

Recommendation	Rating	ROSC Comment (21.08.2009)	Lead Agency	Amendment type:	Proposed Action	Update as at 30.09.10
Legal System & Related Institutional Measures						
Criminalisation of Money Laundering: R. 1 & 2						
1	LC	<p>Amend Articles 34 of the Proceeds of Crime (Jersey) Law 1999 (the "POCL") and 30 of the Drug Trafficking Offences (Jersey) Law 1988 ("DTOL") to:</p> <ul style="list-style-type: none"> · provide for two alternative purposes for the acts of converting and transferring proceeds, namely to avoid prosecution for the predicate offense or to conceal the illicit origin of the funds, and; · to eliminate the purpose requirement for the acts of converting and transferring proceeds of crime. · The defence (payment of adequate consideration) provided for in Articles 33(2) of the POCL and 38(2) of the DTOL is not provided for in the Vienna and Palermo Conventions and should be eliminated as it may allow money launderers to abuse the provision to avoid criminal liability for the acquisition, possession, or use of criminal proceeds. · Amend Article 18 of the Terrorism (Jersey) Law 2002 ("TL") to cover all material elements of the money laundering provisions of the Palermo and Vienna Conventions. · Amend the offenses of acquisition, possession, or use of the POCL and DTOL, as well as the money laundering offense contained in the TL to include criminal proceeds obtained through the commission of a predicate offense by the self-launderer. · The authorities should assess whether the level of proof applied to show that property stems from the commission of a specific predicate offence poses a barrier to obtaining convictions for stand-alone money laundering. 	LOD	Legislation	<p>The insular authorities propose to rationalise AML/CFT legislation, so that one law will cover what is currently addressed through the POCL, DTOL and TL. This will serve to simplify current arrangements and avoid the need to identify whether a particular offence involves drug trafficking (distinct from other crimes).</p> <p>As part of this rationalisation, the opportunity will be taken to address the various technical matters that are raised by the IMF. In particular, the scope of existing money laundering offences will be reviewed, and consideration given to providing for property to be restrained at the time that a criminal investigation is started in Jersey or elsewhere. The latter would necessarily extend to a review of the provisions that provide a person with a defence to a money laundering charge.</p>	A request is shortly to be made to the Law Draftsman's Office ("LDO") for law drafting time to amend and/or consolidate the three laws.
Criminalisation of Terrorist Financing: SR. II						
SR. II	LC	<ul style="list-style-type: none"> · Amend Article 2 of the TL to include a reference to international organizations. · Amend the definition of "terrorism" in Article 2 of the TL to extend to all terrorism offenses as defined in the nine Conventions and Protocols listed in the Annex to the FT Convention. 	LOD	Legislation	The definition of "terrorism" in the TL will be reviewed.	A request is shortly to be made to the LDO for law drafting time to amend and/or consolidate the three laws.

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3	LC	<p>Confiscation, freezing, seizing of proceeds of crime: R. 3</p> <ul style="list-style-type: none"> Jersey's laws should be amended to address the deficiencies affecting the scope of the ML and FT offenses and thereby also improve the quality of the criminal confiscation regime. Consideration should be given to providing for restraint of property and or its equivalent or corresponding value from the beginning of an investigation. In the case of matters arising under the TL, there should be provision for the restraint and confiscation of property of corresponding value. A more direct legal basis should be provided for the current 'informal freezing' or consent/nonconsent arrangement currently administered by the Joint Financial Crimes Unit ("JFCU"). 	<p>LOD</p> <p>LOD</p> <p>LOD</p> <p>LOD</p>	<p>Legislation</p> <p>Legislation</p> <p>Legislation</p> <p>Legislation</p>	<p>See Recommendation 1 and SR. II above.</p> <p>See Recommendation 1 above.</p> <p>Consideration will be given to bringing TL provisions dealing with the restraint and confiscation of property into line with existing provisions in the POCL.</p> <p>See Recommendation 1 above.</p>	<p>A request is shortly to be made to the LDO for law drafting time to amend.</p> <p>Actively being considered by LOD.</p> <p>A request is shortly to be made to the LDO for law drafting time.</p> <p>Actively being considered by LOD.</p>
SR. III	LC	<p>Freezing of funds used for terrorist financing: SR. III</p> <ul style="list-style-type: none"> The authorities should put in place a formal procedure governing the receipt and assessment of requests based on a foreign request to designate/freeze in order to comply with obligations under UNSCR 1373. The legal framework implementing the UN Resolutions should be amended to expressly extend the definition of 'funds' subject to freezing to cover assets 'jointly' or 'indirectly' owned or controlled by the relevant persons. The authorities should develop procedures to assess the effectiveness of their program to implement the UNSCRs and keep statistics regarding implementation. 	<p>Gov</p> <p>LOD</p> <p>Gov</p>	<p>Other</p> <p>Legislation</p> <p>Other</p>	<p>Consideration is to be given to rationalising the administration and enforcement of UN and other sanctions that are applied in Jersey. At the present time, a number of agencies are involved, and the effective implementation of sanctions may be assisted by establishing a dedicated sanctions function within the Commission.</p> <p>At the same time, the legal framework that implements UN resolutions concerned with terrorist financing will be reviewed with a view to making clearer existing provisions that extend sanctions to funds that are jointly or indirectly controlled by persons that are suspected of being concerned with terrorism.</p>	<p>Guidance on sanctions legislation and compliance herewith is currently under development.</p> <p>Draft legislation is close to completion - the Terrorist Asset Freezing (Jersey) Law 201-. LOD input is awaited on appeal mechanisms.</p>
26	LC	<p>The Financial Intelligence Unit and its functions: R. 26</p> <ul style="list-style-type: none"> The Intelligence Wing of the JFCU should be adequately staffed to perform its functions effectively. The JFCU should issue periodic reports including statistics, typologies and trends and information on its activities. The JFCU should maintain comprehensive statistics on the work of the Intelligence Wing on matters relevant to the effectiveness and efficiency of systems for combating ML and FT. 	<p>Gov</p> <p>JFCU</p> <p>JFCU</p>	<p>Other</p> <p>Other</p> <p>Other</p>	<p>The insular authorities remain committed to making adequate resources available to the JFCU and Law Officers' Department - to allow reports that are made to the JFCU to be effectively analysed and disseminated, and necessary investigative action to be taken on the basis of those reports, and comprehensive feedback and statistics to be provided. Proposals will be put forward to create and fund additional posts in the JFCU where there is a demonstrable need.</p> <p>An intelligence database will be developed to maintain such statistics.</p>	<p>Funding proposals for additional staffing and increased workload have been identified, subject to approval in the States 2011 budget.</p> <p>JFCU - new SOJP website will be launched imminently. A new JFCU homepage has been created with latest statistics and overview, and a selection of sanitised cases. A process is in place to ensure this is reviewed and updated on a periodic basis. Series of presentations scheduled, including D.I. JFCU input to JCOA 20 October and AML seminar 2 November.</p> <p>A new database was launched on 1 September which will greatly assist in this respect.</p>

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Law enforcement, prosecution and other competent authorities: R. 27 & 28 27	LC	<ul style="list-style-type: none"> The authorities should implement steps to improve effectiveness by seeking to increase investigative resources. Competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness of systems for combating ML and FT. 	Gov LOD	Other Other	See Recommendation 26 above.	See Recommendation 26. The LOD produces annual reports on the number and types of new cases. Consideration will be given to producing annual reports relating to cases involving the proceeds of crime, and recording the outcome of such cases.
Cross Border Declaration or disclosure: SR.IX SR. IX	LC	<ul style="list-style-type: none"> Jersey should proceed with its implementation of the newly-established disclosure system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering and terrorist financing. 	Customs	Other	Ongoing. This type of work is now included as a routine part of a Customs Officers' duties on the frontiers. In addition specific risk testing exercises take place for this type of traffic on a regular basis.	To date, 91 passengers have been challenged by Customs Officers on the outward controls. Though cash has been identified on occasions, the person concerned has been able to prove that the money was legitimate. In total, 1592 people have been challenged on the inward controls. No cash has been seized.
Preventive Measures: Financial Institutions						
Customer due diligence, including enhanced or reduced measures: R. 5, 6, 7 & 8 5	PC	<ul style="list-style-type: none"> The authorities should conduct a risk-based review of the current scope of the concessions allowing reliance on third parties to conduct CDD and limit their availability to be strictly consistent with the FATF Recommendations. Should the authorities decide to continue allowing source of funds to be used as a principal basis for verification or identity in certain low-risk circumstances, the requirements should be tightened further to eliminate any remaining risk of abuse for ML or FI purposes. The authorities should review the permitted exemptions from CDD measures in Article 18 of the Money Laundering (Jersey) Order 2008 (the "MLO") to ensure that financial institutions must determine that the customer's country of residence is in compliance with and has effectively implemented the FATF standards. The authorities should amend their requirements to ensure that all concessions from conducting full identification measures are conditioned on the absence of specific higher risk scenarios. The authorities should expand the current list of categories of higher-risk customers in the MLO to which enhanced CDD must be applied and consider including, for example, private banking and nonresident customers. 	Commission Commission Commission Commission	Legislation Guidance Legislation Legislation	<p>Concessions set out in Articles 16 and 17 of the MLO that allow reliance to be placed by a person that is subject to the MLO on customer due diligence measures that have already been conducted by a third party will be reviewed in light of the recommendations that are made.</p> <p>Whilst the insular authorities consider that existing provisions already implement the international standard (set out in FATF Recommendations 5 and 9) in a way that is equivalent to the European Union (the "EU"), the review will (amongst other matters) consider whether or not existing provisions adequately address the money laundering risk that is inherent in the types of services and products that are provided in or from within Jersey.</p> <p>Similarly, the application of concessions that are set out in Article 18 of the Money Laundering Order will be reviewed.</p> <p>The scope of Article 15 of the MLO - which provides that enhanced customer due diligence measures must be conducted in certain cases - will be reviewed. Whilst the Island's implementation of the international standard is equivalent to the EU's, the review will (amongst other matters) consider whether or not existing provisions adequately address the money laundering risk that is inherent in the types of services and products that are provided in or from within Jersey.</p>	<p>No action taken pending FATF work in this area and publication of Guernsey's FSSA.</p> <p>No action taken pending FATF work in this area and publication of Guernsey's FSSA.</p> <p>No action taken pending FATF work in this area and publication of Guernsey's FSSA.</p> <p>No action taken pending FATF work in this area and publication of Guernsey's FSSA.</p>

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		<ul style="list-style-type: none"> The JFSC should conduct a risk-based review of the use by relevant persons of the scope to defer completion of full identification requirements under Article 13(4) of the MLO and issue further guidance as needed to limit the practice. The authorities should amend the CDD requirements and guidance as necessary to ensure that, in addition to trusts, all other forms of legal arrangement are addressed adequately and consistently. The authorities should amend their requirements to clarify that, when utilising the concession permitting an employee of a relevant person to act on behalf of its customer, the relevant person must verify the employee's authority to so act. 	Commission	Guidance	Use of the concession that allows verification of identity to be delayed (in certain lower risk cases) and the basis upon which verification of identity may be simplified (in certain lower risk cases) will be reviewed, and guidance issued if necessary.	Action point for 2011.
			Commission	Guidance	Additional guidance is to be provided on the application of identification measures to limited partnerships and general partnerships. Comprehensive guidance is already provided for trusts. The Money Laundering (Amendment No. 4) (Jersey) Order 2010 sets out more clearly the application of customer due diligence measures to a customer that is a legal arrangement.	Guidance to be revised to coincide with the introduction of the Separate Limited Partnerships (Jersey) Law 2011- and the Incorporated Limited Partnerships (Jersey) Law 2011-.
			Commission	Legislation	The scope of the concession is narrowed in the Money Laundering (Amendment No. 4) (Jersey) Order 2010.	No further action required.
6	LC	<ul style="list-style-type: none"> The JFSC should, including through its on-site examination program, continue to seek effective implementation by financial institutions of the latest CDD requirements for PEPs. 	Commission	Other	Ongoing.	Ongoing.
8	LC	<ul style="list-style-type: none"> The authorities should issue more detailed guidance on the specific ML and FT risks of new and developing technologies, including for example in relation to e-money and e-commerce. 	Commission	Guidance	More detailed guidance will be published on the specific risks posed by new and developing technologies, for example in relation to electronic money and commerce.	No action taken pending imminent publication of a FATF Typologies paper.
Third parties and introduced business: R. 9						
9	PC	<ul style="list-style-type: none"> The authorities should explicitly require that a relevant person must obtain all necessary CDD information from the introducer immediately and should consider requiring relevant persons to perform spot-testing of an introducer's performance of CDD obligations. The authorities should limit the concession allowing financial institutions to rely on introducers to conduct CDD in the following cases: <ul style="list-style-type: none"> - intermediaries or introducers outside Jersey that could be legally restricted in providing CDD evidence to Jersey institutions; - certain domestic DNFBPs until newly-introduced AML/CFT requirements have been fully implemented. The authorities should eliminate the concession in the Handbook for Regulated Businesses permitting reliance on an intermediary or introducer that is a group member not itself subject to, nor supervised for compliance with, CDD requirements compliant with Recommendation 5. 	Commission	Legislation	The requirement to immediately obtain all necessary information from an introducer is more clearly expressed in the Money Laundering (Amendment No. 4) (Jersey) Order 2010.	No action taken on the introduction of spot-testing pending FATF work in this area and publication of Guernsey's FSSA.
			Commission	Legislation	See also Recommendation 5 above.	No action taken pending FATF work in this area and publication of Guernsey's FSSA.
			Commission	Guidance		

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Financial Institution secrecy or confidentiality: R. 4 4	LC	· Provide explicitly that financial institutions do not breach their confidentiality duty in exchanging customer information between themselves for AML/CFT purposes.	Commission	Legislation	Consideration will be given to extending existing provisions that allow (under certain circumstances) one part of a group to disclose information on a customer to another part of that group – so that it would be possible to also disclose information to other financial institutions.	Action point for 2011.
Record keeping and wire transfer rules: R. 10 & SR. VII SR. VII	LC	· The authorities should take steps to ensure a stricter approach by Jersey financial institutions when dealing with incoming wire transfers that lack originator information.	Commission	Other	The Commission will consider the approach that is taken by banks where incoming transfers lack complete originator information and provide such additional guidance as may be necessary.	Action point for 2011.
Monitoring of transactions and relationships: R. 11 & 21 21	LC	· The authorities should amend the power to apply countermeasures to remove the limitation tying it to the actions of the FATF.	Commission	Legislation	It is proposed to extend the circumstances in which the Minister for Treasury & Resources may apply countermeasures.	Draft legislation has been prepared - the Money Laundering and Weapons Development (Directions) (Jersey) Law 201-. LOD input is awaited on appeal mechanisms.
Suspicious transaction reports and other reporting: R. 13, 14, 19, 25 & SR.IV 13 & SR. IV	LC	· The JFCU and JFSC should consider steps to enhance the timeliness of reporting of suspicious transactions to the JFCU.	Commission	Other	In order to determine the timeliness of reporting, additional data will be collected through off- and on- site supervision to ascertain which steps may be needed to enhance the timeliness of reporting. These steps may include "outreach" to relevant sectors.	Ongoing. Both internal and external SARs are examined on supervision visits, the timeliness examined and appropriate advice is given.
14	PC	· The law should be amended to limit protection for those reporting suspicious transactions to those acting in good faith. · The tipping-off offense should be broadened by removing the limitation referring to situations that might prejudice an investigation.	LOD	Legislation	See Recommendation 1 above.	A request is shortly to be made to the LDO for law drafting time to amend and/or consolidate the three laws.
Suspicious transaction reports and other reporting: R. 15 & 22 15	LC	· The authorities should introduce a requirement in law, regulation, or other enforceable means that, having regard to the size and nature of the business, financial institutions maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures. · The authorities should clarify that the current provisions for timely information access for compliance officers must include customer identification data and other CDD information, transaction records, and other relevant information, including where that documentation or information is held by third parties, in or outside Jersey.	Commission Commission	Legislation Legislation	Consideration will be given to introducing a requirement for establishing and maintaining an internal audit function having regard to the size and nature of the business, where a requirement does not already exist. Current provisions for MLCO information access are clarified in the Money Laundering (Amendment No. 4) (Jersey) Order 2010.	No action taken. No further action required.

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22	LC	<ul style="list-style-type: none"> The authorities should introduce a requirement in law, regulation, or other enforceable means for financial institutions to pay particular attention to the requirement to apply AML/CFT measures at least equivalent to those in Jersey in the cases of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations. The authorities should introduce a requirement that financial institutions must apply consistent AML/CFT requirements at group level to customers doing business with different parts of the group. 	Commission	Legislation	The requirement is introduced in the Money Laundering (Amendment No. 4) (Jersey) Order 2010.	No further action required.
			Commission	Reg Req	Consideration will be given to introducing such a requirement. However, Jersey is a "host" jurisdiction for international banking, insurance and securities groups - and it may be more appropriate for such a requirement to be applied at "home " country level.	Action point for 2011.
The Supervisory and oversight system - competent authorities and SROs: Role, functions, duties and powers (including sanctions): R. 17, 23, 25 & 29						
17	LC	<ul style="list-style-type: none"> The authorities should consider expanding the range of sanctioning powers available to the JFSC to include monetary fines. 	Gov	Legislation	Consideration will be given to expanding the range of powers available to the Commission.	Action point for 2011.
Money and value transfer services: SR. VI						
SR. VI	LC	<ul style="list-style-type: none"> The JFSC should sustain its training and onsite supervision to improve compliance for MSBs. 	Commission	Other	Ongoing.	Ongoing.
Preventive Measures: Non-Financial Businesses and Professions						
Customer due diligence and record-keeping: R. 12						
12	PC	<ul style="list-style-type: none"> The authorities should: <ul style="list-style-type: none"> -Remove the concession which allows lawyers to apply reduced or simplified CDD measures in cases where funds may only be received and paid to an account in a customer's name. - Repeal the concession that allows lawyers and accountants to self-certify identification of existing clients. - Sustain close supervision of TCBs to improve compliance with CDD and record keeping requirements. As lawyers, accountants, real estate agents, and high value dealers, gather experience with the new compliance arrangements, the authorities should continue with its program to evaluate the effectiveness of implementation by these sectors of their CDD requirements. 	Commission	Guidance	The concession is not used and will be removed.	A proposed amendment to the AML/CFT Handbook for the legal sector will remove this concession. This was conducted infrequently when the regime commenced and lawyers and accountants have since re-verified ID measures as appropriate. No action proposed at this point. Ongoing. Ongoing. The Commission is to publish a summary of its findings of supervisory examinations carried out to date.
			Commission	Guidance	The extent to which the basis for verifying identity may be simplified (in certain lower risk cases) will be reviewed.	
			Commission	Other	Ongoing.	
			Commission	Other	Ongoing.	
Suspicious transaction reporting: R. 16						
16	PC	<ul style="list-style-type: none"> The authorities should continue to conduct on-site monitoring of SAR reporting practices by lawyers, accountants, and estate agents. 	Commission	Other	Ongoing.	Ongoing.

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Regulation, supervision, monitoring, and sanctions: R. 17 & 24 24	LC	· The JFSC should continue with testing implementation of AML/CFT requirements for all DNFBPs not previously subject to its supervision.	Commission	Other	Ongoing.	Ongoing.
Legal Persons and Arrangements & Nonprofit Organizations						
Legal Persons and Arrangements: Access to beneficial ownership and control information: R. 33 & 34 34	LC	· Even though the vast majority of trust arrangements are covered by the CDD requirements of the MLO, the authorities should further seek to put in place measures to ensure that accurate, complete, and current beneficial ownership information is available for legal arrangements administered by any trustees not covered by, or exempted from, the registration requirements under the POCL. · The authorities should put in place measures to ensure that beneficial ownership information is obtained, verified, and maintained for all general partnerships.	Commission	Legislation	Application of the identification measures set out in in the Money Laundering Order will be reviewed.	Action point for 2011.
Nonprofit organizations: SR. VIII SR. VIII	C	· Based on registration information, the authorities should analyze the FT vulnerability of the NPO sector.	Commission	Other	Ongoing.	Ongoing. Vulnerabilities are periodically discussed by the AML/CFT Strategy Group.
National & International Cooperation						
The Conventions and UN Special Resolutions: R. 35 & SR. I 35 & SR. I	LC	· The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented. · The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented. · Jersey should consider requesting extension of the remaining 10 international counter-terrorism related legal instruments.	LOD LOD Gov	Legislation Legislation Legislation	See Recommendation 1 above. See SR.II above. Consideration will be given to requesting the UK to extend its ratification of the remaining instruments to include Jersey.	A compliance matrix relating to the Palermo Convention has been produced. Consideration will need to be given to areas of non-compliance identified. See SR.II. Awaiting confirmation of extension of 7 conventions from the relevant UK authorities. Work is underway to allow for extension of the remaining conventions.
National Cooperation and Coordination: R. 36, 37, 38, 39 & SR. V 36, 38, 39 & SR. V	LC	· Amend the law to correct the deficiencies affecting the criminalization of ML and FT offenses, and thus facilitate full compliance with MLA requests related to seizure and confiscation and remove possible obstacles to complying with extradition requests where the dual criminality principle applies.	LOD	Legislation	See Recommendation 1 and SR. II above.	A request is shortly to be made to the LDO for law drafting time to amend and/or consolidate the three laws.

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<i>Other relevant AML/CFT measures or issues</i>						
Resources and Statistics						
1	LC	· Provide additional resources to the JFCU to deal with increasing workload.	Gov	Other	See Recommendation 26 above.	Funding proposals for additional staffing and increased workload have been identified, subject to approval in the States 2011 budget. A new database was launched on 1 September which will greatly assist in this respect.
32	LC	· The JFCU should develop its capacity to maintain relevant statistics on all aspects of SAR analysis and external cooperation.	JFCU	Other	See Recommendation 26 above.	