

## Consultation on AML/CFT scope exemptions

Consultation on aligning Jersey's AML/CFT registration regime with the 2012 FATF Recommendations

This is a technical consultation paper providing detail regarding the current and future treatment of Jersey's AML/CFT scope exemptions. The overriding aim of this work is to clarify and simplify Jersey's AML/CFT regime by aligning it more clearly with international standards.

Appendix B summarises scope exemptions that are currently available and provides a quick reference on whether they will continue to be available in the future.

If you use AML/CFT scope exemptions you are likely to be required to notify the JFSC of your reliance on these scope exemptions and may be required to register with the JFSC for AML/CFT oversight in the near future.

We encourage you to review your businesses' use of scope exemptions, and in cases where such scope exemptions will no longer be available, to plan how you will go about ensuring that you have adequate systems, procedures and controls in place in line with the obligations on all businesses registered for AML/CFT purposes. These obligations are detailed in your AML/CFT Handbook.

## Consultation Paper

We invite comments on this consultation paper by **17 January 2022**. If you require assistance, clarification or wish to discuss any aspect of the proposals prior to formulating a response, it is of course appropriate to contact us.

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Alternatively, Lisa Springate at Jersey Finance Limited (**JFL**) is coordinating an Industry response that will incorporate any matters raised by local businesses. Comments should be submitted to JFL by **17 January 2022**.

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**Our policy is to provide the content of responses for inspection unless specifically requested otherwise.**

**It is the policy of JFL (unless otherwise requested or agreed) to collate all responses and share them verbatim with the JFSC on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.). This collated, anonymised response will, typically, be placed in JFL's permanent electronic archive which is currently open to all JFL members.**

## Glossary of Terms

Defined terms are indicated throughout this document as follows:

AML	Anti-Money Laundering
CFT	Countering the Financing of Terrorism
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FATF Recommendations	The International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation
FI	Financial Institution
FSB	Fund Services Business
Government	Government of Jersey
IB	Investment Business
JFSC	Jersey Financial Services Commission
Mutual Evaluation Report	Mutual Evaluation Report, specifically the <a href="#">Report on Fourth Assessment</a>
MLO	Money Laundering (Jersey) Order 2008
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
NRA	National Risk Assessment
PIRS	Professional Investor Regulated Schemes
Private TCB	Private Trust Company Business
POCL	Proceeds of Crime (Jersey) Law 1999
Regulatory Laws	Alternative Investment Funds (Jersey) Regulations 2012 Banking Business (Jersey) Law 1991 Collective Investment Funds (Jersey) Law 1988 Financial Services (Jersey) Law 1998 Insurance Business (Jersey) Law 1996 SBJL
SBJL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
Schedule 2	POCL's Second Schedule
Scope exemptions	Exemptions that exclude activity from the scope of activities caught by AML/CFT obligations in Jersey
TCB	Trust Company Business

VASP	Virtual Asset Service Provider
We / us	Government and the JFSC

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 The proposals within this consultation paper are part of the nationally coordinated programme of work led by the Government of Jersey (**Government**) in partnership with other Island Agencies to implement the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation ([FATF Recommendations](#)). This consultation is a joint initiative between the Jersey Financial Services Commission (**JFSC**) and Government.
- 1.1.2 In December 2015, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (**MONEYVAL**) agreed its [Report on Fourth Assessment Visit](#) of Jersey (**Mutual Evaluation Report**) regarding the Island's compliance with the [FATF Recommendations](#). This report was conducted against a previous version of the international standards concerning anti-money laundering and countering the financing of terrorism (**AML/CFT**), known as the 2003 FATF Recommendations. However, many of the recommendations are relevant to the current international standards, known as the 2012 FATF standards, against which Jersey will next be assessed by **MONEYVAL** during 2023/24.
- 1.1.3 The Mutual Evaluation Report concluded that certain scope exemptions from AML/CFT obligations in Jersey were not compatible with the FATF Recommendations which allow such exemptions only where:
- 1.1.3.1 “there is a proven low risk of money laundering and terrorist financing; this occurs in strictly limited and justified circumstances; and it relates to a particular type of financial institution or activity, or DNFBP”; or
- 1.1.3.2 “a financial activity (other than the transferring of money or value) is carried out by a natural or legal person on an occasional or very limited basis (having regard to quantitative and absolute criteria), such that there is low risk of money laundering and terrorist financing.”
- 1.1.4 Specifically, the Mutual Evaluation Report highlighted concern about the rationale for scope exemptions that mean businesses are not required to comply with AML/CFT obligations.
- 1.1.5 AML/CFT regulation, including exemptions from AML/CFT obligations, evolved as the Island brought its AML/CFT regime into force in line with developing international standards. The Proceeds of Crime (Jersey) Law 1999 (**POCL**) introduced AML obligations for certain financial services activities which were specified in POCL's Second Schedule (**Schedule 2**). At the time, these activities included Banking, Insurance and Investment Business. These were activities already supervised for conduct and prudential matters by the JFSC.
- 1.1.6 Subsequently, more activities were included within Schedule 2, and so became subject to AML/CFT obligations. The most significant example of this was in 2008 when amendments to Schedule 2 brought a number of activities within AML/CFT regulatory scope including that of Designated Non-Financial Businesses and Professions (**DNFBP**), this included accountants and lawyers.
- 1.1.7 Whilst Schedule 2 sets out the activities which define financial services business, it is the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (**SBJL**) which establishes when a financial services business is required to register with the JFSC, and the Money Laundering (Jersey) Order 2008 (**MLO**) which determines the

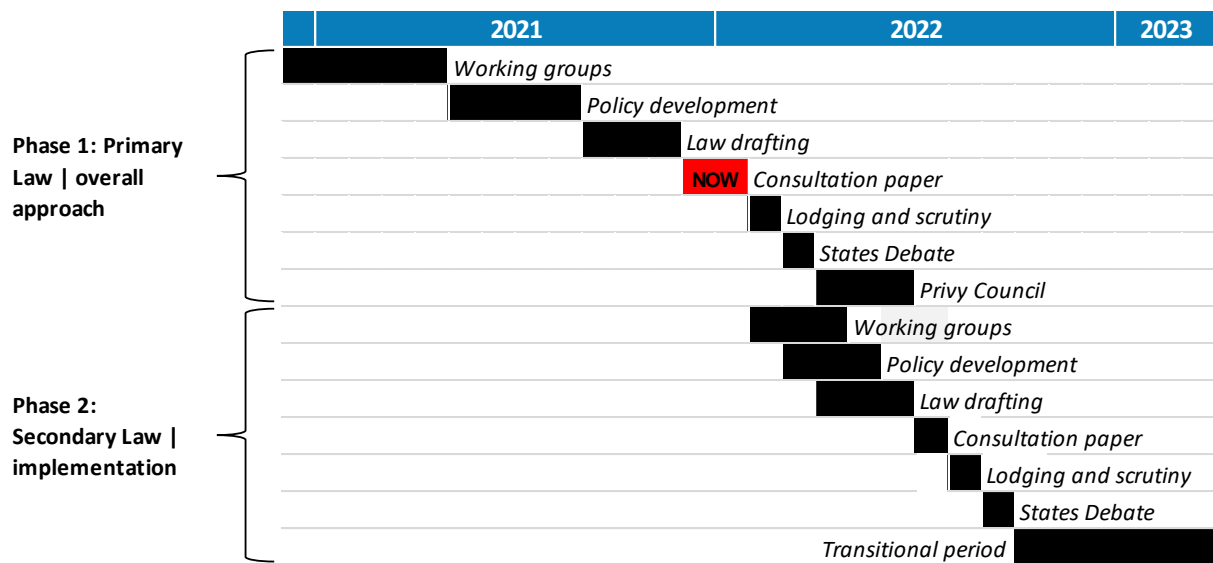
statutory preventative measures which must be in place. The SBJL also provides the JFSC with its AML/CFT supervisory powers for all financial services businesses – whether registered with the JFSC under the SBJL or another enactment.

- 1.1.8 Several scope exemptions remain directly linked to Jersey’s conduct and prudential regime. As the international standards have been developed by the FATF, it has become clear that such activities are now expected to be directly subject to AML/CFT obligations in line with the FATF Recommendations. However, the regime in Jersey may currently exempt them from both AML/CFT obligations as well as conduct and prudential obligations by virtue of the way the regime has evolved. Under the current FATF standards, exemptions are only permitted to exist in proven low risk circumstances of money laundering and terrorist financing and the exemption must only occur in strictly limited and justified circumstances.
- 1.1.9 Equally, certain activities are now expected to be directly subject to AML/CFT obligations pursuant to the revised FATF Recommendations which are not currently specified in Schedule 2.
- 1.1.10 Our proposals address both of these issues (1.1.8 and 1.1.9).
- 1.1.11 In order to better understand the extent to which the scope exemptions are relied upon by Island businesses, we established an Industry working group made up of experienced practitioners from a cross-section of Industry.
- 1.1.12 The working group considered several scope exemptions in detail including how they are used in practice, and the potential impact should certain scope exemptions no longer be available to Industry because they are not compatible with the current FATF Recommendations’ definitions of financial institutions (**FIs**), DNFBPs and Virtual Asset Service Providers (**VASPs**).
- 1.1.13 The working group endorsed the policy of implementing the FATF FI, DNFBP and VASP definitions in full. The working group also identified that an ideal solution when amending the scope exemptions would:
  - 1.1.13.1 avoid unnecessary duplication where AML/CFT obligations are already performed by other businesses, for example, through reliance measures that are compatible with FATF Recommendation 17 and the MLO;
  - 1.1.13.2 simplify the regime; and
  - 1.1.13.3 offer consistency (e.g. for as many fund structure types as possible using a single definition for all private and public fund types).
- 1.1.14 Following the working group’s initial consideration of several scope exemptions, we identified that the most pragmatic route forward would be to disconnect AML/CFT obligations from conduct and prudential obligations. Thereafter, where a business is to be subject to AML/CFT obligations, this will be the case irrespective of that business’s obligations in respect of conduct and prudential matters.
- 1.1.15 The key benefit of this approach is that it will provide clarity and certainty to Industry regarding what activities are subject to AML/CFT regulation and there is no requirement to amend the wider network of statutes relating to financial services.
- 1.1.16 The approach will also allow us to demonstrate that any future scope exemptions from AML/CFT obligations are fully aligned to the criteria for exemptions within the FATF Recommendations (1.1.3.1 and 1.1.3.2).



## 1.2 Consultation and implementation timeline

- 1.2.1 This consultation paper is an important milestone in the consultation process that started in December 2020 when the Industry working group first met. The proposals in this paper outline the overall shape of the solution to aligning Jersey’s AML/CFT scope exemptions to the FATF Recommendations, which importantly includes the primary law changes that are required.
- 1.2.2 Should these proposals progress as outlined, further consultation will continue in 2022 as we develop proposals for the secondary legislation that will implement the changes in full, including appropriate transitional provisions for businesses that will become subject to AML/CFT obligations for the first time or for whom a registration/notification will apply for the first time.
- 1.2.3 Outline of consultation process.



- 1.2.4 As no changes to Jersey legislation can be made for a period of several months during 2022 due to Jersey’s General Election, we are proposing the fundamental changes to primary law now in order that the subsequent changes can be further developed and consultation with Industry undertaken during the General Election period. De bate and scrutiny of these amendments will occur after the General Election by the new States Assembly.

## 1.3 What is proposed and why?

- 1.3.1 It is proposed to recast Schedule 2 (Appendix A) so that all activities subject to AML/CFT obligations, which includes registration with (or notification to) the JFSC, mirrors the FI, DNFBP and VASP definitions within the FATF Recommendations.
  - 1.3.1.1 This will remove the direct link between AML/CFT, and conduct and prudential regulation so that all businesses will be subject to AML/CFT obligations in line with the FATF Recommendations.
  - 1.3.1.2 There will not be any change to those businesses’ status in respect of conduct or prudential obligations which will continue to be set out within the other **Regulatory Laws**.
- 1.3.2 Where it can be demonstrated, based on an assessment of risk, that specific activities meet the FATF criteria for exemptions (1.1.3.1 and 1.1.3.2), scope exemptions for these activities will be specified.

- 1.3.2.1 This will enable Jersey to demonstrate that any future scope exemptions are aligned to the FATF Recommendations and based on a sound understanding of risk.
- 1.3.3 All activities within the recast Schedule 2 will, as a minimum, be subject to appropriate notification obligations even where there is a scope exemption as described at 1.3.2.
  - 1.3.3.1 This will enable us to maintain a current understanding of all activities that the FATF Recommendations require to be subject to AML/CFT obligations and ensure that scope exemptions are periodically reviewed based on up to date information about their use.
- 1.3.4 The Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- (**Appendix A**) shows the recast Schedule 2 and provides for consequential and transitional provisions to be made by way of Regulation.
  - 1.3.4.1 Should the proposals at Appendix A progress we anticipate that various consequential amendments will be required to other statutes. In particular, to the Schedule to the SBJL which directly links to the current Schedule 2 in order to determine which businesses are required to register with us under the SBJL, and the MLO which establishes the preventative measures to be implemented.
  - 1.3.4.2 We anticipate that transitional provisions will provide for a period of six months during which businesses that currently take advantage of a scope exemption would be required to prepare to register with the JFSC or notify under the SBJL in line with the recast Schedule 2, or notify us of reliance on a scope exemption.
- 1.3.5 It is proposed that the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- should come into force by way of an Appointed Day Act, rather than automatically coming into force on a specified date in order to accomplish a smooth transition process.

## 1.4 Who would be affected?

- 1.4.1 The proposals in this consultation paper have the potential to affect businesses that are not currently required to comply with some or all AML/CFT obligations by virtue of a scope exemption. Further detail on the scope exemptions as they are now, and their proposed future state, is provided in Appendix B.
- 1.4.2 An important part of the process that we have undertaken has been to filter, at a high level, certain activities where they are undertaken in respect of “connected parties” and where the activities are not undertaken in the context of “carrying on business”.
- 1.4.3 These filters have the effect of excluding or exempting persons who undertake activities specified in Schedule 2 from registration where the activities are not done in the context of carrying on a business, and/or where the activities are not services provided to third parties. This is a simplification of the exemptions regime where previously several individual exemptions may have produced the same net effect.

## 1.5 How will this affect me?

- 1.5.1 If you currently employ a scope exemption that we have identified will no longer be available, you will be required, as a minimum, to notify the JFSC of your reliance on

that scope exemption, and may be required to register with the JFSC for AML/CFT oversight. Examples of scenarios are provided at section 4.

- 1.5.2 We understand from the working group discussions that many businesses which will be required to register/notify in the future will already have certain AML/CFT obligations fulfilled by their service providers, albeit presently in order to fulfil their service providers' own AML/CFT obligations.

## 1.6 What action should I take?

- 1.6.1 If you currently employ a scope exemption, or believe that you may, we encourage you to review your business in light of Appendix B and develop plans to ensure that, as a minimum, you are able to notify the JFSC of your reliance on any relevant scope exemptions.
- 1.6.2 If, following this review, you identify that you will be required register with the JFSC for AML/CFT oversight, we encourage you to plan how you will go about ensuring that you have adequate systems, procedures and controls in place in line with the obligations on all businesses registered for AML/CFT purposes under the SBJL. These obligations are detailed in the MLO and AML/CFT Handbook.
- 1.6.3 This planning work will need to take place over the course of 2022 in line with the transitional period outlined at section 1.2 (Consultation and implementation timeline).

## 2 Consultation

### 2.1 Basis for consultation

- 2.1.1 The JFSC are issuing this consultation in accordance with Article 8(3) of the Financial Services Commission (Jersey) Law 1998 under which the JFSC may “consult and seek the advice of such persons or bodies” as it considers appropriate.
- 2.1.2 Government closely observed the work undertaken by the working group, then participated in the Law Drafting process, and support the proposed approach.

### 2.2 Responding to the consultation

- 2.2.1 We invite comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an Industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 JFL are coordinating an Industry response that will incorporate any matters raised by local businesses which will be shared with us on an aggregated and anonymised basis.
- 2.2.3 Comments should be received no later than **17 January 2022**.

### 2.3 Next steps

- 2.3.1 Feedback will be published in January 2022 and both the Government and JFSC are available during the consultation period should you wish to discuss any matters in the consultation paper with us.
- 2.3.2 As highlighted at section 1.2 (Consultation and implementation timeline), subject to feedback on the proposals in this consultation paper, it is intended that Government

proceed to lodge (February 2022) the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- for scrutiny then States debate (March 2022).

- 2.3.3 While the primary law progresses through that process, we intend to reconvene a working group to discuss how to most effectively develop the secondary legislation (Regulation and Order) that will be necessary to implement the overall changes that will successfully amend the AML/CFT scope exemptions regime such that it becomes fully compliant with the FATF Recommendations.

## 3 Proposals

### 3.1 Recast Schedule 2 so that all activities subject to AML/CFT obligations mirror the definitions within the FATF Recommendations.

- 3.1.1 Schedule 2 currently specifies activities that are subject to AML/CFT obligations through a mix of references to other statutes and standalone definitions. While Schedule 2 is reflective of the majority of activities that the FATF Recommendations require to be subject to AML/CFT obligations, it does not tie -in precisely.
- 3.1.2 Where Schedule 2 relies on cross-references to other statutes in order to define an activity that is subject to AML/CFT obligations, the way in which those statutes define activities diverges further from the FATF Recommendations. This is generally where the current scope exemptions arise.
- 3.1.3 The proposal to disconnect the scope of AML/CFT obligations from conduct and prudential regulations works on the following basis:
- Scheme of recasting of Schedule 2*
- 3.1.4 The definitions from the FATF Recommendations for FIs, DNFBPs, and VASPs are replicated within the recast Schedule 2 (Appendix A).
- 3.1.5 This provides a clear mapping of activities from the FATF Recommendations to activities that will be subject to AML/CFT obligations on an ongoing basis.
- 3.1.6 Activities detailed within the current Schedule 2 are defined within the recast Schedule 2 as follows:
- 3.1.6.1 The first (and at times only) provision follows the FATF FI, DNFBP and VASP definitions precisely. This creates a general rule.
- 3.1.6.2 We understand that the FATF wording is often very general, and that stakeholders will be more familiar with the language in the present Schedule 2. We have therefore sought to retain the familiar provisions from the present Schedule 2, and these will be “automatically included” as activities falling within the recast Schedule 2. It is important to note that when bringing across the current provisions into the new regime, we have removed most cross-references to other statutes, which has necessitated some changes away from familiar descriptions. In doing this, scope exemptions that arose by reason of such cross-referrals to various other enactments are not brought into the recast Schedule 2. Whether scope exemptions are retained is dealt with elsewhere (3.3.7).
- 3.1.7 The recast Schedule 2 operates independently of the conduct and prudential regulatory framework moving forwards while providing for a smooth transition from the current Schedule 2.

### 3.1.8 Question 1

Do you agree with the approach of disconnecting AML/CFT obligations from conduct and prudential obligations as outlined?

## 3.2 Connected companies/persons/etc

3.2.1 The FATF Recommendations apply to activities when performed for customers as part of a business. This is a filter for activity that takes place in circumstances that are not within scope of the FATF Recommendations. We propose the following approach which is shown in Appendix A at the proposed revised Article 36 of the POCL:

3.2.1.1 Services to connected companies or within joint enterprises will normally be excluded from AML/CFT obligations excepting notification in line with 3.4.

3.2.1.2 If the company group or the joint enterprise itself involves performing the listed activities for external customers, then it will be included.

3.2.1.3 If the “internal customer” is outside of Jersey, then this will be treated as an ordinary customer relationship, that is, it will not be excluded by reason of the parties being connected.

3.2.2 As such, the connected person issue which underpins many of the individual scope exemptions is largely dealt with by considering the scope of the FATF Recommendations. The focus is not on divisions of labour within a business, but activity offered to external customers who apply for that business.

### 3.2.3 Question 2

Do you agree with the proposed approach to connected companies/persons/etc?

## 3.3 Where it can be demonstrated, based on an assessment of risk, that specific activities meet the FATF criteria for exemptions, scope exemptions for these activities will be specified within POCL

3.3.1 As outlined at 1.1.3.1 the FATF Recommendations contemplate that exemptions may be permitted where “there is a proven low risk of money laundering and terrorist financing; this occurs in strictly limited and justified circumstances; and it relates to a particular type of financial institution or activity, or DNFBP”.

3.3.2 In undertaking our work, we have referred to the analysis of Industry activities within Jersey’s National Risk Assessment (**NRA**). Whilst the initial national risk assessments were published in 2020 and 2021, national risk assessment work is ongoing and will be updated. When risk assessment work is updated and published, it will be considered whether it justifies any changes to the exemptions regime. For the majority of current scope exemptions there is insufficient data or information to determine that the type of FI, activity, or DNFBP availing itself of that scope exemption is able to demonstrate a proven low risk of money laundering and terrorist financing; nor that the activity occurs in strictly limited and justified circumstances.

3.3.3 At least in part, this is because there is a lack of data and information available on scope exempted FIs, DNFBPs, VASPs, and their activities compounded by our not being able to collect such data and information by virtue of the current scope exemptions.

- 3.3.4 As further outlined at 1.1.3.2, the other scenario in which the FATF Recommendations contemplate that exemptions may be permitted is where “a financial activity (other than the transferring of money or value) is carried out by a natural or legal person on an occasional or very limited basis (having regard to quantitative and absolute criteria), such that there is low risk of money laundering and terrorist financing.”
- 3.3.5 Similarly to 3.3.3, we do not have readily available data to determine quantitative and absolute criteria that will enable us to make clear a determination in a scenario where a financial activity would meet the second criteria for a scope exemption that is compatible with the FATF Recommendations in all situations.
- 3.3.6 We recognise that there are likely to be activities that could meet either or both of these criteria, provided data and information is available to make the relevant determination. This is in keeping with the ongoing approach to national risk assessment. Our approach is therefore to provide for circumstances in which future scope exemptions may be specified, provided that we are able to recommend their introduction based on an assessment of risk, which will take account of the criteria for exemptions allowed by the FATF Recommendations.
- 3.3.7 We propose to do this through the Order-making power described in Appendix A that would enable the Minister, on the recommendation of the JFSC, to add, remove, and amend the exemptions that will be brought into Schedule 2.
- 3.3.8 Entities that are carrying on a business will be in one of the following scenarios:
- 3.3.8.1 Outside the scope of Schedule 2, including those who are outside by virtue of the approach to the “customer/business” issue derived from the FATF Recommendations. (3.2.1 and 3.2.2).
  - 3.3.8.2 Within the scope of Schedule 2, but do not need to register as they have a scope exemption. They must notify their reliance on the scope exemption.
  - 3.3.8.3 Within the scope of Schedule 2 and cannot rely on a future scope exemption, but are currently within the remit of the SBJL by virtue of other registration in the financial services legislation. These continue to be in scope and, in time, will need to register directly for AML/CFT purposes.
  - 3.3.8.4 Currently deemed registered. These businesses continue to be in the remit of the SBJL as before, and, in time, will need to register directly.
  - 3.3.8.5 Businesses who previously relied on a scope exemption that no longer applies. These businesses will need to register.
  - 3.3.8.6 Finally, businesses who are within Schedule 2 and have none of the above issues, they must either register or simply maintain their existing registration.
- 3.3.9 Our proposals at 3.4 regarding notification obligations and at 3.7 regarding transitional provisions are also relevant in considering our proposed approach to the assessment of risk in respect of future scope exemptions.

**3.3.10 Question 3**

Do you agree with the approach of specifying future scope exemptions within the POCL based on an assessment of risk?

### 3.4 All activities will, as a minimum, be subject to appropriate notification obligations even where there is an Exemption

- 3.4.1 As outlined at 3.3, it is important that Jersey maintains an up to date understanding of activities, and FIs, DNFBPs, and VASPs that are able to utilise scope exemptions. This is so that:
- 3.4.1.1 Jersey has evidence to demonstrate that scope exemptions are working in line with the criteria specified in the FATF Recommendations; and
  - 3.4.1.2 Where activities do meet those criteria, that appropriate scope exemptions can be introduced.
- 3.4.2 We propose that all businesses that meet the definitions within the recast Schedule 2, irrespective of whether they are subject to future scope exemptions, should be subject to appropriate notification obligations which would include:
- 3.4.2.1 Notifying the JFSC of the Schedule 2 activity they undertake; and
  - 3.4.2.2 Providing data on a periodic basis regarding their business activities.
- 3.4.3 This will enable us to maintain a current understanding of all activities that the FATF Recommendations require to be subject to AML/CFT obligations and ensure that scope exemptions are periodically reviewed based on up to date information about their use.

#### 3.4.4 **Question 4**

Do you agree with the approach of requiring all activities, as a minimum, to be subject to appropriate notification obligations?

### 3.5 Guidelines on interpretation

- 3.5.1 Articles 36(5) – 36(8) of the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- provides that:
- 36(6) The Commission may issue guidelines on the interpretation of any provision in Schedule 2, including any expression used in Schedule 2.
  - 36(7) Regard must be had to any guidelines issued under paragraph (6) concerning the interpretation of any expression in Schedule 2.
  - 36(8) Guidelines issued under paragraph (6) must be published by the Commission in a manner which the Commission considers will bring it to the attention of those most likely to be affected by it.
  - 36(9) In interpreting an expression used in Schedule 2 and not defined, account must be taken of the meaning, if any, given to that expression in –
    - (a) the FATF International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - the FATF Recommendations as updated from time to time; or
    - (b) the FATF Methodology for Assessing Technical Compliance with the FATF Recommendations and Effective of AML/CFT Systems, as updated from time to time.
- 3.5.2 The intent behind these provisions is that where there is uncertainty about the interpretation, or practical implementation, of the recast Schedule 2, the JFSC will be able to provide clarity to Industry.



### 3.5.3 Question 5

Do you agree: (i) with the approach of the JFSC being able to issue guidelines on the interpretation of any expression in Schedule 2; (ii) that regard must be had to such guidelines; and (iii) with the requirement that account must be taken of meanings in the FATF Standards, and FATF Methodology where expressions are not defined?

## 3.6 Other regulation making powers under SBJL

- 3.6.1 In addition to the recast Schedule 2, proposed amendments to Article 36 of the POCL including proposed Regulation and Order making powers under POCL, the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- includes proposals to bring Regulation making powers under SBJL as well.
- 3.6.2 It is intended that these powers would enable the States of Jersey to bring about:
- 3.6.2.1 Changes to the Schedule of SBJL to reflect the recast Schedule 2 of POCL;
  - 3.6.2.2 Necessary amendments to ensure that SBJL encompasses all entities required to register or notify (3.4) in accordance with the recast Schedule 2;
  - 3.6.2.3 Surety in respect of the position for those entities currently regulated under the SBJL but who are not currently required to register under that Law;
  - 3.6.2.4 Transitional provisions such as are necessary or expedient to bring those mentioned in the last bullet point in to being registered under the SBJL.

### 3.6.3 Question 6

Do you agree with the approach to Regulation making powers under the SBJL?

## 3.7 Consequential and transitional provisions, commencement

- 3.7.1 The Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- provides for consequential and transitional provisions to be made by way of Regulation. In developing such Regulation, further engagement with a working group, and a follow-on consultation, will take place as highlighted at sections 1.2 and 2.3.
- 3.7.2 We anticipate that various consequential amendments will be required to other statutes, in particular to the Schedule to the SBJL which links directly to the current Schedule 2.
- 3.7.3 We anticipate that transitional provisions will provide for a period of six months, during which, businesses that are currently availed of a scope exemption would be required to register with us or notify under the SBJL in line with the recast Schedule 2.
- 3.7.4 It is proposed that the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- should come into force by way of an Appointed Day Act rather than automatically coming into force on a specified date. This is in order that a smooth transition is achieved in parallel with the additional secondary legislation that will be consulted on during the first half of 2022.

### 3.7.5 Question 7



Do you agree with the proposed approach to further consultation, consequential and transitional provisions, and the commencement of the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202-?

### 3.8 Undertaking more than one activity

- 3.8.1 Several businesses are registered to undertake activities that fall within more than one definition in the current Schedule 2 and we anticipate that this will continue to be the case.
- 3.8.2 Many businesses undertaking more than one type of Schedule 2 activity are currently required to notify us of all Schedule 2 activities that they undertake. It is intended that all businesses should register or notify us of the Schedule 2 activities they undertake.
- 3.8.3 Fees payable by Schedule 2 businesses registered under the SBJL are payable per-business (i.e. the business as whole) rather than per-activity. It is intended that this approach to fees will continue.

#### 3.8.4 **Question 8**

Do you agree with the approach to registration of more than one activity including AML/CFT fees being payable per-business rather than per-activity?

#### 3.8.5 **Question 9**

Do you have any other comments regarding the proposals within this consultation?

## 4 Examples

### 4.1 Purpose of this section

- 4.1.1 This section provides examples of different activities that are currently subject to scope exemptions and how these activities will be affected by the proposals at Section 3.

### 4.2 Professional Investor Regulated Schemes (PIRS)

- 4.2.1 There are two key scope exemptions, commonly referred to as PIRS, which are currently in use and will fall away under our proposals in respect of AML/CFT obligations. These are items 23 and 40 in the section of Appendix B that illustrates those exemptions listed in Part 4, section 1 of the AML/CFT Handbook.
- 4.2.2 These PIRS scope exemptions are commonly used when establishing private investment structures such as Jersey Private Funds and other professional investment schemes. Their effect is to exempt a functionary (service provider) to such structures from needing to comply with the MLO and register under the FSJL provided that the functionary itself is administered by a fully regulated (for AML/CFT, conduct of business, and prudential matters) TCB licence holder, in certain circumstances the person may be a FSB licence holder.
- 4.2.3 The benefit of this approach is that there is a fully regulated financial services business with comprehensive AML/CFT (and other) obligations being adhered to in respect of the PIRS. However, the drawback is that there are not AML/CFT

obligations on the service provider to the PIRS itself. This is not compatible with the FATF exemptions criteria.

- 4.2.4 On a practical basis, the working group was clear that AML/CFT obligations are discharged in respect of both PIRS and their service providers. This is positive as we look to the regime after the proposals have been implemented. The service providers that are currently exempt by virtue of the PIRS exemptions will need to ensure that they are able to demonstrate compliance with the obligations applicable to all businesses registered for AML/CFT purposes under the SBJL. These obligations are detailed in the MLO and AML/CFT Handbook.
- 4.2.5 As illustrated at section 1.2 the precise details regarding transitional arrangements, as well as arrangements in respect of outsourcing and reliance will be subject to further consultation after which secondary legislation and guidance will be issued to support the transitional process for affected businesses.
- 4.2.6 Where the AML/CFT obligations described at 4.2.4 are fulfilled by existing fully regulated service providers we anticipate that our follow-on consultation will include how outsourcing and reliance arrangements can be employed in a way that maximises the value of work already undertaken.
- 4.2.7 The effect of these scope exemptions will continue in respect of conduct of business and prudential matters in line with their original design.

### 4.3 Private Trust Company Business (Private TCB)

- 4.3.1 The Private TCB exemption is prescribed by the **Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 4** and it will fall away under our proposals in respect of AML/CFT obligations. This is item 24 in the section of Appendix B that illustrates those exemptions listed in Part 4, section 1 of the AML/CFT Handbook.
- 4.3.2 The Private TCB scope exemption is used when establishing private trust structures, for example by certain family offices. Its effect is to exempt a person providing trust company and company services to private trust structures from registration under the Financial Services (Jersey) Law 1998 as a TCB provided that the Private TCB itself is administered by a fully regulated (for AML/CFT, conduct of business, and prudential matters) TCB licence holder.
- 4.3.3 The benefit of this approach is that there is a fully regulated financial services business with comprehensive AML/CFT (and other) obligations being adhered to in respect of the Private TCB. However, the drawback is that there are no AML/CFT obligations on the Private TCB itself. This is not compatible with the FATF exemptions criteria.
- 4.3.4 On a practical basis, we understand that AML/CFT obligations are discharged in respect of both Private TCBs and the private structures that they provide services to. This is positive as we look to the regime after the proposals have been implemented. The Private TCBs that are currently exempt by virtue of the Private TCB exemption will need to ensure that they are able to demonstrate compliance with the obligations applicable to all businesses registered for AML/CFT purposes under the SBJL. These obligations are detailed in the MLO and AML/CFT Handbook.
- 4.3.5 As illustrated at section 1.2 the precise details regarding transitional arrangements, as well as arrangements in respect of outsourcing and reliance will be subject to further consultation, after which secondary legislation and guidance will be issued to support the transitional process for affected businesses.

- 4.3.6 The effect of these scope exemptions will continue in respect of conduct of business and prudential matters in line with their original design.

## 4.4 Connected Persons

- 4.4.1 Sections 3.2.1 and 3.2.2 highlight that the connected person issue which underpins many of the individual scope exemptions, are largely dealt with by considering the scope of the FATF Recommendations through the amendments to Article 36 of POCL. Where a connected entity meets the definition of a “connected party” it will be exempted from direct AML/CFT obligations. However, where it does not, the scope exemption will no longer be available.
- 4.4.2 While this is a technical amendment, the outcome is the simplification and clarification of the exemptions regime.
- 4.4.3 In addition to the “connected party” filter (whether or not you are providing services to a third party) there is a further filter, being “carrying on business”. This filter has the effect of excluding persons who undertake activities specified in Schedule 2 from registration where this is not done in the context of carrying on a business that undertakes the activity, for example:
- 4.4.3.1 A natural person who is dealing in shares for their own benefit (e.g. as part of their personal investment in a pension portfolio); or
- 4.4.3.2 A company issuing its own securities on its own behalf.
- 4.4.4 There are a total of 17 scope exemptions within this broad category which we have analysed and which are presented in Appendix B. Our conclusion is that these exemptions are either already within the AML/CFT regime, will not be available in the future, or will be partially available subject to the circumstances in which the business employing the exemption matches the criteria specified in Article 36.
- 4.4.5 On a practical basis, we understand that the connected person exemptions are generally used within the context of operating groups of companies, for example Jersey resident TCB affiliations under common ownership and control. The decoupling of the AML/CFT regime from the conduct and prudential regime means that in the future these scope exemptions, when used within operating groups of Jersey resident companies under common ownership and control, will be fully aligned to the FATF Standards.
- 4.4.6 As illustrated at section 1.2, the precise details regarding transitional arrangements, as well as arrangements in respect of outsourcing and reliance will be subject to further consultation after which secondary legislation and guidance will be issued to support the transitional process for affected businesses.
- 4.4.7 The effect of these scope exemptions will continue in respect of conduct of business and prudential matters in line with their original design.

## 5 Summary of Questions

Page	Question
13	<b>Question 1</b> Do you agree with the approach of disconnecting AML/CFT obligations from conduct and prudential obligations as outlined?
14	<b>Question 2</b> Do you agree with the proposed approach to connected companies/persons/etc?
15	<b>Question</b> Do you agree with the approach of specifying future scope exemptions within the POCL based on an assessment of risk?
16	<b>Question 4</b> Do you agree with the approach of requiring all activities, as a minimum, to be subject to appropriate notification obligations?
16	<b>Question 5</b> Do you agree: (i) with the approach of the JFSC being able to issue guidelines on the interpretation of any expression in Schedule 2; (ii) that regard must be had to such guidelines; and (iii) with the requirement that account must be taken of meanings in the FATF Standards, and FATF Methodology where expressions are not defined?
17	<b>Question 6</b> Do you agree with the approach to Regulation making powers under the SBJL?
17	<b>Question 7</b> Do you agree with the proposed approach to further consultation, consequential and transitional provisions, and the commencement of the Draft Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202-?
17	<b>Question 8</b> Do you agree with the approach to registration of more than one activity including AML/CFT fees being payable per-business rather than per-activity?
17	<b>Question 9</b> Do you have any other comments regarding the proposals within this consultation?

**Appendix A: Draft  
Proceeds of Crime  
(Miscellaneous  
Amendments)  
(Jersey) Law 202-**



Jersey

**DRAFT PROCEEDS OF CRIME (MISCELLANEOUS  
AMENDMENTS) (JERSEY) LAW 202-**

**Contents**

**Article**

1	Proceeds of Crime (Jersey) Law 1999 amended .....	3
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Jersey

## DRAFT PROCEEDS OF CRIME (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 202-

A **LAW** to amend the Proceeds of Crime (Jersey) Law 1999 to make changes to Jersey's AML/CFT exemptions regime.

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### 1 **Proceeds of Crime (Jersey) Law 1999 amended**

- (1) For Article 36 of the [Proceeds of Crime \(Jersey\) Law 1999](#) there is substituted –

#### **“36 Financial services business**

- (1) Any natural or legal person who conducts as a business for or on behalf of a customer one or more of the activities and operations set out in Parts 2, 3 and 4 of Schedule 2 is a financial services business for the purposes of this Law.
- (2) Any natural or legal person who conducts, otherwise than as a business for or on behalf of customers, the activities and operations set out in Part 5 of Schedule 2 is deemed to be financial services business for the purposes of this Law.
- (3) Paragraph (1) applies even if, in the course of the conduct of the activities or operations as a business, the customer receives a shareholding, unit or other interest or right in a body corporate or legal arrangement.
- (4) An activity or operation set out in Part 2, 3 or 4 of Schedule 2 is not conducted as a business for or on behalf of a customer if the activity or operation is provided internally to an overall business.

- (5) For the purposes of paragraph (3), an activity or operation is provided internally to the operation of an overall business if it is provided for or on behalf of a connected party, unless –
  - (a) the connected party is –
    - (i) incorporated or otherwise registered as a legal person under the law of a jurisdiction outside Jersey,
    - (ii) a natural or legal person resident outside of Jersey, including where the activity or operation is provided to a branch, office, establishment or other place of business, based outside of Jersey;
  - (b) the business operations of the connected party includes providing activities or operations referred to in Part 2, 3 or 4 of Schedule 2 to parties that are not connected parties.
- (6) The Commission may issue guidelines on the interpretation of any provision in Schedule 2, including any expression used in Schedule 2.
- (7) Regard must be had to any guidelines issued under paragraph (6) concerning the interpretation of any expression in Schedule 2.
- (8) Guidelines issued under paragraph (6) must be published by the Commission in a manner which the Commission considers will bring it to the attention of those most likely to be affected by it.
- (9) In interpreting an expression used in Schedule 2 and not defined, account must be taken of the meaning, if any, given to that expression in –
  - (a) the FATF International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - the FATF Recommendations as updated from time to time; or
  - (b) the FATF Methodology for Assessing Technical Compliance with the FATF Recommendations and Effective of AML/CFT Systems, as updated from time to time.
- (10) The Minister for External Relations and Financial Services may amend Schedule 2 by Order and may –
  - (a) add, remove or vary an exemption set out in Schedule 2;
  - (b) add activities and operations to the scope of paragraph 24 of Schedule 2 where virtual assets are exchanged for assets other than other virtual assets or fiat currency.
- (11) In this Article –

“connected party” means, in relation to an entity –

  - (a) any other entity in the same group as the first mentioned entity;
  - (b) any other entity with which the first-mentioned, either alone or with another entity in the same group, exercises or controls the exercise of the majority of the voting rights (other than as nominee);
  - (c) any other entity in which the first-mentioned entity, or any other entity in the same group as the first-mentioned entity, holds an interest in the equity share capital carrying rights to



vote in all circumstances at general meetings for the purposes of securing contribution to the activities or operations of the first-mentioned entity or the entity in the same group as that first-mentioned entity, by the exercise of control or influence arising from that interest;

- (d) a party to a joint enterprise in which the services of the joint enterprise are provided for the furthering a business venture of the parties to the joint enterprise;

“group” in relation to an entity means that entity, any other entity which is its holding entity or subsidiary and any other entity which is subsidiary of that holding entity;

“joint enterprise” means an enterprise into which persons participating whether for commercial purposes related to a business other than an investment business carried on by such person, and where the person participating is an entity, each entity with which it is connected is also regarded as a person participating in the joint enterprise;

- (12) In this Article and Schedule 2, a reference to “natural or legal person” includes where such a person conducts operations or activities as a business by way of a legal arrangement, despite what it is called, through which the person has arranged to conduct their business, including a trust, unit trust and partnership.

- (13) [Exemptions – Schedule 2A]”.

- (2) After Article 44 of the [Proceeds of Crime \(Jersey\) Law 1999](#) there is inserted –

#### **44A Consequential and transitional provisions**

- (1) The States may, by Regulations –

- (a) make such consequential and transitional provisions; or  
(b) make amendments to any other enactment,

as appear necessary or expedient in connection with the coming into force of the Proceeds of Crime (Miscellaneous Amendments)(Jersey) Law 202-

- (2) Without prejudice to the generality of Schedule 2, regulations made under paragraph (1) may –

- (a) create a notification regime for persons who may be granted an exemption under Schedule 2;  
(b) make arrangements for the position for persons who prior to the commencement of the Proceeds of Crime (Miscellaneous Amendments)(Jersey) Law 202- were regulated under the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#);  
(c) make transitional provisions as are necessary or expedient requiring persons mentioned in sub-paragraph (b) to be registered under the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#).”.

- (3) For Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 there is substituted –

## **“SCHEDULE 2**

(Article 36)

### **FINANCIAL SERVICES BUSINESS**

#### **PRELIMINARY**

##### **PART 1**

#### **1 Interpretation**

In this Schedule –

“fund” means any scheme or arrangement which pools capital raised and operates on the principle of risk spreading; the funds being raised from offers to investors being members of the public, or investors restricted by criteria such as the number of offers, minimum subscription, or the investors’ net worth, level of financial sophistication, risk tolerance or other such criteria;

“legal person” includes a company, body corporate, foundation, anstalt, partnership or association, and any other relevantly similar entity;

“securities” means any of the following –

- (a) shares, stock, debentures, debenture stock, loan stock or bonds;
- (b) warrants entitling the holders to subscribe for any securities specified in sub-paragraph (a);
- (c) units in a fund;
- (d) life assurance policy;
- (e) other securities of any description.

##### **PART 2**

### **FINANCIAL INSTITUTIONS**

#### **2 Banking**

- (1) Acceptance of deposits and other repayable funds from the public. This includes private banking.
- (2) Sub-paragraph (1) includes deposit-taking business within the meaning given under Article 3(1), (2) and (3) of the [Banking Business \(Jersey\) Law 1991](#).



**3 Lending**

- (1) Lending.
- (2) Sub-paragraph (1) includes inter alia: consumer credit mortgage credit, factoring, with or without recourse; and finance of commercial transactions (including forfeiting).

**4 Financial leasing**

- (1) Financial Leasing.
- (2) Sub-paragraph (1) does not extend to financial leasing arrangements in relation to consumer products.

**5 Money or value transfer services**

- (1) Money or value transfer services. This does not apply to any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds.
- (2) Sub-paragraph (1) includes money service business within the meaning given under Article 2(9) (b), (c) and (d) of the [Financial Services \(Jersey\) Law 1998](#).

**6 Means of payment**

Issuing and managing means of payment (such as credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, and electronic money).

**7 Financial guarantees and commitments**

Financial guarantees and commitments.

**8 Trading**

- (1) Trading in –
  - (a) money market instruments (cheques, bills, certificates of deposit, derivatives etc.);
  - (b) foreign exchange;
  - (c) exchange, interest rate and index instruments;
  - (d) transferable securities; or
  - (e) futures and options (financial and commodity).
- (2) Sub-paragraph (1) includes investment business within the meaning given under Article 2(2)(a) and (b) of the [Financial Services \(Jersey\) Law 1998](#).
- (3) In this paragraph “trading” includes acting as a principal or agent.

**9 Fund and security services activities**

- (1) Participation in securities issues and the provision of financial services related to such issues.
- (2) Sub-paragraph (1) includes the following fund and security services activities –
  - (a) fund or issuer of securities; and
  - (b) service providers to a fund or issuer of securities, including acting as manager, administrator, designated service provider, registrar, investment manager, investment adviser, distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent, repurchase agent, trustee, custodian, depository, manager of a managed entity or a member of a partnership (other than a limited partner).
- (3) Sub-paragraph (1) includes investment business within the meaning given under Article 2(2) of the [Financial Services \(Jersey\) Law 1998](#).

**10 Advice on capital structure, industrial strategy etc.**

The business of providing advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings.

**11 Portfolio management**

- (1) Individual and collective portfolio management.
- (2) Sub-paragraph (1) includes –
  - (a) the business of providing portfolio management including the business of providing advice;
  - (b) investment business within the meaning given under the Article 2(2) of the [Financial Services \(Jersey\) Law 1998](#);
  - (c) fund and security services activities –
    - (i) fund or issuer of securities, and
    - (ii) service providers to a fund or issuer of securities, including acting as manager, administrator, designated service provider, registrar, investment manager, investment adviser, distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent, repurchase agent, trustee, custodian, depository, manager of a managed entity or a member of a partnership (other than a limited partner).

**12 Safe keeping and administration**

- (1) Safekeeping and administration of cash or liquid securities on behalf of other persons.

- (2) Sub-paragraph (1) includes the business of safekeeping and administration of securities in relation to funds, securities or other persons.

### **13 Safe custody services**

Safe custody services in relation to other persons.

### **14 Investing, administering or managing funds or money**

Investing, administering or managing funds or money on behalf of other persons where such activities are not otherwise listed in this Part.

### **15 Underwriting and placement of life assurance and insurance**

- (1) Underwriting and placement of life insurance and other investment related insurance. This applies both to insurance undertakings and to insurance intermediaries (agents and brokers).
- (2) Sub-paragraph (1) includes –
  - (a) long-term business within the meaning given under Article 1(1) of the [Insurance Business \(Jersey\) Law 1996](#); and
  - (b) investment business within the meaning given by Article 2(2) (a) and (b) of the [Financial Services \(Jersey\) Law 1998](#).

### **16 Money and currency**

- (1) Money and currency changing.
- (2) Sub-paragraph (1) includes money service business within the meaning under Article 2(9)(a) of the [Financial Services \(Jersey\) Law 1998](#) as a bureau de change.

### **17 Money broking**

- (1) Money broking to third parties.
- (2) Sub-paragraph (1) includes the business of providing the service of money broking to third parties.

## **PART 3**

### **DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

### **18 Casinos**

- (1) Casinos (including internet and ship-based casinos).
- (2) Sub-paragraph (1) includes the business of operating a casino.
- (3) For the purposes of this paragraph, a person operates a casino if, by way of business the person provides a service that –

- (a) is a gambling service, within the meaning of Article 2 of the [Gambling \(Jersey\) Law 2012](#); and
  - (b) consists of giving people an opportunity to participate in one or more casino games.
- (4) For the purposes of this paragraph –
- “casino” means an arrangement whereby people are given an opportunity to participate in one or more casino games;
- “casino game” means a game of chance –
- (a) that involves playing or staking against a bank (whether described as a “bank” and whether or not controlled or administered by a player); and
  - (b) in which the chances are not equally favourable to all participants.

## 19 Real estate agents

- (1) Real estate agents.
- (2) Sub-paragraph (1) includes the business of providing estate agency services for or on behalf of third parties concerning the buying or selling of –
  - (a) freehold (including flying freehold) or leasehold property (including commercial and agricultural property); or
  - (b) shares the ownership of which entitles the owner to occupy immovable property,whether the property is situated in Jersey or overseas.

## 20 High value dealers

- (1) Dealers in precious metals, precious stones and other goods.
- (2) Sub-paragraph (1) includes the business of providing services as a high value dealer.
- (3) For the purposes of this paragraph, a “high value dealer” is a person who, by way of business, trades in goods (including precious metals and precious stones) and receives in respect of any transaction (whether executed in a single operation, or in several operations which appear to be linked) payment of at least €15,000 (Euros) in total.
- (4) For the purposes of this paragraph –

“payment” means payment in or by means of –

  - (a) cash, including notes, coins, travellers’ cheques, and bearer negotiable instruments; and
  - (b) any virtual currency;

“virtual currency” means any currency which (whilst not itself being issued by, or legal tender in, any jurisdiction) –

  - (a) digitally represents value;
  - (b) is a unit of account;

- (c) functions as a medium of exchange; and
- (d) is capable of being digitally exchanged for money in any form.

## 21 Lawyers, etc.

- (1) Lawyers, notaries, other independent legal professions. This refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
- (2) Sub-paragraph (1) includes the business of providing services by an independent legal professional.
- (3) In this paragraph, independent legal professional” means a person (including a lawyer or a notary) who by way of business provides legal or notarial services to third parties when participating in financial, or immovable property, transactions concerning any of the following –
  - (a) the buying and selling of immovable property or business entities;
  - (b) the buying and selling of shares the ownership of which entitles the owner to occupy immovable property;
  - (c) the managing of client money, securities or other assets;
  - (d) the opening or management of bank, savings or securities accounts;
  - (e) the organization of contributions necessary for the creation, operation or management of companies; or
  - (f) the creation, operation or management of trusts, companies or similar structures.

## 22 Accountants

- (1) Accountants. This refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
- (2) Sub-paragraph (1) includes the business of providing any of the following –
  - (a) external accountancy services;
  - (b) advice about the tax affairs of another person;
  - (c) audit services;
  - (d) insolvency services;
  - (e) advice to third parties when participating in financial, or immovable property, transactions concerning any of the following –

- (i) the buying and selling of immovable property or business entities;
- (ii) the buying and selling of shares the ownership of which entitles the owner to occupy immovable property;
- (iii) the managing of client money, securities or other assets;
- (iv) the opening or management of bank, savings or securities accounts;
- (v) the organization of contributions necessary for the creation, operation or management of companies; or
- (vi) the creation, operation or management of trusts, companies or similar structures.

(3) In this paragraph –

“external accountancy services” means accountancy services provided to third parties and excludes services provided by accountants employed by public authorities or by undertakings which do not by way of business provide accountancy services to third parties;

“audit services” are audit services provided by way of business pursuant to any function under any enactment;

“insolvency services” are services provided by a person if, by way of business, that person accepts appointment as –

- (a) a liquidator under Chapter 4 of Part 21 of the [Companies \(Jersey\) Law 1991](#);
- (b) an insolvency manager appointed under Part 5 of the [Limited Liability Partnerships \(Jersey\) Law 2017](#) as that Law has effect in its application to insolvent limited liability partnerships under the Limited Liability Partnerships (Dissolution and Winding up) (Jersey) Regulations 2018; or
- (c) as agent of an official functionary appointed in the case of a remise de biens, cession, or désastre.

## 23 Trust and companies Service providers

(1) *Formation agent*

- (a) Acting as a formation agent of legal persons.
- (b) Sub-paragraph (1) includes –
  - (i) the business of providing services to or in respect of types of legal person or arrangement other than those described in Article 2(5)(a) and (b) of the [Financial Services \(Jersey\) Law 1998](#), in the course of which services are provided that are similar or equivalent to those described in Article 2(4) of that Law as if Article 2(4) referred to that type of legal person or arrangement, and



- (ii) trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of –
  - (A) company administration services,
  - (B) services to foundations, or
  - (C) services to partnerships,
 and in the course of providing those services, the person provides the service of acting as a company formation agent, a partnership formation agent or a foundation formation agent.
- (c) For the purposes of this sub-paragraph, a person acts as a company formation agent, a partnership formation agent or a foundation formation agent if the person arranges for the registration, formation or incorporation, or the sale, transfer or disposal, of companies, partnerships or foundations.
- (d) In this sub-paragraph, a reference to a company, partnership or foundation is a reference to a company, partnership or foundation wherever incorporated or otherwise established; and to any similar or equivalent structure or arrangement, regardless of its name.

(2) ***Director, secretary, partner, etc.***

- (a) Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons.
- (b) This includes a person who carries on trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carrying on the trust company carries on a business that involves the provision of company administration services; the provision of services to foundations; or the provision of services to partnerships and, in the course of providing those services, the person provides the service of –
  - (i) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of director or alternate director of a company,
  - (ii) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a partner of a partnership,
  - (iii) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a member of the council of a foundation, or
  - (iv) acting or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company or a limited liability partnership.
- (c) In sub-paragraph (2), a reference to a company, partnership or foundation is a reference to a company, partnership or foundation wherever incorporated or otherwise established; and to any similar or equivalent structure or arrangement, regardless of its name.

(3) ***Registered office, addresses, etc.***

- (a) Providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.
- (b) This includes a person who provides trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of company administration services; trustee or fiduciary services; services to foundations; or services to partnerships and, in the course of providing those services, the person provides –
  - (i) a registered office or business address for a company, a partnership or a foundation,
  - (ii) an accommodation, correspondence or administrative address for a company, a partnership or a foundation or for any other person.
- (c) In paragraph (1), a reference to a company, trust, partnership or foundation is a reference to –
  - (i) a company, trust, partnership or foundation wherever incorporated or otherwise established, and
  - (ii) any similar or equivalent structure or arrangement, regardless of its name.

(4) ***Trustee of an express trust or equivalent***

- (a) Acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement.
- (b) This includes a person who carries on trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of trustee or fiduciary services and, in the course of providing those services, the person provides the service of acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust.
- (c) In this paragraph, a reference to a trust is a reference to a trust wherever established and to any similar or equivalent structure or arrangement, regardless of its name.
- (d) In this paragraph “express trust” has the meaning given to that expression by Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#).

(5) ***Nominee shareholder***

- (a) Acting as (or arranging for another person to act as) a nominee shareholder for another person.
- (b) This includes trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of company

administration services, services to foundations or services to partnerships and, in the course of those services, the person provides the service of acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person.

- (c) In paragraph (1), a reference to a company, partnership or foundation is a reference to a company, partnership or foundation wherever incorporated or otherwise established; and to any similar or equivalent structure or arrangement, howsoever named.

## PART 4

### VIRTUAL ASSET SERVICE PROVIDER

#### 24 Virtual asset service provider

- (1) Virtual asset service provider.
- (2) Sub-paragraph (1) includes a person who carries on the business of conducting one or more of the following activities or operations for or on behalf of another natural or legal person –
  - (a) exchange between virtual assets and fiat currencies,
  - (b) exchange between one or more forms of virtual assets,
  - (c) transfer of virtual assets,
  - (d) safekeeping or administration of virtual assets or instruments enabling control over virtual asset,
  - (e) participation in and provision of financial services related to an issuer’s offer and or sale of a virtual asset.
- (3) In this paragraph “transfer”, in relation virtual assets, means to conduct a transaction on behalf of another natural or legal person that moves a virtual asset from one virtual asset address or account to another.

## PART 5

### EXPRESS TRUSTS

#### 25 Express trusts

- (1) Acting, **otherwise than by way of business**, as trustee of an express trust.
- (2) In this paragraph, “express trust” has the same meaning as is given to that expression by Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#)

**[SCHEDULE 2A**

(Article 36)

**EXEMPTIONS].”.****2 Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 amended**

Article 1 of Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 is amended as follows –

- (a) in paragraph (1), after the definition “pension supervisor” there is inserted –

““person” includes (in so far as they have legal personality), all companies, bodies corporate, foundations anstalt, partnerships or associations and other relevantly similar entities;”;

- (b) after paragraph (1) there is inserted –

“(1A) In this Law, a reference to a person carrying on a type of business includes a person who conducts operations or activities as a business by way of a legal arrangement, despite what it is called, which the person has arranged to conduct their business, including a trust, unit trust and partnership”.

**3 Citation and commencement**

This Law may be cited as the Proceeds of Crime (Miscellaneous Amendments) (Jersey) Law 202- and comes into force on a day to be specified by the States by Act.



**Appendix B: Scope exemptions now and future**

<b>Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook</b>					
Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
1	<b>(a) States,</b>	Banking Business (Jersey) Law 1991 Art. 8(2)(a) with 2(3)(b)	Deposit-taking	Yes	Specific exclusions to be determined by Regulation.
2	<b>(b) Central Bank of a Member State of EU,</b>	Banking Business (Jersey) Law 1991 Art. 8(2)(b) with 2(3)(b)	Deposit-taking	Yes	Specific exclusions to be determined by Regulation.
3	<b>(c) National Savings Bank of the UK</b>	Banking Business (Jersey) Law 1991 Art. 8(2)(c) with 2(3)(b)	Deposit-taking	Yes	Specific exclusions to be determined by Regulation.
4	<b>Underwriters known as Lloyd's</b>	Insurance Business (Jersey) Law 1996 Art. 5(5)(a)(i) (limited exemption)	Insurance	No	
5	<b>Trade Union or Employers Associations</b>	Insurance Business (Jersey) Law 1996 Art. 5(5)(a)(ii) (limited exemption)	Insurance	No	May be able to prove low risk once persons have been identified - activity is tightly controlled: <i>the insurance business carried on by the union or association is limited to the provision for its members of provident benefits or strike benefit</i> activity is not offered to the general public - connected persons
6	<b>Long Term exemption solely for individual and dependants (Class 1)</b>	Insurance Business (Jersey) Law 1996 Art. 5(5)(f) with Insurance Business (General Provisions) (Jersey) Order 1996 Art. 1(2) (limited exemption)	Insurance	No	Within FATF scope. May be able to prove low risk once persons have been identified - activity is tightly controlled: <i>any company incorporated in Jersey by or on behalf of an individual carrying on class 1 long term business solely for that individual and the individual's dependants</i> activity is not offered to the general public - connected persons
7	<b>certain non-Jersey domiciled companies issuing units</b>	Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994 Art. 1 A (unlimited exemption)	CIF	No	No specific future exemption, if activity caught then within scope of recast Schedule 2.
8	<b>Newspapers, broadcasting and information services</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 1 (unlimited exemption)	IB	n/a	Not within FATF scope and not within recast Schedule 2.

## Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
9	<b>Certain overseas distributors (IB)</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 3B (unlimited exemption)	IB	No	Introduce notification obligation and exempt from direct oversight if supervised by appropriate overseas authority.
10	<b>Company that is general partner or trustee of unregulated fund</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 3C (unlimited exemption)	IB	No	Supported fund operator undertaking IB activity GP/Trustee exemptions for unregulated funds will no longer apply to AML/CFT.
10	<b>Company that is general partner or trustee of unregulated fund</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 4, paragraph 21 (unlimited exemption)	FSB	No	Supported fund operator undertaking FSB activity GP/Trustee exemptions for unregulated funds will no longer apply to AML/CFT.
10	<b>Company that is general partner or trustee of unregulated fund</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 2, paragraph 18A (unlimited exemption)	TCB	No	Supported fund operator undertaking TCB activity GP/Trustee exemptions for unregulated funds will no longer apply to AML/CFT.
11	<b>Dealing as principal</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 4 (unlimited exemption)	IB	No	
12	<b>Employees' share schemes</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 9 (unlimited exemption)	IB	Partial	Services to employees will be excluded.
13	<b>Issuing of shares, debentures</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 10 (unlimited exemption)	IB	No	Securities issues within FATF definitions.
14	<b>Discretionary investment management by company directors</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 14 (unlimited exemption)	IB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
15	<b>Investment advice between directors</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 15 (unlimited exemption)	IB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
16	<b>Instruments creating or acknowledging indebtedness</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 7 (unlimited exemption)	IB	No	Securities issues within FATF definitions.

## Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
17	<b>Connected companies and joint enterprises</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraphs 8(1)(a), (1)(b), (2)(a), (2)(b), (3)(a)), (3)(b) (unlimited exemption)	IB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
18	<b>Investment advice given by protectors</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 16 (unlimited exemption)	IB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
19	<b>Special purpose vehicle - TCB providing services</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 2, paragraph 18 (unlimited exemption)	TCB	No	Supported operator SPV exemption will no longer apply to AML/CFT.
21	<b>Exemption for certain overseas persons</b>	Financial Services (Investment Business (Overseas Persons – Exemption)) (Jersey) Order 2001 (unlimited exemption)	IB	No	Introduce notification obligation and exempt from direct oversight if supervised by appropriate overseas authority.
22	<b>Special Purpose Investment Business - TCB/FSB providing services</b>	Financial Services (Investment Business (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001 (limited exemption)	IB	No	Supported operator SPV exemption will no longer apply to AML/CFT.
23	<b>Professional Investor Regulated Scheme - TCB/FSB providing services</b>	Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001 (limited exemption)	IB	No	Supported fund operator PIRs exemption will no longer apply to AML/CFT.
24	<b>Private trust company business</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 4 (limited exemption)	TCB	No	Within FATF definition of TCSP.
25	<b>Incidental providers of services</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 7 (limited exemption)	TCB	n/a	Not within FATF scope and not within recast Schedule 2.

## Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
26	<b>Address providers</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 8 (limited exemption)	TCB	No	Within FATF definition of TCSP.
27	<b>Connected company</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 11 (limited exemption)	TCB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
28	<b>Introducer</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1,, paragraph 12 (limited exemption)	TCB	n/a	Not within FATF scope and not within recast Schedule 2.
29	<b>Director</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 13 (limited exemption)	TCB	No	Within FATF definition of TCSP.
30	<b>Director – registered person</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 15 (unlimited exemption)	TCB	n/a	Recast Schedule 2 will not capture activity as not within FATF scope.
31	<b>Liquidators and trustees in bankruptcy of persons other than registered persons</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 16 (unlimited exemption)	TCB	No	
32	<b>Recruitment agents</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 18 (unlimited exemption)	TCB	n/a	Not within FATF scope and not within recast Schedule 2.



## Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
33	<b>Overseas persons</b>	Financial Services (Trust Company Business (Exemptions No. 2) (Jersey) Order 2000, Schedule, paragraph 1 (limited exemption)	TCB	No	Introduce notification obligation and exempt from direct oversight if supervised by appropriate overseas authority.
34	<b>Unit holding nominee company</b>	Financial Services (Trust Company Business (Exemptions No. 2) (Jersey) Order 2000, Schedule, paragraph 2 (limited exemption)	TCB	No	
35	<b>Electronic communications service providers</b>	Financial Services (Trust Company Business (Exemptions No. 2) (Jersey) Order 2000, Schedule, paragraph 3 (limited exemption)	TCB	n/a	Not within FATF scope and not within recast Schedule 2.
36	<b>Private protector company</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 1, paragraph 1 (limited exemption)	TCB	No	Within FATF definition of TCSP.
37	<b>General partner</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 1, paragraph 2 (limited exemption)	TCB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
38	<b>Investment company subsidiary</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 1, paragraph 4 (limited exemption)	TCB	Partial	Services to connected companies or within joint enterprises will normally be excluded.
39	<b>Connected persons</b>	Financial Services (Trust Company Business (Exemptions No. 4) (Jersey) Order 2001, Schedule, paragraph 1 (limited exemption)	TCB	Partial	Services to connected companies or within joint enterprises will normally be excluded.

## Appendix B - Based on exemptions listed in Part 4, section 1 of the AML/CFT Handbook

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
40	<b>Professional investor regulated scheme - TCB providing services</b>	Financial Services (Trust Company Business (Exemptions No. 5) (Jersey) Order 2001, Schedule, paragraph 1 (limited exemption)	TCB	No	Supported fund operator PIRs exemption will no longer apply to AML/CFT.
40	<b>Restricted funds - TCB providing services</b>	Financial Services (Trust Company Business (Exemptions No. 5) (Jersey) Order 2001, Schedule, paragraph 2 (limited exemption)	TCB	No	Supported fund operator to restricted funds exemption will no longer apply to AML/CFT.
41	<b>Exemption for certain bureaux de change and personal money service business</b>	Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007, Art. 3 (unlimited exemption)	MSB	No	

<b>Appendix B - legislative exemptions considered but which have no effect on AML scope</b>					
<b>Part 4 Section 1 ref</b>	<b>Exemption</b>	<b>Location</b>	<b>Pru/conduct regulatory activity</b>	<b>Future AML/CFT Exemption?</b>	<b>Notes</b>
	<b>Restriction of Scope</b>	Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000 (unlimited exemption)	CIF	n/a	Already within regime. Captured as FI activity moving forward Is not a CIF therefore caught as private fund
	<b>Certain overseas distributors (FSB)</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 4, paragraph 22 (unlimited exemption)	FSB	n/a	Already within regime.
	<b>Sale of company</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 11 (unlimited exemption)	IB	n/a	Already within regime.
17	<b>Connected companies and joint enterprises: Dealing as principal as trustee of connected company</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 8(1)(c) (unlimited exemption)	IB	n/a	Already within regime.
17	<b>Connected companies and joint enterprises Dealing as agent for another person as trustee and is director, officer, employee of connected company</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 8(2)(c) (unlimited exemption)	IB	n/a	Already within regime.
17	<b>Connected companies and joint enterprises Discretionary investment management where acting for another as Trustee and is director, officer, employee of company which is managing connected company</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 8(3)(c) (unlimited exemption)	IB	n/a	Already within regime.
23	<b>Professional Investor Regulated Scheme</b>	Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001 (limited exemption)	IB	n/a	Already within regime when not TCB or FSB supported.
21	<b>Exemption for certain overseas persons - conditions not complied with</b>	Financial Services (Investment Business (Overseas Persons – Exemption)) (Jersey) Order 2001 (limited exemption)	IB	n/a	Already within regime when conditions of exemption not complied with.
22	<b>Special Purpose Investment Business</b>	Financial Services (Investment Business (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001 (limited exemption)	IB	n/a	Already within regime when not TCB or FSB supported.

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Long-term insurance business by insurance companies</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 17 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Dealing as agent by professionals and non-investment businesses</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 5 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Defined Benefit Scheme</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 18 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Giving advice in the course of a non-investment business</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 6 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Dealing as bare trustee</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 12 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Executors and administrators, tuteurs and guardians</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 2 (unlimited exemption)	IB	n/a	Already within regime.
	<b>Investment advice given by trustees</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 13 (unlimited exemption)	IB	n/a	Already within regime.
40	<b>Professional investor regulated scheme</b>	Financial Services (Trust Company Business (Exemptions No. 5) (Jersey) Order 2001, Schedule, paragraph 1 (limited exemption)	TCB	n/a	Already within regime when not TCB supported.
40	<b>Restricted funds</b>	Financial Services (Trust Company Business (Exemptions No. 5) (Jersey) Order 2001, Schedule, paragraph 2 (limited exemption)	TCB	n/a	Already within regime when not TCB supported.

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Private appointer company</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 1, paragraph 1A (limited exemption)	TCB	n/a	Already within regime.
	<b>Private trust company business in respect of foundations</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 4A (limited exemption)	TCB	n/a	Already within regime.
19	<b>Special purpose vehicle</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 2, paragraph 18 (unlimited exemption)	TCB	n/a	Already within regime when not TCB supported.
	<b>Jersey Post Office</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 9 (limited exemption)	TCB	n/a	Already within regime.
	<b>Agent for the sale of trading companies and partnerships</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 1, paragraph 3 (limited exemption)	TCB	n/a	Already within regime.
	<b>Agent for the sale of trading companies and partnerships locally trading</b>	Financial Services (Trust Company Business (Exemptions No. 3) (Jersey) Order 2001, Schedule, Part 2, paragraph 5 (unlimited exemption)	TCB	n/a	Already within regime.
	<b>Global custodians</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1. paragraph 6 (limited exemption)	TCB	n/a	Already within regime.

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Guardians of a foundation</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 19 (unlimited exemption)	TCB	n/a	Already within regime.
	<b>Manager</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 5 (limited exemption)	TCB	n/a	Already within regime.
	<b>Managers of managed banks</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 10 (limited exemption)	TCB	n/a	Already within regime.
	<b>Tuteurs, delegates etc.</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 17 (unlimited exemption)	TCB	n/a	Already within regime.
	<b>Employee pension scheme trustees</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 1 (limited exemption)	TCB	n/a	Already within regime.
	<b>Employee share or debenture scheme trustees</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 2 (limited exemption)	TCB	n/a	Already within regime.
	<b>Executors and administrators</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 3 (limited exemption)	TCB	n/a	Already within regime.

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Liquidators and trustees in bankruptcy of registered persons</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 1, paragraph 13A (limited exemption)	TCB	n/a	Already within regime.
	<b>Community Savings &amp; Credit Limited</b>	Banking Business (Jersey) Law 1991 Art. 8(2)(d) and 2(3)(b) with Banking Business (General Provisions) (Jersey) Order 2002 Art. 8 and Schedule 1 paragraph 2	Deposit-taking	n/a	Already within regime. Currently a specified schedule 2 business and is a registered person. Captured as FI activity moving forward - <i>acceptance of deposits and other repayable funds from the public</i>
	<b>The Channel Islands Co-operative Society Limited</b>	Banking Business (Jersey) Law 1991 Art. 8(2)(d) and 2(3)(b) with Banking Business (General Provisions) (Jersey) Order 2002 Art. 8 and Schedule 1 paragraph 1	Deposit-taking	n/a	Already within regime. Holds an MSB registration. Will also be captured as FI Activity moving forward - <i>acceptance of deposits and other repayable funds from the public</i>
	<b>Limited exemption for persons regulated under Banking Business Law</b>	Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007 Art. 5 (limited exemption)	MSB	n/a	Already within regime Currently a regulated person by definition (Art. 1 Proceeds of Crime (Supervisory Bodies (Jersey) Law 2008)
	<b>Limited exemption if turnover less than specified amount</b>	Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007 Art. 4 (limited exemption)	MSB	n/a	Already within regime Currently a regulated person by definition (Art. 1 Proceeds of Crime (Supervisory Bodies (Jersey) Law 2008)
	<b>Experienced personal adviser</b>	Financial Services (Trust Company Business (Exemptions No. 2) (Jersey) Order 2000, Schedule, paragraph 4 (limited exemption)	TCB	n/a	Already within regime Currently a regulated person by definition (Art. 1 Proceeds of Crime (Supervisory Bodies (Jersey) Law 2008)
<b>Exemption from registering for one activity conditional on holding another registration</b>					
	<b>Exemption from application of AIF Regulations to certain AIFs</b>	Alternative Investment Funds (Jersey) Order 2013 Art. 2	AIF Regulations	n/a	No requirement to comply with AIF Regulations must be an FSB, or CIF permit folder (Recognized Fund or Recognized Fund Functionary)

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>AIF Services Business</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 5, paragraph 23 (unlimited exemption)	AIF services business	n/a	No AIF services business registration required - conditional on being registered under another enactment
	<b>UK insurance business</b>	Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994 Art. 1 (a)	CIF	n/a	No specific future exemption, if activity caught then within scope of recast Schedule 2.
	<b>EU insurance business</b>	Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994 Art. 1(b)	CIF	n/a	Unlikely to meet definition under recast Schedule 2.
	<b>Jersey Insurance business that has permit under Article 7 for business in Part 1 Schedule 1 of IBL.</b>	Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994 Art. 1(c)	CIF	n/a	In certain circumstances, no requirement to hold a CIF permit must hold an insurance permit.
	<b>Friendly Society</b>	Collective Investment Funds (Permits) (Exemptions) (Jersey) Order 1994 Art. 1 (d)	CIF	n/a	Unlikely to meet definition under recast Schedule 2.
	<b>Insurance Business</b>	Financial Services (Investment Business (Insurance Business – Exemption)) (Jersey) Order 2001	IB	n/a	No IB registration required must hold an insurance permit
	<b>Certain persons regulated under the Collective Investment Funds (Jersey) Law 1988</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 3 (unlimited exemption)	IB	n/a	No IB registration required must hold a CIF permit or certificate
	<b>Persons registered to carry on AIF services business - IB</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 3A1 (unlimited exemption)	IB	n/a	No IB registration required must have AIF services business registration
	<b>Persons registered to carry on fund services business - IB</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 1, paragraph 3A (unlimited exemption)	IB	n/a	No IB registration required must have FSB registration
	<b>Qualifying Segregated Managed Accounts</b>	Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014 (limited exemption)	IB	n/a	No IB registration required must have an FSB registration



## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Insurance Business Exemption- for Banks</b>	Insurance Business (Jersey) Law 1996 Art. 5(5)(b) with Insurance Business (General Provisions) (Jersey) Order 1996	Insurance	n/a	No insurance permit required must be a deposit-taker
	<b>Certain managers of managed entity</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 2, paragraph 18B (unlimited exemption)	TCB	n/a	No TCB registration required must be registered as an FSB (class: manager of managed entity)
	<b>Certain persons engaged in banking, insurance and other investment businesses</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 14 (unlimited exemption)	TCB	n/a	No TCB registration required must hold one of deposit-taking registration, insurance permit, investment business registration
	<b>Certain persons in relation to collective investment funds</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 14A (unlimited exemption)	TCB	n/a	No TCB registration required must hold a CIF permit or certificate
	<b>Persons registered to carry on AIF services business - TCB</b>	Financial Services (Jersey) Law 1998, Schedule 2, Part 2, paragraph 18C (unlimited exemption)	TCB	n/a	No TCB registration required must have AIF services business registration
	<b>Persons registered to carry on fund services business under the Law - TCB</b>	Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, Schedule, Part 2, paragraph 14B (unlimited exemption)	TCB	n/a	No TCB registration required must have FSB registration
<b>Deposit-taking transaction exemptions - predates current Schedule2</b>					
	<b>Advocates and solicitors</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 5 of Banking Business (General Provisions) (Jersey) Order 2002	Deposit-taking	n/a	Transaction based exemption - person is not a deposit-taker but is caught as a lawyer or through <i>otherwise investing, administering or managing funds or money on behalf of third parties.</i> .

## Appendix B - legislative exemptions considered but which have no effect on AML scope

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Investment dealers</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 6 of Banking Business GPO 2002	Deposit-taking	n/a	Transaction based exemption - person is not a deposit-taker but may be caught an investment business or through <i>otherwise investing, administering or managing funds or money on behalf of third parties</i> .
	<b>Charities</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 3 of Banking Business GPO 2002	Deposit-taking	n/a	Transaction based exemption - person is not a deposit-taker. Charities will be either a registered NPO or regulated NPO and, going forward, some will be subject to a risk-based regulation for TF purposes.
	<b>Trustees</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 7(a) of Banking Business GPO 2002	Deposit-taking	n/a	Transaction based exemption - person is not a deposit-taker. <i>Acting, otherwise than by way of business, as trustee of an express trust</i> is a Schedule 2 activity - no registration or notification at the moment
	<b>Trustees - TCB regulated</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 7(b) of Banking Business GPO 2002	Deposit-taking	n/a	Transaction based exemption - person is not a deposit-taker. If acting as a trustee by way of business the person is required to register under the TCB regime.

<b>Appendix B - AML exemptions only</b>				
<b>Part 4 Section 1 ref</b>	<b>Exemption</b>	<b>Location</b>	<b>Future AML/CFT Exemption?</b>	<b>Notes</b>
	<b>POCL: Other services: Connected Company</b>	Proceeds of Crime (Jersey) Law 1999, Schedule 2, Part B, paragraph 7(2)(b)	Partial	Services to connected companies or within joint enterprises will normally be excluded.
	<b>Persons carrying on Schedule 2 activity provided with a service by a registered TCB or registered FSB</b>	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 Schedule, Item 1 and Item 7	No	Standards require entity carrying on a financial institution, DNFBP or VASP activity and holding a customer relationship to have AML/CFT responsibility.
	<b>POCL: Express Trust</b>	Proceeds of Crime (Jersey) Law 1999, Schedule 2, Part B, paragraph 10	?	Further work in 2022 with respect to Trusts.
	<b>VCE Turnover exemption</b>	Proceeds of Crime (Supervisory Bodies) (Virtual Currency Exchange Business) (Exemption) (Jersey) Order 2016 (limited exemption)	No	Further work in 2022 on VASP regime.
	<b>POCL: Other services: Property Management services</b>	Proceeds of Crime (Jersey) Law 1999, Schedule 2, Part B, paragraph 7(2)(a)	No	For local share transfer companies managed and controlled solely by owners this would remain exempt, but would capture agencies providing such services.
	<b>VCE turnover exemption - regulated business</b>	Proceeds of Crime (Supervisory Bodies) (Virtual Currency Exchange Business) (Exemption) (Jersey) Order 2016	No	Already within regime Currently no requirement to register but notification is required. Exemption Order limits exemption to registration, parts 1, 2, 5 and 6 of the Supervisory Bodies Law apply to these persons.

## Appendix B - legislative exemptions with no legal effect

Part 4 Section 1 ref	Exemption	Location	Pru/conduct regulatory activity	Future AML/CFT Exemption?	Notes
	<b>Person providing service in relation to functionary of professional investor regulated scheme</b>	Financial Services (Trust Company Business (Exemptions No. 6) (Jersey) Order 2001, Schedule	TCB	No	Exemption no longer has effect Transitional exemption for TCB regime
	<b>Industrial and Provident Societies</b>	Banking Business (Jersey) Law 1991 Art. 8(3) and 2(3)(g) with Art. 4 of Banking Business GPO 2002	Deposit-taking	No	Exemption no longer has effect Transitional exemption for TCB regime
	<b>Testamentary trustee</b>	Financial Services (Trust Company Business (Exemptions No. 7) (Jersey) Order 2001, Schedule, paragraph 1	TCB	No	Exemption no longer has effect Transitional exemption for TCB regime
	<b>Trustee of shares in property holding company</b>	Financial Services (Trust Company Business (Exemptions No. 7) (Jersey) Order 2001, Schedule paragraph 2	TCB	No	Exemption no longer has effect Transitional exemption for TCB regime

## **Appendix C: List of Representative Bodies**

- › Channel Islands Wealth Management Association
- › Chartered Institute for Securities & Investment, Jersey branch
- › Institute of Chartered Secretaries and Administrators, Jersey branch
- › Institute of Directors, Jersey branch
- › Jersey Association of Trust Companies
- › Jersey Bankers Association
- › Jersey Chamber of Commerce and Industry Incorporated
- › Jersey Compliance Officers Association
- › Jersey Estate Agents Association
- › Jersey Funds Association
- › Jersey Society of Chartered and Certified Accountants
- › Insurance Institute of Jersey (Chartered Insurance Institute)
- › Law Society of Jersey
- › Society of Trust and Estates Practitioners, Jersey branch