



Consultation Response: Access to information on Jersey's Central Register of Companies and Legal Persons

Background

1. Following a [consultation](#) in October 2022 on the policy position, the Government of Jersey published a consultation paper in April 2024 seeking feedback on the draft legislation which will enable access to Jersey's central register of beneficial ownership and control for obliged entities, this being persons obliged to conduct customer due diligence ("CDD") in accordance with the [Money Laundering \(Jersey\) Order 2008](#) (the "MLO"). The draft legislation (the "Amendment Law") is an amendment to the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 (the "DPI Law"). This paper summarises the feedback received.
2. The consultation closed on 7 June 2024. The Government received 14 direct responses to the consultation paper. A response from Jersey Finance Limited ("JFL") was also submitted, containing comments from a further four respondents.
3. Since then, Government has considered all the feedback received as part of the finalisation of the legislation. In doing so Government has engaged through a closed session on the 19 June with industry representatives to discuss responses received and consider necessary changes. The responses to the consultation are summarised below and Government has stated its position.
4. Further questions or comments relating to this Consultation Response and Policy Paper may be directed by email to Economy@gov.je marking it for the attention of Thomas Wright.
5. In line with the positions outlined in this paper, the updated Amendment Law was lodged au Greffe on the 30 July 2024 by the Minister for External Relations.

Feedback and responses

6. The consultation received healthy engagement from industry, expressing feedback both on broader policy direction (legitimate interest access), systems development and the proposed legislation. It should be noted that, whilst all items are considered in so far as their relevance for the drafting of the legislation, this response paper will focus primarily on the feedback received on the draft Amendment Law as per the request of the consultation. Matters relating to future policy development will be addressed through future engagement processes, and matters relating to systems development will be engaged directly by the Jersey Financial Services Commission in due course and before the end of 2024.
7. It is highlighted that in the draft lodged Amendment Law, the new Articles, previously 11A in the draft Amendment Law consulted, will be inserted after Article 8 of (“DPI Law”), with interpretations provided in Article 8A and provision of access provided in Article 8B.

Article 11A(1) Disclosure of beneficial owner information – Amended Article 8B(1) with interpretation in Article 8A

8. The draft Amendment Law consulted on provided a new Article 11A of the DPI Law. Responses received related primarily to paragraphs (1) and (5), extracted below, as well as paragraph (2), discussed later in this response, which is now provided in a separate Article 8B.

Paragraphs (1) and (5) of Article 11A of the draft Amendment Law

(1) The Commission may, on the request of a relevant person, disclose to that person beneficial owner information kept in the register in relation to an entity if the disclosure of the beneficial owner information is for the purpose of assisting the relevant person in the exercise of their functions under Part 3 of the Money Laundering (Jersey) Order 2008 in relation to that entity

(5) In this Article, “relevant person” means a person carrying on a financial services business in or from within Jersey

9. Respondents to the consultation noted that the definition of relevant person did not capture all persons who are subject to CDD requirements under the MLO and recommended the definition should be amended to fully deliver on the policy objectives of providing access to persons obliged to perform CDD. Other respondents suggested that the definition of relevant persons could be aligned to the definition of registered person under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, such that only persons deemed fully regulated would be provided with access. A further suggestion was that access to beneficial ownership information should be limited to just Key Persons within the relevant person.
10. The feedback provided has been carefully considered by Government, with a view to delivering on our policy objectives as well as establishing a basis for delivering greater value from such access by industry. Government has therefore aligned the revised definition of “relevant person” in Article 8A with the full definition of relevant person within the MLO, thus providing access for all persons obliged to perform CDD under Jersey Law. Restriction to key persons through the

legislation was considered impractical and not aligned with the current means by which relevant person may fulfil their obligations under the MLO.

11. Respondents also identified that in certain circumstances relevant persons will utilise the support of third-party organisations, such as Anti-Money Laundering Service Providers or managers of managed entities, to support the fulfilment of their CDD obligations under the MLO. The current provision would not allow for these third parties to access such information to support the performance of CDD for the relevant persons. Government recognises here the importance of harmonising access with the means in which relevant persons currently fulfil their obligations, as such the Amendment Law lodged has been amended to include access for such persons who are defined in Article 8A as a “representative” in relation to a relevant person.

Article 11A(2) – Amended Article 8B

Draft Article 11A(2) of the Amendment Law

- (2) A relevant person must not knowingly or recklessly –*
- (a) obtain beneficial owner information kept in the register by providing false or misleading information to the Commission;*
 - (b) disclose beneficial owner information obtained under this Article to another person;*
 - (c) use beneficial owner information obtained under this Article in relation to an entity for any purpose other than the exercise of their functions under Part 3 of the Money Laundering (Jersey) Order 2008 in relation to that entity*

The penalty for breach of draft Article 11A(2) was inserted by amending Article 16(1) of the DPI Law.

Article 16 (punishment of offences) amended

In Article 16(1), after sub-paragraph (c) there is inserted –

“(ca) Article 11A(2), is [a fine and 2 years’ imprisonment];”.

12. Numerous respondents identified that the application of the prohibitions laid out in paragraph 2 to just relevant persons gave it very limited effect, failing to prohibit instances where a person who was not themselves a relevant person misused or wrongfully disclosed information obtained under this provision. Such misuse of information by other persons is intended to be prohibited and Government has therefore widened this provision in Article 8B of the draft lodged Amendment Law to provide a broader application.
13. Respondents to the consultation provided differing views on the penalties attached to the offences created in the new provisions in the draft Amendment Law. Some suggested they were too harsh and may deter persons from engaging with such information, whilst others suggested the penalties were not in line with existing offences within the DPI Law. Government has reviewed the penalties and concluded that they maintain consistency with the existing penalties in the DPI Law, whilst the penalty for the offence in Article 8B (5) is consistent with a similar offence and penalty in the Sanctions and Asset-Freezing (Jersey) Law 2019.

14. It should be noted that since the consultation and through ongoing drafting reviews, it was identified that Article 11A (2)(a) was effectively achieved through the existing Article 14 of the DPI Law, as such the additional provision in the amendment has been removed.
15. The amended provisions of Article 11A(2) are now provided within Article 8B of the draft lodged Amendment Law.

Legitimate disclosure of information to other parties

16. The draft Amendment Law consulted upon provided for a ban on the onward disclosure of information per Article 11A (2)(b). Respondents to the consultation identified that this would restrict the disclosure of this information, in comparison with information they already obtain for CDD purposes, with what are already recognised as legitimate parties. Such parties would include local competent authorities, persons who have placed reliance on the relevant persons and persons within the same financial group who are subject to a coordinated group CDD process.
17. Government recognises the importance of relevant persons being able to utilise the information obtained in accordance with existing accepted practices and has therefore amended this provision to allow for disclosures to local competent authorities as well as for purposes already allowable under Jersey law.
18. One respondent queried whether specific provision was necessary to ensure that information was only disclosed with persons registered under Part 3 of the Data Protection Authority (Jersey) Law 2018 (“DPA Law”). Government has considered this proposal, however, recognises that it would be unnecessarily burdensome. Relevant persons will be processing and controlling data such that they would be typically required to register under the Data Protection Law and subject to the provisions of the Data Protection (Jersey) Law 2018 (“Data Protection Law”). Onward disclosure would then be subject to the provisions of the Data Protection Law.
19. Specific provisions for disclosure of information are now provided in Article 8B(2) and (3) of the draft lodged Amendment Law.

Application to the commission to not make information accessible

20. The draft Amendment Law provided for the development of regulations equivalent to Regulation 4 of the Financial Services (Disclosure and Provision of Information) (Jersey) Regulations 2020 through the provision –

Article 20 (Regulations) amended

In Article 20(1), after sub-paragraph (c) there is inserted –

“(ca) provide for the making of applications by an entity to the Commission to prevent beneficial owner information from being disclosed under Article 11A;”.

21. Following further consideration, it is recognised that this is inconsistent with the basis upon which information is being provided, to support the performance of CDD. Currently the CDD process requires relevant persons to identify and verify their customers such that providing a

means of not disclosing information to a relevant person would undermine the value of this provision.

Other matters

22. Jersey has consistently protected the privacy of its data subjects, as such respondents identified the continued need to balance data provision with provisions which protect the information from unintended use. Some respondents provided suggestions regarding how the system could operate with notifications to the entity and some have suggested the implementation of a consent-based process.
23. With due consideration, whilst also recognising that the specifics of the system will be discussed by the JFSC with industry, such proposals would not be practical and Government notes that proportionate protections will be achieved through the limitations of purpose, which align to existing lawful basis for relevant persons to access such information, and the provision for offences to deter non-permitted use. This matter was addressed closely with the closed industry group on the 19th June highlighting potential improvements to the scheme, the inclusion of these prohibitions within the JFSC civil penalties regime and also the establishment of necessary powers for the JFSC to query the usage and disclosure of information by relevant persons. Parties to this engagement expressed satisfaction that the addition of such provisions would provide reasonable protection.
24. Government is receptive to these suggestions and has amended the proposed law to ensure that the JFSC has the necessary powers to query the use of information by persons requesting it. This power is provided in a new provision, Article 8C of the draft lodged Amendment Law. Furthermore, Government will work with the JFSC to consider how the prohibitions in this proposition can be brought within the scope of the existing civil penalties regime using the power to make an Order provided for in Article 21A(3) of the Financial Services Commission (Jersey) Law 1998.

Conclusion

25. Government would like to take this opportunity to thank all consultation respondents for their feedback and continued engagement. Government has made the necessary amendments to the legislation and has subsequently lodged this on the 30 July with the intention of bringing this law into force prior to the end of 2024.