JULY 2023

Bailiwick of Jersey

Legal Persons / Legal Arrangements National Risk Assessment

COMBATTING FINANCIAL CRIME TOGETHER

Table of Contents

Foreword

Jersey is committed to combatting financial crime and upholding international standards. A large part of that is ensuring that we have an accurate picture of the risks that the Island faces. It is equally important that this picture is updated regularly, to ensure an accurate understanding of the changing global landscape. Since 2018 the Island has formalised that process by producing National Risk Assessments, which are led by the Government, but involve a cross-section of various competent authorities, and relevant industry entities.

The first Money Laundering National Risk Assessment, published in 2020, confirmed the areas where Jersey has adequate systems and controls in place to mitigate risks. It also identified a number of areas where further action was required if we are to counter potential risks satisfactorily. Risk assessments of the non-profit organisation sector and terrorist financing, along with an overview of the risks associated with virtual asset service providers have already been published. This risk assessment goes into significant detail on each of the legal persons and arrangements offered by the finance industry, which I am sure will be an invaluable resource for industry, and a single reference point for those seeking to know about the risk factors they carry and the mitigating controls in place.

Financial crime is constantly evolving and becoming more sophisticated and complex, meaning that new threats are regularly emerging for Jersey. These risk assessments are an important part of the whole Island's commitment to combatting financial crime, together.

I thank everyone who has contributed to creating this report, including representatives from the Government of Jersey, Jersey Financial Services Commission, Jersey Registry, Law Officers' Department, Financial intelligence Unit, Revenue Jersey, and especially industry representatives from the trust and company service provider and legal sectors. Their involvement ensures that the contents of this assessment accurately reflect the current situation in the industry.

M E Millar

Deputy Elaine Miller

Assistant Chief Minister with responsibility
for Financial Services

Executive Summary

Jersey is a full service international financial centre, providing a range of services across banking, investment funds, private wealth, corporate structures, capital markets and associated services.

Jersey currently supports 11 types of entities (seven legal persons and four legal arrangements) with a range of different characteristics. Whilst establishment requirements differ, with the exception of customary law partnerships which are governed by the customary law of Jersey, all legal persons and legal arrangements are subject to legislative provisions.

This report forms part of the suite of publications available on the Government of Jersey's website which detail the jurisdiction's risk strategy, risk appetite and subject-matter specific national risk assessments ("NRAs"). Completion of the work and publication of this report is in line with action 9.1.3 of the National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction published in September 2022.

This first targeted assessment of the risk of Jersey administered legal persons and legal arrangements being abused for money laundering or the financing of terrorism has been conducted with the assistance of the World Bank Methodology. Collaborative working between the public and private sector has been fundamental to delivering this NRA.

Over a 12-month period a working group met on 16 occasions and undertook a detailed analysis of national and entity-specific risks informed by data provided by competent authorities and supplemented with data collected directly from the private sector during 2022.

The working group included representatives from industry, trade bodies, the regulator, registry, Law Officers' Department, Financial Intelligence Unit and Revenue Jersey.

In completing this risk assessment Jersey has demonstrated, based on data, an understanding of the money laundering and terrorist financing risks posed by the available Jersey legal persons and legal arrangements or those administered by a Jersey-registered trust and company service provider.

The national money laundering threat for Jersey is assessed as high; the measure of whether persons will try to launder the proceeds of crime through Jersey administered legal persons and legal arrangements. However, the national money laundering vulnerability is assessed as medium; the measure which identifies how easy it is for a threat to succeed. Overall, this outcome is as expected, given that Jersey is an IFC with a long history of regulating the provision of trust and company services and the high international standing of its Registry.

With respect to the risks associated with the 11 types of entities, the least risky entities are those which are either domestically focussed, e.g. the fidéicommis and Incorporated Associations which are established through the Royal Court, or where the number of registered entities is small, e.g. incorporated limited partnerships where 15 are currently registered.

In comparison, the greatest risk is associated with the entity types which are most popular. There entity types have specific characteristics which set them apart. Trusts administered by trust and company services providers are assessed as high risk whilst TCSP administered non-Jersey companies are assessed as medium-high risk. Full details supporting these ratings are provided in this report.

Consideration of the data from a terrorist financing perspective concludes that there may be limited exposure for Jersey companies and TCSP administered trusts, contributing to a lower terrorist financing risk.

As the risk assessment work progressed the working group identified a number of improvements which have been set out in this report in section 3. The majority of these are matters which the competent authorities will need to complete. The exception is the recommendation that the legal person and legal arrangement activity data, collected as part of this risk work, be collected on an annual basis and used as a base for continued risk understanding.

SECTION 1

Introduction

1.1 Overview

1.1.1 Jersey is a full service international financial centre ("IFC"), providing a range of services across banking, investment funds, private wealth, corporate structures, capital markets and associated services. Whilst Jersey's financial services industry offers services relating to the formation of legal persons and legal arrangements (entities), it does not consider itself as solely an incorporation centre; this is only one element of what is offered.

1.1.2 Jersey offers a full range of legal person and legal arrangement services, including corporate governance, administration and director services. It holds itself out positively as a highly regulated jurisdiction and was one of the first to recognise the need to regulate the provision of trust and company services, introducing regulation in the early 2000s[1].

1.2 Types of legal persons and legal arrangements

1.2.1 Jersey supports 11 types of entities (seven legal persons and four legal arrangements) with a range of different characteristics[2]. Whilst establishment requirements differ, with the exception of customary law partnerships, which are governed by the customary law[3] of Jersey, all legal persons and legal arrangements ("LPAs") are subject to legislative provisions.

1.2.2 Six types of legal person and one legal arrangement are established through the Registry[4]. The table below indicates where the establishment requirements can be found and the number of entities registered with the Registry as at 31 December 2022:

Entity	Entity legislation[5]	Disclosure and Provision of Information Law[6]	Control of Borrowing Legislation[7]	Number (end 2022)
Companies, includes incorporated cell and protected cell companies	x	x	x	34,509
Limited liability companies	x	x	x	1
Foundations	x	x		212
Limited liability partnerships	x	x	x	134
Incorporated limited partnerships	x	x	x	15
Separate limited partnerships	x	x	x	154
Limited partnerships (legal arrangement)	x		x	2,637

[1] Other designated non-financial businesses and professions, including the legal sector and accountants were bought into regulation in 2008.
[2] Details of these can be found on the Government's website: Legal persons and arrangements
[3] Jersey's customary law is not contained in statut e but has evolved from Norman-French law and is primarily contained in the judgments of the Royal Court of Jersey and the writings of local and French jurists.
[4] Housed by the Jersey Financial Services Commission, the individuals responsible for the Jersey register of companies and certain other entities.

1.2.3 In addition to limited partnerships, it is possible to establish customary law partnerships and trusts, neither of which are required to register with a competent authority[8]. However, the lack of registration does not mean information is not available on these entity types. As at 31 December 2021, the annual Supervisory Risk Data provided to the Jersey Financial Services Commission ("JFSC") highlighted that TCSPs[9] were administering just over 29,000 trusts. There are known to be around 330 customary law partnerships operating with a business licence. See Part C for further information on these entity types.

1.2.4 Jersey also supports two other types of entities, both of which are historic and may only be established by approval from the Royal Court of Jersey ("Royal Court"). These are tightly controlled by legislation and recorded on the Public Registry[10] maintained by the Judicial Greffe: (i) Incorporated Association – legal person, and (ii) fidéicommis – legal arrangement. These entity types are rarely used with one fidéicommis having been established in the last 25 years and 19 Incorporated Associations in the last five years. There are currently 80 fidéicommis and 246 Incorporated Associations. See Part D for further information.

1.2.5 It is also possible to establish limited liability companies[11], however this is a recent development and, at the time of completing this risk assessment, only one has been registered; this entity type has not been considered in detail.

1.2.6 TCSPs also report that they have provided services to non-Jersey companies. These have been included in this risk assessment as it is recognised that administration of these entities creates a money laundering ("ML") risk for Jersey.

1.3 Jersey's risk understanding

1.3.1 In recent years, Jersey's competent authorities and industry have worked together to increase understanding and awareness of the risks of ML and terrorist financing ("TF").

1.3.2 This report forms part of the suite of publications available on the Government of Jersey's website which detail the jurisdiction's risk strategy, risk appetite and subject-matter specific NRAs. Completion of the work and publication of this report is in line with action 9.1.3 of the National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction published September 2022.

1.4 Purpose of this legal persons and legal arrangements NRA

1.4.1 Whilst much of the focus of this report is on ML consideration has also been given to the risk of legal persons and legal arrangements being used for FT. The results of this work are included in this report where relevant.

[5] A full list of entity legislation can be found in Appendix F.
[6] Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020, and its subordinate legislation
[7] Control of Borrowing (Jersey) Law 1947, and its subordinate legislation
[8] Note: unit trusts are required to hold a consent under the Control of Borrowing Legislation and are therefore known to the Registrar.
[9] Trust and corporate services providers registered with the JFSC under the Financial Services Law.
[10] Operated by the Judicial Greffe Public Registry services, fees and Stamp Duty.
[11] A Jersey limited liability company differs from other companies in that: It is a corporate entity with member limited liability; it has greater flexibility around its management and organisation; it allocates profits and losses in a manner similar to a partnership, and it has separate legal personality but is not a 'body corporate'. However, on establishment it may elect to be a body corporate, which means it can choose to be treated as a partnership or a company for tax purposes. This decision cannot be changed once made.

1.4.2 Core Issue 5.2 of the Financial Action Task Force ("FATF") Immediate Outcome 5 considers: "*How well do the relevant competent authorities identify, assess and understand the vulnerabilities, and the extent to which legal persons created in the country can be, or are being misused for money laundering and terrorist financing?*"

1.4.3 The key objectives of the work are to:

1.4.3.1 Identify ML threats associated with the use of LPAs.

1.4.3.2 Analyse, assess and understand the specific ML risks relevant to each type of Jersey LPA as well as those administered by TCSPs.

1.4.3.3 Consider the TF risk of Jersey companies and TCSP administered trusts.

1.4.3.4 Identify actions to improve Jersey's regime to prevent and detect ML and TF undertaken through the use of LPAs.

1.4.3.5 Enable Jersey industry to better identify, manage and mitigate their ML and TF risks and update their business risk assessments ("BRAs").

1.4.4 The output of this LPA NRA:

1.4.4.1 Demonstrates, based on data, an understanding of the ML and TF risks posed by the LPAs available and used in Jersey.

1.4.4.2 Where appropriate, puts additional controls and/or measures in place to address the vulnerabilities that have been identified.

1.4.4.3 Enables Jersey financial services business to better identify, manage and mitigate their ML and TF risks as well as update their BRAs.

1.4.5 This LPA NRA contains recommended actions which will be taken forward by the relevant competent authorities. Ongoing monitoring of ML and TF risks will be undertaken by working groups established under the government's National Financial Crime Policy and Strategy Co-operation and Co-ordination Structure.

1.5 Organisation of report

1.5.1 The report is structured in four parts to consider the ML and TF risks associated with Jersey LPAs as well as non-Jersey companies administered by a Jersey TCSP.

1.5.1.1 Part A: Legal persons and the single legal arrangements established through the Registry.

1.5.1.2 Part B: TCSP administered non-Jersey companies.

1.5.1.3 Part C: Trusts and other legal arrangements.

1.5.1.4 Part D: Legal arrangements and the single legal person established through the Royal Court.

1.6 Limitations of the assessment

1.6.1 The assessment faced a number of limitations, as outlined below:

1.6.1.1 The format and availability of data from some competent authorities made it difficult to draw conclusions, particularly regarding the threat assessment. The LPA risk assessment process has highlighted challenges and has resulted in changes to the data collection process which are already in place at the time of publication.

1.6.1.2 The additional data collection exercise undertaken with the private sector was a new initiative. Whilst guidance was provided, the private sector found challenges interpreting the requests. Additional guidance and clarification were provided during the data collection period to address the particular concerns raised, both through outreach, regular drop-in sessions and responding to individual requests on a one-to-one basis.

1.6.1.3 The limited number of investigations and prosecutions relating to misuse of LPAs impacted the ability to draw on typologies.

SECTION 2

Methodology

2.1 Overview

2.1.1 This section outlines how Jersey has approached completion of its first assessment of the risks associated with LPAs administered in Jersey.

2.1.2 The Government of Jersey led the LPA NRA work using the World Bank risk assessment tool for legal persons. Jersey was involved in testing the prototype of this tool before the current modules were released and has continued to provide the World Bank with feedback.

2.1.3 The World Bank tool was developed to assess the ML and TF risks associated with legal persons and does not specifically cover legal arrangements. See also section 2.3, assessment tool.

2.2 Structure, including private sector involvement

2.2.1 The World Bank approach to risk assessments strongly recommends the inclusion of private sector representatives (financial institutions and designated non-financial businesses and professions as applicable) therefore an LPA working group was established comprising private sector professionals and key representatives from the competent authorities, including:

2.2.1.1 representatives from TCSPs, the legal sector and TCSP trade bodies.

2.2.1.2 JFSC.

2.2.1.3 Registry.

2.2.1.4 Law Officers' Department ("LOD").

2.2.1.5 Financial Intelligence Unit, Jersey ("FIU").

2.2.1.6 Revenue Jersey[12].

2.2.2 The public/private approach to risk assessments is designed to ensure that the private sector's perspective is considered when assessing risk and also raises awareness of the results of the LPA NRA. This is particularly important in Jersey as many of these representatives act as gatekeepers regarding access to Jersey LPAs. The findings of the LPA NRA will be highly relevant to the work they undertake.

2.2.3 The private sector was involved through representation at the LPA working group which met on 16 occasions between March 2022 and March 2023. The LPA working group undertook detailed analysis of the specific risks posed by the various LPAs available and used in Jersey. They considered information and data provided by both the private sector and competent authorities and drew conclusions on the ML risks presented.

[12] Part of the Government of Jersey Treasury and Exchequer department dealing with taxation.

2.2.4 Separate to the LPA working group, consideration was given to the TF risks associated with Jersey companies and TCSP administered trusts. This consideration was undertaken without specific reference to the World Bank tool and concentrated on considering the data collected directly from the private sector in 2022. The results are presented in the relevant sections of this risk assessment.

2.2.5 In compiling this report reference was also made to beneficial ownership material published by the FATF including guidance relating to Recommendations 24 and 25 and work conducted by other reputable bodies.

2.3 Assessment Tool

2.3.1 The LPA working group noted that the FATF methodology does not require a risk assessment of legal arrangements. However, due to the prevalence of trusts administered in Jersey and the ML risk factors identified in the 2020 ML NRA[13], it was considered important that legal arrangements were considered as part of this risk assessment. This decision was made by the National Risk working group in conjunction with the LPA working group and is supported by the Political Steering Group[14].

2.3.2 The World Bank tool consists of four modules:

2.3.2.1 Mapping exercise.

2.3.2.2 Money laundering threat.

2.3.2.3 National vulnerability.

2.3.2.4 Entity risk assessment.

Mapping exercise

2.3.3 The mapping exercise compares the registration, formation, beneficial ownership obligations and common business operations for each entity type. It also considers some key issues relevant to inherent vulnerabilities associated with particular LPAs including nominee arrangements and the ability to issue bearer shares.

2.3.4 The results of this module are presented in various places in this report.

Money laundering threat

2.3.5 An ML threat comes from a person or group of people, object or activity which has the potential to cause harm to, for example, the state, society, or the economy.

2.3.6 The ML threat assessment requires the collection of quantitative data concerning the level of detected cases where LPAs were used for ML purposes. This includes information regarding the level of: (i) suspicious activity reports ("SARs"); (ii) Mutual Legal Assistance ("MLA") requests sent/received; (iii) criminal investigations; (iv) civil enforcement actions; (v) proceeds laundered through LPAs, and (vi) criminal prosecutions and convictions.

2.3.7 The threat assessment also includes consideration of the perceived levels of abuse based on perceptions of public and private sector experts and open-source material.

2.3.8 The results of this module are presented in section 4 of this report.

13 Bailiwick of Jersey National Risk Assessment of Money Laundering September 2020
14 The Political Steering Group is Jersey's permanent national coordination function for AML/CFT/CPF matters, and includes Ministers, agency heads and senior Government representatives.

National vulnerability

2.3.9 National vulnerability comprises those things that can be exploited by the threat, or those things that may support or facilitate the threat's activities.

2.3.10 The national vulnerability considers the inherent vulnerability factors of the jurisdiction, essentially the attractiveness of the jurisdiction for ML abuse and the strength of the mitigation measures in place.

2.3.11 The national vulnerability assessment:

- 2.3.11.1 Assesses the jurisdiction's overall vulnerability to ML abuse of LPAs based on national level factors.
- 2.3.11.2 Identifies gaps and weaknesses in the jurisdiction's overall beneficial ownership framework and capacity to mitigate risks of ML abuse of legal persons and arrangements.
- 2.3.11.3 Identifies targeted measures for an action plan that achieves this goal.

2.3.12 The results of this module are presented in section 5 of this report.

Entity risk assessment

2.3.13 The entity risk assessment looks at each LPA available in the jurisdiction and considers the risk factors specific to that entity type.

2.3.14 With respect to trusts the assessment considers all trusts administered by a TCSP, and not just those governed by Jersey law.

2.3.15 As the World Bank module focusses on legal persons the entity risk assessment module has been adapted slightly to reflect how trusts and limited partnerships are structured and owned. See also Appendix D.

2.4 Data

2.4.1 As noted in the 2020 Money Laundering NRA[15] ("2020 ML NRA"), the ability to conduct a comprehensive risk analysis (thereby developing a thorough understanding of the ML and TF risks presented by LPAs) is heavily dependent on the collection and analysis of reliable data. The assessment tools require qualitative and quantitative data from the public and private sector.

2.4.2 The LPA NRA drew on several data sources, including both objective and subjective data gathered from experts. It uses pre-existing data available from the Registry for the period 2018 to 2022. Registry data was supplemented by:

- 2.4.2.1 Data supplied as part of the annual JFSC Supervisory Risk Data Collection exercise which sees data submitted by TCSPs registered under the Financial Services (Jersey) Law 1998 ("Financial Services Law").
- 2.4.2.2 FIU information relating to SARs, case files and requests for assistance for the period 2018 to 2022.
- 2.4.2.3 Data collected directly from the private sector in 2022 to gain a deeper understanding of the specific ML and TF risks in relation to some LPAs.

[15] The first Money Laundering NRA using data gathered in 2018 to 2019 and published in 2020.

2.4.3 Overall, the data available to the LPA working group was considerable and is considered adequate to assess the risk of ML posed by LPAs available in Jersey, and to draw appropriate conclusions and recommendations. The data that was collected has verified data from other sources which area relied on as part of the risk assessment process. It is noted that the quality and level of detail available varied between the sources. However, overall it is considered the variety and quality of data is high for a risk assessment.

2.4.4 Where data includes reference to a jurisdiction being FATF grey-listed this relates to the FATF position as at March 2023.

2.4.5 Further details regarding the data collected and considered is available in Appendix A.

2.5 Relative importance of entities

2.5.1 The importance of the type of LPA, driven by volume (based on available data) together with the nature of their use (domestic, international or both) led the LPA working group to focus discussions largely around the ML threats posed by trusts administered by TCSPs and Jersey companies.

2.6 World Bank involvement

2.6.1 The World Bank has kindly supported Jersey by providing feedback and guidance on the application of the tool when questions have been raised by the LPA working group. Additionally, the World Bank considered the conclusions of the risk assessment to ensure reasonable application of the methodology.

SECTION 3

Conclusions and recommended actions

3.1 Summary of risk assessment

3.1.1 This first LPA NRA has provided the jurisdiction with a detailed overview of the specific ML risks that arise both nationally and in respect of the individual entity types and an overview position on the TF risks with respect to Jersey companies and TCSP administered trusts. A significant amount of data has been provided and analysed to produce this risk assessment, with the expert input of Jersey's competent authorities and its professional sector.

3.1.2 At a national level the risk assessment has confirmed that as an IFC Jersey is at a high risk of persons trying to launder the proceeds of crime through Jersey LPAs. Section 4 includes information supporting this threat assessment.

3.1.3 With respect to the national ML vulnerability, the assessment concludes that attractiveness to abuse of the legal persons and legal arrangements is high, but to counter that, the controls in place are strong. Consequently, the national ML vulnerability of Jersey legal persons being abused is medium. Section 5 includes information to support both the attractiveness and mitigation elements.

Entity	Risk assessment
National ML threat assessment	High
National ML vulnerability	Medium

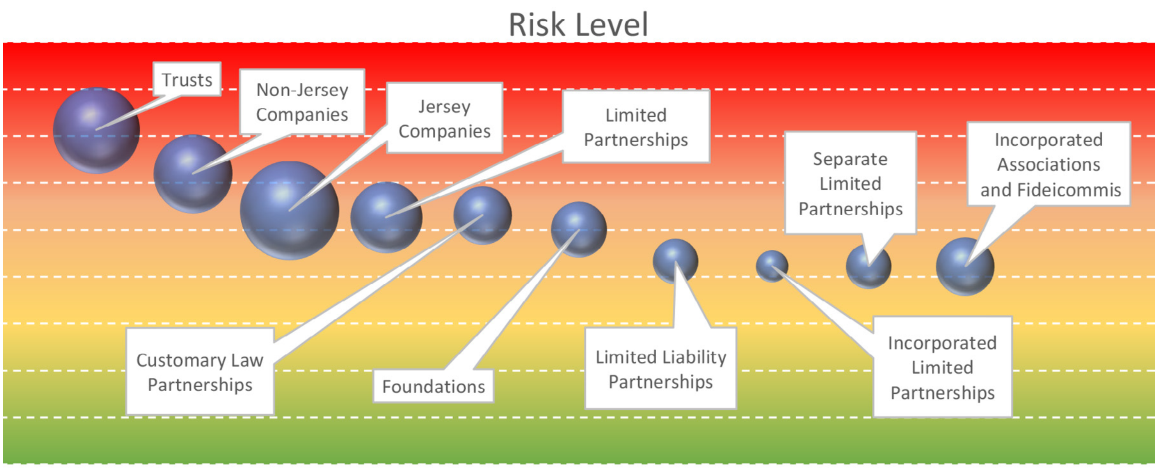
3.1.4 Consideration of the data from a TF perspective concludes that there may be limited exposure for Jersey companies and TCSP administered trusts, contributing to a lower TF risk.

3.1.5 At a national level the strongest mitigate measures were identified as the quality of regulation and supervision of TCSPs, the effectiveness of domestic interagency information exchange and the quality of the corporate registry.

3.1.6 The risk assessment considered the risks associated with each LPA entity type and scored each of these separately. The results of this work are set out in this report and are depicted below with the size of the 'bubble' representing the volume of entity type as at the end of 2022.

3.1.7 The three highest-risk entity types are trusts, non-Jersey companies administered by a TCSP, and Jersey companies

3.1.8 Work in this space is considered an ongoing obligation of the Island authorities, in order to enable Jersey to continue to understand the risks posed (including the changing nature of threats) and to ensure that the jurisdiction continues to play its role in the prevention and detection of financial crime.



3.2 Recommended actions

3.2.1 The LPA NRA has identified several actions which will either provide a better understanding of the risks posed by Jersey LPAs or will enable better oversight and control. The following recommendations are supported by the LPA working group.

3.2.2 These recommended actions will be taken forward through the National Financial Crime Policy and Strategy Cooperation and Coordination Structure.

Legal persons and some legal arrangements

Recommended Action 1.

Develop more detailed and better aligned data collection by competent authorities. This will enable better assessment and understanding of the risks of misuse of LPAs by criminals.

Recommended Action 2.

Collect activity data from all persons that are established through Registry to refresh risk information and enable further consideration of complex structures. This should be done annually and the data held centrally. Data from entities established through Registry could possibly to be collected as part of the annual confirmation process.

Recommended Action 3.

Continue to develop and enhance understanding of typologies, specifically LPAs, through a dedicated programme of work.

Recommended Action 4.

Review the legislative basis for the administrative powers of the competent authorities, specifically in relation to taking action against entities with activities and/or connected persons which are beyond the risk appetite of the jurisdiction. If necessary, post review, develop a new legislative basis to prevent or limit these entities' incorporation/registration in Jersey on the basis of their ML and TF risk.

Legal persons only

Recommended Action 5.

Undertake a more detailed data collection exercise to further understand the risks arising from non-Jersey companies being administered in Jersey.

Legal arrangements only

Recommended Action 6.

Further engagement is undertaken with jurisdictions known to use Jersey's trusts law to develop an understanding and assess the risks posed to Jersey by the establishment and administration of Jersey law governed trusts outside Jersey.

Recommended Action 7.

Continue to monitor developing international standards and associated guidance with a view to considering whether all Jersey law governed trusts should be required to have a nexus to Jersey through a Jersey resident trustee.

Recommended Action 8.

Complete further outreach and engagement with the non-professional trustee sector to raise awareness/understanding of their obligations and to develop a better understanding of, and assess the risks posed by, trusts which are administered by them.

Recommended Action 9.

JFSC to consider collecting additional data on trusts administered by TCSPs as part of its annual Supervisory Risk Data to enhance its risk-based approach to supervision of the TCSPs.

SECTION 4

Money laundering threats

4.1 Introduction

4.1.1 Overall, Jersey rated the threat of money laundering as being high.

4.1.2 The World Bank tool sets out how to complete a qualitative analysis of threat by considering the nature of abuse of legal persons and legal arrangements evidenced by enforcement data. This element of the LPA NRA was particularly challenging for the LPA working group, due to the availability and quality of enforcement data from all sources.

4.1.3 Consequently, it is recommended that the competent authorities continue to develop and enhance their understanding of typologies, specifically in relation to LPAs, through a dedicated programme of work.

4.2 Enforcement data

SARs

4.2.1 For the data period considered (2018 to 2022), SARs were not broken down by the type of LPA to which they related. However, the FIU issued a revised SAR template in Q1 of 2023 which now captures this information. The table below demonstrates the levels of involvement of legal person and arrangements in SARs:

	2018	2019	2020	2021	2022
% Involving legal persons / arrangements	44%	43%	42%	46%	45%

4.2.2 It is noted that the filing of a SAR is not demonstrative of ML in itself, only that a suspicion had arisen. This aligned with the data from the 2021 Europol report, From Suspicion to Action, which found that only 10% of suspicious transaction reports[16] led to further investigation.

4.2.3 In addition, it was identified that of the SARs received by the FIU relating to LPAs, a number were disseminated for further investigation by either Joint Financial Crime Unit Operations[17] ("JFCU Ops"), the Economic Crime and Confiscation Unit[18] ("ECCU"), or the customs function of the States of Jersey Customs and Immigration Service:

	2018	2019	2020	2021	2022
SARs disseminated - further investigation	48%	48%	44%	42%	44%

[16] Jersey operates a suspicious activity reporting regime rather than suspicious transaction. The main difference between the two is the object of suspicion. SARs focus on the activity and whether that is suspicious whereas STRs focus on actual transactions.
[17] An operational department of the States of Jersey Police.
[18] A division of the Law Officers' Department that specialises in complex financial crime.

4.2.4 Overall, the LPA working group consider that the level of SARs involving LPAs is significant. However, given the profile of Jersey's financial services industry, which often involves the incorporation and administration of complex multi-jurisdictional structures, and that the industry tends to be reasonably risk-averse which may result in overreporting of suspicion, the proportions were as expected by the LPA working group.

Mutual Legal Assistance

4.2.5 The data available relating to MLA is different between incoming and outgoing requests, therefore a direct comparison has not been completed. Nevertheless the data highlights that roughly 43% of the subjects identified within executed outgoing letters of requests were legal persons or legal arrangements.

4.2.6 Of the MLA requests received by the LOD, the following were recorded as including a request for beneficial owner and controller information and therefore, it was considered to include a request relating to a legal person or arrangement:

	2018	2019	2020	2021	2022[19]
% Involving legal persons / arrangements	18%	19%	18%	19%	20%

4.2.7 The levels of MLA requests received involving legal persons and legal arrangements were considered to be medium.

Criminal investigation

4.2.8 ECCU is the lead agency for the investigation and prosecution of complex money laundering cases. As at March 2023, it is estimated that over 66% of the current cases being investigated by ECCU involve a legal person or legal arrangement.

4.2.9 By comparison, JFCU Ops' data tends to suggest that the ML cases investigated in that unit largely do not involve legal persons and legal arrangements. This is not surprising as the JFCU Ops remit is to deal with predominantly domestic financial crime matters.

	2018	2019	2020	2021	2022
Involving legal person/arrangement	0	5	1	2	3
Not involving legal person/arrangement	1	3	4	6	8

4.2.10 On balance of the data available, the LPA working group concluded that the levels of criminal investigation were assessed as high, given that ECCU deals with the complex cases, and that 66% of their cases involved a LPA.

4.2.11 However, there is insufficient data available to assess the level of criminally investigated proceeds that may have been laundered through LPAs. Recent changes to the SAR template will enable better analysis of data in future.

[19] Data only available to September 2022.

Civil enforcement

4.2.12 The JFSC issues registration certificates or permits to legal persons and legal arrangements when they carry on one or more activities defined in a Regulatory Law[20]. The JFSC can take civil enforcement action against these registered entities and individuals working for them, as well as LPAs that ought to be registered (i.e. those conducting unauthorised business). These actions include:

4.2.12.1 Restricting or preventing individuals from working for these entities unless the JFSC provides consent.

4.2.12.2 Revoking or placing a condition on the entity's registration/permit.

4.2.12.3 Appointing a reporting professional.

4.2.12.4 Imposing a direction to do, or not to do, something e.g., not to undertake any new business.

4.2.12.5 Issuing public statements with respect to both the entity and individuals working for them.

4.2.12.6 Imposing civil financial penalties on certain entities and certain individuals[21].

4.2.13 Whilst JFSC civil investigations and enforcement action relating to LPAs that were registered, or ought to be registered under a Regulatory law, remained at a low level during the period 2017 to 2021, there was an increase of 142% in investigations and 245% in enforcement action between 2020 and 2021.

4.2.14 The 2020/2021 increase is due to an increase in the number of identified unauthorised businesses/scams where persons sought to take advantage of the Covid-19 pandemic.

4.2.15 Low levels of enforcement actions were taken by the JFSC against directors/company secretaries, or any other officer purporting to act in a similar capacity to entities that were registered or ought to be registered under a Regulatory law between 2017 and 2021. No more than five actions were taken each year against these persons during that period. Further information regarding much of the JFSC enforcement action can be found on its website: JFSC Public Statements and JFSC Restricted Persons.

4.2.16 It is recognised that the actions taken by the JFSC against entities issued with a registration certificate or permit under a Regulatory Law were related to deficiencies in their ML policies and procedures, rather than due to ML taking place. The LPA working group concluded that the recent JFSC published findings relating to non-compliance with the obligations set out in the Money Laundering (Jersey) Order 2008 ("MLO") and the subsequent corresponding enforcement action may have acted as a catalyst for remediation and the prevention of any potential ML offences.

4.2.17 The level of JFSC civil enforcement action taken against LPAs is assessed as low.

[20] A list of Regulatory Laws is provided in the Glossary.
[21] Principal person, key person or any person who performs or performed a senior management function – all as defined in Article 1 of the Financial Services Commission (Jersey) Law 1998

Criminal prosecutions and convictions

4.2.18 The LPA working group and competent authorities considered why the number of ML prosecutions relating to LPAs remains low. A number of conclusions were reached, including:

4.2.18.1 Jersey is recognised as a highly regulated jurisdiction which may be a deterrent to potential money launderers.

4.2.18.2 ML investigations are complex and most often include a cross-border dimension, this impacts on the ability to locate and question suspects and witnesses as well as the length of time it takes to investigate and prosecute.

4.2.18.3 Attributing substantive ML conduct to Jersey LPAs is dependent on significant levels of cooperation from foreign jurisdictions, particularly where the primary laundering activity (including the instructions to form company arrangements) is arranged by the main suspects through foreign corporates. This cooperation is not always forthcoming and takes a significant amount of time.

4.2.18.4 Prosecution of the Jersey element of a ML or predicate offence may be detrimental to the wider investigation, which is likely to be taking place in another jurisdiction, including the enforcement of any penalties where the assets likely to be available to law enforcement or competent authorities are located outside Jersey. In addition, some jurisdictions will enforce (and have enforced) the principle that no legal action can be instituted twice for the same cause of action.

4.2.19 During the relevant period, the one money laundering prosecution that referenced a Jersey company (AG v Pearce [2021]JRC182) did not feature direct abuse of the company or any feature of the company. Rather the case focussed on misuse of bank accounts to launder the proceeds of drug-related offences. This money laundering is considered unsophisticated as:

4.2.19.1 The defendant was handed cash at his Jersey-based jewellery business.

4.2.19.2 This was deposited into his personal and business accounts.

4.2.19.3 The defendant used the cash to purchase gold bullion from a London-based dealer.

4.2.19.4 The gold would then be collected in London and sold for cash.

4.2.20 Also, the prosecution of Windward Trading (summarised in section 7.4.3) should be noted.

4.2.21 Based on the data available, the level of criminal prosecutions and convictions is concluded to be low.

4.3 Perceptions and open sources

Credible open sources

4.3.1 Jersey has a well-established beneficial owner and controller regime and is generally perceived well in open-source material regarding the misuse of legal persons and legal arrangements for ML. This position has been endorsed in a number of third party documents notably by MONEYVAL in its last mutual evaluation report of Jersey. In 2015 they observed that Jersey was in a leading position in meeting standards of beneficial ownership transparency[22] and more recently in the FATF publication Concealment of Beneficial Ownership.

4.3.2 The full details regarding the open-source documents considered by the LPA working group and the comments relating to Jersey are available in Appendix B.

Perceived threat by public and private sector experts

4.3.3 When determining their view of Jersey's threat level, the competent authorities (FIU, the JFSC, and the LOD) have tended to focus on higher social impact threats and typologies, international standard setters and local law enforcement priorities. Whereas the private sector consider that Jersey's well-respected reputation and strong regulatory environment play a role in preventing business approaches that involve the proceeds of crime or are intended to finance terrorism.

4.3.4 It is recognised that TCSPs and lawyers involved in the incorporation/registration and administration of LPAs do receive unsolicited approaches. However these types of enquiries rarely progress. A response to an unsolicited approach which details the Jersey customer onboarding requirements, together with an emphasis on the level of ongoing regulation, has the impact of deterring the progression of disingenuous enquiries (and potentially genuine enquiries who were looking for a lower cost or 'light touch' regulated jurisdiction). Overall, the LPA working group considered that there are few disingenuous or malicious requests received.

4.4 Recommended actions

4.4.1 Data is central to understanding risk therefore it is recommended that all competent authorities consider and develop more detailed data capture matrices as well as better aligning their data points. This is particularly relevant with respect to SARs, MLAs, investigations and prosecutions and would enable more efficient and effective data analysis and ultimately better assessment of the threat of ML and TF.

[22] Council of Europe finds Jersey in 'leading position' (gov.je)

SECTION 5

National vulnerability

5.1 Introduction

5.1.1 The national vulnerability assessment consists of two elements:

5.1.1.1 Assessment of the attractiveness of the jurisdiction as a centre for incorporation, registration and creation of legal persons and legal arrangements, primarily for non-residents. As expected, the attractiveness score was **high**.

5.1.1.2 Assessment of the strength of the mitigation measures in place to minimise the ML risks of abuse of LPAs. Mitigation measures scored **medium-high**.

5.1.1.3 Overall, the national vulnerability of Jersey LPAs is rated as **medium**.

5.2 Attractiveness to non-residents

5.2.1 The size and influence of the sector is considered to be high for a number of reasons:

5.2.1.1 The 2021 JFSC Supervisory Risk Data submitted by TCSPs highlights the following numbers of customers:

Customer type	Number reported
Total trusts administered (Jersey and non-Jersey law trusts)	29,338
Jersey companies	25,234
Non-Jersey companies	8,331
Other Jersey LPAs	2,312
Other non-Jersey LPAs	1,617

5.2.1.2 As of June 2022, financial services, which includes the legal and accounting sectors employed 13,590 people, or 21.3% of the workforce.

5.2.1.3 Jersey has one of the highest levels of STEP[23] membership in any jurisdiction at 1,120 members, with many other employees of TCSP's being qualified lawyers, accountants, bankers, compliance officers, governance professionals[24] and directors.

5.2.2 Whilst Jersey businesses advertise prominently to non-Jersey residents, they do not solely advertise formation services. The offering builds on its expertise in corporate governance and compliance and is supplemented by the availability of high standard ancillary services, including lawyers and accountants.

5.2.3 Jersey is politically and economically stable, making it an attractive jurisdiction for those seeking assurance regarding the future of their investments.

[23] Society of Trust and Estate Practitioners
[24] Qualified with The Chartered Governance Institute, formerly known as The Institute of Chartered Secretaries and Administrators

5.2.4 Jersey has stringent beneficial ownership and control transparency requirements, which are applicable to all legal persons and limited partnerships created through the Registry. These requirements are diligently applied and make it very difficult for those seeking to abuse Jersey entities for ML and TF purposes to establish entities. This arguably reduces the attractiveness of the jurisdiction due to the associated increased costs and regulatory burden versus some other jurisdictions[25]. Although, for some users of offshore services it is felt that the costs and regulatory burden may be offset by the corresponding relatively lower jurisdictional risk.

5.2.5 As noted in more detail below, Jersey does not have a central register of beneficial owners and controllers of trusts. However, trustees (professional and non-professional) are obliged to obtain and update information regarding all parties to a trust. In addition, any person in the business of providing trustee services is required to register with the JFSC.

5.2.6 Tax neutrality is often cited in marketing materials for the jurisdiction as a positive. Jersey companies are generally subject to a 0% tax rate and any distributions to non-Jersey individuals are not subject to income tax in Jersey (but may be taxable upon receipt by the non-Jersey individual where they are tax resident). This makes Jersey entities attractive to worldwide investors due to their neutral tax position.

5.3 Mitigation measures

5.3.1 The measures in place to mitigate the ML and TF risk presented by LPAs administered by TCSPs in Jersey are largely considered to be effective.

5.3.2 Jersey operates a four-cornerstone approach to ensuring that LPAs are not abused for ML or TF purposes. The four-cornerstones are:

5.3.2.1 Registry as gatekeeper through incorporation/registration checks.

5.3.2.2 JFSC supervision of registered gatekeepers[26].

5.3.2.3 The legislative requirement to keep and maintain information provided to Registry.

5.3.2.4 Registry Supervision[27] of LPA compliance with relevant legislation.

Quality of corporate registry

Registry

5.3.3 The Registry is a central part of Jersey's defence against ML and TF. The Registry acts as the first cornerstone, receiving information on application to incorporate or register companies, foundations, limited partnerships, limited liability partnerships, separate limited partnerships, and incorporated limited partnerships. See Appendix C for further details. Registry is also instrumental in the third and fourth cornerstones as they manage the registers and operate a supervision function.

5.3.4 Information provided on application must be updated within 21 days of a change, or in line with all provisions under the relevant entity legislation. The register is considered to be highly accurate and up to date, a position supported by the limited negative findings of the recently established Registry Supervision function.

5.3.5 Although part of the JFSC, the Registry is a separate competent authority with specific statutory responsibilities. It focusses on the legal persons and limited partnerships, not the body that administers them (mostly TCSPs).

[25] As well as having the positive effect of deterring bad actors from using the jurisdiction at all.
[26] Includes TCSPs and other regulated entities such as law firms.
[27] Team within Registry who undertake a programme of compliance examinations to monitor compliance with the Disclosure and Provision of Information Law and the relevant entity legislation.

5.3.6 Since February 2022, the incorporation/registration function of the Registry has been supplemented by a Registry Supervision function. This is separate to the JFSC supervision of registered TCSPs where the focus is on the activities of the registered TCSP noting that they administer approx. 70% of the registered entities.

5.3.7 In April 2022 Registry Supervision commenced a programme of compliance inspections. This involves proactive monitoring of compliance with the Disclosure and Provision of Information Law and the relevant entity legislation which includes the requirement to maintain and update accurate records in accordance with legislative requirements. Whilst the entities to be inspected are selected using a risk-based approach this is augmented by the inclusion of entities selected at random.

5.3.8 Where a regulated service provider administers a legal person or limited partnership, the MLO customer due diligence ("CDD") obligations apply which require the application of identification and verification measures. JFSC Supervision, which is separate from Registry Supervision, conduct supervisory activity in relation to compliance with the MLO obligations, including thematic examinations on the identification and verification of beneficial ownership. Identification and verification measures are required:

5.3.8.1 Before the establishment of the business relationship or before carrying out a one-off transaction.

5.3.8.2 On an ongoing basis during the relationship.

5.3.8.3 If ML or TF is suspected, or doubts exist regarding the adequacy of the documents, information or data provided.

5.3.9 The introduction of automated vetting by the Registry in Q1 2023 further enhanced its capabilities to detect matters relevant to ML and TF. Perpetual screening is now completed on all beneficial owners, controllers and significant persons associated with Jersey registered entities. Screening is completed against sanctions and Politically Exposed Persons ("PEP") lists as well as negative news feeds. This has already resulted in the identification of risk factors in relation to certain legal entities and action has been taken by the Registrar in relation to those risks (e.g. refusing incorporation or refusing/limiting changes to company ownership).

5.3.10 Registry information is available to the public through the Registry website and basic information can be accessed without charge. Enhancements in 2021 mean that an entity can directly view the information it has submitted and is currently held on the register. This acts to further ensure that the information held centrally is adequate, accurate and up to date, by making it easier for entities to identify inaccuracies and submit updates in real time.

5.3.11 The search functionality of the Registry is limited for the public. However, the JFSC, the FIU, Revenue Jersey and the LOD have full direct access with full search functionality through a technological solution. This ensures that they can access information required, including beneficial ownership information, immediately and without impediment.

5.3.12 The business names register is maintained by the Registry and is another source of information regarding entities operating under a different name to that of the persons engaged in the business. Disclosure and updating requirements exist under the Registration of Business Names (Jersey) Law 1956 ("Business Names Law").

Public Registry

5.3.13 Fidéicommis and Incorporated Associations do not register with the Registrar but details are recorded on the Public Registry maintained by the Judicial Greffe[28]

[28] Being an office of the Royal Court

Entities not registered – trusts

5.3.14 There are no central registration requirements in relation to trusts, however, the FATF standard does not require a jurisdiction to implement a register of trusts.

5.3.15 Access to information relating to trusts is available as professional and non-professional trustees are required to apply the CDD requirements of the MLO which means they hold information regarding beneficial owners and controllers. Compliance with the requirements by professional trustees (i.e. those who are in the business of providing trust services) is tested by JFSC Supervision.

5.3.16 The FIU have been able to demonstrate effectiveness in gathering information on trusts and other legal arrangements. During the period 2018 to 2022, the FIU responded to 60 international RFAs that contained at least one legal arrangement. The 60 responses contained a total of 67 resident legal arrangements and 47 non-resident.

5.3.17 The lack of central trust registration requirements may be perceived as increasing the vulnerability of trusts for misuse, however, the strong control mechanisms surrounding professional trustees mitigate this.

Entities not registered – customary law partnerships

5.3.18 Customary law partnerships are not subject to any general registration requirements. However, where any person carries on a trade, profession or business in Jersey information on the beneficial owners must be provided to the Business Hub Team, who are responsible for administering Business Licensing under the Control of Housing and Work (Jersey) Law 2012 (“Control of Housing and Work Law”), therefore information is available on some customary law partnerships. A register of all business licences issued is maintained, and any person can inspect the register (free of charge) or take a copy of any part (subject to payment of a prescribed fee).

5.3.19 Customary law partnerships that operate under a business name will be on the business names register maintained by the Registry.

Entities not registered – non-Jersey legal persons and legal arrangements

5.3.20 Non-Jersey companies administered in Jersey are not required to register, which is a potential gap in Jersey’s knowledge base. This gap is partly mitigated as these entities are frequently administered by registered TCSPs who are required to apply the same CDD obligations as for Jersey entities. Consequently, information is available to competent authorities, where the TCSP is identified, to assist with both domestic and foreign investigations. The only situation where a non-Jersey company will be administered in or from within Jersey by a person that is not a TCSP is when the person acts privately i.e. not by way of business.

5.3.21 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. These TCSPs are within the scope of JFSC supervisory visits. The non-Jersey companies have been considered as part of this risk assessment. Those results are set out in Part B.

Effectiveness of enforcement of sanctions/fines

5.3.22 A range of sanctions are applicable to breaches of disclosure information, including application of a late filing fee, prosecution for failing to comply with a requirement, and an entity being struck off the register.

5.3.23 The LPA working group considered the range to be proportionate, to have been utilised effectively, and to have a deterrent effect on industry.

Late filing fees

5.3.24 The application of a late filing fee is a civil sanction applied by Registry on a regular basis in accordance with the Fees Notices published on their website. This is a long-standing process which has historically applied to the delivery of the annual confirmation. From 1 February 2022 the sanction of a late filing fee has been extended to include occasions when a person fails to update the Registry, within 21 days of changes to beneficial owner/significant person information or the appointment of a new nominated person.

Prosecutions

5.3.25 Whilst criminal sanctions for failing to comply with annual return requirements were contained in the relevant entity legislation, these were not used until recently. Instead, the Registry has historically opted to educate and remediate rather than rely on criminal powers. This changed at the start of 2023 and criminal powers are now used. The new statutory obligations and offences of the Disclosure and Provision of Information Law were well publicised along with the importance of providing Registry with accurate, up to date information.

5.3.26 The requirement for an entity to have a nominated person is key to the completeness and accuracy of the registry information and is an important control as it ensures entities have a nexus to the Island. Regular analysis of the digital Registry identifies entities that have been without a nominated person for more than 21 days. These entities are investigated and, if found to be in breach of the Disclosure and Provision of Information Law, they are referred to the Attorney General for consideration of criminal action.

5.3.27 In the first five months of 2023 several prosecutions have been brought before the Jersey Magistrates' Court for persistent offences of the Registry requirements. Of the 16 initial cases heard, 11 companies were fined £8,000, two companies were fined £4,000 and three companies received fines of £3,000. These fines were significant and reflect Jersey's commitment to preventing the misuse of its legal persons. A further 16 cases have been listed for hearing in August and September 2023. The sliding scale of offences reflects the particular circumstances of each case.

Forfeiture of corrupt funds

5.3.28 Another form of sanction is the forfeiture of funds, using the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018. The Royal Court ordered the forfeiture of £777,581 from a Jersey Trust which had been placed there by a Mozambican national who received corrupt payments in the course of his employment. Negotiations will proceed with the relevant Mozambique authorities so that the funds can be returned to the people of Mozambique[29].

Strike off

5.3.29 Striking an entity off the Register is the ultimate sanction. This has predominantly been used when an entity has failed to comply with the annual return/confirmation requirements. In a Jersey company strike off scenario, the company directors are not allowed to walk away and evade any consequences. Each director and shareholder of the Jersey company will continue to be subject to any liabilities which applied before the company was dissolved and those liabilities may be enforced against the director or shareholder. Any Jersey company assets will pass to His Majesty's Receiver General, on behalf of the Crown, to be held subject to any application that may be received to have the company reinstated.

[29] Court orders forfeiture of corrupt funds

5.3.30 The strike off process is considered effective as it includes the issuance of a notice to all entities advising that they will be struck off if no action is taken. This notice often acts as a trigger for action as demonstrated by the table below which compares the number of notices issued with the actual number of companies struck off in the period 2018 to 2022.

	2018	2019	2020	2021	2022
Notices issued	1,017	871	401	1,468	428
Strike offs	493	392	196	407	135

5.3.31 Effectiveness of enforcement of sanctions and fines was considered to be medium, but this is anticipated to increase with the recent introduction of the use of the criminal sanctions available under the Disclosure and Provision of Information Law.

Accessibility of beneficial ownership information

5.3.32 The JFSC, the FIU, Revenue Jersey and the LOD have direct access to Registry's beneficial ownership and control register, ensuring they can access information required in real time through a technological solution. Access is provided under an Information Sharing Agreement and conditions of access include the reporting of discrepancies.

5.3.33 The beneficial ownership and control register is not publicly available. While public access is not a requirement of the FATF standard (and indeed was recently declared unlawful by the Court of Justice of the European Union in the joined cases C-37/20 Luxembourg Business Registers and C-601/20 Sovim), the World Bank tool scored Jersey poorly in this respect.

5.3.34 Jersey does not currently extend access to Registry's beneficial ownership and control register to certain obliged entities for the purposes of conducting CDD. Jersey consulted and provided feedback on this proposal in Q4 of 2022[30]. Implementation has been delayed following the ruling of the Court of Justice of the European Union quoted above[31]. As a result, the World Bank tool also scored Jersey poorly in relation to access for reporting entities.

5.3.35 Jersey recognises the direction of international travel and the benefit of extending access to obliged entities and is exploring how this may be achieved while balancing fundamental rights and freedoms.

5.3.36 Basic information regarding fidéicommis and Incorporated Associations is accessible to the public from the Public Registry. Obligations exist to ensure that information is updated.

Quality of regulation and supervision of TCSPs

5.3.37 If the beneficial owners of a (proposed) entity are not resident in Jersey, they must engage a TCSP to assist with forming a Jersey legal person or limited partnership. It is noted that local residents also use TCSPs services to form and administer legal persons and limited partnerships. 76% of the nominated persons of registered entities advised the Registry (in compliance with the Disclosure and Provision of Information Law) that they are registered TCSPs.

[30] Obliged entity access to information consultation and response paper
[31] Access to beneficial ownership information on legal entities - implementation delayed for a short period

5.3.38 Registered TCSPs are required to comply with the preventative measures set out in the MLO and the Codes of Practice of the JFSC's AML/CFT/CPF Handbook. TCSPs are subject to supervision by the JFSC for compliance with their obligations. Breaches of the MLO can result in civil and/or criminal sanctions whereas a breach of the AML/CFT/CPF Handbook can result in a civil action.

5.3.39 Where an examination lends itself to a review of customer files against obligations, a sample of customer files are requested, reviewed and assessed for compliance with the regulatory framework. Depending on the nature of the visit the findings will either be presented through a thematic report or be included in the annual examination overview report, both published on the JFSC website.

5.3.40 In Q1 2018 the JFSC conducted a thematic examination and issued a report on the "Revised Registry requirements in relation to beneficial owners and controllers"[32]. The main objective of the thematic was to assess the extent to which the selected TCSPs understood and verified the identity of the beneficial owners and controllers of their customers through correct application of what is known as the 'three-tier test' and that they had systems and controls to ensure compliance with the 21-day updating requirement.

5.3.41 Overall compliance was found to be good, and the correct beneficial owners had been identified. However, shortcomings were identified and following the thematic examination the JFSC commenced a programme of education to assist with understanding and applying the three-tier test. This included: (i) publication of guidance, online forums for Q&As; (ii) targeted phone calls to TCSPs, and (iii) industry internal training sessions on the Disclosure and Provision of Information Law requirements and the updated beneficial ownership guidance.

5.3.42 In Q4 2022, the JFSC repeated its thematic onsite examination regarding TCSPs' understanding and verification of beneficial ownership following the introduction of the Disclosure and Provision of Information Law and the digital Registry system. Once finalised the results of this examination will be published by the JFSC[33].

5.3.43 Between 2018 and 2022, the JFSC undertook 160 AML/CFT related examinations of registered TCSPs. The examinations resulted in 601 findings requiring remediation. The two main themes of the findings across the period were in relation to internal controls and procedures and the application of risk-based measures.

5.3.44 The conclusion of the LPA working group is that the quality of regulation and supervision of TCSPs is high.

5.3.45 Where a TCSP fails to comply with its obligations the competent authorities will act. In February 2021 the Royal Court imposed a £550,000 fine on LGL Trustees Limited, a registered TCSP for failing to comply with the MLO[34].

5.3.46 LGL failed to:

5.3.46.1 Recognise the risk that a structure set up and administered by them might be used to embezzle funds from the public purse of an African country to benefit its rulers (State funds of up to US$1.6 billion were to be invested in real estate outside Angola in a scheme that was to be a precursor to the establishment of a sovereign wealth fund for Angola).

5.3.46.2 Correctly identify and verify one of their customers' controllers, namely the National Bank of Angola's board members, a position which remained uncorrected for six years.

[32] 2018 Themed Examination Report: Revised Registry requirements in relation to beneficial owners and controllers
[33] JFSC home page for Examination findings and questionnaires
[34] Trust company fined £550,000 for breaches of Money Laundering Order

5.3.47 LGL ignored numerous 'red flags' that the investment scheme (and the corporate arrangements underpinning it) might well be a fraudulent scheme to skim funds from Angola's public treasury and re-route them to Angolan politicians. LGL did not have appropriate and consistent policies in place to prevent money laundering, a conclusion accepted by LGL by its guilty pleas. If their procedures had been appropriate and consistently applied, then this business would either not have been taken on or at least, once taken on, would have been terminated as the red flags became known.

Quality of information obtained through CDD

5.3.48 The application of the CDD obligations of the MLO and the Codes of Practice in the JFSC's AML/CFT/CPF Handbook are generally considered to be high.

5.3.49 This is supported by the thematic on-site examinations undertaken by the JFSC in 2018. Indications are that this will be supported by the thematic report following the 2022 repeat examination[35].

Quality of controls against opaque structures

Bearer shares

5.3.50 Whilst the issuing of bearer shares is specifically prohibited under Article 34(3) of the Companies (Jersey) Law 1991 ("Companies Law"), bearer shares are in effect rendered inoperative due to other provisions of the Companies Law. The combined effect of the following provisions is that, in practice, a person will only be a shareholder of a Jersey company if they are named on the register of shareholders – a bearer share cannot exist because the holder would not have ownership of the share without their name appearing on the register of shareholders:

- 5.3.50.1 The initial subscribers to a Jersey company must be entered on a company's register of shareholders.
- 5.3.50.2 A Jersey company must keep a register of shareholders and enter into that register, amongst other things, the name and address of every shareholder and the date on which they become registered as a shareholder and, as appropriate, the date they cease to be a shareholder.
- 5.3.50.3 Except in relation to shareholders of Protected Cell Companies, any person who agrees to be a shareholder, and whose name is entered on the register of shareholders, is a shareholder of a Jersey company.
- 5.3.50.4 The register of shareholders is prima facie evidence of the matters which are directed, by the Companies Law, to be inserted in the register.

5.3.51 As part of the additional data collection exercise, TCSPs were asked to confirm whether any of the Jersey companies had issued bearer shares. Following interrogation of the data, no Jersey companies were identified as having issued bearer shares.

5.3.52 Jersey TCSPs are required to report annually to the JFSC whether any of the non-Jersey companies they administer have issued bearer shares. There were no bearer shares reported in respect of 2021.

Nominee shareholders

5.3.53 Jersey permits the use of nominee shareholders and any person acting as a nominee shareholder by way of business is required to register with the JFSC. The JFSC has supervision and enforcement powers over these nominee shareholders meaning that appropriate oversight is in place.

[35] The 2022 report is due to be published during 2023. The 2018 report is available on the JFSC website.

5.3.54 Additionally, transparency requirements mean that an entity must disclose the identity of the nominee and nominator on application to incorporate/register. The existence of the nominee arrangement is recorded in the Register and is visible in the records available to competent authorities. This position was placed on a statutory footing with the implementation of the Disclosure and Provision of Information Law which requires the person ultimately owning the shares to be identifiable in the central register. Notwithstanding the ability to use a nominee arrangement, obligations concerning beneficial owners continue to apply.

Nominee directors

5.3.55 The Companies Law provides that "director means a person occupying the position of director, by whatever name called". A director nominated by someone is still fundamentally a director of the Jersey company and has all the duties and obligations of a director.

5.3.56 The Companies Law has never permitted "nominee directors" in terms of a person formally appointed as a director to mask the identity of the "real" director (the nominator) on whose behalf the nominee acts. Depending on the facts, either both the formal director and nominator or just the nominator would be a director as a matter of law.

5.3.57 Notwithstanding this, Jersey implemented legislative specific provisions in 2020 to ensure that Jersey companies could not be misused for ML or TF purposes through purported nominee directors. Jersey introduced a definition of both "nominee" and "nominator", and placed a requirement on Jersey companies to disclose this information on incorporation and to update the information within 21 days of any change[36].

5.3.58 These legal provisions and obligations mean it is not possible to hide behind a nominee arrangement. Nominee directors are subject to the same obligations and sanctions as other directors. This information is recorded in the Register and is available to the Registrar and the competent authorities, who can directly access the Register.

Effectiveness of international information exchange

5.3.59 Jersey exchanges LPA information internationally via several routes.

5.3.60 An Exchange of Notes Agreement was entered into with the UK in 2017, under which Jersey is committed to providing beneficial ownership information on request within 24 hours, or, where the request is defined as urgent, within one hour. This mechanism is subject to review and the 2019 statutory review noted that it has proven highly to UK law enforcement agencies. It is deemed to be effective, and the regime is highly regarded.

5.3.61 The FIU is the central agency with responsibility for receiving and disseminating intelligence in Jersey. It receives and responds to Requests for Assistance ("RFAs") from both domestic and international law enforcement and intelligence agencies.

5.3.62 During the period 2018 to 2022 the FIU received 488 international RFAs. With these requests jurisdictions commonly seek to identify beneficial ownership details relating to LPAs that they believe have links to Jersey. Jurisdictions will provide initial details of a natural person(s) and/or a legal person(s) and/or a legal arrangement(s), which, based on their own intelligence analysis and other sources available to them, indicate a requirement to seek information from the FIU. The FIU responded to all genuine RFAs, supplying multiple pieces of information for each request received.

5.3.63 The LOD MLA team exchange information effectively on LPAs for ML and TF purposes, although they only receive a small number of requests.

[36] Articles 1 and 3 Financial Services (Disclosure and Provision of Information) (Jersey) Order 2020.

5.3.64 Revenue Jersey exchanges information on request for tax purposes by verifying requests against its internal database and issuing a notice to produce the information to the legal person or arrangement involved. Revenue Jersey has received the top rating from the OECD in relation to exchange of information on request. Revenue Jersey also exchanges Common Reporting Standard information automatically to 78 jurisdictions.

Effectiveness of domestic interagency information exchange

5.3.65 Jersey benefits from being a small jurisdiction in respect of domestic sharing of information. Revenue Jersey meets the Registry staff regularly to discuss and exchange information and with the JFSC on other matters.

Part A:

Legal persons and the single legal arrangement established through the Registry

6 Formation and disclosure requirements of Registry

6.1.1 Appendix C of this LPA NRA contains further details regarding formation and disclosure requirements as does the Government of Jersey's website: Legal persons and arrangements. The following is a high-level summary of the requirements.

6.1.2 An application to incorporate or register a legal person or limited partnership through Registry may only be made by specified persons. This acts as a mitigant to the risk of persons seeking to launder money or finance terrorism by ensuring there is either:

(i) a natural person ordinarily resident in Jersey who owns or controls the entity, or

(ii) that there is a Jersey registered and regulated entity responsible for ensuring compliance with all legal obligations, in particular the obligations of the MLO.

6.1.3 The Disclosure and Provision of Information Law places disclosure and updating requirements on legal persons in respect of beneficial owners and controllers and significant persons (directors and equivalent positions). Equivalent requirements are provided for limited partnerships through a condition applied to the consent to create partnership interests issued under the Control of Borrowing Legislation.

6.1.4 Where a TCSP provides formation services they are required to apply CDD requirements in accordance with the MLO. These checks are applied by Registry when an entity is established by Jersey resident beneficial owners.

6.1.5 Every entity established in the Registry must have a nominated person. This is a requirement of the Disclosure and Provision of Information Law for legal persons and a Registry policy requirement for limited partnerships. 76% of registered entities have a nominated person that is a TCSP.

6.1.6 The Registry systems were recently enhanced to prevent misuse of legal persons and limited partnerships, with the introduction of a fully digital Registry and automated screening. The automated screening tool is used to complete initial screening at the time of incorporation/registration and facilitates perpetual screening of all beneficial owners, controllers and significant persons associated with the registered entities. These persons are screened against clearly defined criteria designed to identify ML, TF and proliferation financing risks separately including sanctions, PEP lists and negative news feeds.

Sensitive activities

6.1.7 The application to register or incorporate must contain information on the entity's proposed activity, including whether any of its activities fall within the scope of the Sound Business Practice Policy ("SBPP"). The SBPP provides the activities that the JFSC considers sensitive and which may result in a delay in processing a formation application.

6.1.8 The SBPP applies both directly to Jersey entities and indirectly to their subsidiaries, affiliates or associated entities. For example, a UK tax resident, NYSE listed Jersey holding company for an investment management business regulated in the UK, France and USA, would be treated as conducting a sensitive activity. This would be the case notwithstanding the highly regulated nature of its group and the low risk of exposure to risks relevant to AML/CFT.

6.1.9 Jersey has a rigorous process for the incorporation and registration of LPAs. When determining whether to establish an entity, Registry must have regard to the need to protect the integrity of Jersey in commercial and financial matters and the best economic interests of Jersey.

7 Companies

7.1 Introduction

7.1.1 The current Companies Law was introduced in Jersey in 1991 and allows for the creation of protected cell companies and incorporated cell companies alongside public and private companies.

7.1.2 Jersey's tax neutral environment makes Jersey companies attractive when investors and assets are based in multiple jurisdictions. The flexible and modern Companies Law makes Jersey companies attractive for acquisition and asset/group holding structures even where they are tax resident onshore (which is frequently the case for private equity acquisition structures, onshore regulated group holding structures and listed companies).

7.1.3 Jersey's Companies Law regime has advantages over many other jurisdictions in terms of the ability to list securities on international stock exchanges and general efficiencies in operating the holding structure throughout the life of the Jersey company. See also section 7.3 on the use of companies.

Beneficial ownership of companies

7.1.4 Beneficial ownership of Jersey companies is widely spread across 161 jurisdictions. This aligns with Jersey's overall financial services profile as a truly global IFC, which was outlined in the 2020 ML NRA. The most common reported jurisdictions of beneficial owners and controllers are Jersey (39%), the UK (21.2%), and the USA (5.6%).

7.1.5 Approximately 4% of Jersey companies have beneficial owners and controllers that are resident in FATF grey-listed jurisdictions. The most common connections to Jersey companies are the United Arab Emirates ("UAE") (46% of the beneficial owners and controllers in FATF grey-listed jurisdictions), the Cayman Islands (21%) and South Africa (14.8%).

7.1.6 19.2% of reporting companies declared a foreign PEP with beneficial ownership or control, covering 4.2% of the assets owned by Jersey companies.

Continuance of non-Jersey companies

7.1.7 It is possible for non-Jersey companies to continue into Jersey. Between 2018 and 2022, 381 companies continued into Jersey from 31 jurisdictions with 2022 seeing the highest number (218).

7.1.8 The most common countries for continuances are Guernsey (25.5%), Luxembourg (12%), the Isle of Man (11%) and the British Virgin Islands ("BVI") (11%).

7.1.9 When a non-Jersey company continues into Jersey, the application to Registry for continuance is substantially processed in terms of AML/KYC and compliance with the SBPP as though it is a new application to incorporate a Jersey company. This has the effect of making it no easier to continue a company into Jersey than to establish a new Jersey company.

7.2 Scale

7.2.1 Private companies are the most popular legal person in Jersey. The following table demonstrates the number and type of Jersey companies on the register at the end of each year between 2018 and 2022:

	2018	2019	2020	2021	2022
Registered company private	31,173	31,409	32,303	33,234	34,005
Registered company public	436	402	387	393	379
Incorporated cell company private	61	61	65	68	63
Incorporated cell company public	5	4	4	5	5
Protected cell company private	36	37	36	42	41
Protected cell company public	22	20	17	16	16
Total	**31,733**	**31,933**	**32,812**	**33,758**	**34,509**

7.2.2 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.

7.2.3 As noted earlier, Jersey companies are subject to strike-off provisions, for failure to comply with annual filing obligations. This mechanism enables the Registrar to maintain an accurate and up to date register. The application of the strike off provisions for the period 2018 and 2022 has resulted in 1,623 companies being struck off the register. This goes some way to explaining why the total number of companies has not increased over this period in line with the number of new incorporations.

	2018	**2019**	**2020**	**2021**	**2022**
Number of private company incorporations	2,425	2,466	2,604	2,810	2,900

7.2.4 Whilst the additional data collection exercise identified that assets held by companies is in the region of £6,326bn, this value needs to be treated with caution as:

7.2.4.1 The data was collected on a voluntary basis and consequently not every response included a valuation of assets.

7.2.4.2 Respondents were not asked to refresh asset values therefore some valuations may be dated.

7.2.4.3 Where the assets held were shares/securities, the par value of the security may have been provided rather than the market value (which would have indicated the value of the underlying company).

7.2.5 68.8% of responding companies identified themselves as part of a wider group of companies, with just over 70% of those also containing non-Jersey companies. 22.3% of Jersey companies have subsidiaries, with the top jurisdictions of incorporation for subsidiaries being the UK (35.6%), the USA (6.3%), Luxembourg (5.3%), Ireland (3.7%) and the BVI (3.4%).

7.2.6 Just over a quarter of companies reported having Jersey law trusts in the company structure and around 20% of companies had structures which included other LPAs.

7.3 Use of companies

Predominant activities

7.3.1 The additional data collection exercise identified that the predominant activities of Jersey companies are:

7.3.1.1 Holding equity in other non-Jersey companies (14.6%).

7.3.1.2 Holding commercial real estate (14.2%).

7.3.1.3 Holding equity in other Jersey companies (11.3%).

7.3.2 Where Jersey companies undertake these activities, they identified the incorporation jurisdiction of the non-Jersey company, or the commercial real estate sited.

7.3.3 Noting that the data regarding the incorporation jurisdiction of companies in which Jersey companies held equity was not complete (due to the exercise being voluntary), the information available indicates the most popular incorporation jurisdictions are:

7.3.3.1 UK.

7.3.3.2 USA.

7.3.3.3 BVI.

7.3.4 64% of companies holding real estate owned UK property. The next most popular jurisdiction in which property was held was Jersey (22.3%). A very small proportion of Jersey companies are used to hold property in FATF grey-listed jurisdictions (0.7% of all property holding companies) and jurisdictions presenting a higher TF risk (0.2%).

7.3.5 The data generally suggests that Jersey's most significant jurisdictional tie is to the UK. Only 0.5% of the Jersey companies (or 105 companies) reported undertaking their principal activity in at least one of the 21 TF Target Jurisdictions identified as part of the TF NRA.

Activities of companies in which equity is held

7.3.6 The activity of the companies in which equity was held was further analysed following the data collection exercise. The responses aligned with the activities of the Jersey companies that:

7.3.6.1 Hold equity in non-Jersey companies (17.4%).

7.3.6.2 Hold equity in other Jersey companies (13.3%).

7.3.6.3 Hold real estate (13.2%).

7.3.7 A small percentage of the companies in which equity is held are identified as conducting a sensitive trade (4.3%). Most of those companies are involved in the sensitive activities of:

7.3.7.1 Trust company business, 100% undertaken in Jersey.

7.3.7.2 Involvement, directly or indirectly in mining drilling or quarrying for natural resources, main jurisdictions reported as UK (18%), Jersey (16%) and Nigeria (9%).

7.3.7.3 Investment business, predominantly UK (49%) and Jersey (38%).

7.3.7.4 Fund services business, by companies in which equity was held undertaken in Jersey (90%), Ireland (5%) and BVI (5%).

7.3.8 Further analysis of those sensitive activities identified that in 0.3% instances the activities were undertaken in a higher risk jurisdiction, with the most common activity being mining, drilling or quarrying for natural resources.

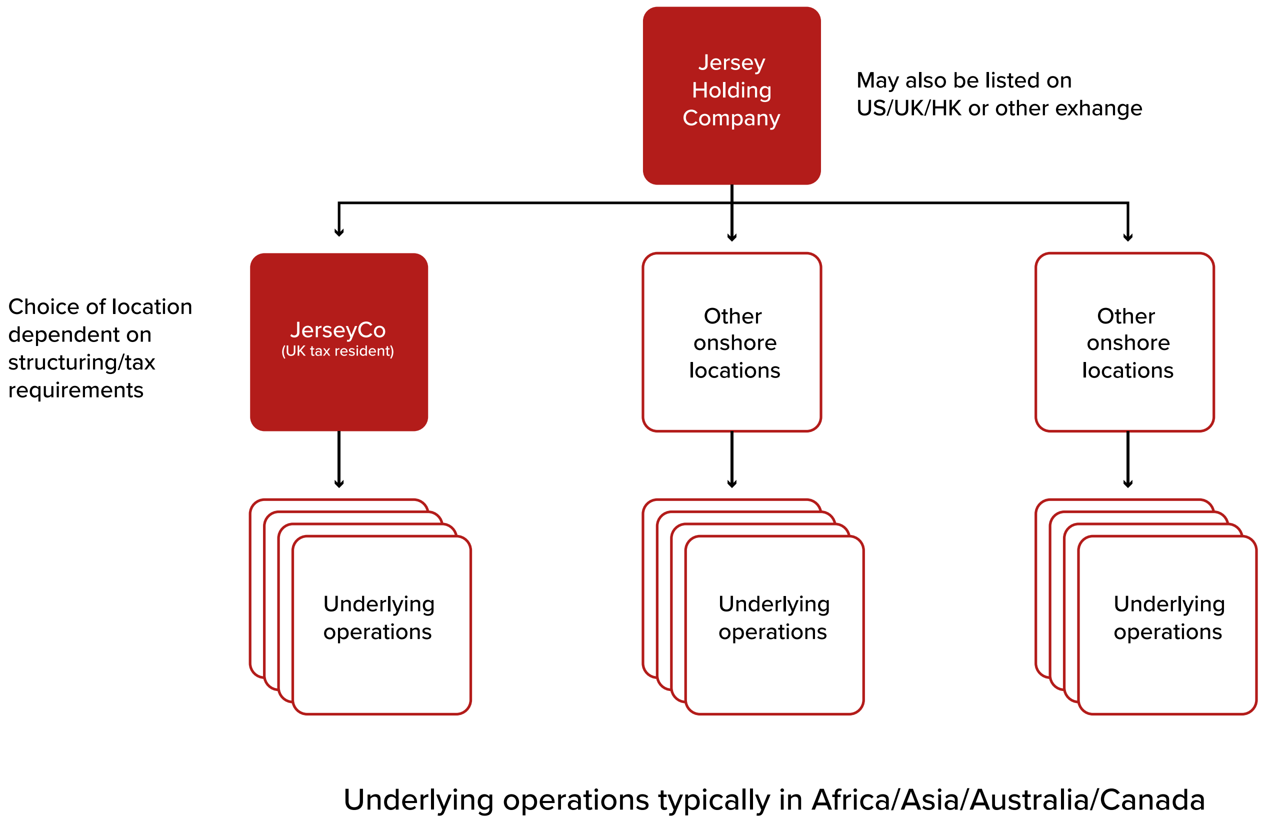
Sensitive activities

7.3.9 Just 7.3% of Jersey companies are used to conduct a sensitive trade, which includes regulated activities (Table 1 of the SBPP) and other activities (Table 2 of the SBPP), supplemented with activities that are considered to be of higher risk of ML or TF. These include forestry and logging activities, and dealers in luxury goods. Of those companies, 87% undertake a regulated Table 1 activity and are subject to JFSC AML/CFT supervision. The data highlighted that only 0.1% (or 16 companies) conduct a sensitive trade in higher risk jurisdictions, and only five of those jurisdictions feature on the list of 21 TF Target Jurisdictions.

7.3.10 Mining, drilling or quarrying for natural resources features on Table 2 SBPP as posing a potential reputational risk to Jersey. Overall, a small proportion of Jersey companies are involved in these activities (4.2%). It is worth noting that this is the main activity of the companies undertaking a sensitive trade in one of the 21 TF Target Jurisdictions. These companies may be exposed to increased risks of corruption and bribery, due to the nature of the extractive industries and the jurisdictions in which the extraction takes place. This type of business will generally be introduced to Jersey through UK or international law firms and the advisory arms of large accounting firms.

7.3.11 TCSPs consider mining, drilling and quarrying activities as high risk from an ML and TF perspective. Risks associated with these activities increase depending on the jurisdiction of the assets and activities. A relevant factor for TCSPs when considering onboarding this type of work is the reputational impact, consequently ensuring proper corporate governance in relation to the mining, drilling or quarrying operations is a material consideration for them.

7.3.12 A typical mining structure involving a Jersey holding company is set out below:

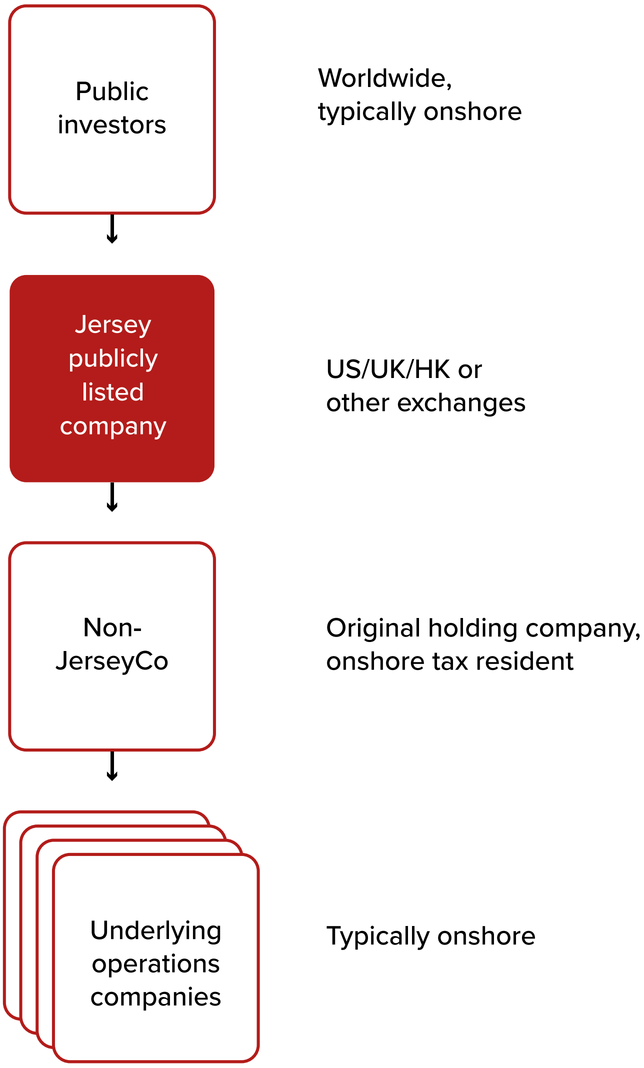


Jersey companies in listing structures

7.3.13 Jersey companies are used to list on international stock exchanges. Most of these types of companies are tax resident onshore, with the Jersey company used as a listing vehicle due to (i) the flexibility of the Companies Law, (ii) the ability to directly list and use of the relevant market's electronic trading platform[37], and (iii) the absence of local stamp duty on share transfers.

[37] Jersey Company Law permits the use of market trading platforms across a much wider range of markets than many other jurisdictions; this can generate significant cost savings as well as being of benefit to investors, who can then hold shares directly rather than indirectly via a depositary interest or similar structure.

7.3.14 A typical listing structure featuring a Jersey company.

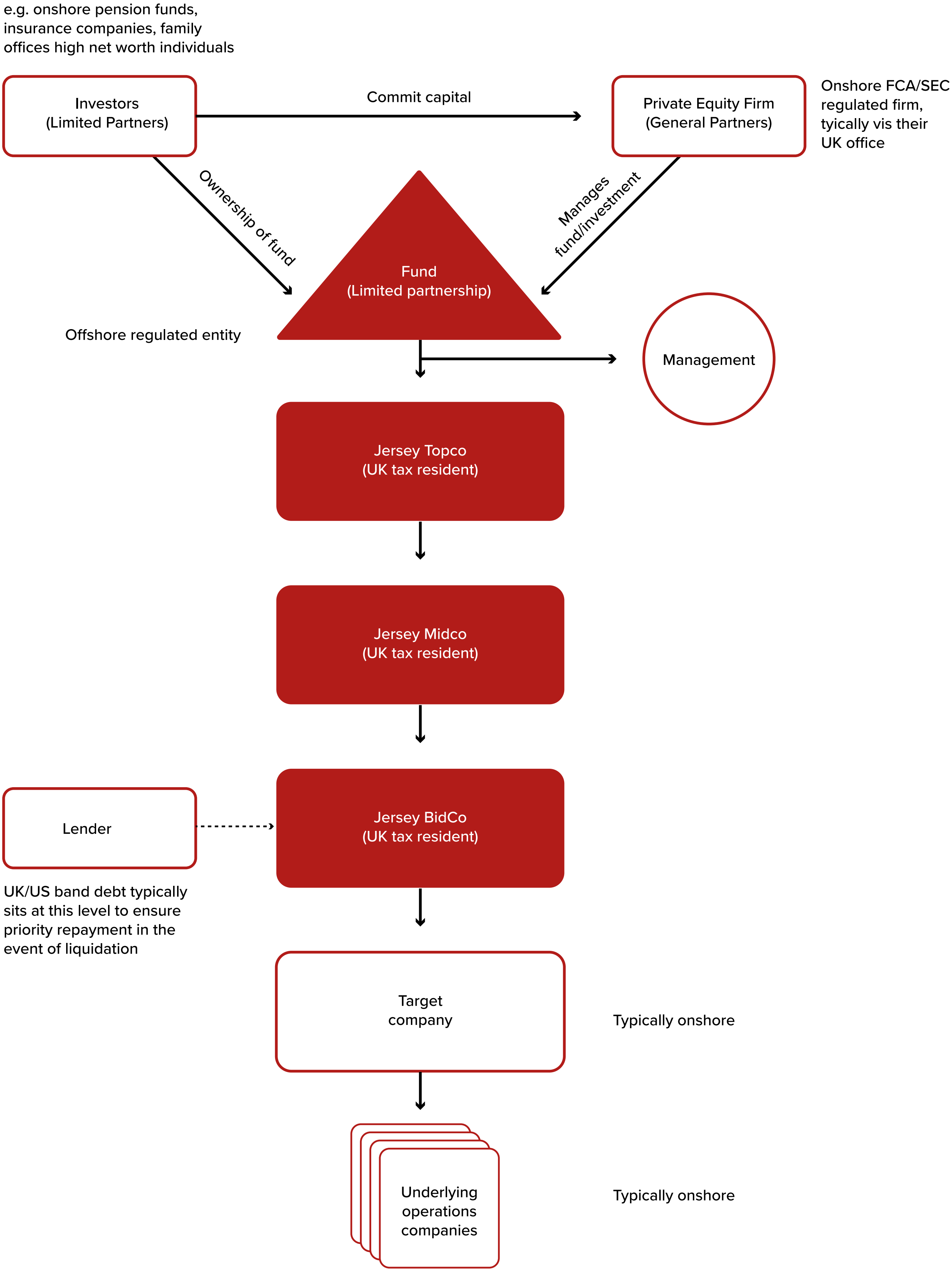


7.3.15 The Disclosure and Provision of Information Law includes a variation for Jersey companies listed on a regulated market due to the disclosure requirements associated with listing (more information is publicly available and ascertainable).

Jersey companies and private equity

7.3.16 Jersey companies are often used in private equity structures. These would typically see investors as limited partners in a limited partnership (Jersey registered or created in another offshore jurisdiction) with a series of Jersey companies sitting beneath it to acquire the target company, which would ordinarily be incorporated in an onshore jurisdiction.

7.3.17 Jersey companies are favoured in these transactions due to: (i) the tax neutral environment; (ii) the Companies Law provisions on distributions, and (iii) other aspects which provide more flexibility than many other jurisdictions. No stamp duty is payable on the transfer of shares in a Jersey company and there is no capital gains tax for locally resident entities, both of which can reduce the tax burden on an exit transaction.


e.g. onshore pension funds, insurance companies, family offices high net worth individuals
Investors
(Limited Partners)
Commit capital
Private Equity Firm
(General Partners)
Onshore FCA/SEC regulated firm, tyically vis their UK office
Ownership of fund
Manages fund/investment
Fund
(Limited partnership)
Offshore regulated entity
Management
Jersey Topco
(UK tax resident)
Jersey Midco
(UK tax resident)
Lender
Jersey BidCo
(UK tax resident)
UK/US band debt typically sits at this level to ensure priority repayment in the event of liquidation
Target
company
Typically onshore
Underlying
operations
companies
Typically onshore

7.4 Risk exposure – Jersey companies

7.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish a Jersey company, those being:

7.4.1.1 Enabling corruption, fraud, and tax evasion.

7.4.1.2 Spending or investing proceeds of crime.

7.4.1.3 Hiding true ownership of assets.

7.4.1.4 Transferring bribe payments or embezzled public funds.

7.4.1.5 Co-mingling proceeds of crime with legitimate sources of funds.

7.4.1.6 Providing asset protection for assets acquired with proceeds of crime.

Enabling corruption, fraud and tax evasion

7.4.2 Requests for MLA are received regarding Jersey companies which may include offences such as corruption, bribery, fraud and money laundering more generally. Levels of requests for beneficial ownership information are relatively low.

7.4.3 While outside the period of consideration for the LPA NRA, it is recognised that Jersey companies have been used to launder proceeds of corruption in the 2016 case of Windward Trading. The Jersey company pleaded guilty to four counts of money laundering offences. The corrupt activities took place in Kenya between 1991 and 2001 where the company's beneficial owner had accepted bribes in his role as Chief Executive of Kenya Power and Lighting Company. Jersey's Royal Court made a confiscation order of £3,281,897.40 and US$ 540,330.69. In March 2022, Jersey signed an Asset Recovery Agreement with the Government of the Republic of Kenya to facilitate the return of £3 million. These offences took place prior to the introduction of enhancements to Jersey's beneficial ownership regime in 2016 and 2020.

7.4.4 Jersey companies have also been the subject of investigations by Revenue Jersey. 98% of the investigations undertaken by Revenue Jersey's corporate tax team during 2021 related to Jersey companies.

Spending or investing proceeds of crime

7.4.5 As noted above, Jersey companies are used to invest in assets and other companies and are therefore exposed to the risk of spending or investing proceeds of crime through the underlying companies.

7.4.6 Significant mitigation is in place through the requirement to have a regulated TCSP/ Fund Services Business ("FSB") or JFSC registered lawyer or accountant as a nominated person of the Jersey company, where this is not fulfilled by a Jersey resident significant person of the company.

Hiding true ownership of assets

7.4.7 Corporate vehicles are known for their separation of the legal entity and the beneficial owners and controllers, and this concept applies to Jersey companies.

7.4.8 Jersey companies are subject to several controls which significantly mitigate against the risk of hiding true ownership of assets. All companies must disclose on application the details of their beneficial owners and controllers as well as information relating to the initial members (shareholders) and significant persons. Information on beneficial owners and controllers, and significant persons, must be updated within 21 days of change (see Article 4(3) Disclosure and Provision of Information Law).

7.4.9 Registry Supervision actively monitors beneficial owners and controllers during its examinations, ensuring that these are recorded correctly.

7.4.10 71.4% of Jersey companies are administered by a JFSC registered TCSP/FSB who are subject to the CDD obligations under the MLO and JFSC's AML/CFT/CPF Handbook, including identifying and documenting source of wealth and source of funds of their customers (the Jersey companies).

7.4.11 In 2022, to support Jersey's economic substances laws Revenue Jersey conducted compliance checks covering over 2,500 companies.

Transferring bribe payments or embezzled public funds

7.4.12 Whilst Jersey companies have historically featured in cases of bribe payments (see section 7.4.3), over the period considered for the purposes of this report there have been no investigations or prosecutions of companies for these types of offences.

7.4.13 This is due to several factors, including:

7.4.13.1 Increased understanding in the regulated sector of AML/CFT obligations, following years of application and supported by a programme of industry engagement.

7.4.13.2 Heightened supervision of the regulated sector and their compliance with AML/CFT obligations.

7.4.13.3 Introduction of additional legislation, policies and procedures to prevent and detect ML offences.

7.4.13.4 Introduction of the Registry Supervision team.

Co-mingling proceeds of crime with legitimate sources of funds

7.4.14 Any person subject to the requirements of the MLO is required to identify, with respect to their customers (both at the outset of the business relationship and on an ongoing basis) the source of the funds used. This serves as an effective tool to identify funds which potentially arise from proceeds of crime, at any stage of a business relationship.

Providing asset protection for assets acquired with proceeds of crime

7.4.15 As noted above, Jersey is committed to repatriating any identified and proven proceeds of crime to the rightful owners and jurisdictions.

7.5 Risk factors – Jersey companies

7.5.1 The below table sets out the factors that may increase and decrease the risks associated with Jersey companies.

Factors increasing risk	Factors decreasing risk
Higher risk or SBPP activities in higher risk jurisdiction	71.4% of Jersey companies are administered by a person registered with the JFSC and are therefore subject to CDD and source of funds requirements.
Ability of a non-Jersey company to continue into Jersey	Jersey companies that are not administered by a person registered with the JFSC have their beneficial owner and controller information scrutinised by the Registry authorisation team and compliance with the Disclosure and Provision of Information Law monitored by Registry Supervision.
98% of Revenue Jersey's corporate tax team investigations during 2021 related to Jersey companies	62% of Jersey companies, for which information was received, have bank accounts. Of these, 73.6% were reported as located in the UK or a Crown Dependency[38].
Jersey companies are the most popular entity type available in Jersey	Bearer shares are prohibited for Jersey companies.
	Acting as a corporate director requires registration with, and consequential supervision by, the JFSC. All directors of the corporate director must be natural persons.
	Active management of the Jersey company register by Registry through the strike off process.
	Subject to registration and disclosure requirements with Registrar.
	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.

[38] The Crown Dependencies are the Bailiwick of Guernsey, the Isle of Man and Jersey.

7.6 Risk assessment and recommended actions

7.6.1 Overall, the risk of ML associated with Jersey companies were slightly higher than other entities with separate legal personality. However, the rating is still within the **medium** banding. This was driven largely by the scale of use of Jersey companies in comparison to the other entity types.

7.6.2 Consideration of the data from a TF perspective concludes that there may be limited exposure for Jersey companies, contributing to a lower TF risk.

7.6.3 Recommended actions:

7.6.3.1 Collect Jersey company activity data on an annual basis to refresh risk information, possibly as part of the annual confirmation process. This data should be used to enable further consideration of complex structures.

7.6.3.2 Review and amend the legislative and administrative powers of all competent authorities in relation to their ability to take action against entities with activities and/or connected persons beyond the risk appetite of the jurisdiction.

8 Limited Liability Partnerships

8.1 Introduction

8.1.1 New Limited Liability Partnerships ("LLPs") legislation was introduced in 2017 replacing the previous legislation. This was not widely used due to the requirement to deposit a £5 million bond with a bank or insurance company when established. Note, there is no express requirement for a written LLP agreement.

8.1.2 All LLPs must appoint a secretary with a nexus to Jersey. Their name and address must be provided to the Registry at the application stage and changes updated within 28 days.

8.1.3 Any LLPs created under the previous legislation have been re-constituted under the 2017 LLP legislation.

Beneficial ownership of LLPs

8.1.4 Beneficial ownership and control of Jersey LLPs is limited to 22 jurisdictions. The most common residence of beneficial owners and controllers is Jersey (58%), followed by the UK (17%) and Switzerland (10%).

8.1.5 A small percentage (0.57%) of beneficial owners and controllers of Jersey LLPs reside in FATF grey-listed countries, namely the Cayman Islands and the UAE.

8.2 Scale

8.2.1 At the end of 2022, there were 134 LLPs registered in Jersey, accounting for 0.36% of entities on the register. The following table provides the number of LLPs at the end of each year 2018 to 2022.

2018	2019	2020	2021	2022
71	90	102	124	134

8.2.2 Between 2018 and 2022 the number of LLPs has grown by 88% but year-on-year LLP registrations remain low.

2018	2019	2020	2021	2022
18	19	14	24	17

8.3 Use of LLPs

8.3.1 Data indicates that Jersey LLPs are often used as general partners (64.9%) to limited partnerships. Based on information provided by industry, this is generally where the intended onshore tax treatment requires a general partner to be tax transparent and therefore a tax opaque entity cannot be used. In those instances, it is often important for regulatory reasons for the LLP to undertake its activities from Jersey. This is because the activity of being in the business to act or fulfil the function of (or arranging for another person to act as or fulfil the function of) a partner is a regulated activity. To carry out such a regulated activity requires registration with the JFSC. Supervision to ensure compliance with the MLO will then be applied.

8.3.2 85% of Jersey LLPs use the services of a registered TCSP which will conduct all verification of beneficial owners and controllers in line with its CDD obligations under the MLO. Where an LLP does not have a registered service provider acting as its nominated person, the Registry incorporation/registration team undertake verification of beneficial owners and controllers.

8.3.3 LLPs are also used by local professional services firms, mainly law firms and accountants (9.7%). Many of these meet the definitions of lawyers and accountants in Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 and are required to register with the JFSC. Once registered they are subject to JFSC supervision for compliance with the MLO. In addition, law firms practising Jersey law are subject to conduct oversight by the Law Society of Jersey.

8.4 Risk exposure

8.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish an LLP:

8.4.1.1 Enabling corruption, fraud, and tax evasion.

8.4.1.2 Spending or investing proceeds of crime.

8.4.1.3 Hiding true ownership of assets.

8.4.1.4 Co-mingling proceeds of crime with legitimate sources of funds.

8.4.2 LLPs have not featured in any ML or TF prosecutions in recent years and have not been subject to any domestic tax investigation. LLPs are not incorporated, but have separate legal personality, meaning the traits are similar to body corporates. This exposes LLPs to similar risks of ML and TF as those faced by Jersey companies and other incorporated entities. The risks are significantly reduced due to the limited number of registrations and their use as general partners to limited partnerships.

Enabling corruption, fraud and tax evasion

8.4.3 Jersey LLPs have not featured in any cases involving fraud or corruption. The relative infancy of the legislation (2017) may be a relevant factor.

8.4.4 In 2022, 15 LLPs were passed within Revenue Jersey for audit so as to determine the correct level of tax liability.

Spending or investing proceeds of crime

8.4.5 The significant use of LLPs as law firms/accountants suggests a lower ML and TF risk for this entity type due to the nature of the work undertaken and the supervisory oversight of the JFSC.

8.4.6 LLPs used as general partner vehicles are less likely to be exposed to risks of spending or investing proceeds of crime. General partners are generally used for the day-to-day running of limited partnerships and not used for investment purposes. LLPs that apply to be an FSB must comply with the JFSC's licensing policies.

Hiding true ownership of assets

8.4.7 LLPs are transparent for tax purposes and the partners are potentially assessable for tax. LLPs are rarely used to hold assets and so this type of risk is negligible.

8.4.8 Furthermore, LLPs are subject to disclosure requirements under the Disclosure and Provision of Information Law, which requires LLPs to provide details of the beneficial owners and controllers on application and to update within 21 days of a change. This ensures that the true owners and controllers are known, and their information is held centrally and is directly accessible to the JFSC, the FIU, Revenue Jersey and the LOD.

Co-mingling proceeds of crime with legitimate funds

8.4.9 As noted above, due to the nature of the use of Jersey LLPs, they do not naturally lend themselves to money laundering abuse through co-mingling funds.

8.5 Risk factors – LLPs

8.5.1 The below table sets out the factors that may increase and decrease the risks associated with LLPs.

Factors increasing risk	Factors decreasing risk
No express requirement for written LLP agreement.	Limited scale of use.
Small exposure to jurisdictions currently grey-listed by the FATF through beneficial owners and controllers.	Nature of use – general partners in investment fund structures and professional services firms.
	JFSC supervision of TCSPs that administer the LLPs that are general partners, and Law firms/accountants.
	Subject to registration and disclosure requirements with Registrar.
	Compliance with the Disclosure and Provision of Information Law monitored by Registry Supervision.
	Requirement for the LLP to appoint a secretary with nexus to Jersey.
	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.

8.6 Risk assessment and recommended actions

8.6.1 LLPs are assessed as being at **low / medium-low** risk of abuse for ML.

8.6.2 Recommended action:

8.6.2.1 LLP activity data is collected on an annual basis to refresh risk information data and enable better understanding and monitoring of use, possibly as part of the annual confirmation process.

9 Foundations

9.1 Introduction

9.1.1 Foundations were introduced into Jersey in 2009. They are incorporated bodies, able to transact and to sue and be sued in their own name.

9.1.2 Foundations are established on behalf of a founder. They have a Council which is the decision-making body and which operates in a similar manner to the board of directors of a company. In addition, a Jersey foundation must have a guardian, whose role is to ensure that the Council carries out its functions in order to achieve the objects of the foundation which are set out in a charter and regulations. The foundation application to the Registry requires submission of the charter and abridged version of the regulations.

9.1.3 Foundations may only be incorporated on application by a qualified person, who must become the Qualified Member of the Council on incorporation. A qualified person must be registered with the JFSC to act as or fulfil the function of (or arranging for another person to act as or fulfil the function of) a member of the Council of a foundation.

Beneficial ownership of foundations

9.1.4 Jersey foundations are considered to be international entities. This position is evidenced by the 2022 beneficial ownership data which shows that beneficial owners and controllers are resident in 53 jurisdictions.

9.1.5 It is notable that 31% of the beneficial owners and controllers are reported as Jersey residents. This is likely to be due to the application of the three-tier test in identifying Qualified Members of the Council as controllers, combined with the fact that foundations are established for a purpose rather than for beneficiaries.

9.1.6 Another 31% of the beneficial owners and controllers were reported as residents of jurisdictions identified as financial centres in the 2020 ML NRA. The largest proportion of which were reported as resident in the UK (40%).

9.1.7 In terms of higher risk jurisdictions, 9.2% of beneficial owners were reported as being resident in a FATF grey-listed jurisdiction. In comparison to other legal persons, this is a relatively large proportion and presents a risk to Jersey due to the deficiencies identified in the AML/CFT/CPF regimes in some of those jurisdictions.

Continuance of non-Jersey foundations

9.1.8 Non-Jersey foundations from certain jurisdictions can also continue into the jurisdiction, although there have been no continuances in the last five years. A Jersey foundation may also continue out of the jurisdiction to register in a new jurisdiction, and there have been two continuances out of Jersey from 2018 to 2022.

9.2 Scale

9.2.1 Foundations account for a very small number of the total entities registered with the Registry (0.6%).

9.2.2 The following table demonstrates the number of foundations on the register at the end of each year between 2018 and 2022 and highlights that this is not a growth product.

2018	2019	2020	2021	2022
235	227	221	223	212

9.2.3 Due to the nature and use of foundations they may have a finite lifespan and, similar to Jersey companies, they are subject to strike-off provisions for failure to comply with annual filing obligations. Between 2018 and 2021 40 foundations were struck off the register.

9.2.4 In combination these factors help to explain why the total number of foundations is decreasing over time, despite the number being incorporated each year remaining stable. The following table sets out the number of foundations incorporated over the past five years.

2018	2019	2020	2021	2022
18	14	13	16	11

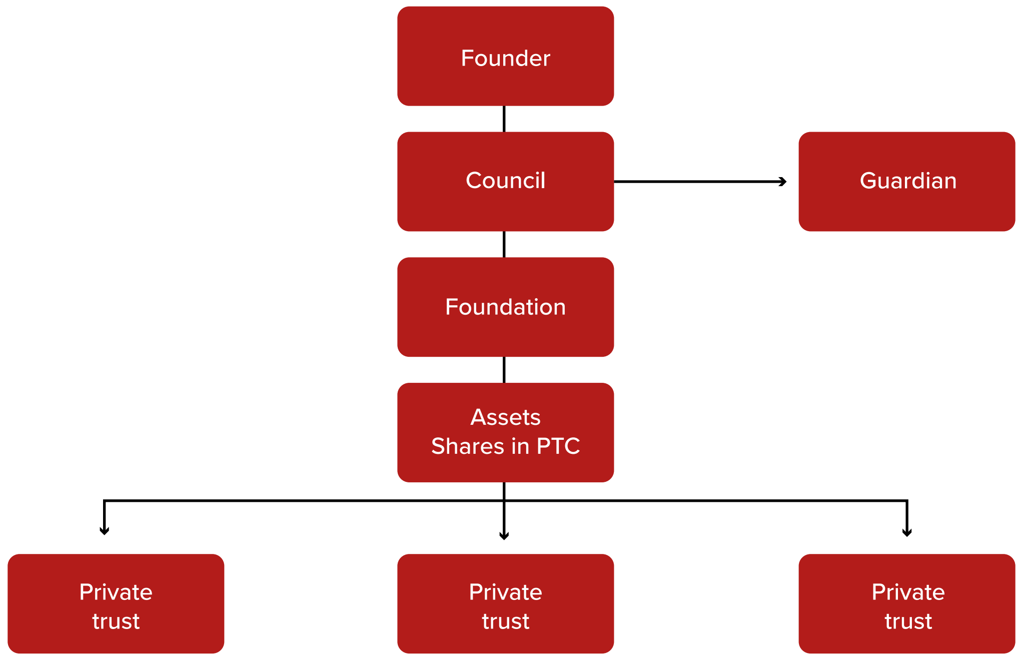
9.3 Use of foundations

9.3.1 Foundations are often seen as an alternative to a trust. Expert opinion suggests that where a jurisdiction does not recognise the concept of a trust, a foundation is often seen as an attractive similar alternative. The requirement for a foundation to register in Jersey and to be issued with a registration number provides an additional level of comfort for founders who are unfamiliar with trusts. This was considered as providing some relief to founders who did not want to place trust in a trustee where there is no corresponding registration requirement.

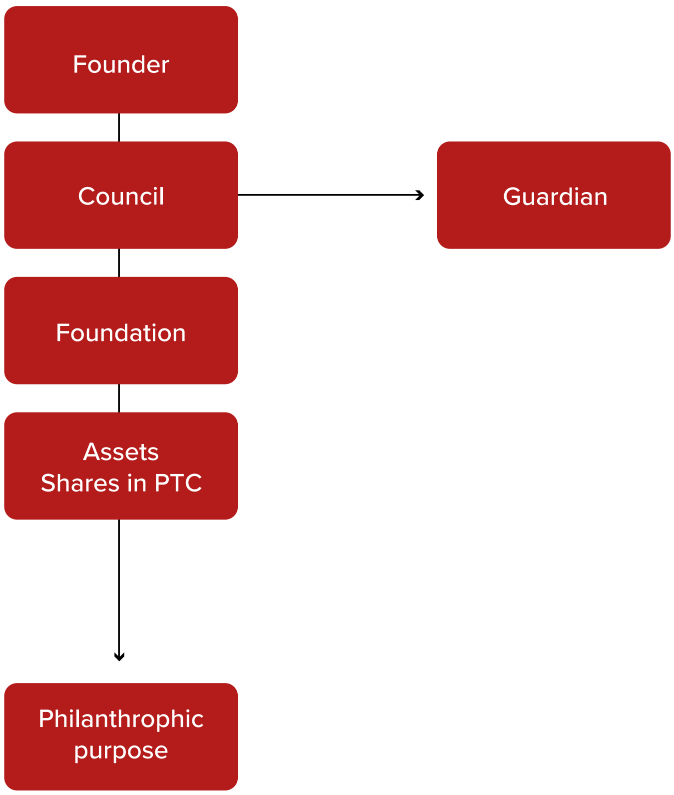
9.3.2 Although foundations are incorporated, there are limitations on the activities they can undertake as they are prohibited from directly holding immoveable property in Jersey or engaging in commercial trading activity not incidental to attainment of its objects. The activities of the foundation are not held on the register.

9.3.3 The Jersey foundation is a flexible vehicle which, while largely used in the private wealth space, is also used for philanthropic purposes and in private equity.

9.3.4 Foundations may be established with the sole object of holding shares in a private trust company. Alternatively, the foundation may act as a trustee of a private trust. A typical structure is set out below.



9.3.5 The use of foundations for philanthropic purposes is supported by JFSC data regarding non-profit organisations ("NPOs") and by data provided by Jersey's Charity Commissioner[39].



[39] The Charities Commissioner appointed pursuant to the Charities (Jersey) Law 2014.

9.3.6 Almost 15% of foundations are registered with the JFSC as NPOs. A smaller percentage (2.3%) of foundations are registered with the Jersey Charity Commissioner. This imposes additional disclosure and filing obligations on the foundation.

9.3.7 There is no requirement for a philanthropic foundation to register as a charity with the Jersey Charity Commissioner, and the LPA working group noted reasons why a foundation may not register, including:

9.3.7.1 Additional administration required to fulfil the requirements of registered charity status.

9.3.7.2 The cost of the additional administration.

9.3.7.3 The foundation may not meet one of the charitable purposes specifically defined in legislation, they may have a wider philanthropic purpose.

9.3.7.4 The need for confidentiality – the Jersey Charity Commissioner has a public register of information relating to the registered charities.

9.4 Risk exposure

9.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish a foundation:

9.4.1.1 Enabling corruption, fraud, and tax evasion.

9.4.1.2 Spending or investing proceeds of crime.

9.4.1.3 Hiding true ownership of assets.

9.4.1.4 Transferring bribe payments or embezzled public funds.

9.4.1.5 Co-mingling proceeds of crime with legitimate sources of funds.

9.4.1.6 Providing asset protection for assets acquired with proceeds of crime.

9.4.2 As an incorporated body, foundations can be used in a similar manner to other corporates and the risk exposure is similar. However, foundations are prohibited from commercial trading directly, and are used to a large extent for charitable and philanthropic purposes as well as private wealth, which presents a specific risk profile.

9.4.3 Jersey permits the continuance into the jurisdiction of certain entities from other jurisdictions, so they may register as a Jersey foundation. A list of these designated entities is published by the Chief Minister. The list includes entities from two jurisdictions which feature on the EU's Non-Cooperative Tax Jurisdictions List (Anguilla and Bahamas) and one entity from a FATF grey-listed jurisdiction (Panama Private Interest Foundation). The ability for the continuance in of these entities may transfer the risks from those jurisdictions to Jersey foundations. As stated above there have been no continuances into Jersey during the last five years.

Enabling corruption, fraud and tax evasion

9.4.4 During the data analysis period, foundations have not been identified as featuring in any criminal prosecutions, nor have they featured in tax investigations reported during this period.

9.4.5 A minimal proportion (1%) of the beneficial owners and controllers reside in a jurisdiction rated in the top 80% of corrupt jurisdictions (according to Transparency International's Corruption Perceptions Index). This may potentially expose Jersey foundations to corruption funds.

9.4.6 Similarly, a small number (2.4%) of the beneficial owners and controllers reside in jurisdictions listed on the EU's list of non-cooperative jurisdictions for tax purposes. These jurisdictions do not comply with tax transparency, fair taxation and anti-BEPS measures, as defined by the EU. This again presents a minimal risk to Jersey of tax evasion.

Spending or investing proceeds of crime

9.4.7 The initial endowment of a foundation and further endowments are the times at which a foundation may be exposed to proceeds of crime. However, the requirement for a person registered under the Financial Services Law to be the Qualified Member ensures that obligations under the MLO regarding source of funds are applied to all endowments to the foundation. This oversight reduces the risk of proceeds of crime being funnelled through foundation structures.

Hiding true ownership of assets

9.4.8 Foundations are exposed to the risk of being used to hide true ownership of assets where a founder transfers assets to the foundation and retains an interest either through control by appointment to the foundation's Council or receiving a benefit through the purpose of the foundation.

9.4.9 This risk is mitigated in two principal ways:

9.4.9.1 Firstly, through the MLO obligations on the Qualified Member to complete and refresh due diligence on all relevant persons to the foundation. This ensures that up to date information on the ownership and control of the foundation is available at the business address of the foundation.

9.4.9.2 Secondly, foundations are subject to the requirements of the Disclosure and Provision of Information Law.

9.4.10 Whilst the beneficial owner and controller information is held privately the following information is publicly available in relation to Council members and ensures there is transparency of those controlling the decision making of the foundation:

9.4.10.1 Name.

9.4.10.2 Month and year of birth.

9.4.10.3 Correspondence address.

9.4.10.4 Nationality.

9.4.10.5 Occupation.

9.4.11 The beneficial owner and controller information is directly accessible to the JFSC, the FIU, Revenue Jersey and the LOD, which enables Jersey's competent authorities to access information regarding the true ownership and control of foundations in real time. Together with the legal obligations, this makes it difficult to use foundations to hide the true ownership of assets.

Transferring bribe payments or embezzled public funds

9.4.12 As noted above, foundations have a minimal exposure to jurisdictions perceived as corrupt and the risk here is further mitigated through obligations on the TCSP to verify the source of funds.

Co-mingling proceeds of crime with legitimate sources of funds

9.4.13 The risk of co-mingling proceeds of crime with legitimate funds is also minimal for foundations, due to the requirement of a Qualified Member who is subject to the ongoing MLO requirements to understand and document the source of wealth of the foundation.

Providing asset protection for assets acquired with proceeds of crime

9.4.14 While assets may be transferred into a foundation, the true beneficial owners and controllers of the foundation are known to the authorities.

9.4.15 The Royal Court has a precedent of returning assets to other jurisdictions in the case of companies and trusts where proceeds of crime have been identified and this will equally apply to foundations.

9.5 Risk factors – foundations

9.5.1 The below table sets out the factors that may increase and decrease the risks associated with foundations.

Factors increasing risk	Factors decreasing risk
Used for philanthropic and charitable purposes.	100% of foundations are customers of a registered TCSP due to the requirement for a Qualified Member to sit on the Council – JFSC registration required to act as a Qualified Member.
Data on activity not held centrally.	Unable to directly hold immoveable property.
Small exposure to FATF grey-listed countries through beneficial ownership and control.	Prohibited directly from commercial trading not incidental to attainment of its objects.
Potential for continuance in from FATF grey-listed jurisdictions and jurisdictions that feature on the EU list of non-cooperative jurisdictions.	Subject to registration and disclosure requirements with Registrar.
	Compliance with the Disclosure and Provision of Information Law monitored by Registry Supervision.
	Active management of the foundations register by Registry through the strike off process.
	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.

9.6 Risk assessment and recommended actions

9.6.1 Overall, foundations are assessed as presenting a **medium** risk of ML.

9.6.2 Recommended actions:

9.6.2.1 Collect information on the activities of the foundations, this to be done annually and held centrally. To refresh risk information, possibly as part of the annual confirmation process.

10 Incorporated Limited Partnerships

10.1 Introduction

10.1.1 Incorporated Limited Partnerships ("ILPs") were introduced into Jersey in 2011. Unlike traditional limited partnerships, the ILP is incorporated so it continues to exist regardless of what happens to the partners and it has separate legal personality. It operates in accordance with a partnership agreement which sets out the rights and obligations of the partners.

10.1.2 Whilst there is no requirement for a natural person to fulfil any role within an ILP, there is a connection to Jersey through the nominated person requirement. This requires that either a person registered under the Financial Services Law, or a partner of the ILP who is ordinarily resident in Jersey, is responsible for the provision and updating of information.

10.1.3 ILPs have similar features to other corporate entities but have not proved to be a popular product by comparison to other types of partnership or corporate vehicles.

Beneficial ownership of ILPs

10.1.4 There are a small number of ILPs, with beneficial owners and controllers resident in eight countries. The majority reported as resident in Jersey, with 39% reported as resident in Sweden or Norway.

10.1.5 It was noted from the data available that a small percentage of beneficial owners of ILPs are resident in a jurisdiction which currently features on the FATF grey list (UAE). This jurisdiction continues to work to address strategic deficiencies in its AML/CFT/CPF regimes.

10.2 Scale

10.2.1 ILPs account for a very small proportion of entities on the register. As of 31 December 2022, there were 15[40] ILPs, making up approximately 0.04% of total entities on the register.

10.2.2 The following table demonstrates the number of ILPs on the register at the end of each year between 2018 and 2022 and demonstrates that ILPs are declining in popularity. During the period 2018 to 2022, no ILPs were incorporated in Jersey.

2018	2019	2020	2021	2022
17	17	15	15	15

10.3 Use of ILPs

10.3.1 The data confirms that ILPs undertake activities relating to investment funds. Every ILP has a regulated service provider acting as the nominated person.

10.3.2 As the ILPs are carrying on investment funds activity there is an additional level of oversight and control over their activities through JFSC Supervision.

[40] In addition, 5 'test' ILPs appear on the register.

10.4 Risk-exposure

10.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish an ILP:

10.4.1.1 Enabling corruption, fraud, and tax evasion and transferring bribe payments or embezzled public funds.

10.4.1.2 Spending or investing proceeds of crime.

10.4.1.3 Hiding true ownership of assets.

10.4.1.4 Providing an apparent legitimate commercial justification for large movement of funds.

10.4.1.5 Co-mingling proceeds of crime with legitimate sources of funds.

10.4.1.6 Providing asset protection for assets acquired with proceeds of crime.

10.4.2 The ML and TF risks associated with other corporate structures apply equally to ILPs. Analysis of the data available, together with the legislative framework, did not identify any features of ILPs that make them inherently riskier than other corporate vehicles.

10.4.3 Jersey ILPs have not been identified in ML or TF cases, which is commensurate with the number of registered ILPs in the jurisdiction being very low.

Enabling corruption, fraud, and tax evasion and transferring bribe payments or embezzled public funds

10.4.4 The jurisdictions of beneficial owners and controllers of Jersey ILPs do not feature highly on any corruption perception index and therefore the risk of enabling corruption and transfer of bribes is considered to be low.

10.4.5 Data available has not identified any tax investigation relating to Jersey ILPs, which supports a conclusion that they are not used for the purpose of tax evasion.

Spending or investing proceeds of crime

10.4.6 Jersey ILPs are exposed to the risk of investing proceeds of crime, due to their use in the funds sector. This is mitigated by the CDD and source of funds obligations applied to them.

Hiding true ownership of assets

10.4.7 While the use of a corporate structure with separate personality provides for the separation of legal and beneficial ownership, Jersey has implemented a robust system of recording and updating beneficial ownership information, which extends to ILPs.

10.4.8 Furthermore, each ILP has appointed a regulated service provider as its nominated person, who is required to apply the MLO CDD requirements to the ILP in terms of identifying and verifying the correct beneficial owners and controllers of the ILPs.

Providing an apparent legitimate commercial justification for large movement of funds

10.4.9 ILPs are not used in Jersey for commercial purposes, their activities are restricted to investment funds. While this may present the potential opportunity for the investment of proceeds of crime, it is not considered to be a significant risk due to the MLO source of funds and source of wealth requirements each will be required to comply with.

Co-mingling of proceeds of crime with legitimate sources of funds

10.4.10 The use of ILPs in the investment funds context might provide the opportunity of co-mingling the proceeds of crime with legitimate sources of funds due to the contributions made by partners. However, as all Jersey ILPs have a regulated service provider, the risk is reduced because of the MLO requirements on the regulated service provider regarding source of funds.

Providing asset protection for assets acquired with proceeds of crime

10.4.11 The data available for the risk assessment did not demonstrate that Jersey ILPs were used for asset protection purposes.

10.5 Risk factors – ILPs

10.5.1 The below table sets out the factors that may increase and decrease the risks associated with ILPs.

Factors increasing risk	Factors decreasing risk
Residency of some beneficial owners identified as being in FATF grey-listed jurisdiction.	All ILPs have regulated service providers, subject to obligations under the MLO.
	Subject to registration and disclosure requirements with Registrar.
	Compliance with the Disclosure and Provision of Information Law monitored by Registry Supervision.
	Very limited scale of use.
	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.

10.6 Risk assessment and recommended actions

10.6.1 Based on the data available, together with the overall low use ILPs are considered to have a **low / medium-low** risk of abuse to ML.

10.6.2 Recommended action:

10.6.2.1 Collect information on the activities of the ILPs, to be done annually and held centrally. To refresh risk information, possibly as part of the annual confirmation process.

11 Separate Limited Partnerships

11.1 Introduction

11.1.1 Separate Limited Partnerships ("SLPs") were introduced into Jersey in 2011, in close succession to ILPs. SLPs have proved more popular than ILPs, although the number of registrations remains low.

11.1.2 SLPs are legal persons but not a body corporate. An SLP operates in accordance with a partnership agreement which sets out the rights and obligations of the partners.

11.1.3 Whilst there is no requirement for a natural person to fulfil any role within an SLP, there is a connection to Jersey through the nominated person requirement. This ensures that either a person registered under the Financial Services Law, or that a partner of the SLP who is ordinarily resident in Jersey, is responsible for the provision and updating of information.

Beneficial ownership of SLPs

11.1.4 The data identifies beneficial owners and controllers of SLPs are resident in 33 countries, with the majority reported as resident in Jersey (51%) with the UK accounting for a further 25%.

11.1.5 Another 11.2% of the beneficial owners and controllers were reported as residents of jurisdictions identified as financial centres in the 2020 ML NRA. These present a money laundering vulnerability due to the risk associated with the onward transfer of funds.

11.1.6 A small percentage of beneficial owners and controllers of SLPs were identified as residents in FATF grey-listed countries (Cayman Islands, Panama and the UAE). While the scale of beneficial owners and controllers in these jurisdictions was small (just 1.3%) it is noted that these jurisdictions have been identified as having strategic deficiencies in their AML/CFT/CPF regimes.

11.2 Scale

11.2.1 As at 31 December 2022, there were 154 SLPs on the register, representing 0.4% of total number of entities on the register.

11.2.2 The following table demonstrates the number of SLPs on the register at the end of each year between 2018 and 2022 and demonstrates that the volume of SLPs has seen a gradual increase from a very low base.

2018	2019	2020	2021	2022
97	109	118	131	154

11.2.3 The following table sets out the number of SLPs registered year-on-year over the past five years.

2018	2019	2020	2021	2022
13	14	14	16	24

11.3 Use of SLPs

11.3.1 Reported data demonstrates that SLPs are useful for structures that require a carried interest function. Jersey's tax neutral environment is seen as useful in this context.

11.4 Risk exposure

11.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish an SLP:

11.4.1.1 Enabling corruption, fraud, and tax evasion.

11.4.1.2 Spending or investing proceeds of crime.

11.4.1.3 Hiding true ownership of assets.

11.4.1.4 Providing an apparent legitimate commercial justification for large movement of funds.

11.4.1.5 Co-mingling proceeds of crime with legitimate sources of funds.

11.4.1.6 Providing asset protection for assets acquired with proceeds of crime.

11.4.2 Partnerships, including SLPs, do not feature heavily in requests for assistance received from other jurisdictions and have not appeared in law enforcement investigations or prosecutions in recent years.

11.4.3 The features of SLPs, in that they have separate legal personality, mean that although not a body corporate their characteristics are similar to an incorporated entity. The ML and TF risks align with the risks posed by body corporates.

Enabling corruption, fraud and tax evasion

11.4.4 The jurisdictions of beneficial owners and controllers of Jersey SLPs do not feature highly on any corruption perception index and therefore the risk of enabling corruption and transfer of bribes is considered to be low.

11.4.5 Data available has not identified any tax investigation relating to Jersey SLPs, which supports a conclusion that Jersey SLPs are not used for the purpose of tax evasion.

Spending or investing proceeds of crime

11.4.6 The use of SLPs for carried interest vehicles suggests that while they could potentially be exposed to profits arising from invested proceeds of crime through a fund, they would not be used to spend or invest the proceeds themselves.

Hiding true ownership of assets

11.4.7 The obligations on SLPs under the Disclosure and Provision of Information Law, together with the MLO requirements ensure that it is not possible to obscure the ownership of assets of SLPs.

Providing an apparent legitimate commercial justification for large movement of funds

11.4.8 As predominantly carried interest vehicles, SLPs are not used for commercial transactions or significant movement of funds. The carried interest is a distribution of profit of the fund.

Co-mingling proceeds of crime with legitimate source of funds

11.4.9 SLPs are established to receive a carried interest and would not therefore be used to mix proceeds of crime with legitimate sources of funds.

Providing asset protection for assets acquired with proceeds of crime

11.4.10 SLPs are not generally used in Jersey for asset protection purposes.

11.5 Risk factors – SLPs

11.5.1 The below table sets out the factors that may increase and decrease the risks associated with SLPs.

Factors increasing risk	Factors decreasing risk
Some exposure to FATF grey-listed jurisdictions.	Comprehensive registration process, including verification of beneficial owners undertaken by regulated service providers.
Exposure to significant number of jurisdictions through beneficial ownership and control given the small number of entities.	Low levels of use.
	Subject to registration and disclosure requirements with Registrar.
	Compliance with the Disclosure and Provision of Information Law monitored by Registry Supervision.
	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.

11.6 Risk assessment and recommended action

11.6.1 The use and profile of SLPs, together with the controls in place are similar to ILPs and therefore the risk rating is also similar: **low / medium-low**.

11.6.2 Recommended action

11.6.2.1 Collect information on the activities of the SLPs, this to be done annually and held centrally. To refresh risk information, possibly as part of the annual confirmation process.

12 Limited partnerships

12.1 Introduction

12.1.1 Limited Partnerships ("LPs") were introduced into Jersey in 1994. They must have at least two partners, one or more general partners with responsibility for the management of the LP, and one or more limited partners.

12.1.2 LPs are legal arrangements not legal persons and are the most popular of the various partnership vehicles. Since the launch of the Jersey Private Fund product in April 2017 this has been a growth product with a strong preference for a LP/general partner structure.

12.1.3 LPs are subject to the same disclosure and information requirements as other entities established through Registry, which are monitored by Registry Supervision. In addition, LPs are required to file an annual combined notification to Revenue Jersey, which covers their compliance with economic substance requirements and provides information on the taxable income of the partners.

Beneficial ownership of LPs

12.1.4 Given the use of LPs (see section 12.2.3) the reported data identifying over 10,000 beneficial owners and controllers for LPs is not unexpected.

12.1.5 The data highlights that the beneficial owners and controllers are predominantly resident in Jersey (36%) and the UK (27%). The table below provides the top ten jurisdictions of residency demonstrating that the financial centres of the USA, Switzerland and Luxembourg collectively account for another 17% of the beneficial owners and controllers.

	Jurisdiction	Percentage of beneficial owners and controllers
1.	Jersey	36%
2.	UK	27%
3.	United States	8%
4.	Switzerland	7%
5.	Luxembourg	2%
6.	Sweden	2%
7.	Belgium	2%
8.	Germany	2%
9.	Ireland	1%
10.	Israel	1%

12.1.6 Based on the reported data approximately 3.7% of the beneficial owners and controllers are resident in a jurisdiction listed by the JFSC as presenting a higher risk of ML or TF. However, when the jurisdictions are limited to those on the FATF grey list the number falls to 1.9%.

Continuance of non-Jersey LPs

12.1.7 2020 saw the introduction of continuance provisions for LPs, to date three LPs have continued into Jersey.

12.2 Scale

12.2.1 As of 31 December 2022, there were 2,637 LPs recorded on the register which is an increase of 42.6% over the five-year period from 2018:

2018	2019	2020	2021	2022
1,848	2,021	2,152	2,406	2,637

12.2.2 LPs account for 10% of entity registrations with the Registrar each year with annual LP registrations remaining relatively stable, as follows:

2018	2019	2020	2021	2022
247	276	263	344	337

12.2.3 Following legislative amendments which came in to force in August 2022, the Registry can strike an LP off the register. These powers were used in 2023 resulting in 98 LPs being struck off.

12.3 Use of LPs

12.3.1 Over 80% of Jersey LPs use the services of a Jersey registered TCSP and LPs often feature in the structuring of investment funds. An example of a structure involving an LP is provided at section 7.3.17.

12.3.2 Due to the way data has been collected, and recorded, it is not possible to exactly match the LPA risk assessment data with that collected by the JFSC for authorisation and supervision purposes. However, the following table highlights that, at the end of 2022, private/public investment funds are known to account for almost 50% of the LPs on the register:

Product	Number
Public funds	
Expert Fund	298
Unregulated Fund	102
Unclassified Fund	29
Non-Jersey based CIF	17
Eligible Investor Fund	2
Private funds	
Jersey Private Fund	484
Non-Jersey COBO[41]	168
COBO Only	117
Very Private Fund	55
Total	1,272

12.3.3 Other commonly recorded activities for LPs include general investment, carry vehicles and holding property (predominantly in the UK).

12.4 Risk exposure

12.4.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish an LP:

12.4.1.1 Enabling corruption, fraud, and tax evasion.

12.4.1.2 Spending or investing proceeds of crime.

12.4.1.3 Co-mingling proceeds of crime with legitimate sources of funds.

12.4.2 As LPs are legal arrangements not legal persons, their risk exposure differs from other entities established through Registry as they cannot stand alone from the general partner.

12.4.3 The ML risk associated with LPs arises largely from their use as investment funds, including spending or investing proceeds of crime and co-mingling of proceeds of crime with legitimate funds. However, where the LP is either a public or private fund registered with the JFSC the requirements of the MLO regarding identifying the source of funds are applicable and acts as a mitigant to this risk.

12.4.4 The main ML/TF risks considered to apply to LPs are those identified for other entity types.

Enabling corruption, fraud and tax evasion

12.4.5 Just one LP was subject to investigation by Revenue Jersey during 2021. This is not unexpected as, due to the transparent tax treatment, LPs are unlikely to be used as a vehicle for tax evasion.

[41] COBO refers to the Control of Borrowing (Jersey) Order 1958

Spending or investing proceeds of crime

12.4.6 Due to the prevalent use in investment funds, LPs are exposed to the risk of spending or investing proceeds of crime. Contributions from LPs, including money, can potentially expose LPs to the risk of the proceeds of crime being invested which may then be used in future investments.

12.4.7 There have been no recent investigations or prosecutions to suggest that Jersey LPs have been used in this way. Also, this risk is mitigated as over 80% are provided with services by a JFSC registered TCSP subject to the provisions of the MLO and therefore required to know the origin of their customers' source of funds.

Co-mingling of proceeds of crime with legitimate funds

12.4.8 Similarly, and based on the same rationale, there have been no recent cases involving the co-mingling of funds.

12.5 Risk factors – LPs

12.5.1 The below table sets out the factors that may increase and decrease the risks associated with LPs.

Factors increasing risk	Factors decreasing risk
Some level of exposure to beneficial owners and controllers in higher risk jurisdictions.	Subject to registration and disclosure requirements with Registrar.
Popularity of the LP/general partner structure for Jersey Private Funds.	JFSC, FIU, Revenue Jersey and the LOD have direct access to information held on the register.
Ability of a non-Jersey LP to continue into Jersey.	Prevalent use in investment funds and consequentially directly subject to JFSC supervision.
	80% of LPs have a Jersey registered TCSP providing services to it.
	Subject to Registry Supervision for compliance with disclosure and information requirements.

12.6 Risk assessment and recommended action risk assessment - medium

12.6.1 Although they are legal arrangements not legal persons, the controls surrounding LPs are very similar to those applied to other entities established through Registry which have a scale of use. LPs are assessed as presenting a **medium** risk of being misused for ML or TF.

12.6.2 Recommended action

12.6.2.1 Collect information on the activities of the LPs, to be done annually and held centrally. To refresh risk information, possibly as part of the annual confirmation process.

Part B:

TCSP administered non-Jersey companies

13 Non-Jersey companies

13.1 Introduction

13.1.1 TCSPs also provide services to non-Jersey companies. The demand for this service is partly driven by the quality of Jersey TCSP services and the common connections of non-Jersey companies to wider structures involving Jersey LPAs.

13.1.2 As part of the annual JFSC Supervisory Risk Data collection TCSPs are required to report some information regarding their customers that are non-Jersey companies. Using the 2021 data as the base the ten TCSPs reporting the most non-Jersey companies were identified. In 2022 these TCSPs were asked to complete a one-off data questionnaire. All ten responded and the collected data supplemented the JFSC Supervisory Risk Data, providing a more detailed understanding of some of the non-Jersey companies administered in Jersey.

13.1.3 The additional data collection yielded aggregated data on 3,839 companies, or 46% of the non-Jersey companies reported as administered from Jersey as at the end of 2021. It included data regarding the non-Jersey companies' jurisdiction of incorporation, their activities and any interaction with other Jersey legal persons and arrangements.

Beneficial owners and controllers

13.1.4 The reported data highlights that the residency of the beneficial owners and controllers of 3,839 non-Jersey companies spans 103 jurisdictions and totals nearly 3,300 beneficial owners and controllers. The top five jurisdictions of residency being:

	Jurisdiction	Percentage of beneficial owners and controllers
1.	UK	18.0%
2.	Hong Kong	7.5%
3.	Saudi Arabia	7.0%
4.	Jersey	7.0%
5.	UAE	6.0%

13.1.5 Additionally, the reported data highlights that foreign PEPs account for 21.5% of beneficial owners and controllers. This is slightly higher than the number of PEPs recorded as beneficial owners and controllers of Jersey companies (19.2%).

13.2 Formation and disclosure requirements

Formation

13.2.1 Non-Jersey companies are subject to the formation and disclosure requirements of their jurisdiction of incorporation. There are no registration requirements with the Registrar in Jersey.

13.2.2 Depending on the jurisdiction of incorporation a company may be able to issue bearer shares however, the 2022 data did not identify any bearer shares in relation to non-Jersey companies.

Access to information

13.2.3 The obligations set out in the MLO apply to non-Jersey and Jersey companies alike as they are both customers of the TCSPs. Consequently, information regarding the beneficial owners and controllers of the non-Jersey companies is held by the TCSPs that administer them and can be accessed by competent authorities.

13.3 Scale

13.3.1 JFSC Supervisory Risk Data shows the number of non-Jersey companies administered by TCSPs has declined by 12.4% between 2018 and 2021.

2018	2019	2020	2021
9,510	8,893	8,354	8,331

13.3.2 The number of non-Jersey companies administered is significantly less than the number of Jersey companies administered by the same TCSPs.

13.3.3 From the data collected for 3,839 non-Jersey companies, the table highlights that 88% of the companies were reported as being incorporated in the top ten jurisdictions, with the top six jurisdictions accounting for 82%. It is notable that the jurisdictions reflect Jersey's connections to other IFCs. Additionally, the reported data highlights that less than 10% of non-Jersey companies are incorporated in FATF grey-listed jurisdictions (at the time of writing the Cayman Islands remain grey-listed).

	Jurisdiction	Percentage of all companies
1.	BVI	38%
2.	Bahamas	16%
3.	USA	9%
4.	Cayman Islands	8%
5.	Guernsey	6%
6.	UK	5%

13.4 Use of non-Jersey companies

Activities

13.4.1 The data for the reported 3,839 non-Jersey companies identified that 37% of them had a Jersey-law governed trust within their structure and that 25% had a Jersey company in the structure. This supports the understanding that non-Jersey companies may be administered in the jurisdiction due to connections to other Jersey legal persons and arrangements.

13.4.2 Only nine of the ten TCSPs provided information regarding the activities of the non-Jersey companies they administered. All nine reported administering at least one company that is used to:

13.4.2.1 Hold commercial real estate.

13.4.2.2 Hold residential real estate.

13.4.2.3 Hold investment portfolios.

13.4.2.4 Hold cash.

13.4.3 Most TCSPs reported that the activities of non-Jersey companies include holding equity in other companies, both Jersey and non-Jersey, and five of the nine identified that at least one of the administered non-Jersey companies is used to hold artwork or ships.

Services provided

13.4.4 54% of responding TCSPs advised that they provide both company secretary and director services to the non-Jersey companies, with very few reporting that they provided a secretary-only (6%) or director-only service (5.6%). Some TCPS did not specify the services provided, and some clarified that they also provide other services such as: (i) administration; (ii) paying agent, and (iii) listing agent.

13.4.5 A significant proportion of the non-Jersey companies were identified as having a bank account (73%), providing an additional layer of CDD and oversight within the global financial network. Of those companies 29.6% reported having a Jersey bank account and the non-Jersey company would therefore be subject to the MLO CDD requirements by both the TCSP and the bank.

13.5 Risk exposure

13.5.1 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. Analysis of the incorporation requirements in the different jurisdictions has not been undertaken at this stage, therefore it cannot be guaranteed that other jurisdictions have the same robust incorporation and ongoing screening regime as Jersey, designed to prevent and detect ML and TF.

13.5.2 However, these risks are significantly mitigated due to the MLO and AML/CFT/CPF Handbook obligations placed on TCSPs with respect to their customers.

13.6 Risk factors – TCSP administered non-Jersey companies

13.6.1 The below table sets out the factors that may increase and decrease the risks associated with non-Jersey companies administered from Jersey:

Factors increasing risk	Factors decreasing risk
No registration requirement in Jersey.	CDD obligations apply to TCSPs administering non-Jersey companies.
Due to the method of holding information, competent authorities may take longer to access information than for other entities.	73% of the non-Jersey companies for which data was collected reported having a bank account of which 29.6% reported a Jersey bank account.
Knowledge, expertise and familiarity of TCSPs in applying non-Jersey law and complying with company requirements of other jurisdictions.	The 2022 Supervisory risk Data did not identify any bearer shares in relation to non-Jersey companies.

13.7 Risk assessment and recommended action

13.7.1 TCSP administered non-Jersey companies are assessed as presenting a **medium-high** risk of ML or TF.

13.7.2 Recommended action

13.7.2.1 It is noted at this stage that there remain gaps in some of the data available and it would be prudent to undertake a more detailed data collection exercise to further understand the risks arising from non-Jersey companies being administered in Jersey.

Part C:

Trusts and other legal arrangements

14 Trusts

14.1 Introduction

14.1.1 Trusts play a significant part in Jersey's overall appeal as an IFC.

14.1.2 The Trusts (Jersey) Law 1984 ("the Trusts Law") was one of the first modern legislative instruments for trusts internationally. It is seen as a leading piece of legislation concerning trusts and is highly regarded. Whilst it is nearly 40 years old it has been maintained and has been used by jurisdictions around the world as the basis for their own statutes. Even before the introduction of the legislation, Jersey had a professional sector and had developed expertise on the use of trusts.

14.1.3 From the data provided, over 90% of the trusts administered are established using the law of Jersey, the UK or another Crown Dependency. However, trusts are also administered which are established using the law of other jurisdictions. See also section 14.3.

14.2 Formation and disclosure requirements

Formation

14.2.1 The Trusts Law provides a legislative framework and a level of flexibility on the use of the trust.

14.2.2 For a trust to be valid, there must be a clear intention by the settlor to divest themselves of the assets to one or more trustees. The identity of the beneficiaries or the purpose of the trust must be clear. The property to be held in the trust must also be certain.

14.2.3 Trusts are ordinarily created by trust deed or instrument and are not necessarily subject to any registration requirement except Unit Trusts which are required to hold a consent, issued by the JFSC under the Control of Borrowing Legislation.

14.2.4 A trust deed or instrument will set out the role and responsibilities of the trustee and how the trust assets should be administered and distributed. Apart from Unit Trusts it is not mandatory to have a written trust deed/instrument. Having said that, it is uniformly common practice for the terms of the trust to be in writing. It is widely considered that very few, if any, trusts would currently exist in a professional context without a written trust deed/instrument, as:

- 14.2.4.1 A professional trustee will want to formalise their relationship and the powers and duties regarding administration of the assets. In particular they will wish to be specific in relation to provisions on charging fees, limitations of liability, and retirement and appointment of trustees.
- 14.2.4.2 An extract of the trust deed/instrument is required when opening bank accounts, agreeing investment mandates and for certain other actions.

14.2.5 Any person in the business of providing trustee services is required to register with the JFSC.

Updating of information

14.2.6 The requirements relating to obtaining and maintaining information on the parties of the trust exist in the MLO and this is extended to non-professional trustees through the Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016. These provisions require a trustee to identify relevant parties to the trust, including the settlor, co-trustee, protector, any beneficiary and any person exercising ultimate effective control over the trust. This obligation exists before the establishment of the relationship, on an ongoing basis during the relationship, on the occurrence of trigger events and where a concern of ML arises due to the inadequacy of documents, data or information provided.

Access to information

14.2.7 Information on trusts is not subject to public record, although trusts may register as charities and some information is therefore publicly available regarding those trusts. As at 31 December 2022, 79 charities on the Public Register of the Jersey Charities Commissioner had a recorded entity status as a "trust".

14.2.8 Competent authorities can access information regarding trusts. The FIU is the primary competent authority required to access beneficial ownership information, although anecdotally Jersey does not receive significant levels of requests regarding trusts.

14.2.9 The FIU receives requests from international FIUs through the Egmont Secure Web, via local law enforcement partnerships, and by notification from the LOD through the MLA process. Alternatively, the filing of a SAR or a disclosure with the FIU may trigger the need to obtain information. Such requests seek information on an intelligence basis only.

14.2.10 Upon receipt of a request for assistance the FIU initially reviews its database and then, using its relevant powers under the Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015 and under Article 21(4) of the MLO, the FIU is able to obtain beneficial ownership information relating to trusts from any relevant person when required.

14.2.11 Revenue Jersey is also able to access information on trusts. Where it receives a request from another jurisdiction, it will first check its internal database for the individual taxpayer and/or the trust and then issue a notice to produce information.

14.3 Scale

14.3.1 The 2021 JFSC Supervisory Risk Data provided by TCSPs highlights that 29,338 trusts were directly or indirectly administered. This number has remained consistent between 2018 and 2021:

2018	2019	2020	2021
30,164	29,705	30,139	29,338

14.3.2 The 2022 additional trusts data collection exercise provided data on 20,727 trusts administered by professional trustees. This reflects a response in respect of approximately 70% of the trusts reported for 2021.

14.3.3 The 2022 additional trusts data identified that, in respect of the 20,727 trusts for which data was provided, 91.3% of them are established using the law of Jersey, the UK or another Crown Dependency. This is a positive position indicating that the TCSPs will have a good knowledge of the law and other business protocols due to the close links between Jersey and these jurisdictions.

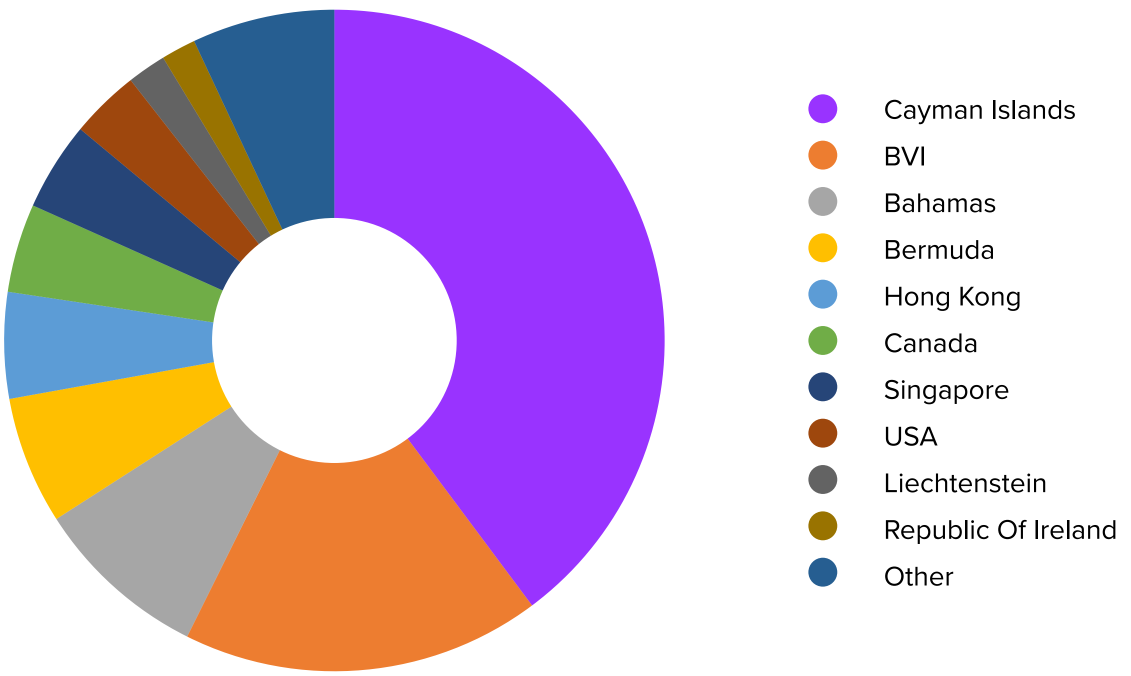
14.3.4 Trusts with a governing law of other jurisdictions were few by comparison, with many having historic links to the UK, being members of the Commonwealth or having a common law legal system. These factors act to mitigate the potentially reduced ability of Jersey-based trustees to fully understand and apply the law of those jurisdictions and fulfil their duties as trustee. Examples of trusts with governing laws in the "other" category are Prince Edward Island and Zimbabwe, but these account for only seven of the 19,800 trusts for which the governing law was provided.

14.3.5 Information from industry suggests that Jersey TCSPs will seek legal advice from duly qualified foreign lawyers where needed, such that they can properly discharge their duties. It should also be noted that Jersey is renowned for its trust services and headquarters some of the largest TSCP service providers.

14.3.6 The chart demonstrates the governing law of trusts administered by Jersey TCSPs, excluding the UK and the Crown Dependencies.

Governing law of the Trust on Establishment

Excludes UK and Crown Dependencies



14.3.7 From a TF perspective the additional trusts data also highlights that one trust was reported as being established using the governing law of one of the 21 TF Target Jurisdictions and in terms of ordinary residency:

14.3.7.1 1.2% of the reported trusts (or 259 trusts) have Settlors in one of the 21 TF Target Jurisdictions.

14.3.7.2 0.6% of the reported trusts (or 118 trusts) have Protectors in one of the 21 TF Target Jurisdictions.

14.3.7.3 0.1% of the reported trusts (or 25 trusts) have Contributors in one of the 21 TF Target Jurisdictions.

14.3.8 Whilst the value of assets held in trust has been collected and is often cited to demonstrate the scale of the sector, it is an unreliable measure.

14.3.9 Most responses showed total asset values between £100 and £999,999, however the LPA working group did not consider this to be wholly reflective of the true value of assets held in trusts administered in Jersey. Using their experience, they consider the assets were undervalued, with the cause possibly being related to the leading accounting practice for trusts, published by STEP, which is in line with international accounting standards. Full valuation of the underlying companies held in a trust is not required and this impacts on the reported value of assets. Two common examples of valuation issues being immoveable property (held at acquisition rather than current market value) and valuation of unquoted shares (no clear independent valuation source). See below for further information on assets.

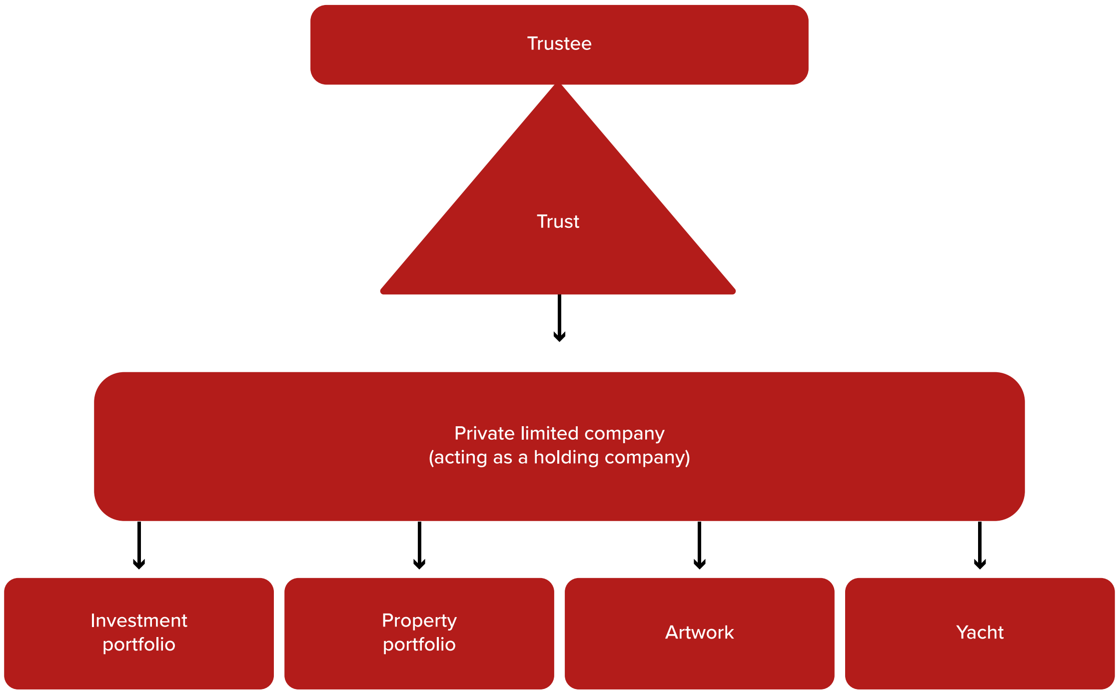
14.4 Use of trusts

14.4.1 Jersey law trusts may be used by the non-professional sector for family arrangements such as holding assets for someone without legal capacity (e.g. a minor), wills and inheritance. Despite a targeted social media campaign and efforts to contact trustees acting in a non-professional capacity, the data collection exercise did not provide any data relating to these trusts. A further campaign for this sector will follow by targeting local lawyers and professionals to enable a better understanding of the ML and TF risks to the jurisdiction.

14.4.2 The trusts data collection exercise provided a detailed overview of the nature and use of trusts in the TCSP sector. The majority of trusts are discretionary trusts (50.8%) with a further 48% reported as being used for savings or pensions (20.1%), estate planning (14.4%) or employee benefits (13.5%).

14.4.3 Discretionary trusts are a flexible type of trust and the core trust offering of the jurisdiction. Under discretionary trusts, trustees are able to decide the amount of capital and income that each beneficiary will receive, and when enabling the trustee to respond to the changing circumstances of the beneficiaries and the trust at any particular time. By having such a concentration in a particular type of trust work, the TCSP sector has built up significant expertise and familiarity with these types of trusts.

14.4.4 The data collected on Jersey companies identified that 27.7% were part of a structure which included a trust. Where the company is a Jersey company, disclosure provisions ensure that information on the beneficial owners and controllers is held by the Registry. The JFSC, the FIU, Revenue Jersey and the LOD have direct access to this information. A typical simple trust structure is set out below:



Assets

14.4.5 The data demonstrated that assets held in the trusts were predominantly shares and securities, cash and investment portfolios. While the holding of cash may suggest a higher ML risk, any cash will be held in a bank account in the name of the trustee (on behalf of the relevant trust) and the banks will require appropriate CDD. The following table sets out the assets reported as commonly held in trusts.

Asset type	Percentage of total
Shares or other securities	44.6%
Cash	41.5%
Investment portfolio	37%
Real estate	7.2%
Other high value item	4.3%
Artwork	0.3%
Precious metals and/or stones	0.1%

14.4.6 The most commonly reported jurisdictions for the location of trust assets were: (i) Jersey; (ii) UK; (iii) Luxembourg; (iv) Isle of Man; (v) Ireland; (vi) BVI; (vii) Guernsey; (viii) USA; (ix) Switzerland, and (x) Cayman Islands. Only 0.2% (or 40 trusts) reported holding assets in one of the 21 TF Target Jurisdictions, with the main asset class for these trusts being reported as shares or other securities.

14.4.7 Some trust assets are located in jurisdictions identified by the JFSC as being of higher risk of ML. However, these are limited and account for just 3.5% of the total assets held. The most commonly reported higher risk jurisdiction is the Cayman Islands (1.2% of total assets), followed by South Africa (0.6%) and Hong Kong (0.5%). The type of assets held in those jurisdictions is reported as:

	Cayman Islands	South Africa	Hong Kong
Shares or other securities	44.0%	44.0%	72.0%
Cash	0.9%	3.0%	4.0%
Investment portfolio	54.0%	46.0%	18.0%
Real Estate	0.0%	3.0%	1.0%
Other high value item	0.9%	2.0%	2.0%
Artwork	0.0%	0.8%	0.5%
Precious metals/stones	0.0%	0.0%	0.5%

Distributions

14.4.8 Reported data regarding the flows of distributions to beneficiaries from trusts, identified that distributions by destination reflected the same pattern as distribution by nationality of persons. The top three jurisdictions being: (i) UK; (ii) Jersey, and (iii) USA.

14.4.9 Distributions were made to 15 FATF grey-listed jurisdictions (noting that the Cayman Islands is currently grey-listed), 11 jurisdictions identified as higher risk in the 2021 and 2023 TF NRAs, and nine jurisdictions identified in Jersey's 2020 ML NRA. The distributions to the 21 TF Target Jurisdictions were reported as being made by 0.4% of the trusts for which data was acquired (or 90 trusts).

14.4.10 While the number of distributions to these higher risk jurisdictions and nationals of these jurisdictions remains low, these jurisdictions do present a higher risk of ML and TF. Further work to raise awareness of these risks may benefit the industry.

Reserved powers[42]

14.4.11 Just 7.8% of trusts reported having reserved powers in relation to the assets of the trust and powers were mostly reserved to the settlor (45.5%) or the enforcer (38.5%). Whilst they may not have reserved powers the data highlights that just 0.1% (or 17 trusts) have enforcers[43] in the 21 TF Target Jurisdictions.

[42] A guidance paper regarding reserved powers is currently being considered.
[43] An enforcer is a mandatory appointment for a purpose trust (a trust established for specific purposes rather than for beneficiaries) with the responsibility – in the absence of any beneficiaries – to ensure the trustees are acting in accordance with the terms of the trust deed. This requirement was deliberately inserted into the legislation as an additional check and balance.

14.4.12 Even where a trust contains reserved powers, obligations remain on the trustee to:

(i) comply with their duties as set out in the Trusts Law;

(ii) fulfil their obligations under the MLO and AML/CFT/CPF Handbook to know all the parties to the trust; and

(iii) file SARs where suspicious activity arises. Furthermore, the LPA working group were of the view that the most common use of reserved powers was in the sphere of investment powers usually to recognise the special expertise of a power holder in relation to investments.

Corporate trustees

14.4.13 As anticipated, due to all respondents being TCSPs, a significant number of trusts for which data was provided (89.2%) declared that the trustee was a body corporate.

14.4.14 The use of corporate trustees protects individual employees of TCSPs against personal liability relating to the trust. In addition, and on a practical level, corporate trustees ensure the trust can be administered more effectively. A corporate trustee protects against the need for a deed of retirement and appointment of a new trustee each time an employee leaves the organisation. It ensures that there is always an officer within the organisation able to take any needed action (whereas individuals may be on leave or unavailable at certain times). This is widely established globally as common professional practice for trust administration.

Co-trustees

14.4.15 The addition of a co-trustee presents risk to the trust (due to the inability for any single corporate trustee to be able to take decisions concerning the trust and concern that one co-trustee may have information not available to another). As a result, co trustee services are outside the risk appetite of several TCSPs and even where this service is provided professional trustees may not want to act as a co-trustee with a trustee in another jurisdiction.

14.4.16 Very few (just over 5%) of the responding trusts had a co-trustee, with 74% of those co-trustees being located in Jersey and 72% identified as being a legal person.

14.4.17 A very small proportion of co-trustees (4.7%) were resident in jurisdictions identified as having a higher risk of ML and only 0.1% (or 11 trusts) reported having a co-trustee in one of the 21 TF Target Jurisdictions.

14.5 Risk exposure

14.5.1 In this section risk exposure is considered against the common reasons why criminals may wish to establish a trust:

14.5.1.1 Enabling corruption, fraud and tax evasion.

14.5.1.2 Hiding true ownership of assets.

14.5.1.3 Providing asset protection for assets acquired with proceeds of crime.

Enabling corruption, fraud and tax evasion

14.5.2 Although there have been very few cases over recent years involving the misuse of trusts for ML or TF, Jersey law trusts have been involved in cases of corruption. In 2023, the Royal Court of Jersey ordered the forfeiture of £777,581, under the summary procedure of the Forfeiture of Assets (Civil Proceedings) Law 2018, from a Jersey trust[44]. Two settlements were made into two different trusts by the settlor with both being the proceeds of corrupt payments. In this case bribes paid by a construction company to a Mozambican national who held public office (the Settlor). On both occasions the Settlor

[44] Court orders forfeiture of corrupt funds

made false declarations regarding the source of the funds, declaring that he was a civil engineer working in a consultancy capacity[45].

14.5.3 Revenue Jersey recognise the risks associate with trusts and in 2022 they completed over 350 targeted reviews of trusts, with the majority of those being pension schemes.

14.5.4 The data collected regarding trusts also identified a small number of connections to jurisdictions identified in the EU's list of non-cooperative jurisdictions. These connections related to six of the 15 jurisdictions and the reason for the nexus varied, including:

14.5.4.1 Governing law of the trust.

14.5.4.2 Asset locations.

14.5.4.3 Nationality of related parties to the trust.

14.5.4.4 Destination of distribution.

14.5.4.5 Nationality of person to whom distributions were made.

14.5.5 The risks of enabling corruption, fraud and tax evasion are mitigated in relation to the responding trusts, due to the involvement of a JFSC regulated TCSP. This ensures that the provisions of the MLO and AML/CFT/CPF Handbook are applied to the trust at the start of the relationship and on an ongoing basis.

Hiding true ownership of assets

14.5.6 In jurisdictions where trusts are not common, it can be assumed that they are used to hide the true ownership of assets. This perception may be further exacerbated in circumstances where powers over the assets are reserved to the Settlor of the trust. However, in many jurisdictions (most notably the UK), trusts are a relatively common structure and are well-understood, having been a part of the legal landscape for legitimate purposes for many hundreds of years (and are themselves a development of the Roman law concept of fideicommissa).

14.5.7 The requirements placed on professional trustees to ensure accurate beneficial ownership information in relation to all key individuals related to the trust, and to understand the nature and purpose of the establishment of the trust, is fundamental to understanding ownership of the assets placed in trust. In addition, the source of any funds provided at the outset or introduced to the trust during the continuing relationship must be properly identified.

14.5.8 As noted above in relation to reserved powers, the trustee continues to hold responsibility for the assets and has the overriding duty to ensure that, subject to the terms of the trust, the trust fund is preserved and enhanced and operated in accordance with both the trust instrument and the Trusts Law.

14.5.9 A Jersey law trust can only be created where there is a clear intention from the owner of the assets to transfer the assets to a trustee. If such intention does not exist or there has been an attempt to mislead or deceive third parties, it could amount to a sham such that the trust has never existed. The Royal Court has relatively recently set out guidance on the identification of sham trusts (Heinrich v Pantrust and Ors [2018]JRC081A) and has the ability to declare such trusts invalid.

Providing asset protection for assets acquired with proceeds of crime

14.5.10 Both professional and non-professional trustees are subject to the provisions of the MLO, including a requirement to identify the source of any funds, including the assets of the trust. Failure to comply with these requirements is a criminal offence.

[45] Lloyds Trust Co (CI) Ltd-v-Fragoso, Hoy, Government of Mozambique and HM Attorney General 31-Oct-2013

14.5.11 The Royal Court can and has confiscated funds from trusts and returned them to their rightful jurisdiction. Settling assets into a Jersey law trust does not protect assets that are deemed to be proceeds of crime.

14.5.12 In 2023 the Privy Council handed down its judgement in respect of three appeals that relate to a trust case involving the freezing and confiscation of assets which has a case history dating from 2013. The Privy Council judgement draws a line under the dispute and an asset sharing agreement is being negotiated to return the available net assets to Indonesia[46].

14.6 Risk factors – trusts

14.6.1 The following risk factors relating to trusts have been identified:

Factors increasing risk	Factors decreasing risk
No registration requirements and therefore overall scale of trusts in Jersey is unknown. Supervisory Risk Data shows that TSCPs administer more trusts than any other entity type of entity.	Significant proportion of trusts own shares/ securities and the entities will whose shares they own will be subject to registration requirements within Jersey or elsewhere.
No legislative requirement for written trust instrument.	All trustees are subject to AML/CFT requirements with a significant number of trusts having a professional trustee.
Use of Jersey Law as governing law of trusts in other jurisdictions, with no nexus to the Island.	Unit trusts require a written trust instrument and a consent under the Control of Borrowing legislation.
Distributions identified into higher risk jurisdictions.	High degree of expertise in professional trus-tee services.
Due to the method of holding information, competent authorities may take longer to access information than for other entities.	Both professional and non-professional trus-tees in Jersey are required to comply with the CDD obligations of the MLO.
Lack of data collected and held centrally regarding the trusts administered by the TCSPs.	

[46] Jersey's Attorney General wins three appeals in the Privy Council in landmark financial crime case

14.7 Risk assessment and recommended action

14.7.1 As mentioned in section 2, the World Bank tool had to be adapted for the purposes of trusts as the World Bank methodology was designed for legal persons, rather than legal arrangements. In applying the tool to trusts, consideration was given to the data available to the LPA working group, as well as the source of that data and the adaptations/translations applied have been set out in Appendix D.

14.7.2 Overall, the risk rating applied to trusts is **high** when compared to the other legal persons and arrangements. This is driven to some degree by the lack of registration requirements, meaning competent authorities may not be able to obtain information on trusts in as timely a manner as for other registered legal persons and LPs. However, it is to be noted that the FATF Recommendations do not require a jurisdiction to maintain a trust register.

14.7.3 Recommended actions:

14.7.3.1 The LPA NRA considered data on trusts administered by a TCSP, it could not consider trusts administered by non-professional trustees. Further outreach and engagement with the non-professional sector are required to fully understand the ML and TF risks of that sub-sector. Engagement should include the local professionals (law firms and accountants) to identify non-professional trustees to understand the nature of those trusts and raise awareness/understanding of obligations.

14.7.3.2 Further engagement should be undertaken with jurisdictions known to use Jersey's Trusts Law, most notably Switzerland and Italy (noting that as a jurisdiction Jersey cannot control the use of its law outside of Jersey, although in practice this will often necessitate the use of Jersey lawyers who will be required to comply with the MLO in connection with their customers, which mitigates this risk).

14.7.3.3 Continue to monitor developing international standards and associated guidance with a view to considering whether all Jersey law governed trusts should be required to have a nexus to Jersey through a Jersey resident trustee.

14.7.3.4 JFSC to consider collecting additional data on trusts administered by TCSPs as part of its annual Supervisory Risk Data to enhance its risk-based approach to supervision of the TCSPs.

15 Jersey Customary Law Partnerships

15.1 Introduction

15.1.1 General partnership law in Jersey is a matter of customary law. Jersey's customary law is not contained in statute but has evolved from Norman-French law and is primarily contained in the judgments of the Royal Court and the writings of local and French jurists.

15.1.2 Customary law partnerships are established between two or more persons to carry on business, for a lawful trade or business, or to hold an asset in common to share between them the profits and losses.

15.1.3 While there is no specific customary law partnership legislation, the following pieces of legislation are largely applicable:

15.1.3.1 [Control of Housing and Work (Jersey) Law 2012]

15.1.3.2 [Registration of Business Names (Jersey) Law 1956]

15.1.3.3 [Income Tax (Jersey) Law 1961]

15.2 Formation and disclosure requirements

Formation

15.2.1 Customary law partnerships are created through a 'meeting of minds' and are not necessarily subject to any registration requirement. Whilst there is no registration requirement many customary law partnerships operate as a business and therefore require (i) a business licence which necessitates registration with the Business Licensing Team, and (ii) registration of their business name with Registry in accordance with the Business Names Law. Consequently, information is held on many customary law partnerships operating in Jersey.

15.2.2 As a matter of Jersey customary law, each partner of a customary law/general partnership must know all the other partners (or beneficial owners), otherwise there cannot be a 'meeting of minds', which is one of the essential requirements for the creation of a partnership. Formation of a customary law partnership can therefore be very quick and easy, with no cost involved, in some instances.

15.2.3 While there is no residency requirement for a Jersey customary law partnership, it was reasonably concluded that it would be highly unlikely for a non-resident to form a customary law partnership based on the Norman-French roots.

Customary law partnership acting as a business

15.2.4 Customary law partnerships are required to register with Revenue Jersey on formation, providing the following information:

15.2.4.1 Name of partnership.

15.2.4.2 Description of the business.

15.2.4.3 Correspondence address.

15.2.4.4 Full name of each partner.

15.2.4.5 Tax Identification Number of each partner.

15.2.4.6 Copy of the partnership agreement.

15.2.5 Business licences are required by any entity, including customary law partnerships, wishing to trade in Jersey and to employ at least one member of staff (including the owner) for eight hours per week.

15.2.6 Applications for a business licence are made to the Business Licensing Team, a function within the Government of Jersey, who undertake several checks. These checks are predominantly to regulate the residential status of owners and employees and to ensure that the business activity meets the provisions of Article 26(9) of the Control of Housing and Work Law. This aims to:

15.2.6.1 Preserving and maximising the benefits of Jersey's resources.

15.2.6.2 Promoting a balanced and prosperous economy.

15.2.6.3 Protecting the integrity and reputation of Jersey in commercial and financial matters.

15.2.6.4 Any relevant policies of the Government of Jersey.

15.2.6.5 Whether such a grant would be in the public interest.

15.2.7 When determining whether to issue a licence the Business Licensing Team gains an understanding of the proposed activities and operations of the applicants and will consider whether the proposed activity features in Table 2 of the SBPP. Actions taken by the Business Licencing Team can include:

15.2.7.1 Escalation to the Government of Jersey Financial Services Team who will conduct a review and provide a recommendation on whether to grant a business licence.

15.2.7.2 Escalation to the Chief Minister for further consideration. The Chief Minister may refer the case to the Housing and Work Advisory Group.

15.2.7.3 Granting the business licence on the condition that approval is provided and retained from the industry specific regulator, where applicable.

15.2.8 Where the business activity does not meet one or more of the provisions of Article 26(9), the Business Licensing Team (acting on behalf of the Chief Minister) is able to refuse to grant a licence, prohibiting the company from operating in Jersey. It also has the power to revoke a business licence for a range of reasons including the failure to meet the provisions of Article 26(9).

15.2.9 A customary law partnership which seeks to carry on business under a business name is required to register their business name with the Registrar and the business name will be entered on the business names register. The following information must be provided to the Registrar:

15.2.9.1 Business name.

15.2.9.2 General nature of the business.

15.2.9.3 Principal place at which the business is carried on.

15.2.9.4 Full name of the partners.

15.2.9.5 Nationality of the partners.

15.2.9.6 Usual residence of the partners.

15.2.9.7 Business occupation of the partners.

15.2.9.8 It is an offence, punishable by 5 years' imprisonment or a fine (or both), for a person to knowingly or recklessly provide false or misleading information to the Registrar.

Updating of information

15.2.10 Customary law partnerships registered under the Business Names Law are required to notify the Registrar within 14 days of any change in the information provided. It is an offence to fail to provide particulars or to fail to update the particulars without reasonable excuse.

15.2.11 Customary law partnerships are also subject to economic substance requirements and are required to file an annual notification and tax return with Revenue Jersey. Late filing of the return is subject to financial penalties. If a partner negligently files incorrect information in its tax return, it may be subject to a fine. Should a partner fraudulently file incorrect information, it may be liable to imprisonment and a fine.

15.2.12 The combination of updating requirements, together with the sanctions for non-compliance, ensure that authorities have regularly updated information regarding customary law partnerships that are undertaking business activities.

Access to information

15.2.13 A register of all business licences issued under the Control of Housing and Work Law is maintained and any person may inspect the register during business hours.

15.2.14 The business names register is a publicly accessible register maintained by the Registrar and is accessible through the Registry section of the JFSC website. The following information is free of charge:

15.2.14.1 Name of partnership.

15.2.14.2 Type of registration.

15.2.14.3 Status.

15.2.14.4 Date of registration.

15.2.14.5 Registered office address.

15.2.15 Additional information is available at a cost, including change in particulars and a certificate of business name registration.

15.2.16 Gateways exist under Article 8 of the Revenue Administration (Jersey) Law 2019 which allows information to be shared between Revenue Jersey, the Business Licensing Team and the FIU. An MoU between the JFSC and Revenue Jersey facilitates the sharing of information.

15.3 Scale

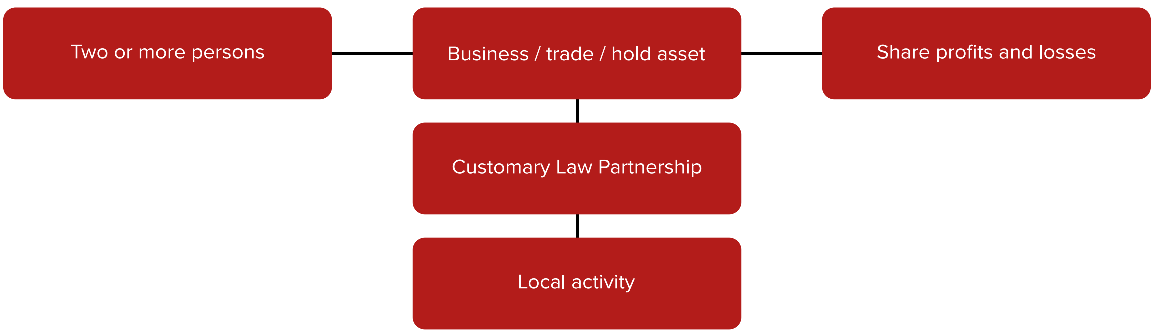
15.3.1 Data collected under the Control of Housing and Work Law identifies approximately 330 customary law partnerships in Jersey which have been granted a business licence. It was noted that, given the formation requirements, this number may not reflect the full scale of customary law partnerships.

15.3.2 Of the 330, the data available shows that over 73% are owned by persons with "entitled" status (have lived in Jersey for 10 years or more), with the remaining 27% being owned by persons with "registered" status (have been resident on the Island for less than 5 years).

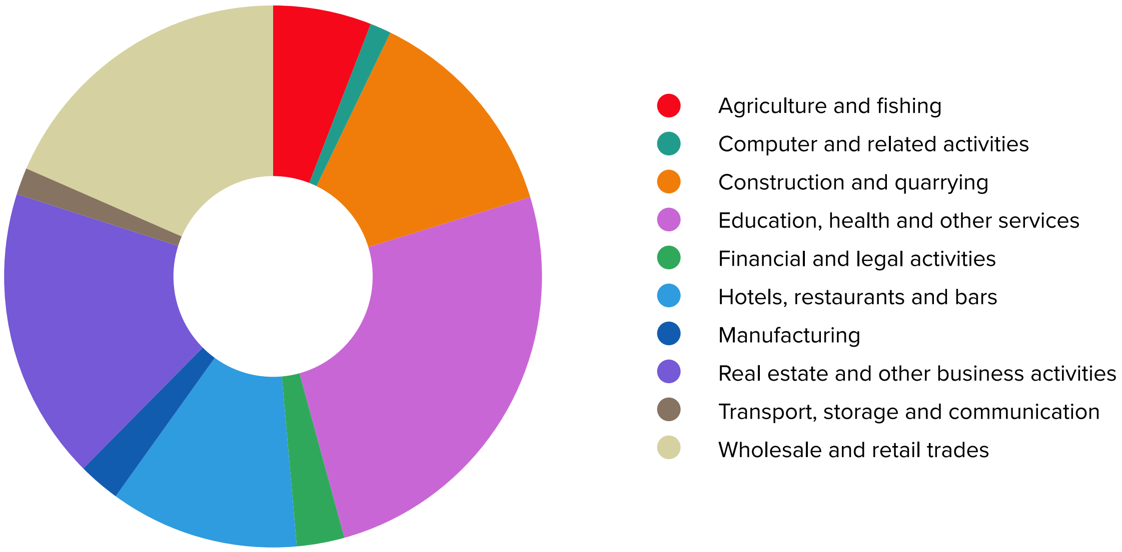
15.3.3 77.5% are also registered under the Business Names Law and are listed on the business names register.

15.4 Use of customary law partnerships

15.4.1 By comparison to other entities, use of customary law partnerships is limited, with their activities being predominantly domestic; approximately 88% are identified as operating locally. The following diagram demonstrates the typical way in which the Jersey customary law partnership is used.



15.4.2 The below pie chart summarises the use of customary law partnerships in Jersey.



15.4.3 These categories of activity have been further interrogated as part of the risk assessment of Jersey legal arrangements. These businesses are assessed as being predominantly low value with low risk of ML and TF.

15.4.4 Of those customary law partnerships operating outside of Jersey, the following activities were identified:

15.4.4.1 Architecture and interior design firms.

15.4.4.2 Quantity Surveyor (regulated by the Royal Institution of Chartered Surveyors).

15.4.4.3 Accessories supplier.

15.4.4.4 Animal training centre.

15.4.4.5 Clothing retailer.

15.4.4.6 CBD oil supplier to UK and Crown Dependencies.

15.4.4.7 Law firm (regulated by the Law Society of Jersey and registered).

15.5 Risk exposure

15.5.1 The ML and TF risks associated with Jersey customary law partnerships are connected to the activity of the partnership, rather than the partnership itself and therefore apply similarly to the activities of other legal persons and arrangements. These risks are considered greater if the activity is of a cash-based nature (for example cleaning services, electrician and other trade-based services, takeaway and hospitality services). Due to the nature and ownership of Jersey customary law partnerships, any ML and TF risk is a domestic risk.

15.5.2 The main risks associated with customary law partnerships are assessed as being:

15.5.2.1 Domestic tax evasion.

15.5.2.2 Spending of proceeds of crime (cash).

15.5.3 With respect to domestic tax evasion, Revenue Jersey is aware of this risk and during 2022, Revenue Jersey completed compliance checks on over 15 customary law partnerships.

15.6 Risk factors – customary law partnerships

15.6.1 The following risk factors relating to customary law partnerships have been identified:

Factors increasing risk	Factors decreasing risk
No central registration requirement.	Used predominantly for domestic purposes.
Limited access to information for both authorities and the public.	Low level of use.
Beneficial owners and controllers not subject to background vetting by Registry.	Owned and controlled by local residents.

15.7 Risk assessment

15.7.1 Customary law partnerships are assessed as being a **medium** risk of being used for ML.

Part D:

Legal person and the single legal arrangement established through the Royal Court

16 Introduction to fidéicommis and Incorporated Associations

16.1.1 Fidéicommis and Incorporated Associations are Jersey specific vehicles that may be established under Jersey law. These entities are no longer regularly established and are declining in numbers; however they continue to exist, particularly in the local philanthropic sector. Historically fidéicommis were used where there was a wish to hold land for a public purpose.

16.1.2 Incorporated Associations and fidéicommis are created under the Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations ("1862 Loi"). These entities predominately have a domestic focus.

16.2 Formation and disclosure requirements: fidéicommis and Incorporated Associations

Formation

16.2.1 The Royal Court oversees the creation of fidéicommis and Incorporated Associations. These entities must present all appropriate documentation to the Royal Court with their application to incorporate or register. This information is subject to review by the LOD and an incorporation or registration will only take place on confirmation that the Attorney General is satisfied with the application. Information on fidéicommis and Incorporated Associations is maintained by the Judicial Greffe and held on the Public Registry.

16.2.2 Fidéicommis are created under Article 3 of the 1862 Loi. The documents that must be presented to the Royal Court include the trust instrument and the contract intended to pass title to the immovable property concerned. The Attorney General must consider these documents and the objects of the intended trust and offer his conclusions on the application to the Royal Court. Once the Royal Court's approval is given, the fidéicommis is registered.

16.2.3 Incorporated Associations are created under Article 4 of the 1862 Loi, following the same process as described for fidéicommis however, in addition, Incorporated Associations are required to declare before the Royal Court the person who is to represent them.

16.2.4 All fidéicommis and Incorporated Associations that are NPOs must register with the JFSC and disclose further information on registration. Fidéicommis and Incorporated Associations that wish to register as a Jersey charity must separately apply to the Jersey Charity Commissioner.

Updating of information

16.2.5 No alteration can be made to the constitution of a fidéicommis or Incorporated Association without the Royal Court's consent.

16.2.6 The declaration of the persons able to represent an Incorporated Association must also be updated on change. Failure to do so is a criminal offence, subject to a fine with a daily default fine.

16.2.7 Fidéicommis and Incorporated Associations that are registered NPOs must update any information supplied to the JFSC within three months of a change.

16.2.8 Information provided to the Jersey Charity Commissioner must be updated annually.

Access to information

16.2.9 Fidéicommis and Incorporated Associations are recorded in the Public Registry which can be accessed in the Royal Court building or at the public library by any member of the public. Where assistance is required in navigating the Public Registry, a cost of £35 per half hour applies[47].

16.2.10 The following information is available in the Public Registry:

16.2.10.1 Surname/Corporate Name.

16.2.10.2 Forename.

16.2.10.3 Maiden Surname.

16.2.10.4 Summary details.

16.2.10.5 Registration Number.

16.2.10.6 Date Registered.

16.2.10.7 Acts of Court.

16.2.11 Certain information regarding registered charities is publicly available on the Jersey Charity Commissioner website at no cost[48]. The Jersey Charity Commissioner may also make this information available to competent authorities, which includes the Comptroller of Revenue, the JFSC, Attorney General (LOD), Bailiff or the Royal Court, and any person for the purpose of the investigation or prosecution of any offence.

16.2.12 Information held by the JFSC on NPOs is not publicly available but it may be shared with relevant competent authorities including: (i) the Chief Minister; (ii) the Attorney General; (iii) the Jersey Charity Commissioner; (iv) the Gambling Commissioner; (v) bodies that exercise functions of a public nature in Jersey and are concerned in the prevention, investigation, detection or prosecution of ML or TF, and (vi) bodies outside of Jersey who exercise similar functions to those of the JFSC under the Non-Profit Organizations (Jersey) Law 2008.

16.2.13 Information is also held by Revenue Jersey as any fidéicommis or Incorporated Association that has taxable income is required to submit an annual tax return and provide copies of their accounts to the Comptroller of Revenue.

16.2.14 These combined provisions ensure that competent authorities may largely access information regarding fidéicommis and Incorporated Associations as required.

16.3 Scale of fidéicommis and Incorporated Associations

Fidéicommis

16.3.1 The Public Registry records demonstrate that there are currently 80 fidéicommis in existence. The creation of new fidéicommis is increasingly rare and there has been just one fidéicommis established in the last 25 years. This is likely to be because of the other LPAs now available, which are more suitable to the modern world and which can hold immoveable property.

[47] Public Registry (gov.je)
[48] Public Register · Charities Register (charitycommissioner.je)

Incorporated Associations

16.3.2 Jersey continues to see low levels of new Incorporated Associations. There has been a total of 19 new incorporations during the past five years, with a total of 246 in existence in May 2023.

16.4 Use of fidéicommis and Incorporated Associations

16.4.1 Fidéicommis and Incorporated Associations are established for a purpose rather than beneficiaries. Under Article 1 of the 1862 Loi, these entities may be created for one of four purposes:

16.4.1.1 For any cause of public utility.

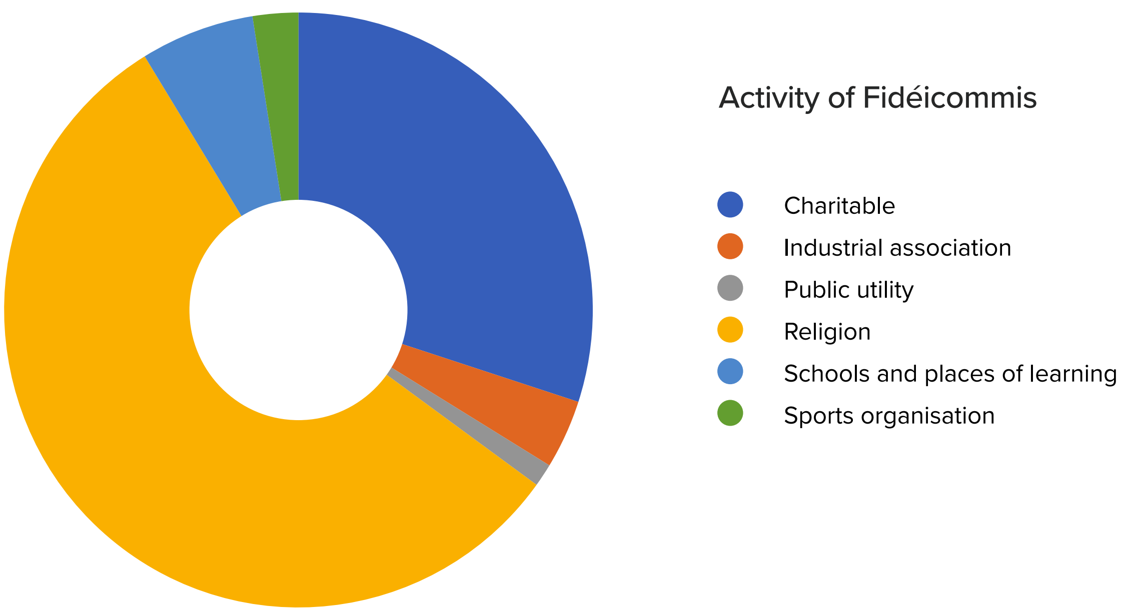
16.4.1.2 For the use and benefit of the following associations, namely, commercial and industrial associations and charitable, fine-arts or sporting organisations.

16.4.1.3 In the service of Anglican worship or that of any other religion.

16.4.1.4 For the founding of schools and places of learning.

Fidéicommis

16.4.2 Fidéicommis are trust vehicles capable of holding land (unlike trusts created under the Trusts Law and Jersey foundations). Analysis of fidéicommis data shows that they have all been established for a local purpose with 57.5% established for religious purposes, predominantly to hold religious property or grounds, including churches, and cemeteries.



Incorporated Associations

16.4.3 Incorporated Associations are predominately used for domestic purposes, providing support or services to the local community. It was identified that most Incorporated Associations were established for social services/health type provision. Other popular purposes include community benefit, sporting clubs and property owners' associations (housing associations).

16.4.4 As Incorporated Associations are used generally in the local community and to support philanthropic purposes, many choose to register with the Jersey Charity Commissioner (approximately 43%). This provides an additional layer of oversight, transparency and reporting requirements, including the requirement to file an annual return.

16.4.5 A further 60% of Incorporated Associations are registered with the JFSC as NPOs. They are required to provide information to the JFSC on registration and to update that information when it changes.

16.4.6 Seven Incorporated Associations were observed as being established for religious purposes (local churches) and one for a political purpose. Five of these eight are registered with the Jersey Charity Commissioner.

16.5 Risk exposure

16.5.1 Due to the nature and use of fidéicommis and Incorporated Associations any risks are domestic in nature. As a result, they do not feature in requests for assistance from overseas competent authorities. Neither have fidéicommis or Incorporated Associations been the subject of domestic investigations or prosecution during the relevant period.

16.5.2 There are inherent vulnerabilities to fidéicommis and Incorporated Associations, arising from the 1862 Loi due to their philanthropic and charitable use which may also expose them to ML or TF risk. However, analysis of the data available demonstrates that just 3.6% of the Incorporated Associations may be undertaking philanthropic activities outside of Jersey and of those, 55.5% were registered as both NPOs and Jersey charities and subject to the additional oversight outlined above. All fidéicommis are identified as undertaking local activities.

16.6 Risk factors – fidéicommis and Incorporated Associations

16.6.1 The following table sets out the risk factors specific to fidéicommis and Incorporated Associations.

Factors increasing risk	Factors decreasing risk
Used for philanthropic/charitable purposes.	Used predominantly for local purposes.
Competent authorities may largely access information.	May only be created for one of four purposes specified under the 1862 Loi.
	Significant proportion registered as Jersey charities or NPOs.
	Cannot be created without the Attorney General's consideration of constitutional documents and the Royal Court's approval.

16.7 Risk assessment and recommended action

16.7.1 Fidéicommis and Incorporated Associations are considered to be of **low / medium-low** risk of ML.

16.7.2 Whilst not considered to impact on the ML risk assessment it is suggested that greater steps are taken to improve the accuracy of the information contained in the Public Registry.

Appendix A: Data collected and considered

1. To complete the risk assessment the LPA working group received and considered a considerable amount of data from both the public and private sector. Indications of the nature of the data is provided by this appendix.

Registry data

2. Registry data enabled the LPA working group to understand and assess the scale and nature of legal persons and the limited partnerships registered in Jersey. This included:

a) Numbers of registrations.

b) High level activity data.

c) Continuances into and out of Jersey.

d) Rejected applications to register/incorporate.

e) Cancelled/withdrawn applications to register/incorporate.

f) Residence of beneficial owners/controllers.

3. Data held within the Registry covered:

a) Companies.

b) Limited partnerships.

c) Limited liability partnerships.

d) Foundations.

e) Incorporated limited partnerships.

f) Separate limited partnerships.

4. This data had been subject to three annual updates, which provided the LPA working group with a degree of comfort regarding its accuracy. As with any policy change in this area of work, there is an implementation period for the changes resulting from the Disclosure and Provision of Information Law and the new digital Registry. The authorities are of the view that after three years, these policies are well embedded by industry and therefore the data quality can be considered to be very accurate. Any outliers were identified and tested as to their accuracy.

JFSC Supervision and Enforcement data

5. The JFSC provided supervision data which was drawn from the JFSC's aggregated Supervisory Risk Data.

6. The deadline for submitting 2022 Supervisory Risk Data was 30 April 2023. The LPA working group considered the aggregated Supervisory Risk Data for the period 2018 to 2021.

7. Details of the data collected annually as part of the Supervisory Risk Data can be found on the JFSC website: Supervisory Risk Data collection

8. This data was supported by data provided by the JFSC's Enforcement division covering the period 2017 to 2021 and relating to the use of legal persons and legal arrangements.

Private sector data

9. A further data collection exercise was undertaken by the Government of Jersey in 2022, supported by the JFSC. The broad objective of the exercise was to gain a deeper understanding of the specific ML/TF risks posed by trusts, Jersey companies and foreign companies administered in Jersey. This exercise provided point in time data regarding 22,789 Jersey companies, 3,839 non-Jersey companies and 20,727 trusts administered by the TCSP sector.

10. This data was collected on a 'best endeavours' basis, and it is recognised that the data provided was not therefore a complete set with some errors identified in the information supplied. However, overall, the data was considered to be of a high quality and the volume of data and quality of data analysed was considered to be more than sufficient to conduct a comprehensive risk assessment.

Other sources

11. Data was also provided by Revenue Jersey (all legal persons and arrangements), the Business Licensing Team (customary law partnerships) and the LOD and Judicial Greffe (fidéicommis and Incorporated Associations).

12. In order to provide further context and to support the ML threat assessment, the LPA working group also considered:

a) Credible public reports and studies on ML/TF threat and beneficial ownership relevant to legal persons and arrangements.

b) Relevant media coverage of Jersey incorporated and registered legal persons and arrangements.

Appendix B:
Open-source documents and reference to Jersey

1. This Appendix sets out the open-source documents considered by the LPA working group when determining how Jersey's beneficial ownership and controller regime is perceived by third parties.

2. "Global Shell Games: Experiments in Transnational Relations, Crime and Terrorism".a) Findley, Nielson and Sharman identified Jersey as just one of three jurisdictions in which, when receiving an unsolicited approach of company formation, its corporate service providers required and retained certified identity documentation.

3. FATF publication "Concealment of Beneficial Ownership".

a) Notes that systems combining one or more approaches to ensuring availability and accuracy of basic and beneficial ownership information are often more effective than systems that rely on a single approach. The Registry was identified as applying such an approach, with the regulated and supervised gatekeeper function of the company formation agents.

b) Also notes the complementary roles of the JFSC Supervision Division and the Registry. This approach of using the JFSC's supervisory powers together with the Registry function to enforce beneficial ownership obligations was noted as being helpful to address common challenges in the implementation of effective measures to prevent the misuse of legal persons and arrangements.

4. The World Bank and UNODC Stolen Asset Recovery Initiative, "The Puppet Masters".

a) Cites the "Jersey model" as an example of good practice, recognising that "it makes sense to have a registry collect beneficial ownership information on incorporated entities, only if it is sufficiently expert, well-resourced and proactive, coupled with a credible enforcement platform".

5. The OECD "Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes.

a) Acknowledges the measures in place in Jersey to prevent the misuse of corporate vehicles for illicit purposes, including:

   i) Restrictions on corporate directors

   ii) Prohibition on bearer shares

   iii) Disclosure of beneficial ownership information

6. The Basel Institute of Governance report[49] "Basel AML Index Expert Edition Plus. Jersey: overview of money laundering risks", (2022).

a) Considered Jersey amongst the medium to low-medium risk jurisdictions for ML/TF, scoring 4.56 out of 10 in the Basel AML Index.

[49] Basel Institute on Governance,

b) This represented a slight decrease in risk score. The publication does, however, note that Jersey is placed in the “extreme danger zone” for offshore secrecy. This is based on the Tax Justice Network’s Financial Secrecy Index[50]. The report cites the main risks related to Jersey were:

i) Limited partnership transparency.

ii) Transparency of company ownership.

iii) Public company accounts.

iv) Public country by country reporting.

v) Corporate tax disclosure.

vi) Legal entity identifier.

vii) Tax administration capacity.

viii) Promoting tax evasion.

ix) Tax court secrecy.

c) The headings noted were not considered to accurately reflect the factors that were taken into consideration in the Financial Secrecy Index findings. For example, the methodology for “promoting tax evasion” considered how dividends were taxed and the measures in place to prevent the promotion of schemes designed to evade tax. There are also some inaccuracies in the findings of the Tax Justice Network such as the report fails to identify that Jersey does have TINs for both natural and legal persons, the absence of which negatively impacted Jersey’s rating.

7. Transparency International report, February 2023,

a) This considers the recently introduced UK Register of Overseas Entities, a register that details the ownership of immoveable property in the United Kingdom held by overseas entities.

b) The report rightly identifies that Jersey companies are used to hold UK property – which is known as they have duly registered as required.

c) The report, however, suggests that this is for illegitimate reasons and refers to Jersey and other IFCs as “offshore secrecy jurisdictions”. There is no explanation of this labelling or evidence put forward.

d) The assertations are disputed by the LPA working group: These assertions do not take into account the stringent beneficial ownership transparency regime in Jersey which mitigates against vulnerabilities, nor the many legitimate reasons that property may be held by a non-UK entity.

e) The only other reference to Jersey was a hypothetical example. Jersey was not identified in the report in any other way and ultimately it could not actually identify examples where Jersey LPAs were being misused.

[50] Financial Secrecy Index – Tax Justice Network

Appendix C:

Formation and disclosure requirements for legal persons and the single legal arrangement established through the Registry.

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
FORMATION						
Applications	Applications can only be made by • the Jersey resident beneficial owner(s) or • a TCSP registered with the JFSC to provide formation services.	Foundation applications can only be made by a 'qualified person', who must become the Qualified Member of the Council on incorporation. A qualified person must be registered with the JFSC to provide foundation council member services.	Applications can only be made by • the Jersey resident beneficial owner(s) of the LLP or • a TCSP registered with the JFSC to provide formation services.	Applications can only be made by • a TCSP registered with the JFSC to provide formation services.	Applications can only be made by • a TCSP registered with the JFSC to provide formation services.	Applications can only be made by • the Jersey resident beneficial owner(s) of the LP or • a TCSP registered with the JFSC to provide formation services.
Legal status	Body corporate with separate legal personality.		Separate legal personality but is not a body corporate.			
COBO consent required **Conditions may be attached to consent**	Must seek consent of the JFSC to raise capital through issuing shares.	No	Must seek consent of the JFSC to create partnership interests.			
Documents and information to be provided	Name of the company Intended registered office	Proposed charter containing: Name of the foundation Name and business address of the Qualified Member	Declaration containing: Name of the LLP Intended registered office Full name and address of each partner	Declaration containing: Name of the ILP Intended registered office Full name and address of each general partner	Declaration containing: Name of the SLP Intended registered office Full name and address of each general partner	Declaration containing: Name of the LP Intended registered office Full name and address of each general partner

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
	Memorandum and Articles of Association	Objects of the foundation Details of the initial endowment (if any) Provisions for winding up Abridged regulations [51]	Name and address of the proposed secretary The term, if any, for which the LLP is to exist.		Term of the SLP or, if the term is unlimited, a statement to that effect.	
Beneficial owner information • Name, former names, aliases • Gender • Date of birth • Place and country of birth • Nationality • Occupation • Residential address • Correspondence address	Yes					

[51] The abridged regulations must (a) Establish a council to administer the foundation's assets and to carry out its objects; (b) Provide for the appointment, retirement, removal and remuneration of its members; (c) Set out decision making procedures; (d) Set a procedure to ensure a Qualified Member is replaced as soon as practicable if its Qualified Member dies, retires, of otherwise can no longer act; and (e) Provide for the appointment of a guardian.

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
Significant person information **Name, former names, aliases** **Date of birth** **Place and country of birth** **Nationality** **Occupation** **Residential address** **Correspondence address**	Directors Secretary	Council members	Partners involved in the management	General partner(s	General partner(s)	
Use of corporate significant persons	No requirement that any role in the company is fulfilled by a natural person, however there are restrictions on use of corporate directors - they must be registered with the JFSC and must themselves have only natural persons as directors).	Yes		General partner may be a body corporate – if so the place of incorporation and registered office address must be provided.		

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
Nominated person requirement	Yes					
Proof of formation	Company entered on the register and certificate of incorporation issued by the Registrar. Certificate of incorporation and Memorandum and Articles of Association and certificate are publicly available.	Foundation entered on the register. Charter and abridged regulations are publicly available.	LLP entered on the register and certificate of registration issued by the Registrar. Certificate of registration and declaration are publicly available.	ILP entered on the register and certificate of registration issued by the Registrar. Certificate of registration and declaration are publicly available.	SLP entered on the register and certificate of registration issued by the Registrar. Certificate of registration and declaration are publicly available.	LP entered on the register and certificate of registration issued by the Registrar. Certificate of registration and declaration are publicly available.
Fee	Yes					

<table>
<tr><th></th><th>Jersey Companies</th><th>Foundations</th><th>LLP</th><th>ILP</th><th>SLP</th><th>LP</th></tr>
<tr><td colspan="7">UPDATING OF INFORMATION</td></tr>
<tr><td>Changes to founding documents</td><td>Changes to a company's Memorandum of Understanding or Articles of Association are made by special resolution which must be filed with the Registrar within 21 days.</td><td>Any changes to charter are only effective once the Registrar has entered the information in the register.</td><td>Changes to a LLP's declaration must be filed with the Registrar within 21 days.</td><td>Changes to an ILP's declaration must be filed with the Registrar within 21 days.</td><td>Changes to a SLP's declaration must be filed with the Registrar within 21 days.</td><td>Changes to a LP's declaration must be filed with the Registrar within 21 days.</td></tr>
<tr><td rowspan="2">Change of beneficial owner or significant person information</td><td colspan="6">Must be updated within 21 days of knowledge of a change.</td></tr>
<tr><td colspan="2"></td><td>LLP: List of partners and secretaries held at the registered office must be updated within 28 days of a change.</td><td colspan="3"></td></tr>
<tr><td>Offences/penalties</td><td colspan="5">Failure to comply with the updating of beneficial owner and significant person information is a criminal offence and punishable with a fine and up to 4 years' imprisonment.</td><td>Failure to comply with the updating of general partner information is a criminal offence and punishable with a fine and up to 4 years' imprisonment.</td></tr>
</table>

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
Annual confirmation statement requirement	Yes					
	Must confirm: • beneficial owner information • significant person information • registered office address • share and shareholder details	Must confirm: • beneficial owner information • significant person information • registered office address	Must confirm: • beneficial owner information • significant person information • registered office address	Must confirm: • beneficial owner information • significant person information • registered office address	Must confirm: • beneficial owner information • significant person information • registered office address	Must confirm: • general partner information • registered office address • status (whether in winding up or not)
	Public companies must also file annual accounts with the Registrar					
Offences/penalties	Failure to provide an annual confirmation statement is a criminal offence and punishable with a fine up to £10,000.					

	Jersey Companies	Foundations	LLP	ILP	SLP	LP
ACCESS TO INFORMATION						
Basic information	Available to the public directly on the Registry website for free:					
	• company name • registration number • registered office address • date of incorporation • company type • status • significant person information	• foundation name • registration number • business address • date of incorporation • status • significant person information	• LLP name • registration number • registered office address • date of registration • status • significant person information	• ILP name • registration number • registered office address • date of registration • status • significant person information	• SLP name • registration number • registered office address • date of registration • status • significant person information	• LP name • registration number • registered office address • date of registration • status • significant person information
	Additional information may be purchased from the Registry website.					
Beneficial owner information	Local competent authorities - JFSC, FIU, Revenue Jersey and the LOD - have immediate direct access to basic and beneficial ownership information.					

Appendix D:
Amendments to the World Bank tool for trusts

The following amendments were made to the World Bank tool such that the tool could be utilised to assess trusts:

Original wording	Application to trusts
Total number of registered legal entities.	Total number of trusts declared as customers in JFSC Supervisory Risk Data Collection and number of responses provided to the LPA NRA questionnaire.
Estimated total pass-through financial flows/assets held in the jurisdiction.	Assets declared in response to the LPA NRA questionnaire.
Level of foreign ownership or control.	The beneficiaries of the trusts rather than the trustees who own the assets.
Level of ownership/control links to secrecy jurisdictions.	Distributions by destination and nationality and residence of connected parties.
Level of exposure to top jurisdictions of origin for proceeds of crime.	Distributions by destination and nationality and residence of connected parties.
Main location of business operations.	Location of assets.
Cost of formation and administration.	The cost of establishing a Jersey law trust using a TCSP and the ongoing administration costs.
Ease and speed of formation/registration.	How quickly can a Jersey law trust be established using a TCSP?

Appendix E: Glossary

Abbreviation	Full description
1862 Loi	Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations
2020 ML NRA	2020 Money Laundering NRA, published September 2020
AML	British Virgin Islands
AML/CFT/CPF Handbook	The JFSC's Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing
BRA	Business Risk Assessment
Business Names Law	Registration of Business Names (Jersey) Law 1956
BVI	British Virgin Islands
CDD	Customer due diligence
CFT	Countering the Financing of Terrorism
COBO	Control of Borrowing (Jersey) Order 1958
Companies Law	Companies (Jersey) Law 1991
Control of Borrowing Legislation	Control of Borrowing (Jersey) Law 1947, and its subordinate legislation
Control of Housing and Work Law	Control of Housing and Work (Jersey) Law 2012
CPF	Countering Proliferation Financing
Disclosure and Provision of Information Law	Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020, and its subordinate legislation
ECCU	Economic Crime and Confiscation Unit
FATF	Financial Action Task Force
Financial Services Law	Financial Services (Jersey) Law 1998, together its subordinate legislation
FIU	Financial Intelligence Unit, Jersey
FSB	Fund services business provider registered under the Financial Services Law
IFC	International Finance Centre

ILP	Incorporated Limited Partnership
Jersey Charity Commissioner	The Charities Commissioner appointed pursuant to the Charities (Jersey) Law 2014
Jersey company	A company registered by the Registrar in accordance with the Companies Law
JFCU Ops	Joint Financial Crimes Unit Operations
JFSC	Jersey Financial Services Commission
Judicial Greffe	The Judicial Greffe, being an office of the Royal Court
LLP	Limited Liability Partnership
LOD	The Law Officers' Department
LP	Limited Partnership
LPA	Legal persons and legal arrangements
LPA NRA	National Risk Assessment of Legal Persons and Arrangements
LPA working group	The working group established for the purposes of the NRA
ML	Money Laundering
MLA	Mutual Legal Assistance
MLO	Money Laundering (Jersey) Order 2008
Non-Jersey company	A company incorporated in a jurisdiction other than Jersey that is provided with a service by a JFSC registered TCSP
NPO	Non-profit organisation
NRA	National Risk Assessment
PEP	Politically Exposed Person
Public Registry	Operated by the Judicial Greffe Public Registry services, fees and Stamp Duty
Registry	Housed by the JFSC, the individuals responsible for the Jersey register of companies and certain other entities
Registry Supervision	Team within Registry who undertake a programme of compliance examinations to monitor compliance with the Disclosure and Provision of Information Law and the relevant entity legislation

Regulatory Laws	Is a generic term which covers the following individual laws: • Alternative Investment Fund (Jersey) Regulations 2012 • Banking Business (Jersey) Law 1991 • Collective Investment Funds (Jersey) Law 1988 • Financial Services (Jersey) Law 1998 • Insurance Business (Jersey) Law 1996 • Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
Revenue Jersey	The part of the Government of Jersey Treasury and Exchequer department dealing with taxation
RFAs	Requests for Assistance
Royal Court	Royal Court of Jersey
SAR	Suspicious Activity Report
SBPP	The Sound Business Practice Policy adopted by the JFSC provides the activities that the JFSC considers sensitive and which may result in a delay in processing a formation application
SLP	Separate Limited Partnership
STEP	Society of Trust and Estate Practitioners
TCSP	Trust and corporate services provider registered with the JFSC under the Financial Services Law
TF	Terrorist Financing
Trusts Law	Trusts (Jersey) Law 1984
UAE	United Arab Emirates
UK	United Kingdom
USA	United States of America

Appendix F:
List of referenced Jersey Law

The following Jersey legislation is referenced in this risk assessment and current versions are available from Jersey Law or by following the hyperlinks below:

Alternative Investment Fund (Jersey) Regulations 2012

Banking Business (Jersey) Law 1991

Charities (Jersey) Law 2014

Collective Investment Funds (Jersey) Law 1988

Companies (Jersey) Law 1991

Control of Borrowing (Jersey) Law 1947

Control of Borrowing (Jersey) Order 1958

Control of Housing and Work (Jersey) Law 2012

Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020

Financial Services (Jersey) Law 1998

Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018

Income Tax (Jersey) Law 1961

Insurance Business (Jersey) Law 1996

Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations (original in Norman-French)

Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations (unofficial translation available from Jersey Law)

Money Laundering (Jersey) Order 2008

Non-Profit Organizations (Jersey) Law 2008

Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015

Proceeds of Crime (Jersey) Law 1999

Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008

Registration of Business Names (Jersey) Law 1956

Revenue Administration (Jersey) Law 2019

Trusts (Jersey) Law 1984

Entity Legislation

Whilst not all the following are specifically referred to in this report this is the core legislation for the Jersey entities featured in this report:

Companies (Jersey) Law 1991

Foundations (Jersey) Law 2009

Incorporated Limited Partnerships (Jersey) Law 2011

Limited Liability Partnerships (Jersey) Law 2017

Limited Partnerships (Jersey) Law 1994

Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations (unofficial translation available from Jersey Law)

Separate Limited Partnerships (Jersey) Law 2011

Trusts (Jersey) Law 1984

Gouvèrnément d'JÈRRI

WORLD LAND TRUST™
www.carbonbalancedpaper.com
CBP001149

Designed and produced by the Government of Jersey Communications Team