3,

The residual risk ratings for ML/TF risk determine the level of supervisory engagement with a particular FI. The frequency of the on-site supervision is determined based on the risk score of individual institutions. In addition, thematic examinations focused on specific areas of examination and are driven by sectoral or national risks identified. The off-site supervisory activities are applicable to all entities, supplementing on-site activities for higher risk entities, and being an alternative to periodic on-site examinations for lower risk entities.

It is unclear as to how the characteristics of groups are considered when determining the frequency and intensity of onsite and offsite supervision. Neither a formal document setting out the requirements for group wide supervision, nor a specific data set is being collected involving group entities similar to the data collection exercise described above.

Criterion 26.6 (Mostly Met) - The supervision manual stipulates that the JFSC reviews the results of risk assessments both periodically and based on trigger events that may impact the ML/TF risk

profile of a given entity or sector. The trigger events for reviewing ML/TF risk profile of the individual financial institutions or groups are the following: intelligence received from the other authorities (such as Registry, LEAs), volume of customer complaints, change of a business model, negative media information, change in compliance resources, internal audit findings, changes in SAR reporting volumes and quality, etc. The trigger events are being identified through multiple sources, such as: on-site and off-site supervision, media checks, communication with domestic competent authorities and foreign counterparts (e.g., concerning group-wide supervision). Whilst the list of trigger events is comprehensive, it does not explicitly refer to the major developments in the management (apart from change in compliance resources) and operations.

Weighting and Conclusion

R. 26 is rated LC. The following deficiencies apply: (i) Core Principles FIs are subject to registration and not licensing (c.26.2); (ii) From a technical compliance market entry perspective, Jersey's legislation does not follow all-crimes approach when considering criminality (c.26.3); (iii) No information has been made available to the AT regarding regulation and supervision of core principle FIs in line with the Core Principles, including in relation to consolidated group supervision for AML/CFT purposes (c.26.4.(a)); (iv) the process of institutional risk assessment would benefit from further enhancement (c.26.5); (v) It is unclear as to how the characteristics of groups are considered when determining the frequency and intensity of onsite and offsite supervision (c.26.5); (vi) major developments in the management (apart from change in compliance resources) and operations are not captured by the list of events that trigger the review of AML/CFT risk profile of the supervised institutions (c.26.6).

Recommendation 27 – Powers of supervisors

In the 2015 MER Jersey was rated C with former R.29.

Criterion 27.1 (Met) – Article 5 of the Supervisory Bodies Law establishes the JFSC as the supervisory body to exercise supervisory functions in respect of any regulated persons and any supervised business carried out by such a person. Regulated person and supervised business refer to those established under Schedule 2 of the POCL.

Article 2 of the SBL defines “supervisory functions” as the functions, powers and duties to monitor compliance with: (i) the requirements of the said law; (ii) any Order under Article 37 of the POCL (which includes the MLO); (iii) the 2007 Wire Transfer Regulations; (iv) any direction given by the Minister for External Relations to a relevant person on certain transactions or business relationships under Article 6 of the Money Laundering and Weapons Development Law; and (v) any Code of Practice, as defined under Article 22 of the Supervisory Bodies Law (which would include relevant sectorial codes as well as the code of practice sections of the AML/CFT/CPF Handbook).

Among the functions, powers and duties of the JFSC there are the capacity to conduct routine examinations (Article 8(2) of the Supervisory Bodies Law), to require the provision of information and documents (Article 8(3)(a) and Article 30(1)(a)), to require a person to attend before the JFSC officers and answer questions put to them (Article 8(3)(b) and Article 30(1)(b)), to conduct investigations (Article 31) and to enter and search the premises of the supervised entities (Article 8(3)(c) and Article 32). The provisions of Articles 8, 30 and 31 can be used whenever necessary for the purpose of the supervisory functions of the JFSC as defined in Article

2. Article 32 can be used only when a Bailiff grants a warrant due to reasonable cause to suspect that the contraventions listed in Article 32(1)(a) to (g) have occurred or are likely to occur. These contraventions refer to the non-provision of information requested under Arts.30(1) or (2), non-compliance with directions issued under Art.23(1) or obstructing an investigation under Arts.30(4) or 31(6).

The JFSC supervisory powers related to conducting examinations, requiring the provision of information and answering questions and entering and searching premises are equally present under regulatory laws, in particular the Collective Investment Funds Law, the Banking Business Law, the Financial Services Law and the Insurance Business Law.

Criterion 27.2 (Met) – As stated in c.27.1, Article 8(2) of the Supervisory Bodies Law grants the JFSC a general power to conduct reasonable routine examinations of supervised persons. Article 8(3) of the same law clarifies that this general power allows the JFSC to require the provision of information and answers to questions, as well as to enter the supervised person’s premises. However, it is not defined what the terms “reasonable” and “routine” actually entail.

Article 31(1) provides similar powers (including entering the FIs premises - Art.31(6)) to conduct investigations to assess compliance of the FI with several legal requirements, encompassing those of the MLO as well.

Authorities advised that, in practice, the JFSC conducts various types of examinations, including financial crime and thematic examinations, which can focus on particular aspects of the AML/CFT requirements.

Criterion 27.3 (Met) – Article 8(3)(a) of the Supervisory Bodies Law allows the JFSC, without the need for a court order, to require a supervised person to supply information in a format and at time specified by the supervisor. However, powers under this article are part of the more general power to conduct reasonable routine examinations under paragraph (2) of the same article, implying that information is only to be requested within the framework of a particular examination.

Article 30 of the same law empowers the JFSC to request, by notice in writing, the provision of any information and documents required for the purposes of performing the supervisory functions under the law, at the times and places specified in the notice. Article 9 of the Collective Investment Fund Law, Article 26 of the Banking Business Law, Article 32 of the Financial Services Law and Article 10 of the Insurance Business Law also provide for the same capacity.

Criterion 27.4 (Met) – Sanctioning powers available to the JFSC are further described under R.35.

Regarding the capacity of the JFSC to withdraw, restrict or suspend an FI’s license, Article 18 of the Supervisory Bodies Law allows the JFSC to revoke a registration that it has granted to any Schedule 2 business under Article 14 of the same law on the basis that the initial application was not made in accordance with Article 13, the applicant, a key person or a principal person is deemed to not be fit and proper, the registered person has contravened any applicable Code of Practice (including the Code of Practice sections of the AML/CFT/CPF Handbook) or it fails to pay any fees or penalties due. The revocation criteria also include the FI or a key/principal person of the FI having been convicted of “an offence under the anti-money laundering and counter-terrorism legislation”, which can be interpreted as including any offence under the MLO that would be subject to a criminal sanction under Art.37(7) of the POCL.

Regulatory Laws (Collective Investment Funds, Banking Business, Insurance Business, Financial Services and Alternative Investment Funds laws) also grant the JFSC similar powers to revoke registration or permit and give notice with the reasons of the decision on the basis of the criteria set in the respective laws.

Additionally, restrictions to an FI's registration can be imposed by the JFSC through the attachment of conditions to granting registration, which may be subsequently amended, varied, substituted or revoked (SBL, Art.17(3)), or through issuing a direction under Art.23 of the same law.

Weighting and Conclusion

The Jersey Financial Services Commission (JFSC) is appointed as the sole supervisory body of FIs and has its functions and powers established under the POCL (Supervisory Bodies) Law. The JFSC can supervise and ensure compliance by FIs with AML/CFT requirements, as well as conduct inspections and compel production of information relevant for the purpose of monitoring compliance with AML/CFT requirements. Sanctions can be imposed upon FIs for failure to comply with AML/CFT requirements, including the revocation of an FI's license.

R.27 is rated C.

Recommendation 28 – Regulation and supervision of DNFBPs

In the 2015 MER Jersey was rated LC with former R.24 due to the fact that the requirements for certain DNFBPs were new and their implementation was incomplete at the time of the assessment.

Criterion 28.1 (Mostly Met)

(a) The regulation and supervision of casinos comprises a dual licencing approach - the JFSC registration for AML/CFT purposes (Article 10 and 11 of the Supervisory Bodies Law), and the subsequent licencing of a casino by the Jersey Gambling Commission (JGC) (Article 11 of the Gambling (Jersey) Law 2012). Thus, to be licenced by the JGC, casinos must first be registered with the JFSC. The MoU signed between the JFSC and the JGC outlines the principles of cooperation and information exchange between the two authorities. Registration of the casinos (including online gambling) is required under the Art. 10 and 11 of the Supervisory Bodies Law.

(b) The dual regime results in two independent considerations of AML/CFT/CPF and two independent considerations of the fitness and propriety in respect of online casino operators, one by the JGC and the other by the JFSC. The JFSC conducts the fit and proper test in terms of an application under Article 13 and Article 14 of the Supervisory Bodies Law. The JFSC may refuse to register the applicant if the applicant, principal persons in relation to the applicant or key person is not fit and proper. Vetting is conducted by the JFSC. The JFSC reports that verification checks are being conducted using media channels, several databases and UK Shared Intelligence Service. The JFSC is also able to revoke the registration of the casino in terms of Article 18(1)(d) should the registered person, key person or principal person be considered no longer fit and proper.

Art. 14(4) of the Supervisory Bodies Law further clarifies that a person does not comply with the fitness and propriety requirements if that person has been convicted of an offence under AML/CFT legislation of Jersey or any offence under the foreign law similar to one that falls within that legislation, or has been convicted of an offence (whether under the law of Jersey or of a

country or territory outside Jersey) involving fraud or other dishonesty, including an offence under set out in different regulatory legal acts governing the activities of some sectors such as banking sector, collective investment funds, financial services, insurance; offences relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing; perjury or conspiracy or is otherwise considered not to be fit and proper by the relevant supervisory body for reasons related to the risk of money laundering or the financing of terrorism. Jersey's legislation does not follow all-crimes approach and specifies the types of crimes to be considered to the exclusion of others.

For DNFBBs (including casinos) – the JFSC requires a *Supervisory Bodies Law form* to be submitted as part of an application process which states that the applicant acknowledges that the JFSC has the authority to request information relating to police records including, but not limited to, details of convictions (spent and unspent) and may seek to verify the information provided in the application including answers relating to fitness and propriety. Applicants are required to complete an online application (JFSC's MyProfile Portal) and respond to questions which also require confirmation as to their criminal record status. Although there is no specific requirement for the provision of a criminal record or independent validation in respect of a criminal record, the JFSC for first time applications received (as mentioned above), uses a series of sources to conduct checks on the applicant to establish if there are any linked elements of criminality/criminal records. Similar checks are carried out for foreign persons who are applicants. The JFSC must also be notified of changes to the Principal or Key Person. The JFSC will consider a person's integrity, competence and financial standing. For more information on registration by the JFSC please see c.28.4(b).

Licensing by the JGC. The JGC is the gambling licensing authority (Schedule 2, Art. 20(3) of the Gambling Commission Law. The Gambling Jersey Law 2012, Art.11 stipulates that a person who intends to provide a commercial gambling service must make an application to the Commission for a licence. Article 12 of the Gambling Jersey Law 2012 specifically mentions that the licence can only be granted if the Commission is satisfied that the applicant and persons employed or associated with the applicant for the purpose of the applicant's business or who are principal persons in relation to the applicant are fit and proper. Provision of commercial gambling services without a licence is an offence with a liability to imprisonment for a term of 5 years and to a fine (unspecified amount) (Art. 8(3), the Gambling Law). The licensing exemptions are applicable to banking, insurance, collective investment funds and other businesses under Financial Services Law (Art. 5(3) of the Gambling Law). If a financial institution that is a regulated person undertaking a regulated business wanted to provide gambling services in addition to their financial services, they would be required to notify the JFSC of this additional Schedule 2 activity in accordance with Article 11(3) of the Supervisory Bodies Law.

The JGC is required to prepare a statement setting out the Commission's policy as to the circumstances in which, and the types of gambling for which, it will generally grant or refuse an application for a licence (Art. 9(1), the Gambling Law). To establish a terrestrial casino would require political approval and would require a specific licence in terms of Art. 9 of the Gambling Law.

Amongst the preconditions for granting a licence: (i) a good financial standing and capital, (ii) the applicant hasn't been subject to adverse findings, (iii) wasn't providing untrue or misleading

information; (iv) the applicant or any person employed by or associated with the applicant for the purposes of the applicant's business hasn't been convicted of an offence relating to fulfilling licencing requirements, AML/CFT legislation, fraud, conspiracy, data protection requirements (Art. 12(3), the Gambling Law). Remote operators are licensed as companies and licences for such activity would only be awarded to companies due to the nature of the adequacy and competency tests.

For the applicants that are companies, the following elements are checked: (i) both direct and indirect ownership thresholds of 10 % apply; or exercise control of not less than 10% of the voting power; (ii) a person that has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company; (iii) a director or (iv) a person exercising control over company by other means (Art. 4(4) of the Gambling Law). Associations include family members and partners, ownership, directorship and employment related considerations (Art. 4(1), the Gambling Law). Consequently, checks applied on the basis of Art. 12(3) of the Gambling Law apply to owners (above 10% ownership threshold), directors and close associates.

The licensees are required to notify the JGC of any changes relating to (i) 10% or more of the issued share capital, (ii) change of structure; (iii) the class of the shares in such a company or the rights that attach to them; (iv) changes and any appointments, dismissals, resignations or deaths of directors of such a company (Art. 17(5) of the Gambling Law). No change in ultimate beneficial ownership may occur without the approval of the Commission prior to the sale. Article 34 stipulates that a person is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine if they provide false or misleading information.

A licence can be revoked if (i) the licensee has ceased to be a fit and proper person and (ii) the licensee, or an associate or principal person of the licensee, or a person acting on behalf of or under the general supervision of the licensee or of such an associate or principal person, has committed an offence relating to fulfilling licencing requirements, AML/CFT, fraud, conspiracy, data protection requirements, etc. (Art. 38(3) of the Gambling Law). This does not allow for the all-crimes approach, and the scope of criminality mentioned at Art. 38(3) of the Gambling Law seems to be narrower than the scope of criminality mentioned at art. 14(4) of the Supervisory Bodies Law that sets out registration requirements by the JFSC. In mitigation of this Article 34 of the Gambling Law 2012 specifically imposes a penalty for the provision of false/misleading information. A license expires after 5 years, or on any sooner date specified in the licence (Art. 14(2)(b), the Gambling Law). Licences are not renewable, and a new application process must be undertaken.

(c) Casinos are supervised for compliance with AML/CFT requirements (Art.5, Supervisory Bodies Law). The JFSC's supervisory functions include monitoring compliance by a supervised person, which includes the casinos, with the AML/CFT requirements (Art. 2, Supervisory Bodies Law).

Criterion 28.2 (Met) - The JFSC is the designated supervisory body for all supervised businesses carried on by any regulated person (Art. 5, Supervisory Bodies Law). Article 10 of the Supervisory Bodies Law provides that a person shall not carry on a Schedule 2 business unless they are registered under the Supervisory Bodies Law. Schedule 2 of the Proceeds of Crime Jersey Law 1999 specifically highlights the following as being designated non-financial businesses and

professions: casinos, real estate agents, high value dealers, lawyers, accountants, trust and company service providers, virtual asset service provider and express trusts.

Criterion 28.3 (Met) - The JFSC monitors compliance by a supervised person with the AML/CFT requirements (Art. 2, Supervisory Bodies Law).

Criterion 28.4 (Mostly Met) -

(a) The JFSC's powers set out in the Supervisory Bodies Law are equally applicable to DNFBPs. See R.27 for more information.

(b) All DNFBPs are required to be registered (Art. 10 and 11 of the Supervisory Bodies Law). Art. 11(3) provides for the exception regarding registration (application) in the circumstances when the JFSC was previously notified that a person intends to carry on Schedule 2 business. Failure to notify the JFSC will result in unauthorised business being conducted and enforceable action can be pursued against such entities. Application for registration may be refused on the ground that the applicant, a principal person or key persons are not a fit and proper person (Art.13, 14 of the of the Supervisory Bodies Law). The JFSC also has to be notified of changes to the Principal or Key Person, notification of a *change form* is available at the JFSC website⁶¹ (Art. 7(6) and Art. 8(4) MLO; Art. 8(1) and 8(3) that grants the necessary powers to the JFSC to request the information to fulfil its functions). A fit and proper assessment of new Principal or Key Persons must be concluded by the JFSC as part of the notification process.

Applicant is defined as a person who intends to carry out the activities for which registration is required that encompass all the businesses subject to AML/CFT (Art. 1 and 11(1), Supervisory Bodies Law).

Principal person includes recognition of sole traders, proprietors, where companies are pertinent then the principal person is a person who, either alone or with any associate or associates directly or indirectly holds 10% or more of the share capital issued by the company, is entitled to exercise or control the exercise of not less than 10% of the voting power in general meeting of the company or of any other company of which it is a subsidiary, or has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company, other than a person holding shares only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means). In terms of beneficial ownership and specifically with regards to what is meant by ownership and control Article 2 of the Money Laundering (Jersey) Order 2008 specifically sets out that a beneficial owner or controller of a person is an individual who is an ultimate beneficial owner of that other person (whether or not the individual is its only ultimate beneficial owner), and an individual who ultimately controls or otherwise exercises control over the management of that other person. It is immaterial whether an individual's ultimate ownership or control is direct or indirect. In determining whether an individual is a beneficial owner or controller of another person, regard must be had to all the circumstances of the case, in particular the size of an individual's beneficial ownership or degree of control having regard to the risk of that individual or that other person being involved in money laundering. The principal person also includes a director, a person in accordance with whose directions, whether given directly or

⁶¹ <https://www.jerseyfsc.org/industry/sectors/schedule-2-forms/>

indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity). Where partnerships are concerned the key person is the partner, and where a partner is a company, any person who, in relation to that company, falls within the requirements applicable to companies. In relation to a person whose registered office and principal place of business is outside Jersey, it includes a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person's supervised business in Jersey, and a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs.

Key person in terms of the Supervisory Bodies Law means the compliance officer, the money laundering compliance officer, and the money laundering reporting officer.

Jersey's legislation does not follow all-crimes approach and specifies the types of crimes to be considered to the exclusion of others. Art. 14(4) of the Supervisory Bodies Law stipulates that a person does not comply with the fitness and propriety requirements if that person has been convicted of an offence under AML/CFT legislation of Jersey or any offence under the foreign law similar to one that falls within that legislation, or has been convicted of an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty, including an offence under set out in different regulatory legal acts governing the activities of some sectors such as banking sector, collective investment funds, financial services, insurance; offences relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing; perjury or conspiracy or is otherwise considered not to be fit and proper by the relevant supervisory body for reasons related to the risk of money laundering or the financing of terrorism.

(c) The MLO, POCL and the SAFL sets out sanctions for AML/CFT and TFS related infringements that are applicable to DNFBPs. See R.35 for more information. The supervisory manual also provides detail as to how matters of referrals and proposal of enforcement action are dealt with.

Criterion 28.5 (Mostly Met) - The basis for risk-based supervision is formed through the institutional risk assessment exercise. The JFSC's supervision manual stipulates that the JFSC reviews the results of risk assessments both periodically and when there are trigger events that may impact the ML/TF risk profile. At the time of the assessment, the risk model did not cover some categories of TCSPS, as these were already deemed low risk by the JFSC. For some of these presumed ratings of low risk by the JFSC, there is no actual risk assessment that took place to justify the rating allocated, however, it was indicated that a thematic review would take place to *confirm* the low-risk rating of the aforementioned sectors.

At the institutional level, the risk model takes into account the inherent risk and controls to derive a residual risk rating. The AML/CFT inherent risk data is collected on an annual basis and consists of footprint data and sector specific data questionnaires. However, the inherent risk assessment process could benefit from further enhancement especially in relation to data points used for risk calculation in the areas of product/service/activity risks, transactional activities by the clients and more detailed breakdown of high-risk client groups to enable greater risk differentiation. See more on this under IO.3. The AML/CFT internal controls' assessment is not carried out for every entity and is informed by other sources of information rather than a routine data collection exercise, such as supervisory examinations.

The Supervision Manual sets out the main rules for determining the frequency and intensity of AML/CFT supervision, based on the risk assessment results. For example, the frequency of the examinations for the high risk DNFBPs is every 2 years; for the medium high risk rated entities this will occur every 3 years; for medium-to-medium low risk DNFBPs it will be on a sample basis of 10%. For low risk DNFBPs it will be on a sample basis of 5%.

Weighting and Conclusion

The following shortcomings apply: (i) from a technical compliance market entry perspective, Jersey's legislation does not follow all-crimes approach when considering criminality (c.28.1(b), 28.4.(b)); (ii) the institutional risk assessment process would benefit from further enhancement (c.28.5); (iii) a formal risk assessment exercise for some of the areas perceived as low risk would assist Jersey in appreciating and establishing that there is proven low risk in these sectors (c.28.5).

R.28 is rated as LC.

Recommendation 29 - Financial intelligence units

Jersey was rated largely compliant with the previous R.26. On the technical front, some shortcomings were identified with regard to the FIU's autonomy (at the time, the FIU formed part of Jersey's Police). Other concerns were also noted with regard to the effectiveness.

Criterion 29.1 (Met) – The Jersey Financial Intelligence Unit (FIU) has recently transitioned in 2023 to being an operationally independent, administrative-style FIU⁶². The key legislation making this change is the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022 (the FIU Regulations). The FIU has among its functions those to (a) receive, gather, store, analyse and disseminate information about financial crime (whether in Jersey or elsewhere); and (b) to receive suspicious activity reports and other disclosures of information about financial crime, i.e., ML, TF and offences related to ML/TF⁶³.

Criterion 29.2 (Met) – Under the POCL, the Terrorism Law, and the MLO, the FIU of Jersey is the sole entity within Jersey responsible for receiving disclosures filed by reporting entities. Part 2, Regulation 2A (1)(b) of the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022 states that the FIU shall receive suspicious activity reports and other disclosures of information about financial crime.

⁶² Prior to this amendment the Joint Financial Crimes Unit of the States of Jersey police force was the FIU of Jersey and carried out the functions of such a unit. The FIU was a law enforcement style FIU, based within the premises of the States of Jersey Police and resourced with both Police Officers and Civil Servant intelligence investigators and analysts.

⁶³ The term 'Offences relating to ML and TF' is not defined in the Regulations, however, this is interpreted by the FIU as predicate crimes linked to ML and TF. The underlying criminality ("predicate") for ML in Jersey is referred to in the POCL as "criminal conduct" which means conduct that constitutes an offence for which a person is liable on conviction to imprisonment for a term of one or more years (Schedule 1 to POCL).

Criterion 29.3 (Met) -

(a) Article 21(4) of the MLO empowers the FIU to request further information from the reporting entity. Furthermore, Regulation 3(1) and 3(2) of the FIU Regulations empower the FIU to request additional information, for the proper fulfilment of any of its functions.

(b) The FIU has access to information from domestic public authorities including a wide range of financial, administrative and law enforcement information, directly or upon request. Generally, there are no specific laws mandating FIU access to information held by domestic public authorities. Being a common-law type jurisdiction, in Jersey domestic authorities share information with the FIU on the basis of operational agreements and/or arrangements, such as the aforementioned MOU in place between the FIU and the JFSC.

In practice, the FIU has direct access to all law enforcement databases, including those of the States of Jersey Police (SOJP) and Jersey Customs and Immigration Service (JCIS); as well as cross-border cash data held by JCIS, access to beneficial ownership data and company registry information held by Registry within the JFSC; Revenue Jersey and Social Security information for tax in information, employment-related matters (indirect access, rights granted under Article 8(2)(c) of the Revenue Administration Law). For a comprehensive list of other databases available to the FIU see IO.6.

Criterion 29.4 (Met) – The FIU’s functions, including those to conduct operational and strategic analysis, are provided for under the FIU Regulations, Art. (2A(2)(a-b): (a) the operational analysis conducted by the FIU focuses on individual cases and specific targets, links between them and financial crime; (b) the strategic analysis focuses on addressing financial crime trends and patterns.

Criterion 29.5 (Met) – The FIU is permitted to disseminate information to a person in Jersey for the purposes of a criminal investigation or criminal proceedings (this would include JCIS and Revenue Jersey), or for other purposes to the Attorney General, Police or the JFSC (Art. 34(1) POCL). For such purposes, the FIU uses secure channels, including through secure email servers using end-to-end encryption and platforms.

Criterion 29.6 (Met) – (a) The FIU is required to have rules in place governing the security and confidentiality of information, including procedures for access to, and the handling, storage, dissemination and protection of, information (FIU Regulations, Art. 2B(1)). Before August 2023, when the FIU adopted its own policy and approach to data management and information security, Data Protection Policy of the SOJP was used. (b) The FIU Director is required to ensure that the employees and members of the FIU “have the appropriate security clearance levels for handling and disseminating sensitive and confidential information” (the FIU Regulation, Schedule 12C(1(2)(c)). For this purpose, the FIU staff is subject to detailed background checks and training on handling and disseminating confidential information. The absence of FIU-specific internal rules and procedures (see c.29.6(a)) may however impact the staff’s understanding of their responsibilities in handling and disseminating sensitive and confidential information. (c) The FIU is required to ensure that its facilities, information and information technology systems are not able to be accessed by any person who is not authorised to do so (the FIU Regulations 2B(2)). The FIU offices are located within the SOJP headquarters, but the FIU has a separate secure office with physical access restricted to FIU personnel through proximity access cards. Access to the FIU database and IT systems is also restricted to FIU staff. The FIU has its own dedicated intelligence

and case management system, iFiS. This is an 'in house' built system and is held on the SOJP's systems, with support provided by the SOJP IT function. Access to iFiS can only be granted by the FIU, which can be limited to 'read only' case specific access, wider access, or full administrator access as necessary.

Criterion 29.7 (Mostly Met) – (a) The FIU is established is an operationally independent entity that makes autonomous decisions in the exercise of its functions, including those to analyse, request or disseminate information (the FIU Regulation 2(3)). Nevertheless minor shortcomings exist in relation to formation and functioning of the FIU Board that bears responsibility for policy, strategic and oversight matters (the FIU Regulation 2E).

The FIU Director is appointed and terminated by the Minister, after consulting with the FIU governance Board (FIU Regulation 2D). The general criteria for any dismissal of an employee are set out in Employment (Jersey) Law 2003. The above serves as a safeguard against any potential refusal of approval by the FIU Board. The FIU governance Board is made up of no less than 5 members, all appointed by the Minister, for an indefinite period, having at least one representative from a Jersey competent authority and another from a government department. However, for the remaining Board members (except for the two mentioned above), no criteria are set that ought to be satisfied for one to be nominated to the FIU governance board. In addition, whilst various legislative requirements ensure that the director and employees of the FIU are not subject to external direction, no similar explicit requirements for the members of the FIU governance Board exist (that, in theory, may also include persons from private entities) to ensure that in exercising their responsibilities, they act in the FIU's interest, and do not represent or act in their own organisation's interest or that of any other person.

(b) The FIU can independently exchange information with other domestic authorities as well as with foreign FIUs and overseas competent authorities. For the purpose of exercising its functions, the FIU may make arrangements, or enter into agreements, with a Jersey competent authorities; foreign FIUs and other competent authorities; as well as any other person that the FIU considers appropriate (the FIU Regulations, 2A(3)).

(c) Whilst the FIU is physically located within the SOJP buildings (for reasons of physical and IT security) and has administrative links, it is an independent agency with a separate operational and strategic oversight structure and has distinct and separate core functions (the FIU Regulation 2A). Whilst the FIU shares IT infrastructure with the SOJP, physical access to the FIU offices, and FIU IT systems is restricted to FIU staff only. As part of an ongoing process of transition for the FIU Jersey from its original state as a sub-unit within the SOJP to a final position where the FIU is a completely separate intelligence agency from the SOJP, the FIU will eventually be housed within its own premises. Currently, the FIU shares some administrative staff with SOJP (such as accountants for preparing budget returns, and administrative staff for arranging overseas travel etc).

(d) The budget of the FIU is part of the main SOJP budget allocation, however, the budget of the FIU is ringfenced (which means that the Chief Officer of Police must allocate the entirety of the designated funds to the FIU and not to any other purpose) and controlled by the Director of FIU. In addition, any request for further funding for the FIU is submitted directly to the government by the Director of the FIU, in line with normal procedure for any government department.

Criterion 29.8 (Met) – The FIU has been a member of the Egmont Group since January 1999.

Weighting and Conclusion

R.29 is rated Largely Compliant. The following shortcomings applies in relation to the formation of the FIU Governance Board: there is no capping on the FIU Board number of members; the law only requires two of the members to be from authorities, leaving the remaining members unspecified; there could clearer provisions ensuring that Board members act in the FIU's best interest, regardless of their background and/or primary role/employment.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In the 2015 MER, Jersey was not assessed against former R.27. It had received the rating LC in the previous round for effectiveness issues.

Criterion 30.1 (Met) – Jersey has two investigation units in charge of financial crime investigations: a) the Joint Financial Crime Unit (JFCU), an operational Police unit, and; (b) the Economic Crime and Confiscation Unit (ECCU), created in 2017 and based at the Law Officers Department, under the direction of the Attorney General.

JFCU is a Police and Customs resourced unit. Its main purpose is to investigate domestic proceeds generating offences originating from financial crime and terrorist financing.

The ECCU is composed of both lawyers and investigators. The cases for which it will act are mentioned in an Operating Protocol based on a number of factors such as the complexity of the case, cases involving foreign predicate offences, prospects for significant confiscations or the quantum of the alleged ML or predicate offence (PO).

In addition, the Jersey Customs and Immigration Service (JCIS) also conducts financial investigations in respect of all investigations conducted within its remit (i.e., the smuggling of narcotics, cash and illegal immigration) (Customs and Excise (Jersey) Law 1999, Art. 5).

All three agencies have functions and powers to investigate ML, associated predicate offences and TF.

Criterion 30.2 (Met) – Both the ECCU and the JFCU can under Jersey law (and in particular the POCL, the States of Jersey Police Force Law, the Terrorism (Jersey) Law and the Investigation of Fraud (Jersey) Law), pursue the investigation of any related ML/TF offence during a parallel financial investigation. ECCU has the responsibility for cases that are more complex and/or involve foreign predicate offences. JFCU conducts parallel financial investigations into all domestic proceeds generating offences. ECCU and JFCU will conduct investigations into the predicate offences and the ML offences simultaneously. JCIS conducts parallel financial investigations in respect of all investigations conducted within its remit in accordance with the Customs and Excise (Jersey) Law 1999.

Criterion 30.3 (Met) – Each of the three investigative agencies designated to investigate ML offences (ECCU, JFCU & JCIS) are also designated to identify, trace, and to initiate freezing/seizing of property suspected to be the proceeds of crime (see R.4). In addition, the FIU has a power akin to an administrative freeze (the “Consent Regime”) which is used to prevent the dissipation of funds suspected to be the proceeds of crime (Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015, Art. 3 and 4; POCL, Art.32(4)). Once the “Consent Regime” has been initiated and funds have been prevented from leaving the jurisdiction, this is passed to an investigative

agency (usually ECCU) to conduct further investigations and to obtain court orders to use available provisional measures powers.

Criterion 30.4 (Met) – R.30 applies to all relevant authorities responsible for investigating predicate offences. Jersey Revenue and Social Security are non-law enforcement authorities in Jersey which also have responsibility for financial investigations of predicate offences.

The Comptroller of Revenue is responsible for the collection and administration of taxes and of social security contributions (Revenue Administration (Jersey) Law 2019, Art. 2). Articles 27A-27H of the same Law provide powers to obtain information in respect of a person's tax position. The Income Tax (Jersey) Law 1961 ("ITL") mentions a number of predicate offences relating to tax matters (Articles 21B, 21C, 41B (9), 41CE, 41E, 41F, 137, 139) and provides legal powers to persons, authorised by the Comptroller of tax, to discharge investigative functions, including powers to enter business premises to examine business records (ITL, Art. 141B), a power to put questions as to assessments (ITL, Art. 34) and a power to summon and examine a witness (ITL, Art. 35).

The Social Security (Jersey) Law 1974 provides *inter alia* for offences of failure to pay social security contributions, which could, depending on the circumstances, fall under the category of a tax offence or fraud. Art. 35 of the Social Security Law provides powers of on- or off-site inspection an officer under the Minister for Social Security in Jersey, in relation to matters concerning failures to make or matters connected to social security contributions.

Criterion 30.5 (N/A) – Jersey has not designated any specific anti-corruption enforcement authority. Corruption and any related ML/FT offences are addressed in the same manner as other predicate offences.

Weighting and Conclusion

All criteria are met. **R.30 is rated C.**

Recommendation 31 - Powers of law enforcement and investigative authorities

In the 2009 IMF MER, Jersey was rated C with the former R.28. This recommendation was hence not assessed in 2015 MER. The new R.31 contains requirements that are more detailed.

Criterion 31.1 (Met) - Competent authorities conducting investigations of ML, associated predicate offences and TF are empowered by applicable legislation to obtain access to all necessary documents and information for use in those investigations and in prosecutions and related actions, including powers to use compulsory measures for:

(a) (*Met*) the production of records held by FIs, DNFBPs and other natural or legal persons (POCL, Articles 40, 41, 41A and Schedule 3, para 1; Terrorism Law, Articles 31-33 and Schedules 5 - 7 the; PPCE, Art. 16 and Investigation of Fraud Law, Art. 2(2)(3)(4)).

(b) (*Met*) the search of persons and premises (PPCE, Articles 15, 20 and 29; Terrorism Law, Art. 41 POCL and Schedule 5).

(c) (*Met*) taking witness statements (Evidence and Procedure Law, Art. 9; Investigation of Fraud Law Art. 2).

(d) (*Met*) seizing and obtaining evidence (Police and Criminal Evidence Law, Art. 21; Investigation of Fraud Law, Art. 2; Terrorism Law, Art. 39).

Criterion 31.2 (Met) – Jersey’s competent authorities conducting investigations are empowered to use a range of investigative techniques for the criminal investigations of ML, associated predicate offences and TF, such as:

- (a) *(Met)* undercover operations (Regulation of Investigatory Powers (Jersey) Law 2005, Part 3 of the),
- (b) *(Met)* intercepting communications (Investigatory Powers Law, Part 2),
- (c) *(Met)* accessing computer systems (PPCE, Art. 101 and general provisions on production orders in the POCL and PPCE – see c.31.1), and
- (d) *(Met)* controlled delivery (Investigatory Powers Law, Part 3 and PPCE, Part 6).

Criterion 31.3 (Met) – Jersey has following mechanisms in place:

(a) *(Met)* LEAs can identify in a timely manner whether persons hold or control accounts based on a court order during the criminal investigation based on a production order under the PPCE (deadline of 7 days or shorter if decided so by the Bailiff) or requests under Schedule 6 of the Terrorism Law. The FIU can make requests under article 3 FIU Regulations. Such requests must be complied with within the timeframe specified by the FIU.

(b) *(Met)* With regard to the process of identification of assets, this does not imply a prior notification to the owner as applications for search warrants and production orders are made *ex parte* and in private (cf. e.g., Article 40 (6) POCL). Other information can be obtained via different databases accessible to LEA.

Criterion 31.4 (Met) – LEAs conducting investigations of money laundering, associated predicate offences and terrorist financing are empowered to ask for all relevant information held by the FIU based on art 34 POCL.

Weighting and Conclusion.

All criteria are met. **R.31 is rated C.**

Recommendation 32 – Cash Couriers

In the 2015 MER, Jersey was not assessed against the former SR IX; in the previous MER, Jersey was rated LC.

Criterion 32.1 (Met) – Jersey has a disclosure system (Customs and Excise Law, Part 5A). It covers the cross-border transportation of currency and bearer negotiable instruments (Customs and Excise Law, Art. 37A). Officers may require the disclosure of currency from a person who is importing goods consisting of, or including cash, with a value of EUR 10 000 or more. It covers all physical cross-border transportation, by travelers as well as through mail and cargo (Customs and Excise Law, Art. 37A et seq).

Criterion 32.2 (N/A) – This criterion is not applicable as Jersey has a disclosure system.

Criterion 32.3 (Met) – Any person who refuses to disclose the value of currency held by them or knowingly and recklessly makes an untrue disclosure is liable to a sanction of up to two years’ imprisonment and/or a fine (Customs and Excise Law, Art. 37D). Travelers can be detained for the purpose of asking questions in relation to the origin of any cash held by them and its intended

use (Customs and Excise Law, Art. 37G). Travelers who decide not to assist in the enquiries could be arrested for obstruction (Customs and Excise Law, Art. 10).

Criterion 32.4 (Met) – The designated competent authorities have the authority to request and obtain, upon discovery of a false disclosure, further information from the carrier with regard to the origin or intended use of the currency or BNI (Customs and Excise Law, Part 5, Articles 37A et seq., including 37G(1)).

Criterion 32.5 (Met) – Pursuant to the Customs and Excise Law Art. 37D (1) “Any person who, when required by an officer under Art 37B or 37C (1), refuses to make a disclosure of cash, to answer questions in respect of any such cash, to disclose the value of such cash or produce his or her baggage for inspection, is guilty of an offence. Such person is liable to sanction of up to two years’ imprisonment and/or an unlimited fine”. A person who, when required to make such a disclosure, makes a disclosure orally/in writing that is untrue in a material is guilty of an offence and if such statement was made knowingly or recklessly imprisonment for two years and/or an unlimited fine can be applied (Customs and Excise Law Art. 37D(2)(a)). For persons who make such untrue statement when it is not made knowingly or recklessly, the sanction is 10 000 GBP (around EUR 11 674) (Customs and Excise, Art. 37D(2)(b)).” These penalties are proportionate and dissuasive.

Criterion 32.6 (Met) – Cross border cash/BNIs seizure and disclosure data is stored in a JCIS database named “Clue 3”. Access thereto is restricted to JCIS officers and certain external stakeholders, including the FIU.

Criterion 32.7 (Met) – Relevant authorities co-operate on issues related to the implementation of R.32 through dedicated meetings, correspondences and continuous dialogue between the different authorities, in particular JFCU and JCIS.

Criterion 32.8 (Met) – Competent authorities have following powers:

(a)– (b) (Met) Where officers have reasonable grounds to believe that cash/BNIs is tainted (but grounds for arrest are insufficient), the definition of which includes the hypothesis where the cash/BNIs were subject to a false declaration, officers may seize the cash under a civil process for 96 hours pending application to the Bailiff to further detain the cash for a longer period if this is considered to be required to complete the investigation (Civil Forfeiture Law, Articles 6 and 7). Furthermore, police officers can seize any asset that has been obtained in consequence of an offence or that is considered to be evidence in relation to the commissioning of an offence (PPCE, Art. 21). Cash seized as the result of an arrestable offence can be held as evidence until such time that the investigation into the offence is complete (PPCE, Art. 24). The authorities advise that JCIS officers have similar powers under the Customs and Excise law, (i.a. under Art. 54 thereof).

Criterion 32.9 (Met) – The information contained in the database mentioned under criterion 32.6 can be shared nationally or internationally by using the usual channels of international cooperation (FIU to FIU pursuant to the POCL, MLAT in accordance i.a. with the Criminal Justice (International Cooperation (Jersey) Law 2001) and international Conventions to which Jersey is a party). This includes information in respect of:

- (a) all declarations, which include the amount of currency or BNIs declared; including
- (b) where there is a false declaration; and
- (c) there is a suspicion of ML/TF.

Criterion 32.10 (Met) – The authorities advise that the information collated in the database mentioned under criterion 32.6 can only be accessed by specific persons who have a legitimate business requirement. Information gathered therein is used for law enforcement purposes only and further enquiries made because of a cash disclosure will be made in a manner that does not prejudice any existing commercial relationships.

Criterion 32.11 (Met) – Persons who are carrying out a physical cross-border transportation of currency or BNIs that are related to ML/FT or predicate offences are subject to proportionate and dissuasive sanctions for ML/FT (as referred under R.3 and R.5). Upon conviction for ML/FT, the cash or other monetary instruments are subject to confiscation (see R.4).

Weighting and Conclusion

All criteria are met. **R.32 is rated C.**

Recommendation 33 – Statistics

In the 4th round MER of 2015, Jersey was rated LC with former R.32. At the time, it was not demonstrated that the review of the effectiveness of the AML/CFT system had covered all aspects of the AML/CFT system.

Criterion 33.1 (Met)

In June 2023, an existing MOU in place since 2017 between the Chief Minister of Jersey and the Jersey financial crime agencies (SoJP, The Attorney General of Jersey; JCIS; FIU; the Viscount of the Royal Court of Jersey; JFSC; and The Comptroller of Revenue) has been updated to put in place, among other initiatives, an effective reporting mechanism. By virtue of this MOU, each agency agrees to provide effectiveness statistics to a standing government oversight committee (the Financial Crime Agencies Review Group, or FCARG) and populate such statistics into a consolidated database (The National Statistics database is now live and holds data for the period 2018 – 2022).

(a) *(Met)* STRs and other reports from reporting entities received by the FIU are recorded on the FIU's IFIS system. Reports are broken down by sector and underlying offence. All disseminations by the FIU are also recorded on IFIS. This creates a record that includes information as to when the dissemination was complete; the name of the agency to which the intelligence was disseminated (including disseminations made to overseas FIUs); whether the dissemination was spontaneous or not; and whether a feedback form was sent. The system thus enables the FIU to maintain statistics on STRs received and disseminated. Recipient bodies also maintain intelligence packages/files which include the information contained in one or more SARs. The FIU produces monthly, quarterly and annual reports setting out the reporting trends along with a statistical breakdown. The quarterly reports are publicly available.

(b) *(Met)* Each LEA (SoJP, JCIS & ECCU) maintains statistics on its own database relating to investigations and prosecutions. This includes data relating to ML, TF and predicate offences investigated and prosecuted. Each agency sends regular reports to central government and the data is stored on the National Statistics Database ("NSD"). The NSD is owned and operated by the Government (Government Financial Crime Strategy Team).

The SoJP maintains a database of local convictions for all offences at the three levels of tribunal (Parish Hall, Magistrate's Court and Royal Court). In addition, conviction information all

recordable offences (offences which attract a term of imprisonment) are additionally entered by the SoJP into the Police National Computer (“PNC”) – a database which is owned by the UK Home Office and which the SoJP has access to also for the purposes of generating relevant statistics.

(c) The Viscount’s Office (the national AMO) is the central authority responsible for collating data on the freezing, seizing and confiscating of property whether in relation to ML/TF or predicate offences. This includes both confiscation post-conviction and non-conviction-based forfeiture. Statistics on the number and amount of freezing/restraint orders, as well as in relation to final orders of the Court, is maintained.

JCIS and SOJP keep statistics on the seizure and forfeiture of cash seized either at the border, or through use of non-conviction-based cash forfeiture powers. Statistics are broken down by offence type, legislative power used, frozen/restrained assets, and final confiscation/forfeiture.

(d) Statistics on incoming and outgoing requests from foreign FIUs (either via ESW or through bilateral MoUs) are held by the FIU. Statistics on other informal cooperation requests (incoming and outgoing) exchanged on a ‘*law enforcement to law enforcement, intelligence only*’ basis are held by SoJP and ECCU separately.

MLA for both incoming and outgoing requests and extradition requests are recorded and maintained by the MLA department in the LOD. These statistics include information such as status (whether or not it is actioned), time taken to execute (incoming), underlying offences committed or suspected, country of origin, and most popular originators/recipients of requests. This includes the outcome of MLA/Extradition requests and if refused, the reasons for refusal.

The LOD also maintains records on its extradition requests.

Weighting and Conclusion

All criteria are met. **R.33 is rated C.**

Recommendation 34 – Guidance and feedback

Jersey was rated C with the former R. 25.

Criterion 34.1 (Met) - The JFSC issues Codes of Practice (regulatory requirements) and guidance pursuant to its powers under Article 8 of the Commission Law, and in accordance with Article 22 of the Supervisory Bodies Law, which provides for AML/CFT Codes of Practice to be prepared and issued for the purpose of setting out principles and detailed requirements to reporting entities. The JFSC therefore issued the AML/CFT/CPF Handbook, which includes statutory requirements, AML/CFT/CPF Codes of Practice, and is effective from 31 May 2022 and is applicable to all supervised persons. It provides guidance to employees of reporting entities (on making a report/SAR to their MLRO or his/her deputy; and to MLROs (and deputy MLROs) on making a report to the FIU. This section also considers the consent that must be sought from the JFCU before proceeding with a transaction or continuing a business relationship, and the application of tipping off provisions and some other.

With regard to feedback, Section 8 of the Handbook (*‘Reporting money laundering and the financing of terrorism, and sanctions reporting obligations financing’*), inter alia, states that due to a significant proportion of SARs received by the JFCU relate to the accounts or transactions of non-Jersey residents and so are disseminated to overseas intelligence agencies, it may not be possible for

the JFCU to provide regular updates or feedback on individual disclosures. However, the JFCU will provide statistics, trends and advice on a regular basis to help enhance the quality of disclosures. Alternatively a periodic newsletter may be issued. In addition, the States of Jersey Police Annual Report contains some information on disclosures, prosecutions and confiscations.

Furthermore, the JFSC holds regular training seminars and publishes the materials on its website. These materials cover topical issues and provide guidance ahead of any legislative or other changes with regards to the reporting obligations or other related novelties. Annual Risk Assessment Meetings are also organised by the JFSC and these meetings aim at providing a feedback on quality of the documentation submitted by the private sector (such as their BRAs).

The FIU provides guidance documents as part of its outreach and engagement function to improve the quality of SAR reporting and to raise awareness of current trends and typologies. These, inter alia, include (i) SAR portal guidance which provides a detailed step by step guide of how to complete the SAR template to an acceptable standard. (ii) FIU annual and quarterly reports which give good statistics to show trends and types of criminality that is reported to the FIU. These also allows the FIU to also address areas of quality and errors that have been identified, the object being to improve quality and reduce errors. (iii) Typology reports which include compilation of open-source cases and hypothetical examples, to assist the finance industry with red flag indicators and general learning points to proactively identify suspicion. In addition to the guidance documents, the FIU also conduct outreach and engagement through face-to-face presentations direct with different sectors in the finance industry.

The JFSC also regularly engages with the supervised entities post thematic inspections or supervisory risk examinations to provide feedback on what was good and poor practice.

Weighting and Conclusion

R.34 is rated C.

Recommendation 35 – Sanctions

In the 2015 MER Jersey was rated LC with former R.17, due to administrative fines having recently been added to the range of available sanctions, and its effective use could not be assessed.

Criterion 35.1 (Met) – Jersey has a range of criminal, civil and administrative sanctions for non-compliance with AML/CFT requirements.

The MLO sets out measures to be taken by relevant persons (meaning any natural or legal person providing financial services business, as described in the Schedule 2 of the POCL, that is, including FIs, DNFBPs and VASPs and excluding non-professional trustees) in relation to the requirements of R.10 to 20, and R.22-R.23. Under Article 37(7) of the POCL, failure by a relevant person to comply with any obligation set out in the MLO is an offence that can be sanctioned with a fine for legal persons, or with imprisonment up to 2 years, a fine or both for natural persons.

Through Articles 24 and 25(1) of the SBL, the Royal Court may issue, at the request of the JFSC, an injunction or subject a relevant person to supervision, restraint or specific conditions when such relevant person is likely to commit or has committed a contravention of the MLO, including the steps to remedy the contravention. Such powers have never been exercised in practice.

On the side of civil sanctions for infringements of the MLO obligations, Article 21A of the Financial Services Commission Law (FSC Law) allows the JFSC to impose a civil financial penalty on any Schedule 2 businesses where there has been a significant and material contravention of any provision of the MLO or of any of the Codes of Practice issued under the Collective Investment Funds, Banking, Insurance, Financial Services, Supervisory Bodies Laws, Alternative Investment Funds Regulations and the Code of Practice sections of the AML/CFT/CPF Handbook. According to Article 21A.1(a), the aforementioned penalties are not applicable to funds.

The amount of the pecuniary sanction is to be determined following the rules established by Article 21B and, most notably, in the Financial Penalties Order 2015, where 4 bands of possible sanctions are determined, ranging from 4% to 8% of the average annual turnover of the registered person who is a legal person, and up to £400,000 for natural persons. The amount of penalties is also to be based on criteria such as “negligence” or “recklessness”, as well as the financial, reputational, economic and commercial damage caused by the contravention.

Since the concepts present in the Financial Penalties Order are not defined, the JFSC elaborated, in June 2022, and later amended in December 2022, a “Guidance for Selecting a Regulatory Sanctions”, determining the rules for the JFSC to follow when assessing the severity of the regulatory sanction required, taking into account the seriousness of the contravention and several contextual factors such as the nature and circumstances of the contravention, the conduct of the subject after the contravention or the regulatory compliance record of the subject. This formalised the methodology for determination of appropriate sanctions.

Notwithstanding the above, Art.21B(7) of the FSC Law states that the Chief Minister can prescribe principles and processes the JFSC must follow when exercising the power to impose a financial penalty, including when graduating the sanction and when considering the aggravating and mitigating factors, that shall override those of the JFSC when leading to inconsistencies. Authorities advised that the powers of this article have never been used in practice.

Sanctions can be made public via a public statement (Article 21D(3) of the FSC Law) and they can be subject to a 5% surcharge per every month they remain unpaid from their imposition (Article 21E(1) of the same law), both after the appeal period has expired.

Other powers available to the JFSC, as corrective and coercive actions applicable to natural and legal persons conducting any supervised business, include: (i) directions (Article 23 of the SBL) for failures to comply with any requirement of the SBL, the MLO or associated Codes of Practice, requiring the person to carry or not to carry out a specific action or imposing any prohibitions, restrictions or limitations, as deemed appropriate, subject to 2 years of imprisonment and a fine if not complied with; and (ii) public statements (Article 26 of the SBL).

Powers of the JFSC to revoke licences of registered persons are detailed in c.27.4.

Reporting of suspicious activity obligations (R.20) arising from the POCL and the Terrorism Law are subject to criminal sanctions of imprisonment up to 5 years, a fine or both in cases of non-compliance, according to Articles 34A(4) (applicable to other Schedule 2 Businesses other than FIs) and 34D(10) (applicable to FIs) of the POCL and Article 21(11) of the Terrorism Law, respectively. Similarly, non-disclosure obligations (R.21) are subject to the same penalties, according to Article 35(9) of the POCL and the Terrorism Law, respectively.

For wire transfer requirements (R.16), Article 3 of the Wire Transfer Regulations sets out the sanctions available for contraventions of any of the requirements under the regulation, consisting of an imprisonment term up to 2 years and a fine, imposed by the courts.

In relation to R.6 requirements, these are implemented through the Sanctions and Asset-Freezing Law (SAFL), which establishes criminal sanctions of imprisonment for up to 7 years and a fine for breaches of the following obligations: freezing of funds and economic resources (Art.10), making funds or financial services available to a designated person (Art.11) or for the benefit of a designated person (Art.12), making economic resources available to a designated person (Art.13) or for the benefit of a designated person (Art.14) or participating in activities to circumvent or to facilitate the contravention of the aforementioned provisions (Art.17).

Concerning compliance of NPOs with R.8 requirements, the JFSC has the same range of civil financial penalties available for other sectors due to the fact that a 'Prescribed NPO' falls within the definition of a 'supervised person' in terms of the Supervisory Bodies Law. Additionally, Article 35 of the NPO Law allows the Royal Court to instruct the JFSC to de-register an NPO when it has been convicted of an offence under the Jersey law, while Article 36 of the same law obliges the JFSC to de-register an NPO when instructed to do so by the Chief Minister, in the event that the NPO has persistently failed to comply with any of the obligations of the NPO Law or the Prescribed NPO Order. The NPO Law also provides for sanctions ("a fine") for offences in respect of non-registration (Article 24), passing off (Article 25), supply of false information (Article 26), non-notification of changes (Article 27), financial records (Article 29), non-provision of information (Article 30), non-compliance with the Prescribed NPO Order (Article 30A) and non-provision of explanations (Article 31). For further details, please refer to the analysis of c.8.4(b)).

Regarding proportionality and dissuasiveness, it should be noted that:

(i) For criminal sanctions, and unlike the imprisonment terms, the range of imposable fines is not defined in any case, nor any criteria to be used to adjust the sanction to the circumstances of each case or the seriousness of the breach is available. Authorities advised that previous cases are considered as guidance on starting points for sentencing and then apply aggravating and mitigating factors, such as guilty plea. Examples of sentencing for breaches with regards to maintaining appropriate policies and procedures (MLO, Article 11(1)) were provided, showing sanctions ranging between £475,000 and £550,000.

(ii) Criteria for proportionality and graduation of civil financial sanctions, available only under the FSC Law for contraventions of the MLO and associated Codes of Practice, is established in the Financial Penalties Order and the JFSC methodologies, as described above in this criterion.

Criterion 35.2 (Met) – By virtue of Article 39A(2) of the POCL, criminal sanctions available under Article 37(7) of the same law for infringements of the provisions of the MLO are to be applied also to "relevant persons" who have consented or acted connivant to the commission of the infringement. Relevant persons include partners of LLPs, general and limited partners of ILPs, directors, managers, secretaries and statutory or other similar officers of any other kind of body corporate, or persons purporting to act in any of these capacities.

Regarding the civil financial sanctions available under FSC Law also for contraventions of the MLO and any Code of Practice issued by the JFSC, these can also be applied to "principal persons", "key persons" or "persons who perform a senior management function" of the registered persons when the contravention was committed with their consent or connivance, was attributed to their negligence or they aided, abetted, counselled or procured the registered person to commit it (FSC Law, Art.21A(1)(b)). The amount of the financial penalty is also to be determined according to

the Financial Penalties Order, with a maximum amount of GBP 400,000, and the methodology issued by the JFSC for “determining the amount of civil financial penalties on natural persons”.

According to Art.1(1) of the FSC Law, key persons are defined as MLROs or other designated officers under the MLO. Principal persons are set to include directors, controllers, managers, chief executives, shareholder controllers and, overall, any person exercising significant influence over the management of a company. Senior managers are further defined in a notice published by JFSC in January 2023, which establishes four different categories of senior management functions.

Any infringements of the Supervisory Bodies law can also be attributed to principal persons if the infringement was committed with their consent or connivance, or if they have been neglectful, making them liable to the same penalties, according to Article 42. This would include non-compliance with any directions issued by the JFSC under Article 23 of the same law. The JFSC is also empowered to remove principal persons, key persons or senior managers of supervised businesses and appoint replacements when directions are not complied with.

Criminal sanctions available in the Wire Transfers Regulations and the SAFL can also be applied to partners, directors, managers, secretaries and or other similar officers, according to Article 4 and 44, respectively, if the offences are carried out with the consent or connivance of any of those persons. Similarly, fines available under the NPO Law can also be applied to directors, managers, secretaries or other similar officers of an incorporated organization when the offence has been committed with their consent, connivance or can be attributed to their negligence (Art.32, NPO Law). The criminal sanctions of Articles 34A(4), 34D(10) and 35(9) of the POCL and Articles 21(11) and 35(9) of the Terrorism Law are also applicable to directors and senior management.

Regarding the proportionality and dissuasiveness of the available criminal sanctions, authorities provided information on a case regarding non-compliance with the record-keeping requirements of the MLO, which was sanctioned with an 8 months’ imprisonment sentence.

Weighting and Conclusion

Jersey has a range of criminal, civil and administrative sanctions for non-compliance with AML/CFT requirements, applicable to both supervised entities and their directors and senior management. **R.35 is rated as C.**

Recommendation 36 – International instruments

In the IV round assessment Jersey was rated LC with former R.35 and SRI taking into consideration that not all provisions of the Palermo and Vienna Conventions were fully implemented, and shortcomings were identified with regard to the scope of provisional measures.

Jersey is a British Crown Dependency and is not empowered to sign or ratify international conventions on its own behalf. Its international relations fall under the responsibility of the UK. However, Jersey may request the UK to extend the UK’s ratification of any convention to include Jersey. This process has been clarified by means of a circular, namely Circular No. 118, issued by the UK Foreign Office in October 1950, known informally as the "Bevin Declaration". Since then, and in accordance with the constitutional relationship between Jersey and the UK, treaties are only extended by the UK to Jersey following a request made the Government of Jersey.

In practice, an extension is only requested once Jersey is satisfied that its legislation complies with any given convention, and similarly, is granted by the UK following a review carried out by the department of HM Government responsible for the relevant convention to confirm that Jersey's legislation is in compliance with the provisions of the particular convention. A notice is then sent to the depositary for the convention such as the Secretary-General of the United Nations, or the Council of Europe, informing the depositary that the ratification has been extended to Jersey. The same process is applied to international protocols.

Criterion 36.1 (Met) – The United Kingdom's ratification of each of these international conventions has been extended to Jersey on the following dates: Vienna Convention: 7 July 1997; Palermo Convention: 17 December 2014; UNCAC: 9 November 2009; and the TF Convention: 25 September 2008.

Criterion 36.2 (Met) – Jersey implements the Vienna Convention, the Palermo Convention, the Merida Convention and the Terrorist Financing Convention. One reservation was made to the Vienna Convention, namely on Article 7 Paragraph 18⁶⁴ which reserves the right of the country to consider immunity as foreseen by this Article and thus does not affect the implementation of the respective provisions of the Vienna Convention. The authorities provided a comprehensive table which includes direct references to national legislation covering the articles of the respective conventions as listed in the footnote to the criterion 36.2. Following the examination of these references and national legislation, the AT may confirm that this criterion is met.

Weighting and Conclusion

All criteria are met. **R.36 is rated C.**

Recommendation 37 - Mutual legal assistance

In the 4th round assessment, Jersey was rated LC with former R.36 taking into consideration that deficiencies with regard to seizure and confiscation of corresponding value identified with regard to R.3 may hamper effective MLA. Jersey was rated as compliant with SR.V. There is no longer a policy which specifies a specific financial prejudice figure that must apply to provide assistance under any of the applicable legislation. Each request is considered on a case-by-case basis with reference to the requirements of the relevant legislation.

Criterion 37.1 (Met) – Jersey provides a wide range of mutual legal assistance under international conventions, and through the application of various laws as further specified hereunder. The UK has extended the 1959 European Convention on Mutual Legal Assistance in Criminal Matters to Jersey, as well as the Vienna Convention, the Council of Europe Conventions (Strasbourg – CETS 141 and Warsaw- CETS 198, the 2005), the UN Convention on Suppression of Financing of Terrorism and the UN Convention against Corruption, all of which include components related to MLA. Further, Jersey provides a wide range of MLA based on the principle of reciprocity. There is an assumption of reciprocity unless experience suggests otherwise.

⁶⁴ The United Kingdom of Great Britain and Northern Ireland will only consider the granting of immunity under article 7, paragraph 18, where this is specifically requested by the person to whom the immunity would apply or by the authority designated, under article 7, paragraph 8, of the Party from whom assistance is requested. A request for immunity will not be granted where the judicial authorities of the United Kingdom consider that to do so would be contrary to the public interest.

The specific laws under which MLA may be provided include:

Criminal Justice (International Co-operation) Law. Specifically, Article 5 deals with evidence for, and assistance in, criminal proceedings in overseas court. Dual criminality, where the alleged crime must be criminal in both the requesting and requested countries, is a requirement for extradition, restraint and search warrants but not for obtaining evidence by way of notice/hearing.

Other legislation which had been adopted and which assists with mutual legal assistance includes:

- The Investigation of Fraud Law gives the Attorney General the power to require persons to furnish information, answer questions and produce documents. Under the Investigation of Fraud Law, the Attorney General may also commence his own investigation, however, in practice it has frequently been used by competent authorities in Jersey for the purposes of obtaining information and/or evidence in response to MLAs and to produce information which may not have been obtained through other means. This includes an ability to hold interviews, take statements, and for example, require persons to inform the AG of any other accounts/records held in respect of the persons under investigation (Article 2(2)). Persons are obliged to answer questions, and the failure to do so without a reasonable excuse constitutes an offence. Any answers given may not be used as evidence against them except in very limited circumstances (Article 2 (7)).
- POCL and Civil Asset Recovery (International Co-operation) Law and TF Regulations (see Rec.38)
- Evidence in Other Jurisdictions Order. This long-established Order allows evidence to be gathered in Jersey for the purposes of proceedings in other jurisdictions, and extends the powers of those courts to seek evidence in civil or criminal matters, and secure the attendance of witnesses.

Criterion 37.2 (Met) – His Majesty’s Attorney General (the Law Officer’s Department, or LOD) is the Central Authority for Jersey. The Criminal Justice (International Co-operation)(Jersey) Law brings effect to the MLA functions of the Attorney General and provides the same with the relevant powers. The Attorney General’s role as Jersey’s central authority for the transmission and execution of requests is set out in the Law Officers’ International Mutual Legal Assistance and the MLA Guidelines (that are publicly available) that are intended to assist foreign jurisdictions requiring assistance from Jersey. The MLA team, which is part of the LOD, does a wide variety of MLA work, a large part of which is to do with requests to obtain evidence or information. Additionally, the team is in charge for extradition requests and applies for restraint on behalf of other countries.

The processes applied to prioritisation in a timely fashion and for the execution of requests are clearly set out in an internal MLA Policies and Procedures Manual (“the MLA Manual”), which provides parameters for prioritisation of every case received. The vast majority of cases seek documentary evidence. Entities in Jersey’s finance industry are afforded 21 days to respond to notices issued by the Attorney General’s office, unless a shorter timeframe is requested by the AG’s office.

Case management processes are also clearly set out in the MLA Manual. A spreadsheet is maintained which keeps track of all live cases, who is dealing with and actions, and dates for next steps.

Criterion 37.3 (Met) – No unduly restrictive conditions are contemplated in the law, and as long as the provisions of the law are fulfilled, MLA requests are responded to. MLA assistance is provided on the basis of reciprocity. There is an assumption of reciprocity when requests are first received, and this assumption would apply unless and until experience suggests otherwise. Jersey informed the AT that, so far, it has not refused any requests on the basis of a lack of reciprocity.

Criterion 37.4 (Met) – (a) The requirements for international cooperation are laid out in the Criminal Justice (International Cooperation) Law. There is no prohibition on the grounds that the matter involved is a fiscal matter, and there is no dual criminality requirement.

(b) Legislation in Jersey does not provide for grounds to refuse to execute MLAs because it would involve fiscal matters or on the grounds of secrecy and confidentiality requirements of FIs or DNFBPs. MLA requests for documents are dealt with under the Investigation of Fraud Law and the Criminal Justice (International Cooperation) Law. Under the Investigation of Fraud Law, an exception for legal professional privilege (LPP) documents is contained at Article 2(8), however this exception does not allow for the refusal of MLA on the grounds of LPP. Under Article 2(9), the Attorney General can authorise the production of such documents – notwithstanding the person may owe a duty of confidence to their client by virtue of carrying out a banking business. Article 3(1) of that law provides that if any information is subject to an obligation of secrecy under any enactment, it does not prohibit the disclosure of the information to the Attorney General, but it may only be disclosed for the purpose so prosecution in Jersey or elsewhere.

It should be noted that in circumstances where LPP is claimed over relevant documents, such documents may be reviewed by independent counsel to ensure that that is the case and/or potentially consider if the crime/fraud exception applies (should this be relevant) which can override claims of privilege.

Under the Criminal Justice (International Cooperation) Law, Article 5A provides that a person cannot be compelled to give evidence in relation to a foreign request if he/she could not be compelled to give this evidence in criminal proceedings in Jersey or in the requesting jurisdiction.

Other than this there are no prohibitions, and as such refusal would not be made on the grounds of secrecy or confidentiality requirements (with the exception of LPP).

Failure to comply with the requirement specified in a notice issued by the Attorney General for the production of documents or giving of evidence in person, constitutes an offence pursuant to Article 5 of the Criminal Justice (International Cooperation) Law.

Criterion 37.5 (Met) – The AG's MLA manual sets out that MLAs are confidential state-to-state communications and are not disclosable documents (a principle that is contained in English case law). MLAs are therefore to be kept confidential unless there are exceptional circumstances that require disclosure, in which case, English case law is followed, specifically, the case of Terra Services [2019] EWHC 3165 (Admin) the judgement of which provided that the inherent and established confidentiality in a LOR can be over-ridden in specific circumstances. Where a request is made for disclosure of the MLA, either in its own right, or where it forms part of the Annexes to a Representation, the AG established procedures to be adopted. These procedures include

contacting the country who sent the MLA initially to inform them of the request, and seeking their opinion in relation to disclosure of the MLA.

MLAs are also disclosed to the Court in *ex parte* restraint or confiscation applications under the Article 16 of POCL as amended.

Criterion 37.6 (Met) – There is no requirement for dual criminality under Article 5 of the Criminal Justice (International Cooperation) Law which provides for the Attorney General to issue notices requiring the production of documents and/or the giving of evidence at a hearing. Dual criminality is required where a *saisie judiciaire* (freezing/seizure) is sought pursuant to the POCL as amended, or where a search warrant needs to be obtained from the Royal Court under Article 6 of the Criminal Justice (International Cooperation) Law, both of which are considered to be coercive actions.

In addition, Article 2 of the Investigation of Fraud Law provides that the Attorney General has the discretion to exercise his powers under the law where there is a suspected offence, wherever committed, involving “serious or complex fraud”. As the provisions of the law extend to activity both in and outside of Jersey, they can be directly applied to international requests for assistance. Although the term “fraud” is not defined in legislation Jersey’s Court of Appeal held that that the term is to be interpreted broadly to extend to “*any deliberate false representation with the intention and consequence of causing thereby actual prejudice to someone and actual benefit to himself or another*”. Due to the broad interpretation by the court, the term would cover a wide range of criminal conduct that generates illegal proceeds, and that in practice the provisions of the law have been used to provide MLA in fraud-related money laundering cases.

Criterion 37.7 (Met) – Where dual criminality is required (see criterion 37.6), there is no requirement that offences must be denominated by the same terminology. Rather, the conduct itself must be criminalised. Article 6 of the Criminal Justice (International Cooperation) Law (which provides for obtaining a warrant to enter, search and seize) requires that “*the conduct in question would constitute a ‘serious offence’ had it been committed in Jersey*”.

The POCL as amended provides for *saisie judiciaires* where an external confiscation order has been made, or where there are reasonable grounds to believe such an order will be made (Article 15). External confiscation orders are defined with reference to criminal conduct which in turn is defined with reference to the length of the maximum sentence available in Jersey, i.e. where a person is liable to a term of imprisonment for one or more years. It is the conduct, not the terminology by which it is defined, that is considered when making this assessment.

Criterion 37.8 (Met) – (a) The Criminal Justice (International Cooperation) Law provides powers to require the production and seizure of information and evidence, including records held by financial institutions, DNFBPs and other natural or legal persons, as well as the taking of evidence at a hearing (Articles 5, 5A, 5B & 6). In the majority of cases this takes the form of witnesses preparing written statements, having been provided with the questions in advance, and those statements being admitted as evidence at a hearing. It also provides for powers to the police to enter, search and seize evidence.

Also, the Investigation of Fraud Law can be utilised for both domestic investigations and in response to MLA requests. Article 2 of the Investigation of Fraud Law provides that the powers of the AG under this Article shall be exercisable in any case in which it appears to the AG that there is a suspected offence involving serious or complex fraud, wherever committed. These

include powers that allow the AG to notify a person under investigation to produce any specified documents which appear to the Attorney General to relate to any matter relevant to the investigation. If any such documents are not produced, the Attorney General may require the person who was required to produce them to state, to the best of the person's knowledge and belief, where they are.

Furthermore, under the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007, authorities in Jersey, as well as the Courts, are provided with powers to assist foreign requesting authorities in the investigation and recovery in civil asset recovery proceedings.

(b) The range of other powers and investigative techniques available to LEAs (see Recommendation 31 – essential criterion 31.2) are at LEAs disposal irrespective of where the crime was committed and thus may be utilised as part of a domestic investigation, in response to requests for MLA. These include undercover operations, interception of communications, accessing of computers, controlled delivery, surveillance and property interference.

Weighting and Conclusion

All criteria are met. **R.37 is rated C.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In the 2015 MER, Jersey was not assessed against the former R.38. Jersey was rated LC in the previous round.

Criterion 38.1 (Met) – Jersey has the authority to act expeditiously in response to requests from foreign countries. Several articles of POCL are used for these purposes. Article 1 defines an external confiscation order as an order made by a court in a country or territory outside Jersey for the purpose of recovering property obtained as a result of criminal offences; for recovering the property of equivalent value and of any pecuniary advantage so obtained as well as for recovering instrumentalities and their equivalent value. As referred under Rec.4, all types of property referred under points a) – e) are covered by the Part 2 of the POCL.

Articles 15, 16, 17 and 39 of the POCL (as amended), allow the competent court in Jersey to initiate *saisie judiciaire* (restrain order – freezing/seizing order) based on foreign authorities request when proceedings have been instituted in a country or territory outside Jersey and have not been concluded, and when an external confiscation order has been made in the proceedings, or when it appears to the Court that there are reasonable grounds for believing that such an order will be made in the proceedings;

Article 16 of the POCL provides, *inter alia*, that the Court may, subject to such conditions and exceptions as may be specified in it, make an order on an application made by or on behalf of the Attorney General on behalf of the government of a country or territory outside Jersey. Foreign **confiscation orders** may be realised in Jersey based on articles 17 and 39 of the POCL. Article 39 provides details on this matter, including also a minimum procedural rights of those against whom the confiscation order was/is made.

The authorities advised that upon foreign request, relevant articles of the POCL would be used for **identification** of proceeds of crime, there equivalent value and instrumentalities used. These actions can be carried out on behalf of a requesting jurisdiction through search and seizure (article 41 POCL), production orders (article 40 POCL), customer information orders and account

monitoring orders (article 41A POCL) provided there is an investigation in the requesting jurisdiction into whether the property was illegally obtained property or ML.

With regards to TF – Terrorism (Enforcement of External Orders) (Jersey) Regulations 2008 allow external forfeiture orders to be registered by the Royal Court in Jersey on receipt of an application made on behalf of the government of a country or territory outside Jersey. The Royal Court must be satisfied that, at the time of registration, the order is in force and not subject to appeal. The effect of registration is that the Royal Court may, among other measures, order that the property is paid or handed over to the Viscount and / or, direct that any property (other than money or immovable property) be sold or otherwise disposed of, with proceeds paid to the Viscount. Regulation 7 allows for external restraint orders to be registered if the government of a country or territory outside Jersey (this subject to paragraph 2 below) makes the application. The effect of registration is that property may be seized to prevent it being removed from Jersey. In respect of immovable property (land, buildings, etc) it has effect as an injunction restraining any person from disposing or hypothecating the property.

Criterion 38.2 (Met) - Jersey can provide assistance to requests for co-operation made on the basis of non-conviction based confiscation proceedings and related provisional measures. The Civil Asset Recovery (International Co-operation) Law (articles 6 & 9) provides for a mechanism to restrain and/or confiscate property without the need for a conviction, on the basis that an external civil asset recovery order (as defined under article 1 of said law) has or may be instituted in a country outside Jersey. Article 13 covers the scenario where a person has died or disappeared. The authorities further advise that the interpretation of article 6(7)(a) covers the hypothesis where the perpetrator is unknown.

Criterion 38.3 (Met) – a) Jersey has arrangements to ensure swift coordination with other countries to in respect of seizure and confiscation and this has been demonstrated in practice through a number of cases. Relevant sections of the MLA Work Areas Manual provides general overview with regard to seizing/freezing and confiscation procedures.

b) Jersey has mechanisms for managing, and when necessary disposing of, frozen, seized or confiscated as the mechanisms available for domestic cases also apply in the framework of international cooperation. The mechanism for managing assets that are subject to a *saisie judiciaire* under the POCL as amended is set out in Article 16(4), which provides that the Viscount takes possession and manages, or otherwise deals with any realisable property in accordance with the Court's directions. Realisation of property, and then the procedures governing the use made of such property, are dealt with under Article 17, 20 and 24 of the POCL as amended. In addition, the Civil Asset Recovery (International Co-operation) Law allows the Viscount to take possession, manage and where applicable dispose of property frozen, seized or confiscated (articles 7, 10 & 11). The Viscount acts on orders from the Royal Court and since a *saisie judiciaire* is an order of the Royal Court it is immaterial whether or not the granting of the *saisie* was based on a foreign or a domestic request.

Criterion 38.4 (Met) – Jersey is able to share confiscated assets with other countries on a case-by-case basis. Article 24 of the POCL provides that any monies held in the Criminal Offences Confiscation Fund (into which confiscated assets are transferred) may be used to discharge obligations under Asset Sharing Agreements (“ASAs”). Jersey has a permanent asset sharing agreement only with one jurisdiction.

Weighting and Conclusion

All criteria are met. **R. 38 is rated C.**

Recommendation 39 – Extradition

Jersey was rated largely compliant with the previous R.39. Still, deficiencies were identified in the ML criminalisation which in turn affected the extradition capacity due to the application of the dual criminality principle.

Criterion 39.1 (Met) – The Extradition (Jersey) Law 2004 (referred to as ‘the Extradition Law’) puts into place domestic legislation that fulfils the obligations set out in the European Convention of Extradition (1957). The legislation ensures that those being extradited are given due process and that their human rights are protected. Furthermore, Article 2 of the European Convention of Extradition (1957) which is in turn reflected in domestic legislation, stipulates the types of offences for which extradition must be facilitated.

(a) Both ML and TF are extraditable offences. An extradition offence for which a person is not sentenced, must (among other things) constitute an offence which is punishable with an imprisonment for 12 months or more in Jersey (Article 3 of the Extradition Law).

An extradition offence for persons sentenced must constitute an offence which is punishable by 12 months imprisonment or more in Jersey, which applies to all ML and TF offences. The person must have been sentenced to 4 months imprisonment or more in the requesting territory (Article 4 of the Extradition Law).

(b) Extradition cases are captured in the LOD’s MLA case management system (P+) and in a spreadsheet referred to as the WIP (work-in-progress) which is used for the day-to-day case management for all live matters. Further, the handling of requests is guided by the LOD’s MLA Policies and Procedures Manual which was put in place in July 2022. Incoming extradition requests are most often received in a generic email box which is monitored by the MLA team. These are risk-rated and allocated on receipt by the Head of MLA team (or a delegate in his/her absence). Given the facts available in each request, it may be allocated Standard, Priority, Urgent or Complex status which determines how quickly it should be dealt with (see Rec.37 – extradition requests have the same treatment as those of the MLA). All team members have access to the WIP list and the ALAs manage its content on a daily basis. There are monthly WIP meetings between the ALA and the Head of MLA to ensure all matters are being progressed.

(c) Article 16 of the Extradition Law sets out bars to extradition, and none of these are unreasonable or unduly restrictive conditions on the execution of requests, provided that the requirements for extradition, as stipulated in Article 7 and Article 15(1)(e) respectively of Part 2 of the Extradition Law, are met. The MLA Work Areas Guidance also sets out how requests are executed on a practical basis.

Criterion 39.2 (Met) – Authorities advised that there are no legal barriers that prevent competent authorities in Jersey from extraditing Jersey nationals, and that both Jersey and foreign nationals are treated equally under the Extradition Law. The AT accepted these arguments following the presentation of cases where such practice was applied.

Criterion 39.3 (Met) – Dual criminality is required. That requirement is however satisfied on the basis of the conduct itself rather than the offence category or terminology used (Article 3 and Article 4 of the Extradition Law).

Criterion 39.4 (Met) – The Extradition (Jersey) Law 2004 sets out the mechanisms for extradition. Simplified extradition is made possible through the following articles: Article 8(4) provides that if the country is a ‘designated territory of the first category’ then information, rather than evidence, may be accepted to support the extradition request; Article 62 provides that an individual arrested either under a warrant or a provisional warrant may consent in writing to their extradition, thereby waiving the need for formal extradition proceedings before the court. Since the consent is irrevocable, the matter is then referred immediately to the Attorney General for the making of a final extradition order.

Weighting and Conclusion

All criteria are met. **R.39 is rated C.**

Recommendation 40 – Other forms of international cooperation

In the 4th round MER, Jersey was rated LC with regard to R40. Main deficiencies were related to shortcomings affecting the FIU’s mandate in so far as, at the time, it required the authority of the AG to be able to make disclosures to foreign FIUs. This led to the recommendation to analyse the set up in order to ensure that the FIU has a clear mandate to decide solely on information sharing, without any involvement of other counterparts. Also, a recommendation was made for authorities to address the situation related to the high number of non-sharing decisions.

Criterion 40.1 (Met) – Jersey competent authorities have access to international cooperation mechanisms. This includes mechanisms relating to money laundering, terrorist financing and predicate offences. Through access to these various mechanisms, Jersey authorities can exchange information both spontaneously and upon request.

FIU – The FIU Jersey is a member of Egmont, and is able to exchange spontaneously, or on request, information and intelligence with Egmont jurisdictions. Under Article 34 of POCL and Article 25 of the Terrorism Law, both as amended, information that is contained in a SAR can be disclosed by the FIU to foreign competent authorities. The FIU has signed bilateral information exchange agreements (MoUs) with the eight jurisdictions. Also, the FIU Jersey joined the International Anti-Corruption Coordination Centre (“IACCC”) as an Associate Member in July 2020. This allows it to rapidly exchange intelligence with the IACCC and its members to assist with the development of the intelligence picture on grand corruption cases.

SOJP – The States of Jersey Police is able to liaise directly with foreign police forces. Due to its status as a Crown Dependency, in a limited number of contexts, Jersey is not separately (from the UK) represented within certain multi-national organisations, including Interpol, and in those circumstances, the SOJP has indirect access to Interpol via the UK’s Interpol Bureau.

ECCU – The Economic Crime and Confiscation Unit (which sits within the Law Officers’ Department), is part of the Camden Asset Recovery Interagency Network (“CARIN”) which is an informal inter-agency network of law enforcement and judicial practitioners in the field of asset tracing, freezing, seizure and confiscation. Each member state is represented by a law

enforcement officer and a judicial expert. ECCU is regularly involved in the exchange of information, both spontaneously and upon request.

The Viscount's Department – The Asset Management Office for Jersey (which is one of the functions performed by the Viscount's Department) is a member of the Criminal Assets Management and Enforcement Regulators Association ("CAMERA"). It can also liaise and exchange information with other competent authorities and counterparts abroad, both directly and indirectly through the LOD/ECCU.

JFSC – The JFSC regularly receives/sends information and intelligence to/from both local and international authorities in relation to matters pertaining to regulatory compliance supervision and enforcement. The legal basis for the JFSC to exchange information is the Supervisory Bodies Law, specifically, Article 36 which specifies that Jersey supervisory bodies are not precluded from sharing information with relevant overseas supervisory authorities. The JFSC is a signatory to the multilateral memorandum of understanding of the International Organisation of Securities Commissions ("IOSCO") and has signed up to more than 80 separate bi-lateral memoranda of understanding with other agencies. International requests are received from, amongst others, HMRC, UK and international LEAs, UK and international regulatory authorities. These requests can be both informal and formal. The JFSC is a member of the Financial Crime Information Network ("FIN-NET"). This is a network of over 130 organisations all of whom have an interest in the detection or prevention of abuses of the financial systems of the British Isles (which includes the Channel Islands). It has the ability to share information with some or all of the members of the network. The network includes both criminal and regulatory bodies and has members in the BVI, Malta, Gibraltar, Isle of Man, Guernsey, and Italy.

JCIS – The JCIS has a close working relationship with both the Police Aux Frontières ("PAF") and the Direction Nationale du Renseignement et des Enquêtes Douanières ("DNRED"), the French National Directorate of Intelligence and Customs Investigations. JCIS officers are able to talk directly to the chief of the PAF in the neighbouring French ports and they exchange information on both policy and operational issues, including suspect movements. There is a more formal arrangement with DNRED under an operational arrangement codenamed Operation Parasol. This involves the Guernsey Border Agency, JCIS and DNRED officers based in Normandy and Brittany sharing intelligence concerning movements of suspect customs & immigration offenders which will include any actual or suspected cross border cash movements.

Revenue Jersey – RJ is able to exchange information in relation to criminal taxation matters, via the existing gateway with FIU. Any international competent authority seeking taxation information would send the request to the FIU, and the FIU would then obtain the information from Revenue Jersey pursuant to Article 8(2)(c) of the Revenue Administration (Jersey) Law 2019. This allows the tax authorities to share information for the purpose of investigating whether or not an offence has been committed (whether or not in Jersey and whether or not under a Revenue Law), or for the institution of, or otherwise for the purpose of, any criminal proceedings (whether or not in Jersey and whether or not under a Revenue Law).

Jersey Gambling Commission – JGC has several MoUs with allied regulators including Denmark, UK, Alderney, Malta, Isle of Man amongst others. The JGC is also a member of the Gaming Regulators European Forum and the International Association of Gaming Regulators. Article 8 of the Gambling Commission (Jersey) Law 2010 provides the legal basis for Cooperation with other authorities.

Criterion 40.2 (Met) – (a) Competent authorities have a lawful basis for providing international co-operation (see 40.1).

(b) There are no legal restrictions that would hinder competent authorities' from using the most efficient means to cooperate.

(c) The FIU primarily uses the Egmont Secure Web (ESW) to exchange information with other FIUs. The SoJP & ECCU have indirect access to Interpol, and direct access to IACCC. JFSC has direct access to IOSCO and FIN-NET gateways.

(d) The FIU prioritises each request for information that it receives based on a documented process as set out in the FIU Operations Manual that ensures an accurate and timely response. That process considers the typologies within the request alongside red flags that might cause its priority to be escalated or reduced. This process is managed using the IFIS case management system.

With respect to the JFSC, the FIN-NET referral process can be used by members to submit a referral form containing details of a particular investigation they are undertaking which is then distributed to all members for them to check their databases for any information which may assist the referring organisation. On receipt, a case officer will be immediately assigned the FIN-NET referral as a priority action. Where a match has been identified on the JFSC's internal databases for the subject of the referral, contact is made with the referring agency to discuss any necessary further action, such as sharing relevant information via the JFSC's information sharing gateways.

TF referrals will be prioritized above all other referrals.

(e) The FIU operates a paperless office which reduces the risk of loss of intelligence from taking place. The FIU has its own standalone intelligence database (IFIS) with restricted access, receives SAR intelligence via a secure SAR portal, and communicates with other jurisdictions via the ESW. The FIU uses handling instructions to ensure the risk of inappropriate disclosure is further reduced. The FIU is a ring-fenced office with access restricted only to those who work within the FIU.

With regard to the JFSC, all information and intelligence requests are stored on an internal JFSC secure database called CRIMS. Enforcement staff have full access to CRIMS and access is restricted to other/wider staff at the JFSC.

Criterion 40.3 (Met) – Bilateral or multilateral agreements are not required for Jersey authorities to provide assistance, but can be established promptly if required by foreign authorities. Competent authorities have a range of bilateral and multilateral agreements and MOUs to facilitate co-operation with foreign counterparts.

In the case of the FIU, it has signed into such agreements and currently has 8 MOUs with specific Egmont members. SOJP and ECCU have the capability to enter into Joint Investigation Teams in appropriate circumstances.

Criterion 40.4 (Met) – There are no specific legal provisions or obstacles concerning the provision of feedback. Upon request, Jersey competent authorities can provide feedback on the use and usefulness of the information obtained to any competent authority from which it had received assistance. The FIU does provide feedback on request to the outcomes of intelligence received. The FIU also provides feedback when requested by other members as part of a wider request made by that FIU (normally on an annual basis) to other FIUs (surveys etc).

As for the JFSC, upon request from a competent authority from whom it has received assistance, the JFSC provides feedback on the use and usefulness of the information provided by the competent authority. The JFSC maintains statistical data on the quantum of feedback received and what use other competent authorities made of the information provided by the JFSC (for example, how often it was used to further an investigation significantly).

Feedback can be provided by the SOJP upon request and there are no legal or procedural barriers to SOJP doing so.

With regard to Revenue Jersey, as set out in c.40.1, Revenue Jersey exchanges information in relation to criminal taxation matters only indirectly, via the existing gateway with FIU. Any request for feedback would therefore be provided by the FIU.

Criterion 40.5 (Met) – Requests made to Jersey authorities are not refused on the grounds that they refer to fiscal matters alone. Further, Article 45 of the Data Protection (Jersey) Law 2018 specifically provides an exemption from privacy provisions to allow for the sharing of information relating to taxation, specifically “the assessment, or collection, anywhere of any tax or duty, or of any imposition of a similar nature, wherever due”. As regards obtaining and sharing information obtained from financial institutions or DNFBPs, there are no secrecy, confidentiality, or data protection laws which prevent the disclosure of information relating to ML/TF matters. This is specifically covered by Article 34 POCL.

Provided that the sharing of any information is for the purposes of ML, TF and/or associated predicate offences, there is no other legal provision which would lead to a refusal to provide assistance.

Ongoing investigations or proceedings are not grounds to refuse assistance for any of the competent authorities, however, where the provision of assistance would jeopardise an ongoing domestic investigation, Jersey authorities may agree with the requesting authority to delay the provision of assistance, but will not refuse the request outright. Jersey authorities also do not refuse requests on the basis that the nature or status of the requesting counterpart is different from that of its foreign counterpart.

Criterion 40.6 (Met) – Information exchanged by competent authorities in Jersey being involved (to a greater or lesser extent) in the investigation/prosecution of crime or the tracing/freezing/seizing of criminal assets (SoJP, ECCU, LOD, JCIS, FIU, JFSC and the Viscount's Department), is typically subject to the conditions that: (i) the information is only to be used for criminal investigations or prosecutions (or civil asset recovery investigations and proceedings), (ii) the information remains the property of the Jersey law enforcement agencies and is not subject to onward transmission to any third party without consent; and (iii) where the information is intelligence, then an application should be made for mutual legal assistance if needed for a formal investigation or prosecution.

The FIU may impose restrictions on the use of the information (intelligence only) and may restrict the further disclosure of the information to any other person or body.

Other competent authorities, including SOJP, ECCU and JFSC do not have law or guidance, but rely on the standards set by relevant international bodies or legal instruments (CETS 198; IOSCO; and Europol). These agencies apply equivalent standards outside the context of these particular

frameworks and will use exchanged information only for the specified purpose or with the consent of the requested country.

Criterion 40.7 (Met) – Competent authorities are required to protect exchanged information in the same manner that they would protect equivalent domestic information. Agencies handling international classified information may be inspected by the Jersey Office of the Information Commissioner (JOIC) to ensure the information is sufficiently protected and secure.

Competent authorities can refuse to provide classified information where the requesting authority cannot protect it effectively (Article 14(1)(D) Official Secrets (Jersey) Law, 1952 and Article 8(1)(F) Data Protection (Jersey) Law 2018).

Criterion 40.8 (Met) – Article 34(2) (a) & (b) of POCL and Article 24 Terrorism (Jersey) Law 2002 permit the FIU to disclose information for the purposes of the investigation of crime outside Jersey, or for criminal proceedings outside Jersey, or to be used by competent authorities outside of Jersey. Regulation 3 of the Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015 empowers the FIU to request information from relevant persons, which includes FIs other than the reporting entity, to gather information in response to a request for information made by an FIU outside Jersey, or an administrative or law enforcement agency (other than the States of Jersey Police Force) concerned with the prevention, investigation, detection or prosecution of financial crime (Regulation 3(2)(f)). In other words, the power to issue a ‘POC’ Notice can be used pursuant to any incoming report to the FIU, including from foreign LEAs or other competent authorities (Regulation 3 (1) (a)).

In relation to the JFSC, Articles 30, 36 and 39(1) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 allow the JFSC to use its powers to obtain information from domestic supervised entities for the purposes of assisting a relevant overseas supervisory authority.

Competent authorities are able to share information, either within Jersey or internationally by virtue of Article 45 of the Data Protection (Jersey) Law 2018, provided that disclosure is for the purposes of prevention, detection, or investigation, anywhere of crime; the apprehension, or prosecution, of persons who have committed or are alleged to have committed, an offence anywhere. Nevertheless, the SOJP does not have a clear legal basis empowering it to conduct inquiries on behalf of foreign counterparts, and exchange with them all information that is obtainable by the SOJP if such inquiries were being carried out domestically. Authorities advised that in “common law” jurisdictions it is the case that LEA (SOJP) does not require a specific legal basis to exchange intelligence with other foreign LEAs, on the accepted principle of “police to police, intelligence only”. The Data Protection (Jersey) Law 2018 provides legal protection to the SOJP in exchanging intelligence on this basis, provided it is for the stated law enforcement purposes. Cases demonstrated to the AT confirmed that this approach is applied in practice.

Criterion 40.9 (Met) – The FIU has an adequate legal basis for providing co-operation on ML, TF and predicate offences regardless of whether their counterpart FIU is administrative, law enforcement, judicial or other in nature. Also see c.40.8.

Criterion 40.10 (Met) – There are no barriers for FIU to provide feedback to foreign FIUs, and the FIU does provide feedback on request to the outcomes of intelligence received. This is provided for in the FIU Operations Manual. When the FIU shares intelligence with a foreign counterpart, feedback forms are sent to the receiving competent authority to identify the quality

of the intelligence disseminated. This feedback loop is integral to improving the quality of the intelligence that is shared by the FIU Jersey.

Criterion 40.11 (Met) – (a) Article 34(2)(a) and (b) of POCL permits the FIU to disclose information for the purposes of the investigation of crime outside Jersey or of criminal proceedings outside Jersey, or to competent authorities outside Jersey. Also, see c.40.8.

(b) The legal framework does not limit the scope of information that the FIU of Jersey may exchange.

Criterion 40.12 (Met) – The JFSC is able to co-operate with regulators in other jurisdictions and frequently does so. The JFSC’s website contains information and statistics with respect to assisting overseas regulatory authorities. It can share information that it holds (spontaneously or upon request) with an overseas regulatory authority, including any agency that has responsibility for oversight of compliance with AML/CFT requirements, where the information would assist the overseas authority/agency in the exercise of its supervisory powers (Article 36(1)(a)(iv) of the Supervisory Bodies Law).

In addition, Article 39 of the Supervisory Bodies Law enables the JFSC to exercise its powers under that law at the request of an overseas regulatory authority. The other regulatory laws contain an equivalent provision (see 40.13 below). These powers may be used to collect information that is not already held by the JFSC and to take action against a person that is registered under the regulatory laws or Supervisory Bodies Law.

Whilst the regulatory laws and Supervisory Bodies Law do not require bi-lateral agreements to be in place in order to cooperate internationally, the JFSC has concluded various memoranda of understanding, the purpose of which is to establish an agreed mechanism under which both signatories commit to using their statutory powers of cooperation.

Criterion 40.13 (Met) – Article 39(1) of the Supervisory Bodies Law provides for cooperation with overseas supervisory authorities. Specifically, Article 39(1)(g) of the Supervisory Bodies Law allows the JFSC to pass to a foreign counterpart information the JFSC already holds or to pass on information the JFSC has required a supervised entity to provide to the JFSC (including, for example, information sought by a foreign counterpart to progress an investigation it is carrying out). Furthermore, the Law allows the JFSC (and any other designated supervisory body) to exercise the following powers to assist the overseas supervisor: The power to refuse or revoke a registration under Articles 14 or 18; Powers to attach, amend, vary, substitute or revoke any condition pursuant to Article 17; The power to give a direction under Article 23; The power to request the Royal Court to intervene under Article 25 (e.g. Orders for the restraint of trade); Powers relating to information and documents under Article 30 (general powers to require information/documents specified under notice, including that persons attend for interview to answer questions); Power to investigate under Article 31; Power to enter and search premises with a police officer under Article 32; Power to pass on to an overseas supervisory authority any information (for example, intelligence) that is in its possession – whether or not as a result of the exercise of the above powers.

Similar powers are available under Article 47 of the Banking Business Law, Article 25 of the Collective Investment Funds Law, Article 33 of the Insurance Business Law, and Article 36 of the Financial Services Law.

Criterion 40.14 (Met) – The power to share information extends to any information held by the JFSC (Article 39(1) Supervisory Bodies Law). The only conditions are that: the JFSC must be satisfied that the relevant overseas supervisory authority will treat the information communicated with appropriate confidentiality; and, either (i) the sharing is to assist the relevant overseas supervisory authority in the exercise of its overseas supervisory functions; or (ii) the sharing has been requested by the relevant overseas supervisory authority and requested only for the purposes of obtaining assistance for that authority in the exercise of one or more of its overseas supervisory functions (Article 39(2) of Supervisory Bodies Law).

The JFSC also takes part in Regulatory Colleges with overseas regulators which assists in the sharing of information between foreign regulators where there may be shared responsibilities for a group of FIs.

The information referred to (a) to (c) in this criterion is information that would be in possession or available to the JFSC, which also has adequate legal basis to share such information with overseas supervisory authorities.

Criterion 40.15 (Met) – The JFSC is able to conduct inquiries on behalf of foreign counterparts (see Criterion 40.13). Article 39(1) of the Supervisory Bodies Law provides extensive powers for cooperation with overseas supervisory authorities in order to assist them in their inquiries.

Although there are no specific legal provisions in place to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in Jersey, previously, the JFSC has considered it appropriate to use its powers under Article 10(1) of the Financial Services Commission (Jersey) Law 1998 (which enables the JFSC to appoint such officers, servants and agents as it considers necessary for carrying out its functions) for this purpose by appointing overseas regulatory officers as authorised officers of the JFSC thus enabling them to conduct an interview with a suspect in Jersey.

Criterion 40.16 (Met) – Article 35 of the Supervisory Bodies Law restricts the use of non-public information provided to the JFSC relating to the business or other affairs of any person, and disclosures are only permitted as provided for under Article 36 of the same law (such as disclosures to national and foreign authorities).

The JFSC's Handbook on International Co-operation and Information Exchange outlines the confidentiality provisions applying to information disclosed to the JFSC by an overseas regulatory authority. The handbook requires the JSFC (and its personnel) to, subject to any legal obligation to provide information that may apply, respect any restrictions and conditions set in the disclosure made by the overseas supervisory authority. It also requires the JFSC to obtain prior authorisation for any dissemination or use of information exchanged.

Also, where the JFSC receives a legally enforceable demand for information, such as a court order, and the information sought had been provided to the JFSC on the condition that the JFSC will not disclose the information without the consent of the overseas supervisory authority, then the JFSC can apply to the Royal Court to impose a duty of confidence on the JFSC. In such a case, it is possible that the Royal Court may decide to override such a condition and order the JFSC to disclose where the interests of justice require it. In that case, the JFSC would be able to inform the foreign supervisory authority that it (JFSC) is being required by the Royal Court to disclose such information, unless the Royal Court orders the JFSC not to. The Authorities informed the AT that

no such scenario has ever arisen in the history of the JFSC, and such an order from the Royal Court is deemed to be unlikely.

Criterion 40.17 (Met) – Law enforcement authorities (including SOJP, ECCU and JCIS) are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, TF and predicate offending, including the identification and tracing of proceeds and instrumentalities of crime. As previously set out, any competent authority is able to share information, either within Jersey or internationally by virtue of Article 45 of the Data Protection (Jersey) Law 2018, provided disclosure is for the purposes of prevention, detection, or investigation, anywhere of crime; the apprehension, or prosecution, anywhere of persons who have committed or are alleged to have committed, an offence anywhere.

Criterion 40.18 (Met)– Law enforcement authorities (SOJP (JFCU), LOD (ECCU) & JCIS) are able to conduct inquiries and use domestically-available, non-coercive powers and investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts. Co-operation occurs mostly through Egmont, Europol, and Interpol mechanisms and Jersey abides by any restrictions on use imposed by these regimes.

Where coercive information is required, Jersey law enforcement can open an investigation (if there is a Jersey nexus) or a formal MLA request can be made.

Criterion 40.19 (Met) – The SOJP (JFCU), LOD (ECCU) & JCIS) and Commission are able to conduct joint investigations with, or their own investigations on behalf of, counterparts if they think fit. (Council Framework Decision on JITs (2002/465/JHA); Convention on Mutual Assistance in Criminal Matters between Member States; Second Additional Protocol to the Council of Europe Convention on Mutual Assistance; Convention on Mutual Assistance and Co-operation between Customs Administrations).

Criterion 40.20 (Met) – There are no rules or regulations prohibiting any competent authority from exchanging information indirectly with non-counterparts. Typically, the route through which such indirect exchanges of information take place is via the FIU, as long as the sharing of any information is for the purposes of ML, TF and/or associated predicate offences, consistent with Articles 34 of POCL and Articles 24 and 25 of the Terrorism Law, both as amended. Such occasions are assessed on a case-by-case basis. The FIU can also utilize the same processes to allow other Jersey competent authorities to exchange information indirectly.

Weighting and Conclusion

All criteria are met. **R.40 is rated C.**

Summary of Technical Compliance – Key Deficiencies

ANNEX TABLE 1. COMPLIANCE WITH FATF RECOMMENDATIONS

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	C	<ul style="list-style-type: none"> The Recommendation is fully met.
2. National cooperation and coordination	C	<ul style="list-style-type: none"> The Recommendation is fully met.
3. Money laundering offences	LC	<ul style="list-style-type: none"> Environmental crime is not explicitly criminalized.
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> The Recommendation is fully met.
5. Terrorist financing offence	C	<ul style="list-style-type: none"> The Recommendation is fully met.
6. Targeted financial sanctions related to terrorism & TF	LC	<ul style="list-style-type: none"> Shortcomings remain concerning provisions that tend to narrow the scope of TFS obligations (c.6.5 (a) and (c)), such as: (i) the requirement to freeze funds or other assets of designated persons and entities to situations, where a person knows or has reasonable cause to suspect, that person is dealing with such funds or assets; (ii) funds or economic resources are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; (iii) economic resources must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect that person is making the economic resources so available; and that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.
7. Targeted financial sanctions related to proliferation	LC	<ul style="list-style-type: none"> Deficiencies remain concerning provisions that tend to narrow the scope of obligations to freeze funds or other assets and not to make funds available (c.7.2), such as: (i) the requirement to freeze funds or other assets of designated persons and entities to situations, where a person knows or has reasonable cause to suspect, that person is dealing with such funds or assets; (ii) funds or economic resources are considered to be made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; (iii) economic resources must not be made available (directly or indirectly) to a designated person if a person knows, or has reasonable cause to suspect that person is making the economic resources so available; and that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.
8. Non-profit organisations	C	<ul style="list-style-type: none"> The Recommendation is fully met.
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> The Recommendation is fully met.
10. Customer due diligence	LC	<ul style="list-style-type: none"> The MLO allows to conduct identification measures as soon as reasonably practicable for linked transactions rather than immediately (c.10.2, c.10.14)

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • There are exemptions to CDD measures in relation to persons acting on behalf of a customer (c.10.4) • There is no requirement to obtain relevant identification data of BOs of legal persons listed on a regulated market (c.10.5) • FIs can demonstrate that CDD data is up-to-date by requesting a customer the assurance that will provide the relevant data on timely basis (c.10.7) • FIs are not specifically required to understand the nature of the legal arrangement's business/activities (c.10.8) • There are no specific obligations under enforceable means covering all requirements set out under c.10.9(b)(c). • There is no requirement to obtain sufficient information on beneficiaries of trusts designated by characteristics/class (c.10.11(a)). • There are no explicit requirements to identify persons holding equivalent positions to settlor, trustee or protector in legal arrangements other than trusts (c.10.11(b)). • There are no explicit requirements to take the name of a beneficiary of a life insurance policy or to obtain sufficient information about beneficiaries designated by characteristics/class (c.10.12). • There is no explicit requirement to consider the beneficiary of a life insurance policy as a relevant risk factor in all higher risk situations (c.10.13) • There is no specific requirement to apply CDD to existing customers on the basis of materiality (c.10.16) • There are no specific EDD measures in relation to higher-risk customers and situations besides PEPs, correspondent banking and high-risk jurisdictions (c.10.17) • Discontinuation of CDD is only allowed after submitting a SAR (c.10.20)
11. Record keeping	C	<ul style="list-style-type: none"> • The Recommendation is fully met.
12. Politically exposed persons	LC	<ul style="list-style-type: none"> • The definition of close associates does not specifically refer to individuals connected to a PEP socially or professionally (c.12.3) • There is no specific requirement to conduct enhanced scrutiny on the whole business relationship with a life insurance policyholder where higher risks are identified (c.12.4).
13. Correspondent banking	C	<ul style="list-style-type: none"> • The Recommendation is fully met.
14. Money or value transfer services	LC	<ul style="list-style-type: none"> • MVTS providers are not specifically required to include agents in their AML/CFT programs (c.14.5)
15. New technologies	LC	<ul style="list-style-type: none"> • There is no specific requirement to conduct risk assessment concerning new business practices and the assessment of risks is limited to those products, services, practices and technologies that are susceptible to anonymity (c.15.1, c.15.2). • The authorities have not yet applied a risk-based approach based on their understanding of risks to ensure that the ML/TF mitigating measures are commensurate with the risk overview (c.15.3). • There is no explicit legal requirement to conduct ongoing fit and proper checks for key persons of VASPs (c.15.4(b)). • It is not clear that any enforcement action has been taken against unauthorised VASPs besides issuing public statements (c.15.5) • Shortcomings under R.26 apply (c.15.6(a)).

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> There is no specific guidance addressed at VASPs covering the aspect of identification and reporting of suspicions (c.15.7) Shortcomings under R.10-21 apply (c.15.9) The TFR does not define a VA account, does not consider situations where the full payer/payee information cannot accompany a VA transfer and requires the information to accompany a transfer rather than transmitting it immediately (c.15.9(b)). Relevant shortcomings under R.6 and R.38 apply (c.15.10, c.15.11).
16. Wire transfers	LC	<ul style="list-style-type: none"> Transfers of funds that equal EUR 1,000 do not fall under the scope of wire transfer regulation (c.16.1); MVTS providers are not required to submit a SAR in all countries affected by a suspicious wire transfer and make the relevant transaction information available to the FIU (c.16.17(b)).
17. Reliance on third parties	LC	<ul style="list-style-type: none"> Where reliance is placed on a third party, which is a member of the group, there is no explicit requirement to ensure that any higher country risk is adequately mitigated by a financial group's AML/CFT policies (c.17.3(c)).
18. Internal controls and foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> There is no explicit requirement that AML/CFT programs of FIs should have regard to the size of the business (c.8.1); Not all FIs are required to have an independent audit function to test their AML/CFT systems. (c.8.1(d)); There is no group-wide specific requirement to have safeguards to prevent tipping-off (c.18.2(c)).
19. Higher-risk countries	C	<ul style="list-style-type: none"> The Recommendation is fully met.
20. Reporting of suspicious transaction	C	<ul style="list-style-type: none"> The Recommendation is fully met.
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> The Recommendation is fully met.
22. DNFBPs: Customer due diligence	LC	<ul style="list-style-type: none"> The MLO provides an exemption for real estate agents to verify the identity of a customer that has to provide documentation to the Population Office to have the permission to purchase land (c.22.1(b)). Shortcomings under R.12, R.15 and R.17 apply (c.22.3, c.22.4, c.22.5)
23. DNFBPs: Other measures	LC	<ul style="list-style-type: none"> The shortcomings concerning the internal controls described in R.18 for FIs are equally applicable to DNFBPs.
24. Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> There is no requirement for companies to keep their articles of association, memorandum or certificate of incorporation in their registered office and for incorporated associations to keep basic information in their addressed (c.24.4) There is no clear mechanism to update the share register on a timely basis and the update of basic information of incorporated associations that are NPOs is not timely (c.24.5) Incorporated associations are not required to have a nominated person (c.24.8) There is no explicit requirement for legal persons to keep BO information themselves (c.24.9) Record keeping provisions available for legal persons that are not companies, LLPs or foundations place the obligation on the

Recommendations	Rating	Factor(s) underlying the rating
		Registry and not the legal persons or their administrators or liquidators (c.24.9)
25. Transparency and beneficial ownership of legal arrangements	LC	<ul style="list-style-type: none"> There are no record-keeping requirements concerning the basic information of R.24 for incorporated associations (c.24.9) There are no policies or procedures covering the monitoring of the quality of the assistance received (c.24.15). There is no explicit requirement for trustees to hold basic information on other regulated agents or service providers (c.25.1(b)). The BO definition of the Provision of Information by Trustees Order only includes beneficiaries of the trust and their BOs (c.25.4) The requirements of R.25 are not applicable to <i>fidéicommis</i>.
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> Core Principles FIs are subject to registration and not licensing (c.26.2); From a technical compliance market entry perspective, Jersey's legislation does not follow all-crimes approach when considering criminality (c.26.3); No information has been made available to the AT regarding regulation and supervision of core principle FIs in line with the core principles, including in relation to consolidated group supervision for AML/CFT purposes (c.26.4.(a)); The process of institutional risk assessment would benefit from further enhancement (c.26.5); It is unclear as to how the characteristics of groups are considered when determining the frequency and intensity of onsite and offsite supervision (c.26.5); major developments in the management (apart from change in compliance resources) and operations are not captured by the list of events that trigger the review of AML/CFT risk profile of the supervised institutions (c.26.6).
27. Powers of supervisors	C	<ul style="list-style-type: none"> The Recommendation is fully met.
28. Regulation and supervision of DNFBPs	LC	<ul style="list-style-type: none"> From a technical compliance market entry perspective, Jersey's legislation does not follow all-crimes approach when considering criminality (c.28.1(b), 28.4.(b)); The institutional risk assessment process would benefit from further enhancement (c.28.5); A formal risk assessment exercise for some of the areas perceived as low risk would assist Jersey in appreciating and establishing that there is proven low risk in these sectors (c.28.5).
29. Financial intelligence units	LC	<ul style="list-style-type: none"> There is no capping on the FIU Board number of members; the law only requires two of the members to be from authorities, leaving the remaining members unspecified; there could clearer provisions ensuring that Board members act in the FIU's best interest, regardless of their background and/or primary role/employment. Having to ensure the FIU's IT systems' compatibility with SOJP systems could limit the future choice of the FIU IT tools and programs.
30. Responsibilities of law enforcement and investigative authorities	C	The Recommendation is fully met.

Recommendations	Rating	Factor(s) underlying the rating
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> The Recommendation is fully met.
32. Cash couriers	C	<ul style="list-style-type: none"> The Recommendation is fully met.
33. Statistics	C	<ul style="list-style-type: none"> The Recommendation is fully met.
34. Guidance and feedback	LC	<ul style="list-style-type: none"> As the JFSC is at the early stages of supervising VASPs, limited sector specific guidance has been made available.
35. Sanctions	C	<ul style="list-style-type: none"> The Recommendation is fully met.
36. International instruments	C	<ul style="list-style-type: none"> The Recommendation is fully met.
37. Mutual legal assistance	C	<ul style="list-style-type: none"> The Recommendation is fully met.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> There are no exact provisions regulating arrangements for coordinating seizure and confiscation with other countries.
39. Extradition	C	<ul style="list-style-type: none"> The Recommendation is fully met.
40. Other forms of international cooperation	C	<ul style="list-style-type: none"> The Recommendation is fully met.

GLOSSARY OF ACRONYMS⁶⁵

AG	Attorney General
AIF	Alternative Investment Fund
AIFMD	Alternative Investment Fund Managers Directive
AIFSB	Alternative Investment Fund Service Business
AJC	The Association of Jersey Charities
AMO	Asset Management Office
ARAM	Annual Risk Assessment Meeting
ARO	Asset Recovery Office
ASA	Asset Sharing Agreement or Arrangement
BAMIN	Balkin Asset Management Interagency Network
BRA	Business Risk Assessment
CAATSA	Countering America's Adversaries Through Sanctions Act
CANS	Canadian Sanctions
CARIN	Camden Asset Recovery Inter-Agency Network
CAU	Central Authorisations Unit
CDD	Customer Due Diligence
CDG	Coordination and Delivery Group
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CIF	Collective Investment Fund
CIFS	Common Investment Funds
CMP	Compliance Monitoring Programme
COBO	Control of Borrowing Order
COBO consent	Consent issued by the JFSC under the Control of Borrowing Order
COCF	Criminal Offences Confiscation Fund
CPSPCC	Crown Prosecution Service Proceeds of Crime Division
CR	Continuation report
CRIMS	Enforcement case record & intelligence management system
Crystal Report	A bulk data package received from the UKFIU to FIU Jersey
CTPLO	Counter Terrorism Police Liaison Officer
CTPU	Counter Terrorism Policing Unit
DNRED	Direction Nationale du Renseignement et des Enquêtes Douanières
DSP	Designated Service Provider
EC	European Commission
ECCU	Economic Crime and Confiscation Unit
ECDD	Enhanced Customer Due Diligence
EEA	European Economic Area
EJN	European Judicial Network
EoN	Exchange of Notes
ERM	Enterprise Relationship Manager
ESW	Egmont Secure Web
FCDO	Foreign, Commonwealth and Development Office
FCEU	Financial Crime Examination Unit
FCPCP	Financial Crime Prevention Capability Programme
FIB	Force Intelligence Bureau of the SOJP

⁶⁵ Acronyms already defined in the FATF 40 Recommendations are not included into this Glossary.

FIN-NET	Financial Crime Information Network
FIU	Financial Intelligence Unit Jersey
FRACCK	Framework for the Return of Assets from Corruption and Crime in Kenya
FSB	Fund Services Business
FSIU	Financial Sanctions Implementation Unit
FSOB	Financial Sanctions Oversight Board
FTF	Foreign Terrorist Fighters
GoJ	Government of Jersey
GRC	Governance, Risk, Compliance
HMRC	His Majesty's Revenue & Customs
HoFIU	Head of Financial Intelligence Unit
HOSOL	Home Office Serious Offences List
HRBF	High Risk Business Forum
HRR Unit	Heightened Risk Response Unit
IB	Investment Business
ICAR	International Centre for Asset Recovery
ICC	Incorporated Cell Company
IEWG	Information Exchange Working Group (Egmont working group)
IFC	International Finance Centre
IFIS	Independent Financial Intelligence System
ILP	Incorporated Limited Partnership
IOSCO	International Organisation of Securities Commissions
iSAR	Internal Suspicious Activity Report
ISIL	Islamic State of Iraq and the Levant
ISIS	Islamic State in Iraq and Syria
JARD	Joint Asset Recovery Database
JATCo	Jersey Association of Trust Companies
JCC	The Office of the Jersey Charity Commissioner
JCIS	Jersey Customs and Immigration Service
JFA	Jersey Funds Association
JFCU	Joint Financial Crimes Unit
JFIN	Jersey Financial Intelligence Network
JFSC	Jersey Financial Services Commission
JGC	Jersey Gambling Commission
JIB	Jersey Incorporated Bank
JMLIT+	Joint Money Laundering Intelligence Taskforce
JOIC	Jersey Office of the Information Commissioner
JPF	Jersey Private Fund
JSCCA	Jersey Society of Chartered and Certified Accountants
KPI	Key Performance Indicator
KRI	Key Risk Indicator
LEA	Law Enforcement Agency
LLP	Limited Liability Partnership
LOD	Law Officers' Department
LOR	Letter of Request
LPA	Legal Persons and Arrangements
MIR	Miscellaneous Intelligence Reports
MLAT	Mutual Legal Assistance Treaty
MLCO	Money Laundering Compliance Officer
MLO	Money Laundering (Jersey) Order 2008

MLRO	Money Laundering Reporting Officer
MoD	UK's Ministry of Defence
MSB	Money Service Business
MVTS	Money or Value Transfer Services
NCA	National Crime Agency
NCBC	Non-Conviction Based Confiscation
NED	Non-Executive Director
NTFIU	National Terrorism Financial Investigation Unit
OFAC	Office of Foreign Assets Control
OFSI	Office of Financial Sanctions Implementation
OGBS	Offshore Group of Banking Supervisors (now GIFCS)
OIB	Overseas Incorporated Bank
OSINT	Open-source information or intelligence
PCC	Protected Cell Company
PEP	Politically Exposed Person
PFOWG	Proliferation Financing Operational Working Group
PNC	Police National Computer
PND	Police National Database
POC Notice	Proceeds of crime notice
PPP	Public Private Partnership
PSG	Political Steering Group
PSP	Payment Service Provider
PSU	Pooled Supervision Unit
PTC	Private Trust Company
RCAs	People related to or close friends of people on the Sanctions, PEPs, and SIPs Lists
RE	Reporting Entity
RECF	Risk Event Capture Form
RMT	Regulatory Maintenance Team
SAR	Suspicious Activity Report
SBPC	Sound Business Practice Committee
SBPP	Sound Business Practice Policy
SIS	Shared Intelligence System
SLP	Separate Limited Partnerships
SOE	State Owned Enterprises
SOF	Source of funds
SOJP	States of Jersey Police Force
SOW	Source of wealth
SPOC	Single Point of Contact
SRO	Self-Regulatory Organisation
STEP	Society of Trust and Estate Practitioners
TCB	Trust Company Business
TCSP	Trust and Company Service Providers
TFOWG	Terrorist Financing Operational Working Group
UK DAML	United Kingdom Defence Against Money Laundering
UKFIU	United Kingdom Financial Intelligence Unit
UKHMT	United Kingdom His Majesty's Treasury
VCEB	Virtual Currency Exchange Bureau

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May 2024

Anti-money laundering and counter-terrorism financing measures

Jersey

Fifth Round Mutual Evaluation Report

This report provides a summary of AML/CFT measures in place in Poland as at the date of the on-site visit (21 - 24 May 2024). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Poland AML/CFT system, and provides recommendations on how the system could be strengthened.