

September 2023

Bailiwick of Jersey

# Update on the National Risk Assessment of Money Laundering

## Contents

Foreword .....	3
Executive Summary .....	4
1    Introduction.....	5
2    Jersey Risk Assessments .....	7
Part A – Overview, including update on 2020 ML NRA recommended actions .....	11
3    Economic and Geopolitical Position .....	11
4    Legal, Supervisory and Law Enforcement Framework .....	19
5    2020 ML NRA Residual Risk and Recommended Actions .....	28
Part B – National ML risk .....	58
6    National ML Threat.....	58
7    National ML Vulnerabilities .....	78
Part C – Sectoral ML Risk .....	98
8    Overview.....	98
9    TCSP Sector .....	100
10   Securities Sector – Funds.....	114
11   Banking Sector.....	129
12   Legal Sector .....	142
Appendices .....	153
Appendix 1: Introduction to Jersey .....	154
Appendix 2: Glossary.....	155

## Foreword

Jersey published its first comprehensive National Risk Assessment of Money Laundering in 2020 (the 2020 ML NRA), which determined the threats faced by Jersey on both a national basis as well as for individual sectors of our finance industry.

The 2020 ML NRA identified areas where additional action was required for Jersey to counter potential risks satisfactorily and included recommendations to better mitigate our money laundering risks going forward. We cannot counter these threats unless we have a clear picture of what they are, and that picture changes over time. This is why we now have an established programme of National Risk Assessments, that build a comprehensive picture across the whole industry.

The 2023 ML NRA report builds on the 2020 ML NRA and summarises the actions taken since 2020 and reassesses the threats faced by Jersey, as well as taking a deeper and more detailed look at four of our most important sectors: banking, funds, trust and company service providers, and the legal sector. The analysis shows that across the board, as a jurisdiction, we are taking steps to reduce our vulnerability and building systems that combat financial crime effectively.

It is evident that a significant amount of work has been undertaken across various agencies, including the Jersey Financial Services Commission, the Law Officers' Department, the States of Jersey Police, the Financial Intelligence Unit Jersey, the Government of Jersey as well as our local finance industry, to address the recommendations set out in the 2020 ML NRA. It is encouraging to see that Jersey's anti-money laundering controls have been strengthened since 2020. This can only be done effectively if Government, competent authorities and industry work together for a common end. The evidence of the 2023 ML NRA refresh is that this is an accurate reflection of what has taken place in recent years.

I thank everyone involved in the work which has led to the publication of this report, and for their ongoing commitment both to address the recommended actions identified and generally to protect our jurisdiction from this ongoing risk.

Deputy Elaine Miller  
Assistant Chief Minister with responsibility  
for Financial Services

## Executive Summary

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

Jersey is strongly committed to tackling money laundering (“ML”). It is in Jersey’s economic interests to be, and be seen to be, a place where legitimate business is done. A reputation tainted is hard to regain and deters legitimate business.

Tackling ML is one of the highest priorities for Jersey and is clearly and consistently stated in its national strategies. It has consistently adopted relevant international standards and sought to implement these, as well as working in conjunction with other international finance centres and the UK, a key financial services partner.

As part of its work to understand its ML risk, Jersey has undertaken a programme of national risk assessments (“NRAs”) as well as publishing its 2022 National Strategy<sup>1</sup> and its 2022 Risk Appetite Statement<sup>2</sup>. After publication of its first report on the risk of its financial services industry being used to facilitate ML (the 2020 ML NRA) it has published a suite of NRAs. These demonstrate its mature and reflective approach to building comprehensive risk understanding which continues to evolve.

The 2020 ML NRA considered national and sectoral ML risks. It determined ten residual risks which could be mitigated through completion of 22 recommended actions. Significant work has been completed to address the residual risks through the actions recommended.

Jersey continues to utilise the World Bank Methodology as the base for its risk assessment work and has recently, through collaborative working between the public and private sectors, refreshed its understanding of the ML risk in six areas: national threat, national vulnerability, banking, trust and company service providers, the funds sector and the legal sector.

Overall, substantial progress has been made in all areas considered.

- Of the 10 residual risks two have been fully addressed, six largely addressed; and two partly addressed.
- The national threat position remains medium-high and predominately international rather than domestic, with the majority of funds generated from predicate offences committed outside the jurisdiction. This position is now supported by a more developed approach to determining which are the higher risk jurisdictions.
- Due to the work undertaken over the past three years, the national vulnerability position is now a solid medium compared to borderline medium-high in 2020.
- The risk position of all four sectors remains unchanged, although there have been amendments to some inherent and control vulnerabilities; none have been significant enough to change the overall risk position.
- All those amendments in addressing vulnerabilities have strengthened our ability to combat ML.

Following this refresh, the 2020 residual risks and recommended actions have been refined to reflect the current ML risk position. Where appropriate, the recommended actions from this report will be added to the National Action Plan which forms part of the National Strategy and reported on regularly through the Government’s governance structure.

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<sup>1</sup> [National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction](#)

<sup>2</sup> [National Statement on Financial Services and Financial Crime: Activities, Risk Appetite and Mitigation](#)

## 1 Introduction

### 1.1 Why does a country need a national risk assessment?

1.1.1 The Financial Action Task Force (“FATF”) Recommendations call on countries to identify, assess and understand the money laundering and terrorist financing risks for the country, and take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively.

1.1.2 A country’s understanding of risk is an essential foundation of its regulatory framework and should be used to allocate resources efficiently.

### 1.2 Objectives of the NRA Refresh

1.2.1 The NRA refresh’s overall objectives are to:

- a. Update on the residual risks and recommended actions from the September 2020 Money Laundering risk assessment (“2020 ML NRA”) and recommend further actions.
- b. Review the ML threats and understand those threats in terms of the type of predicate offence, origin (domestic or international) and review the national vulnerability position along with four specific industry sectors.
- c. Identify whether Jersey’s overall risk to ML has changed since publication of the 2020 ML NRA.

1.2.2 As this is the first ML refresh, it builds on the 2020 ML NRA. It does not seek to unnecessarily duplicate the comprehensive work which supports the initial NRA, and the reader is asked to refer to the 2020 ML NRA alongside this document.

### 1.3 Data Used

1.3.1 Since completing the initial ML NRA using data from 2017 and 2018, the public sector (competent authorities) and the private sector (industry) have continued to collect, collate and analyse risk data. The JFSC has collected Supervisory Risk Data since 2017, and this report considers data from 2019 to 2022.

1.3.2 In addition to the JFSC Supervisory Risk Data, this report uses data from other competent authorities including: the Financial Intelligence Unit, Jersey (“FIU”); Law Officers Department (“LOD”); Economic Crimes and Confiscation Unit (“ECCU”); Government of Jersey Economy Department; Jersey Finance Limited (“JFL”); Joint Financial Crimes Unit (“JFCU”); States of Jersey Police (“SoJP”) and Jersey Customs and Immigration Service (“JCIS”).

1.3.3 Using data to understand risk is a method that has developed during this period and the analysis is increasingly more thorough. Collecting the same data over several years allows us to consider trends and better determine if risks are increasing or decreasing.

## 1.4 Organisation of the Report

1.4.1 The report is structured into three parts.

Part A: Overview, including update on 2020 ML NRA recommended actions

Part B: National ML risks

Part C: Sectoral ML risks

1.4.2 Part A provides an overview of:

- a. Jersey's economic and geopolitical position
- b. Legal, supervisory and law enforcement framework
- c. 2020 ML NRA residual risk and recommended actions

1.4.3 Part B considers the current national ML threat and national ML vulnerability position, with reference to the World Bank Methodology.

1.4.4 Part C considers the risk position of four key industry sectors. Whilst the same high-level methodology has been used throughout, the reviews are not identical as they are tailored for each sector (see section 2 for further explanation). The four sectors considered are:

- a. Trust and Company Service Providers
- b. Securities Sector – Funds
- c. Banking
- d. Legal

## 1.5 Acknowledgements

1.5.1 The completion of this national refresh of the ML NRA has involved extensive input from industry, industry bodies, and competent authorities. Their support and contributions made it possible to refresh this NRA. Our appreciation is also extended to the Centre for Financial Crime and Security Studies at the Royal United Services Institute ("RUSI") for their support with the National Threat Workshop.

## 2 Jersey Risk Assessments

### 2.1 Introduction

- 2.1.1 Jersey has a strategy to regularly review and update its understanding of financial crime risks. In 2017 the decision was taken to prepare National Risk Assessments (NRAs) with the first published in 2020. This and subsequent NRAs offer guidance to the private sector and competent authorities which is up to date, includes emerging risks and changing risk profiles. Risk understanding is not static and, since publication of the 2020 ML NRA, significant work has been undertaken to better understand Jersey’s exposure to ML and TF. This work is evidenced by the suite of NRAs published since 2020 – section 2.4.
- 2.1.2 Action 9.1.3 of the [National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction](#) published in September 2022 (the “2022 National Strategy”) refers to drafting and updating NRAs. The Government of Jersey is to lead the work to refresh the assessment of risk through consideration of national threat, national vulnerability, as well as for industry sectors. These include deposit-taking entities (banks), funds, legal and trust and company service providers (“TCSPs”). Publication of this report is in line with that action.
- 2.1.3 Jersey continues to base its risk assessment work on the World Bank Methodology, so for this document “risk” is defined as the product of ML threat and vulnerability. Figure 2.1 provides a pictorial representation of how this concept is fundamental to the World Bank Methodology.

Figure 2.1 Pictorial representation of the World Bank Methodology



- 2.1.4 ML threats and vulnerabilities stem from factors such as:
- a. Jersey's geographical position.
  - b. The regulatory framework which sets legal and regulatory obligations and provides tools for the enforcement of the obligations.
  - c. The variety of industry sectors operating in and from within Jersey.
  - d. The nature of the delivery channels used by industry to deliver their products and services.
  - e. The profile of customers accessing the products and services offered by industry.
  - f. The level of cross-border activity undertaken.
  - g. The level of knowledge, and understanding of, ML risks by both the competent authorities and industry.
- 2.1.5 Work on refreshing the 2020 ML NRA started in late summer 2022. There has been extensive outreach to the competent authorities and industry and the work builds on the previous ML risk assessment; this report should be read in conjunction with the 2020 ML NRA.
- 2.1.6 Jersey is to be assessed by MONEYVAL before the end of 2023. To avoid duplication of effort, and ensure consistency, the risk assessment work has drawn upon the comprehensive work undertaken to submit technical and effectiveness documentation to MONEYVAL.

## 2.2 National Risk Methodology

### National Threat

- 2.2.1 The national threat faced by Jersey has been updated, with the support of the competent authorities and RUSI<sup>3</sup>. Details on the work undertaken and the findings are presented in section 6.
- 2.2.2 Whilst the methodology to consider threat has been developed, the focus remains the same four areas as set out in the 2020 ML NRA: (i) foreign predicate offences; (ii) cross-border threat; (iii) domestic predicate offences; and (iv) typologies.

### National Vulnerability

- 2.2.3 Given the extensive work completed during the period 2019 to 2023 to update the regulatory framework (see section 4) it was decided to consider all 22 national vulnerabilities of the World Bank Methodology. This work has been accomplished through meetings and interviews with competent authority experts.
- 2.2.4 In some instances amendments to the regulatory framework have improved the control environment to the extent that it is considered appropriate to increase the national vulnerability control rating.
- 2.2.5 A refreshed national vulnerability summary is available in section 7.3.

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<sup>3</sup> Specifically the Centre for Financial Crime and Security Studies at the Royal United Services Institute.



## 2.3 Sectoral Risk Methodology

- 2.3.1 As noted in paragraph 2.1.2 four industry sectors have been included in this refresh. These sectors represent the two financial institutions (“FIs”) and designated non-financial businesses and professions (“DNFBPs”) reported as having the highest ML risk in the 2020 ML NRA.
- 2.3.2 For three sectors (TCSP, banking and legal) working groups were established comprising representatives from industry, the JFSC and the Government. The working groups also had input from the FIU, Revenue Jersey and the LOD.
- 2.3.3 The objective of the working groups was to refresh the ML risks, not to reconsider all threats and vulnerabilities. Consequently, the working groups focused on whether the ML risks have changed because of any alteration to the overall profile of the sector. These changes may have adversely impacted on the: (i) threats to the sector, (ii) inherent vulnerabilities posed by the products and services offered, or (iii) the strength of controls applied.
- 2.3.4 The work supporting section 10 – funds sector<sup>4</sup> – is different to that supporting the other sectors. Whilst public funds have the greatest number of investors and the highest value of assets under management, the Jersey Private Fund (“JPF”) is the growth product. Recognising this, a focused piece of risk work was done, looking at two of the core inherent risks of JPFs. This risk work was undertaken in 2021/2022 and resulted in finalisation of a report in Q3 2022. The findings were communicated to industry through a targeted outreach and engagement programme. The work done for that document informs this 2023 ML NRA refresh.
- 2.3.5 The JFSC published a thematic report regarding the controls associated with the JPF in 2020. In June 2023 the JFSC started a repeat examination of this thematic work which was finalised at the end of August 2023. A feedback report will be published later in 2023. As the vulnerability of a sector is a combination of inherent and control vulnerabilities it is important that the results of this work are factored into the refresh. Consequently, the JFSC has provided early indications of the results to inform the controls element of the funds sector refresh (section 10).

## 2.4 Suite of NRAs

- 2.4.1 Consideration of risk is an ongoing exercise. This report is part of a suite of risk documents published in the past three years which are available from gov.je<sup>5</sup>.

### 2020 ML NRA – September 2020

- a. Twelve sectoral sections plus national risk
- b. Ten residual risks and 22 recommended actions
- c. Risk of ML abuse assessed as medium-high



<sup>4</sup> For risk assessment work the funds sector is considered through the fund products: (i) public funds, (ii) Jersey Private Funds and (iii) unregulated funds.

<sup>5</sup> [Financial crime strategy, appetite and national risk assessments \(gov.je\)](https://gov.je/financial-crime-strategy-appetite-and-national-risk-assessments)

### 2021 TF NRA – April 2021

- a. Recommends assessment of NPO sector
- b. Risk of TF abuse of assessed as medium-low

### 2022 Non-Profit Organisations (“NPO”) NRA – April 2022

- a. 90% of NPOs in low or standard risk areas
- b. Recommended a dedicated TF supervisor
- c. Risk of abuse assessed as medium-low

### 2022 VASP Risk Overview – May 2022

- a. Sector not large enough for a full NRA
- b. Need for legislative and regulatory regimes to be kept under review

### 2023 Update on TF NRA – May 2023

- a. Updates 2021 TF NRA
- b. Progress made, however insufficient evidence to support a reduction of risk overall
- c. Remains medium-low risk

### 2023 Legal Persons/Legal Arrangements NRA – July 2023

- a. Threat assessed as high
- b. Vulnerability assessed as medium
- c. Recommends continued collection of activity data



## 2.5 How industry should use risk assessments

- 2.5.1 One of the most significant inputs to the Island’s risk assessment work is the JFSC Supervisory Risk Data. Where published risk assessments include aggregated industry data, each firm should consider how their own data compares with the published data. This will assist them to better understand their risk profile compared to the national metrics, threats and vulnerabilities.
- 2.5.2 Having properly trained staff is a requirement of the regulatory framework. Senior management should consider whether the risk assessment identifies matters which need to be brought to the attention of their colleagues, and employees, and implement changes accordingly.
- 2.5.3 In respect of each national or sector-specific risk assessment, industry is obliged to maintain their policies and procedures (includes their Business Risk Assessments (“BRAs”)) such that they are appropriate and consistent having regard to the risks identified<sup>6</sup>. Industry must be able to show how they have considered and mitigated the relevant risks identified.

<sup>6</sup> Article 11(1)(f) of the Money Laundering (Jersey) Order 2008 in conjunction with Article 11(2).

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## Part A – Overview, including update on 2020 ML NRA recommended actions

### 3 Economic and Geopolitical Position

#### 3.1 Introduction

3.1.1 This section builds upon section 2 of the 2020 ML NRA which outlined Jersey's economic and geopolitical position. It specifically sets out the current situation regarding the wider economy ML risks identified in the 2020 ML NRA, section 3.6.

#### 3.2 Materiality and Contextual Factors

3.2.1 Jersey is a significant global international finance centres ("IFC") with all the key structural elements required for an effective anti-money laundering/countering the financing of terrorism ("AML/CFT") system. It has stable institutions with accountability, transparency and integrity, political stability, governmental rule of law, a high-level commitment to address AML/CFT/CPF issues and a capable, efficient, and independent judicial system.

3.2.2 Jersey has been built on a foundation of effective financial regulation with a strong focus on adherence to international standards. This has previously been acknowledged through independent assessments from some of the world's leading bodies, including MONEYVAL, the Organisation for Economic Co-operation and Development ("OECD"), the World Bank and the International Monetary Fund.

3.2.3 Jersey's economy is not cash-based. Financial services, including the legal and accountancy sectors, account for 37.5% of Jersey's total Gross Value Added ("GVA") in 2021<sup>7</sup>, as well as representing 22% of the jurisdiction's employment. This is followed by public administration (9.8%), construction (7.9%), and wholesale and retail (6.3%).

3.2.4 According to the Financial Secrecy Index (2022), Jersey represented 1.35% of the global market for cross-border financial services. The source of wealth administered is international with connections to over 245 jurisdictions reported to the JFSC as part of its 2022 Supervisory Risk Data.

3.2.5 In 2022, Jersey was the UK's 35<sup>th</sup> largest trading partner, accounting for 0.4% of total UK trade. A JFL sponsored report from the Centre for Economics and Business Research on Jersey's Contribution to Global Value Chains (November 2021) stated that:

*"The value chains that Jersey's financial services sector supports contributed an annual average of £62 billion of UK GDP between 2017 and 2020, representing approximately 2.9% of total UK output."*

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<sup>7</sup> [Government of Jersey - Financial services statistics](#)

### 3.3 International Cooperation

- 3.3.1 Jersey's main ML risks are heavily influenced by the sectors and jurisdictions in which key business relationships are conducted. As an IFC, Jersey has a significant exposure to cross-border threats, thus international cooperation plays an important role for Jersey in the overall framework of its AML/CFT/CPF efforts.
- 3.3.2 Effective international co-operation is essential in tracing proceeds of crime and uncovering the identity and background of criminals. For many years Jersey has been recognised as one of the world's most stable and leading IFCs.
- 3.3.3 Further information regarding international cooperation is at section 7.18.

### 3.4 Significant industry sectors

- 3.4.1 Jersey's industry reflects most of the activities defined by the FATF as FIs, DNFBPs and virtual asset service providers ("VASPs"). The most significant sectors are (i) banking, (ii) TCSPs, and (iii) the funds sector.

#### **Banking**

- 3.4.2 At the time of publication, there are 19 registered deposit-takers (banks) operating in Jersey. These are diversified between well-known UK high street banks and global private banks. A significant proportion (around 60%) of the banking sectors' customers are international and include expatriates and UK resident individuals and corporates (non-domiciled customers). However, the sector also provides traditional services to the local market, together with corporate solutions for the investment funds industry and TCSPs such as treasury specialists. From 2019 to 2022 a consistent 40% of the sector's customers are Jersey-based.
- 3.4.3 At the end of 2022, banks reported £151.5bn of bank deposits<sup>8</sup>, down from a peak of £212bn in 2007. During the period 2019 to 2022 bank deposits grew by 23%. The banking sector remains significant, accounting for just over half of the total financial sector GVA.

#### **Securities sector – funds**

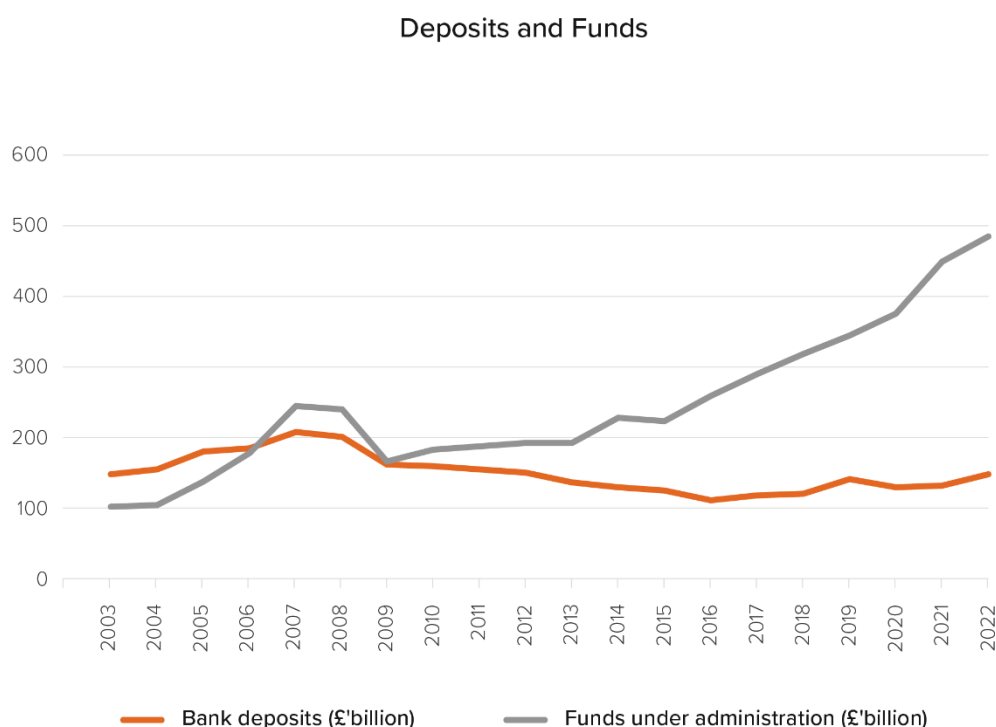
- 3.4.4 In the securities sector, the principal activity for fund operators is the provision of fund administration and management services. Whilst public funds account for the majority of investors and assets under management<sup>9</sup>, since the launch of the JPF in April 2017 this product has seen considerable growth. Most fund products in Jersey are aimed at professional/sophisticated investors.
- 3.4.5 At the end of 2009 bank deposits and funds under administration were both reported as being approximately £165bn, since then the value of funds under administration has increased significantly as evidenced by figure 3.1. This is at the same time as the number of funds has decreased from 1,294 to 637.

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<sup>8</sup> [JFSC - bank numbers and bank deposit levels](#)

<sup>9</sup> [JFSC - funds statistics](#)

**Figure 3.1: 2003 – 2022 Jersey banking deposits and net asset value (“NAV”) of regulated funds under administration (£’bn)**



## TCSPs

- 3.4.6 Jersey has a large and significant TCSP sector directly employing over 5,000 individuals.
- 3.4.7 The TCSP sector offers the full range of services. There are certain circumstances when a Jersey registered TCSP must be used to form a legal person or legal arrangement (further information is within the recently published 2023 LPA NRA<sup>10</sup>). Persons only registered for legal or accountancy services are not permitted to provide TCSP services.
- 3.4.8 As at 31 December 2022, the JFSC website listed 795 persons registered to carry on TCSP activity, including natural persons and participating members. This compares to 845 at the start of 2019. Table 3.1 provides an overview of the profile of the TCSP sector and highlights that there are 86 affiliation leaders (a TCSP group) which between them administer 591 participating members<sup>11</sup>. See also section 9.2 for an overview of the TCSP sector.

<sup>10</sup> [Government of Jersey - 2023 LPA risk assessment](#)

<sup>11</sup> The JFSC has published guidance which covers the concept of an affiliation and the participating member registration requirements: [Distinguishing between managed trust company and participating member](#).

Participating members are Jersey incorporated companies carrying on trust and company services.

They may be established to ring fence specific customers or TCSP activity.

Table 3.1: TCSP sector start 2019 compared to end 2022

Type of TCSP	Start 2019	End 2022	Change
Affiliation Leader	82	86	+4
Non-Affiliated TCSP	30	31	+1
Natural Persons	93	87	-6
Participating Members	640	591	-49
<b>Total registered</b>	<b>845</b>	<b>795</b>	<b>-50</b>

### 3.5 Covid

3.5.1 Whilst there was an increase in the number of identified unauthorised business scams seeking to take advantage of the Covid pandemic, when compared to other countries there is no evidence to suggest that Jersey was impacted as greatly by Covid fraud and cyber-crime. In this respect the UK's 2020 NRA<sup>12</sup> records that their predicate offences included:

- a. Inserting malware on personal computers and mobile devices
- b. Online sales of fake testing kits and PPE
- c. Appeals to support bogus charities
- d. Frauds targeting government financial support schemes

3.5.2 Jersey's Fiscal Policy Panel Annual Report, November 2022<sup>13</sup> notes that:

*"Evidence from the labour market and businesses suggests that the economy recovered well from the Covid-19 pandemic. The number of people registered as actively seeking work, a measure of unemployment, remains at the lowest levels seen since comparable figures began in 2008, the number of jobs is back to pre-covid levels and vacancy rates are high. This points to a labour market at, or close to, full employment. A lack of spare capacity has become a pervasive feature of Jersey's economy."*

### 3.6 Wider Economy ML Risks including trade-based money laundering

3.6.1 Six specific topics are highlighted in the 2020 ML NRA (paragraph 4.16) as areas where there is a vulnerability to ML arising from products and services in the wider economy. This section discusses the current position regarding these six areas.

#### **1. Global activities of Jersey headquartered mineral extraction companies**

3.6.2 This was considered as part of the 2023 Legal Persons and Arrangements National Risk Assessment ("2023 LPA NRA"). Completion of the risk assessment involved the collection of data relating to the activities undertaken by Jersey companies administered by TCSPs. The data collected shows that approximately

<sup>12</sup> [UK 2020 national risk assessment of ML and TF](#)

<sup>13</sup> [Government of Jersey - Fiscal Policy Panel](#)



0.3% of Jersey companies are involved directly or indirectly in mining, drilling or quarrying for natural resources.

- 3.6.3 Additionally, where a Jersey company reported its activity as being “to hold equity”, respondents were asked to provide information regarding the activity of the company in which equity is held. Whilst responses to this request were not 100%, the data strongly indicates that these companies are not involved directly or indirectly, in mining, drilling or quarrying for natural resources.
- 3.6.4 The 2023 LPA NRA includes a recommended action that the collection of activity data continues to be collected on an annual basis from all persons established through Registry. This data will enable risk information to be refreshed and further consideration of sensitive activities undertaken directly or indirectly through Jersey companies. Involvement in mining, drilling or quarrying for natural resources is one of those activities.

## **2. Use of security issuance vehicles**

- 3.6.5 With few exceptions Jersey companies are the vehicle of choice for security issuance. As such the ML risks associated with this activity were fully considered as part of the work which supports the 2023 LPA NRA. Section 7 of that report focusses on Jersey companies.

## **3. Aircraft and shipping registry**

- 3.6.6 It is recognised that ships and aircrafts, like real estate, can be used to launder the proceeds of crime. The 2020 ML NRA highlights that the Jersey aircraft and shipping register should be considered from an ML risk perspective. Whilst Jersey continues to operate a shipping register it no longer operates an aircraft register.

### *Aircraft register*

- 3.6.7 The aircraft registry was established in 2015 and closed in 2022<sup>14</sup>. During this period a total of four aircraft were admitted to the register (2015 (1), 2016 (1), 2020 (2)). During 2022 three aircraft deregistered leaving just one on the register. Given the regulatory framework required to maintain the aircraft register for one aircraft a commercial decision was taken to close the register and the remaining aircraft transferred to another jurisdiction.

### *Shipping Register*

- 3.6.8 The Ports of Jersey are the registrar for the British Register of Ships in Jersey. There are restrictions on the types of ships that can be registered (must be under 400 gross tons) and registration is only possible if the individual or company are resident, or incorporated, in the Commonwealth, European Economic Area, British Isles, a Crown Dependencies or an Overseas Territories. The Ports of Jersey publishes guidance regarding registering and maintaining registration information, as well as the relevant forms, on its website<sup>15</sup>.
- 3.6.9 All ships on the register must have a “genuine link” to Jersey in accordance with the United Nations Convention on the Law of the Sea. This is achieved through a Representative Persons (“RP”) regime which has the effect of ensuring there is

<sup>14</sup> [Government of Jersey - 2022 News - Jersey Aircraft Registry to close](#)

<sup>15</sup> Guidance and forms relating to the British Registry of Ships in Jersey available at: [British Registry of Ships forms](#)

always a person in Jersey on whom the registrar can serve documents. By law, if an individual wishes to register their vessel but they are not Jersey resident, or a vessel is owned by a company that does not have a Jersey place of business, then a RP must be appointed. The requirements applicable to RPs are set out in the Shipping (Registration) (Jersey) Regulations 2004 (“Shipping Regulations”).

3.6.10 The RP requirements in the Shipping Regulations are considered a control against ML. There is ongoing work which is expected to finish before the end of 2023 to strengthen this control.

3.6.11 As at the end of 2022 the Shipping Register contained 1,611 ships, with 78% of those registered relying on a RP, just over 94% being less than 150 gross tons, and the majority being used for pleasure rather than commercial purposes. Table 3.2 shows that there has been an 9.1% increase in the number of ships on the register since the start of 2019.

**Table 3.2: Shipping Register activity 2019 to 2022**

	<b>New ship registrations</b>	<b>Ships removed from the register</b>	<b>Total registered – 31 December</b>
2018			1,477
2019	173	158	1,492
2020	174	122	1,544
2021	205	169	1,580
2022	151	120	1,611

3.6.12 Ownership information held on the register includes the jurisdiction of residency of individuals or jurisdiction of company incorporation if owned by a company. Whilst the ownership of a minority of ships is split between several parties this does not have a material impact on Table 3.3 which sets out the top five most common ownership jurisdictions accounting for 65.5% of the ships on the register.

**Table 3.3: Top five most common ownership jurisdictions**

	<b>Jurisdiction</b>	<b>Jurisdiction qualifier</b>	<b>Percentage of ships registered</b>
1	Jersey	Crown Dependency	21.3%
2	UK	British Isles	19.7%
3	British Virgin Islands	Overseas Territory	14.2%
4	Belize	Commonwealth	6.8%
5	Seychelles	Commonwealth	3.5%



- 3.6.13 The shipping register will continue to be a focus of ML risk work in recognition of typologies associated with laundering money through high value goods.

#### **4. Use of financial technology**

- 3.6.14 Since publishing the 2020 ML NRA there has been a number of positive developments which have (i) increased risk understanding with respect to the use of financial technology and (ii) brought more businesses involved in the virtual assets sector within the scope of regulation.
- 3.6.15 Since 30 January 2023 all persons meeting the FATF definition of a VASP have been required to register with the JFSC. As part of this process the JFSC is capturing data which, along with data collected as part of the JFSC annual Supervisory Risk Data collection exercise, will be used to complete a VASP risk assessment.
- 3.6.16 In conducting and publishing a VASP risk assessment both competent authorities and industry will have a clear understanding of the financial technology risks currently present in Jersey.

#### **5. Promotion of residence/citizenship by investment scheme**

- 3.6.17 The National Statement on Financial Services and Financial Crime: Activities, Risk Appetite and Mitigation<sup>16</sup> (“2022 Risk Appetite Statement”) makes it clear that Jersey has no appetite for citizenship by investment schemes operated in Jersey (sometimes referred to as ‘Golden Passports’). This is due to the risks that carrying out this activity has in a ML context but also as a reputational risk to Jersey. However, this does not impact the actions of the Government to look to develop investment opportunities from incoming residents to Jersey.
- 3.6.18 The Government of Jersey operates a high value residency scheme<sup>17</sup> that requires the applicant to comply with strict criteria and each application is individually considered. As of July 2023, the application criteria include:
- a. Having UK immigration clearance to be able to live and work in Jersey.
  - b. The ability to generate an annual minimum tax contribution of £170,000.
  - c. Comfortable and sustainable, annual worldwide income in excess of £850,000 per annum.
  - d. A personal wealth of more than £10 million in assets (some liquidity is required).
- 3.6.19 Due to the strict criteria and rigour of the application process, the number of persons approved each year varies considerably (23 approved in 2021 but only 9 in 2022). Across the period 2018 to 2022 the average number of approvals granted per year is 17.

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<sup>16</sup> [Government of Jersey - 2022 Risk Appetite Statement](#)

<sup>17</sup> [Government of Jersey - high value residency](#) and [Locate Jersey - moving to Jersey as a HNWI](#)

## **6. Prevalence and use of family offices**

- 3.6.20 In line with the 2020 ML NRA, the ML risks associated with family offices forms part of Jersey's ongoing risk assessment work and remains a focus. This work includes consideration of private trust companies ("PTCs").
- 3.6.21 Family offices are discussed in greater detail in paragraphs 9.3.15 to 9.3.27: Threats in the TSCP sector.

### **Trade based money laundering ("TBML")**

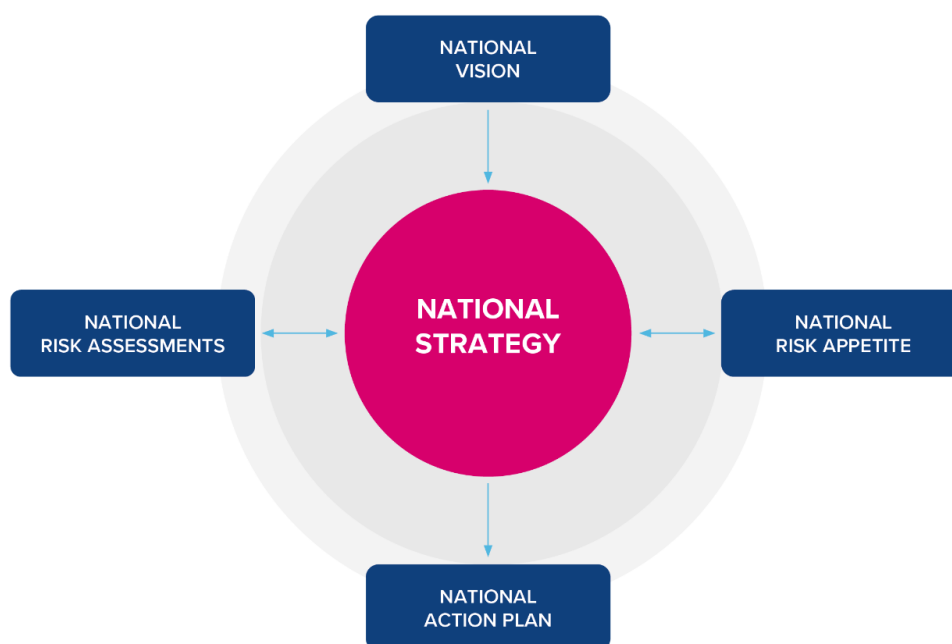
- 3.6.22 In line with the 2020 ML NRA, the risk of Jersey being used to disguise the proceeds of crime and move value using trade transactions forms part of Jersey's ongoing risk assessment work and remains a focus.
- 3.6.23 TBML is discussed in greater detail in section 6.4: Domestic Predicate Offences (paragraphs 6.4.21 to 6.4.29).

## 4 Legal, Supervisory and Law Enforcement Framework

### 4.1 Introduction

- 4.1.1 This section builds upon Section 3 of the 2020 ML NRA which outlined Jersey's legal, supervisory and law enforcement framework. It outlines the main changes to the framework, many of which impact all industry sectors and improve the national control structure.
- 4.1.2 The Government of Jersey Financial Services Policy Framework, published in December 2021<sup>18</sup>, establishes the national vision for the continued success of Jersey's financial services industry. The framework includes ten strategic priorities, number six of which is "Review and refresh Jersey's strategy for combatting financial crime".
- 4.1.3 The 2022 National Strategy clearly documents Jersey's position in supporting international efforts in the fight against all forms of financial crime. It also includes areas of focus to increase effectiveness through strategic priorities (the "National Action Plan").
- 4.1.4 Additionally, the 2022 Risk Appetite Statement published in September 2022 sets out Jersey's approach to risk relating to its finance sector.
- 4.1.5 The Government of Jersey is also responsible for coordinating the compilation and publication of the suite of NRAs and their updates.

Figure 4.1: Relation between key national documents



<sup>18</sup> [Government of Jersey - Policy Framework for Jersey Financial Services Industry](#)

## 4.2 The regulatory framework

4.2.1 Jersey's regulatory framework includes a robust suite of legislation and other enforcement tools. It includes a dissuasive array of financial crime sanctions.

4.2.2 This framework:

- a. is established to minimise the abuse of the international financial system by criminal actors.
- b. is based on the FATF Recommendations and is updated in line with the FATF changes.
- c. implements the requirements of the international conventions extended to Jersey, including the Vienna Convention (1998), the Palermo Convention (2000), the UN Convention against Corruption (2003) and the Terrorist Financing Convention (1999).

### Legislation and Sanctions

4.2.3 Current versions of all Jersey's laws are freely available at: [Jersey Law: Current Laws](#). The regulatory framework includes three key legislative instruments:

- a. Proceeds of Crime (Jersey) Law 1999 ("Proceeds of Crime Law")
- b. Money Laundering (Jersey) (Order) 2009 ("Money Laundering Order")
- c. Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2009 ("Supervisory Bodies Law")

4.2.4 In combination, a. and b. impose requirements on industry to maintain policies and procedures to prevent and detect ML occurring across their service lines when carrying on financial services business, either: (i) in or from within Jersey or (ii) if a Jersey body corporate, or other legal person registered in Jersey, anywhere in the world. Industry is the first line of defence (as part of the three lines of defence model as outlined by the Basel Committee on Banking Supervision<sup>19</sup>).

4.2.5 Failure to comply with the Proceeds of Crime Law is a criminal offence.

4.2.6 Since April 2022, failure to comply with the Money Laundering Order may be either a criminal offence or incur a civil sanction.

4.2.7 When sentencing corporate offenders, the Royal Court has made it clear it must pass sentences that have a strong deterrent element. This is to maintain Jersey's reputation as a centre of financial excellence and integrity. Those judgments are also publicly available ([jerseylaw.je](http://jerseylaw.je)).

4.2.8 The Supervisory Bodies Law, in conjunction with secondary legislation, establishes the JFSC as the sole regulatory body with responsibility for monitoring industry's compliance with the regulatory framework. It also provides the JFSC with the power to issue a code of practice setting out the principles and detailed requirements that industry must comply with.

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<sup>19</sup> [Bank of International Settlements \(BIS\) - sound management of risks related to money laundering and financing of terrorism: revisions to supervisory cooperation](#)

4.2.9 Failure to comply with a code of practice may result in a civil sanction.

### Ministerial responsibility and key competent authorities

- 4.2.10 *Political responsibility:* currently the Chief Minister has responsibility for all areas of financial services, including overarching responsibility for financial crime policy. The Chief Minister is supported by two Assistant Ministers with delegated responsibility for Financial Services (Minister for Social Security and the Minister for Treasury and Resources). In conjunction with the Deputy Chief Minister these ministers form a group with political responsibility for Financial Services. Other Ministerial roles relating to financial crime include: (i) the Minister for Home Affairs, responsible for the SoJP and JCIS, and (ii) the Minister for Treasury and Resources, responsible for Revenue Jersey and administration of the Criminal Offences Confiscation Fund<sup>20</sup>.
- 4.2.11 *Industry regulator:* the JFSC is the industry regulator whose enforcement powers may be exercised in relation to non-criminal breaches of the regulatory framework. The JFSC publishes and maintains the Handbook for the prevention and detection of money laundering and the countering of terrorist financing (the Handbook) as well as additional Guidelines and guidance. The Handbook includes the code of practice (must be complied with) and relevant guidance for complying with the regulatory framework (not binding).
- 4.2.12 *FIU:* the FIU is responsible for receiving intelligence including suspicious activity reports (“SARs”) and disseminating intelligence as appropriate both domestically and internationally.
- 4.2.13 *Law enforcement:* the JFCU, a specialist unit within the SoJP, investigates domestic financial crime and ML. ECCU is the specialist unit within the LOD which investigates serious and complex financial crime and ML which involves predicate offending that has occurred overseas. The Attorney General (“AG”) is responsible for prosecuting all financial crime and ML offences and appoints Crown Advocates within the LOD and ECCU to do so on his behalf.

## 4.3 Updated Legislation

- 4.3.1 Since 2020 the States Assembly (the “States”) have adopted legislative changes in relation to financial crime that are designed to strengthen the regulatory framework. A number of these are covered in more detail in this section.

Table 4.1: Recent Legislation

Law <i>In force date</i>	Objective	Section
<ul style="list-style-type: none"> <li>Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022</li> </ul> 25 July 2023	Amendment to structure and status of Jersey’s financial intelligence unit	4.4

<sup>20</sup> The Criminal Offences Confiscation Fund receives the proceeds of assets recovered under a confiscation order or received under an asset-sharing agreement. The monies are used to support projects that prevent, suppress or deal with criminal conduct and the consequences thereof.

Law <i>In force date</i>	Objective	Section
<ul style="list-style-type: none"> <li>Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022</li> </ul> <i>30 January 2023</i>	Alignment of the scope of the regulatory framework with the FATF definitions of FI, DNFBP and VASP	4.5
<ul style="list-style-type: none"> <li>Money Laundering (Amendment No. 13) (Jersey) Order 2023</li> </ul> <i>28 August 2023</i>	Defers the application of parts of the Money Laundering Order for specified directors	
<ul style="list-style-type: none"> <li>Proceeds of Crime (Duties of Non-Professional Trustees) (Amendment) (Jersey) Order 2023</li> </ul> <i>29 August 2023</i>	Clarifies that only natural persons acting as a non-professional trustee can utilise the Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016 rather than the Money Laundering Order	
<ul style="list-style-type: none"> <li>Financial Services Commission (Amendment No 8) (Jersey) Law 2022</li> </ul> <i>29 April 2022</i>	Extension of the civil financial penalties' regime	4.6
<ul style="list-style-type: none"> <li>Proceeds of Crime (Amendment No. 7) (Jersey) Law 2022</li> </ul> <i>24 June 2022</i>	Introduction of "failure to prevent money laundering" offence	
<ul style="list-style-type: none"> <li>Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023</li> </ul> <i>3 March 2023</i>	Enables deferred prosecution agreements when entities self-report offences to the AG	
<ul style="list-style-type: none"> <li>Proceeds of Crime (Supervisory Bodies) (Amendment No 2) 2022</li> </ul> <i>25 March 2022</i>	Provides the JFSC with a single set of registration and supervisory powers	4.7
<ul style="list-style-type: none"> <li>Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020</li> <li>Financial Services (Disclosure and Provision of Information) (Jersey) Order 2020</li> <li>Financial Services (Disclosure and Provision of Information) (Jersey) Regulations 2020</li> </ul> <i>6 January 2021</i> Collectively the "Disclosure and Provision of Information legislation"	Requires timely (within 21 days) delivery and updating of:  Beneficial owner and controller information, and  Significant person information (those holding director and equivalent positions).	4.8

Law <i>In force date</i>	Objective	Section
<ul style="list-style-type: none"> <li>Money Laundering (Amendment No. 12) (Jersey) Order 2023</li> </ul> <p>1 September 2023</p>	<p>Applies a number of amendments to the Money Laundering Order, including:</p> <p>Amends the definition of financial group to include a DNFBP group for the purpose of requiring completion of additional requirements relating to policies, procedures and training.</p> <p>Introduces conditions which if met mean a person may no longer be considered a domestic or foreign politically exposed person (“PEP”).</p>	4.9

#### 4.4 Financial Intelligence Unit

##### Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022

- 4.4.1 At the time of the 2020 ML NRA Jersey operated a ‘law enforcement’ model FIU which meant the FIU operated as a sub-unit of the JFCU and was part of the SoJP organisational command arrangements. In 2021, a detailed review of the organisational structure, oversight mechanisms, and legal framework governing the operation of the FIU was completed. As a result of the review, a significant programme of change has been implemented.
- 4.4.2 During 2023, the FIU has transitioned from its former model to an ‘administrative’ model where the FIU operates as an independent competent authority. A key element of the transition is the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022 which came into force on 25 July 2023 and legislatively establishes the FIU as a body independent from the SoJP.
- 4.4.3 As part of the change programme the profile of FIU staff has changed significantly. Historically almost all staff were police officers, but since 2019 the majority have been civilian specialists. This has been part of a significant programme of FIU change which was initiated as a result of the 2016 MONEYVAL report on Jersey and has continued with changes in resource and structure of the FIU.
- 4.4.4 Legislation has necessitated (and continues to necessitate) that a SoJP Police officer be part of the FIU. Currently the FIU consists of more than 28 civilians and one Police officer. As civilians, the FIU staff can no longer be re-deployed to other operational duties and are solely focused on the receipt, analysis and dissemination of intelligence. The strategy and management oversight is now provided by the FIU Governance Board rather than the SoJP and since February 2023, in line with the new legislation, the FIU has been led by a Director of FIU. The Director has equal standing to those in charge of other law enforcement agencies such as the Chief of Police and Head of Customs.
- 4.4.5 Further information regarding the restructure of the FIU is set out in section 8.3 of the 2022 National Strategy.

## 4.5 Regulatory framework scope

### **The Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022**

### **Money Laundering (Amendment No. 13) (Jersey) Order 2023**

### **Proceeds of Crime (Duties of Non-Professional Trustees) (Amendment) (Jersey) Order 2023**

#### *Scope exemptions*

- 4.5.1 The 2015 MONEYVAL mutual evaluation report (“MER”) noted that persons carrying on certain activities considered by the FATF to be an FI or DNFBP activity were not within the scope of the regulatory framework. The report concluded that these exemptions were not necessarily demonstrated as being based on low risk. As a result of the exemptions available it was considered that the Island’s competent authorities did not have a complete list of those carrying on FATF defined FI and DNFBP activity.
- 4.5.2 In many instances the exempt persons were Jersey legal persons who are customers of a TCSP or fund services business. As such customer due diligence (“CDD”) checks have always been undertaken on both the exempt person and the exempt person’s customers. Whilst this scenario acts a mitigant to the ML risk it is not considered to be evidence that the exempt persons activity is low risk or undertaken on an occasional/very limited basis.
- 4.5.3 The competent authority’s consideration of the scope exemptions started in 2018. In 2020 an extensive consultation with industry started as it was recognised that the scope of the regulatory framework needed to change. Consultation initially occurred through industry-based working groups which determined that it was not possible to evidence that the exempt persons met the FATF exemption criteria. Consequently written consultations on significantly amending regulatory scope were undertaken.
- 4.5.4 After consultation the Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022 came into force on 30 January 2023. This amending law has the effect of removing the scope exemptions highlighted in the 2015 MER and aligning Schedule 2 of the Proceeds of Crime Law with the FATF definitions of FIs, DNFBPs and VASPs.
- 4.5.5 At the point of coming into force the amended legislation impacted existing businesses therefore a transitional period was granted to 30 June 2023. To facilitate continued engagement with some sectors, with respect to the three specific activities, the transitional period has been extended to 30 September 2023. This extended period also facilitates ensuring all impacted persons are aware of their registration requirements, and that they understand their new obligations and how they might meet them. Additionally, it has been decided that parts of the Money Laundering Order should not be applied to individuals that only perform the TCSP activity of acting as a Director (paragraph 23(2) of Schedule 2 to the Proceeds of Crime Law) until 1 October 2024.
- 4.5.6 The Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016 has been amended to clarify that it can only be utilised by natural persons acting as a trustee of an express trust where the business is not conducted as a business.



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## VASPs

- 4.5.7 By aligning Schedule 2 of the Proceeds of Crime Law with the FATF definition of VASPs the scope of capture regarding virtual assets and their service providers was extended. Prior to 30 January 2023 only virtual currency exchange businesses were within the regulatory scope and required to register, having been in scope since 2016.

## 4.6 Enhancement of sanction mechanisms

- 4.6.1 A number of legislative changes have been implemented regarding civil and criminal enforcement measures.

### Proceeds of Crime (Amendment No. 7) (Jersey) Law 2022

- 4.6.2 Introduces a corporate criminal offence of failing to prevent money laundering. This operates on the concept of a reverse burden of proof for entities where an associated person (e.g. a customer or employee) of that entity is involved in money laundering conduct. If that entity cannot prove to the court that it adequately maintained and applied AML/CFT preventative measures, then the entity is guilty of an offence.

### Financial Services Commission (Amendment No 8) (Jersey) Law 2022

- 4.6.3 Extends the scope of the JFSC's civil financial penalty powers, both in terms of when a penalty may be applied and to whom it can be applied:
- a. *Matters for which the JFSC may impose civil financial penalties* – includes breaches of the Money Laundering Order and codes of practice issued by the JFSC.
  - b. *Persons against which a penalty may be levied* – includes those within the scope of the regulatory framework (except for fund products) as well as individuals that meet the definition of a key person or principal person and those that perform a senior management function.

### Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023

- 4.6.4 This law introduces a statutory regime for deferred prosecution agreements (“DPAs”). The DPA is an explicit incentive for entities to self-report conduct that has not yet come to light.
- 4.6.5 To be eligible for a DPA an entity must submit a self-report regarding the offences committed. If the entity is already under investigation a DPA is not available.

## 4.7 Regulatory checks on applicants

### Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022

- 4.7.1 Prior to 25 March 2022 Jersey operated a two-tier registration system, ‘Level 1’ and ‘Level 2’. The registration level depended on the nature of the activity being undertaken and provided the JFSC with different registration and supervisory powers. Level 2 registrations included DNFPBs such as lawyers, accountants, estate agents, and high value dealers.

- 4.7.2 The Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022 removes the Level 2 registration. All persons are now legislatively equal with respect to the JFSC registration and supervisory powers and the JFSC undertake criminality checks on all persons holding principal and key person positions in FIs, DNFBPs and VASPs.

#### 4.8 Beneficial ownership and controller information

##### **Laws, Orders and Regulations relating to the Disclosure and Provision of Information**

- 4.8.1 The Disclosure and Provision of Information legislation (in force from 6 January 2021) significantly enhanced the statutory requirements regarding completeness and accuracy of information held by the Registry.
- 4.8.2 The ability to exchange beneficial ownership and controller information has been in place for many years. The Disclosure and Provision of Information legislation introduced new offences for non-compliance and provides for:
- a. The timely delivery and update of beneficial owner and controller information which has been collected and held centrally for many years, with new offences for non-compliance.
  - b. The timely delivery and update of significant person information (those holding director and equivalent positions), where the person is not also a beneficial owner or controller – new information collected and held centrally.
  - c. The information held by the Registry to be confirmed annually as accurate and up to date.
- 4.8.3 Further information regarding the Disclosure and Provision of Information legislation is available in the published 2023 LPA NRA.

#### 4.9 Money Laundering Order: definition of financial group and declassifying PEPs

##### **Money Laundering (Amendment No. 12) (Jersey) Order 2023**

- 4.9.1 This Order (in force from 1 September 2023) amends a number of Articles of the Money Laundering Order, many to clarify the Order. In addition there are two amendments which impact the ML risk assessment work.

###### *Definition of financial group*

- 4.9.2 The FATF recently amended the Recommendations such that jurisdictions should consider applying group-wide programmes against ML to DNFBP groups. Previously this requirement was restricted in its application to those where group supervision was applied under one of the core principles<sup>21</sup>.

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<sup>21</sup> Core principles being:

- (i) The core principles for effective banking supervision published by the Basel Committee on Banking Supervision
- (ii) The Objectives and Principles of Securities Regulation issued by the International Organisation of Securities Commissions
- (iii) The Insurance Supervisory Principles issued by the International Association of Insurance Supervisors

- 4.9.3 Given the significance of the TCSP sector, the definition of 'financial group' in Article 11A of the Money Laundering Order has been amended. It now includes a group of persons falling within Part 3 of Schedule 2 to the Proceeds of Crime Law (DNFBPs) if there is, in relation to the group, a parent company or other legal person that exercises control over every member of the group.
- 4.9.4 This has the effect of increasing the control framework in relation to persons that are members of a DNFBP group as it requires completion of additional requirements relating to policies, procedures and training.

#### *Declassifying PEPs*

- 4.9.5 Article 15A of the Money Laundering Order has been amended so that in certain circumstances a person may no longer be considered a PEP for the purpose of applying the Money Laundering Order.
- 4.9.6 All the following conditions must be met for the person to be declassified as a PEP:
- a. A period of two years (domestic PEP) or five years (foreign PEP and prominent person) has elapsed since the person ceased to hold the prominent public function that created their PEP status.
  - b. Following a risk assessment by a FI, DNFBP or VASP, the person does not present a higher risk of money laundering.
  - c. There is no reason to continue to treat the person as a PEP.
- 4.9.7 Prior to this amendment once a person had been classified as a PEP their classification could not be altered. From a risk perspective this could have the effect of overstating the risk levels of the Island's customers. For example, a person who has recently married an individual that left a position six years previously, which resulted in them being classified as a PEP, would also be deemed a PEP.
- 4.9.8 From a risk perspective the impact of this amendment will be monitored through the data submitted to the JFSC as part of the annual Supervisory Risk Data collection exercise.

#### **4.10 JFSC Handbook**

- 4.10.1 As stated in paragraph 4.2.8, the JFSC has the power to issue a code of practice; a power it has consistently exercised since it was granted in 2008.
- 4.10.2 In May 2022 the JFSC consolidated and simplified the four existing handbooks into one Handbook and took the opportunity to:
- a. Introduce codes of practice relating to electronic identification, electronic statements/utility bills and certification of documents.
  - b. Extend the scope of the code of practice and guidance notes to cover all persons supervised by the JFSC for compliance with the regulatory framework.
- 4.10.3 The JFSC maintains the Handbook on a regular basis with the most recent version being effective from 4 September 2023.

## 5 2020 ML NRA Residual Risk and Recommended Actions

### 5.1 Introduction

- 5.1.1 The 2020 ML NRA contains ten residual risks (section 5) and 22 recommended actions (section 6). Whilst these clearly interact, they were reflected separately in the 2020 ML NRA. They have been brought together for the purpose of the most recent ML risk assessment.
- 5.1.2 This section is set out as follows:
- a. Section 5.2: presents the 2020 recommended actions mapped against the residual risks.
  - b. Section 5.3: provides a progress update on the 2020 residual risks and their status in 2023.
  - c. Section 5.4: describes the actions taken to address the 2020 ML NRA ten residual risks through consideration of the 2020 recommended actions. Many of these actions are also captured in the National Action Plan, set out in the 2022 National Strategy<sup>22</sup>.
  - d. Section 5.5: provides the 2023 residual risks and recommended actions.
- 5.1.3 Overall, progress has been made against all 22 recommended actions; in some cases the progress is significant. Consequently, action has been taken to mitigate all ten of the 2020 ML NRA residual risks.

### 5.2 2020 ML NRA Recommended Actions Mapped Against the Residual Risks

- 5.2.1 The 2020 ML NRA highlights that the process of determining residual risk is a more holistic process which looks to consider where the greatest risks lie when considering these factors together. This informs where, at a national level, the higher level of action (policies, activities) should be prioritised.
- 5.2.2 The 2020 residual risk table aimed to highlight whether the risk is relevant across all sectors or has a sector specific focus. For example, a risk relevant to a competent authority (e.g. LEA co-operation with other jurisdictions) will be relevant for all sectors, however, a risk that has a sector specific focus (e.g. understanding of ML risk in key market areas) may be directed towards only specific sectors (TCSP, Banking, etc).
- 5.2.3 Given the nature of Jersey as an IFC, the 2020 residual risks are heavily influenced by risks emanating from other jurisdictions. Therefore, the risk has been categorised as to whether it is a foreign risk, domestic risk or both. Where the risk is foreign or both domestic and foreign, it was noted that there may be a need to engage with authorities outside Jersey to mitigate these risks.

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<sup>22</sup> [Government of Jersey - 2022 National Strategy](#)

Table 5.1: 2020 ML NRA recommended actions mapped to the residual risks

	Sectoral Focus	Foreign/ Domestic/ Both	2020 Recommended Actions
<b>RR1</b>	The Authorities understanding of ML risk is not developed to a sufficiently granular level to fully understand ML risk in key market sectors.		
	TCSP Banking Funds and FSB Lawyers	Both	<p><b>7.</b> Develop an Island strategy to prioritise and drive forward key areas of ML/TF risk and policy for Jersey.</p> <p><b>12.</b> Introduce national-level training to LEAs, prosecutors and judiciary to enhance their understanding of the local AML regime and the ability to prosecute ML offences in full.</p> <p><b>21.</b> The statutory AML/CFT framework should be reviewed with regard to the definitions of activities subject to the AML/CFT regulatory regime. This may include:</p> <ul style="list-style-type: none"> <li>• clarifying activities captured (e.g. revising the definitions of “estate agency services”) and</li> <li>• considering whether additional activities (e.g. property development) should be captured for AML/CFT purposes in line with the FATF standards.</li> </ul> <p><b>22.</b> The current statutory exemptions and concessions from AML/CFT obligations should be reviewed to determine:</p> <ul style="list-style-type: none"> <li>• if the existing exemptions are demonstrably justifiable,</li> <li>• whether any further exemptions should be added, and</li> <li>• whether the way in which the use of exemptions are notified, reported and/or recorded is appropriate.</li> </ul>
<b>RR2</b>	Available data collected is not uniform or sufficient to monitor ongoing ML risk.		
	All	Both	<p><b>2.</b> Determine whether there are specific reasons for the lack of data available in evidencing ML investigations and introduce policies to address these reasons if appropriate.</p> <p><b>8.</b> The collection of data can be improved and enhanced by introducing various measures, including:</p> <ul style="list-style-type: none"> <li>• a standard template to record data across all relevant LEAs and departments,</li> <li>• updating the SAR portal template to collect adequate and consistent information (e.g. distinguish between domestic and foreign predicates), and</li> </ul>

Sectoral Focus	Foreign/ Domestic/ Both	2020 Recommended Actions
		<ul style="list-style-type: none"> <li>supplementing and/or expanding data collection to allow agencies to better understand potential risks (e.g. the use of PTCs).</li> </ul> <p>9. Consider how data sharing between law enforcement agencies can be improved.</p>
<b>RR3</b>		For both authorities and industry, there is not a fully developed understanding of the risk that specific jurisdictions pose to Jersey in respect of cross-border ML risk.
TCSP Banking Funds and FSB Lawyers	Foreign  Specifically, but not limited to, the following countries:  HKC, India, Ireland, Kenya, Russia, Switzerland, UAE, UK, USA	6. In order to better understand the ML threat posed by the main jurisdictions with which Jersey does business, a detailed analysis of those jurisdictions should be undertaken and the risk profile for each of the jurisdictions should be set out in one document which is maintained on an ongoing basis and accessible to all agencies.
<b>RR4</b>		Policy development is not sufficiently resourced or agile enough to fully develop and co-ordinate a policy response to emerging threats faced by Jersey as an IFC.
All	Both	<p>3. Review the current legal framework for imposition of sanctions for breaches of AML/CFT obligations; and make changes where necessary to facilitate the imposition of effective, proportionate and dissuasive sanctions where appropriate.</p> <p>4. Improve the Money Laundering Order to allow for criminal and civil sanctions to be taken more effectively.</p> <p>5. Ensure Policy development is sufficiently resourced and agile enough to fully develop and co-ordinate a policy response to emerging threats faced by Jersey as an IFC.</p>
<b>RR5</b>		LEA co-operation with jurisdictions where common predicate offences occur still requires development to pursue effective ML investigations and prosecutions in Jersey.
All	Foreign  Specifically, but not limited to certain cross-border threat countries	<p>1. Policies and procedures around civil/criminal enforcement should be amended to ensure parallel ML investigations occur whenever international predicate offences are identified and there is a link to a domestic individual or regulated entity</p> <p>10. Jersey LEAs should work to actively encourage better collaboration with other jurisdictions to facilitate increased exchange of information with those jurisdictions.</p>

	Sectoral Focus	Foreign/ Domestic/ Both	2020 Recommended Actions
<b>RR6</b>	<p>For both authorities and industry, the understanding of specific topics relevant to ML is still developing and is uneven in key industry sectors most exposed to those risks. This is exacerbated by the limited understanding of ML risk in common foreign markets with which Jersey interacts.</p> <p>Specific topics of note are: (i) PEPs, (ii) Complex Structures, (iii) Specific Funds ML risk.</p>		
	TCSP Banking Funds and FSB Lawyers	Foreign	<p><b>20.</b> As new and emerging risks are identified such as the use of VASPs and/or Fintech, relevant typologies should be issued. Equally, further typologies should be produced on high-risk areas, such as PEP relationships and complex structures.</p>
<b>RR7</b>	<p>The quality of intelligence available to the FIU, combined with processing challenges and resource constraints, means that Jersey has yet to fully resource financial crime investigation. It therefore remains challenging to identify, investigate and prosecute ML in areas that present the greatest threat to Jersey such as cross-border ML threat. This is exacerbated by foreign co-operation risks outlined in RR5.</p>		
	All	Both (Foreign more significant)	<p><b>13.</b> Consider better alignment of investigation and prosecution resources across supervisory and law enforcement agencies.</p> <p><b>14.</b> Address the challenges currently faced by the FIU when identifying, investigating and prosecuting ML (namely, poor quality of intelligence available, processing challenges, and resource constraints).</p>
<b>RR8</b>	<p>The effectiveness of tax enforcement and co-operation may indicate challenges in identifying and investigating tax evasion as a common predicate offence presenting a risk to Jersey significant sectors.</p>		
	TCSP Banking	Both	<p><b>15.</b> Determine what challenges are being experienced in identifying and investigating tax evasion as a common predicate offence.</p>
<b>RR9</b>	<p>The supervisory approach is not fully tailored to higher risk sectors and themes in order to effectively mitigate ML risk.</p>		
	TCSP Banking Funds and FSB	Both	<p><b>11.</b> Ensure that the higher risk sectors and themes are taken into account when developing ongoing AML/CFT supervisory approaches.</p>



	Sectoral Focus	Foreign/ Domestic/ Both	2020 Recommended Actions
<b>RR10</b>	Typologies of ML and guidance for specific important sectors, combined with outreach is required to ensure the industry fully understand the ML risk in those sectors.		
	TCSP Banking Funds and FSB Lawyers	Both	<p><b>16.</b> Communication with Industry should be enhanced by:</p> <ul style="list-style-type: none"> <li>• increasing the feedback given to industry on the outcomes of SAR reporting,</li> <li>• conducting trend analysis and communicating themes and typologies to industry, and</li> <li>• conducting and/or publishing more granular and detailed trend analysis.</li> </ul> <p><b>17.</b> Public statements regarding enforcement action should include:</p> <ul style="list-style-type: none"> <li>• sufficient details of the behaviour and actions of the entities/individuals to dissuade similar behaviour,</li> <li>• reference the relevant provisions of the regulatory codes and aligning with AML codes and Money Laundering Order that may have been breached.</li> </ul> <p><b>18.</b> Agencies to consider publication of statistics of public and non-public sanctions, and trend / theme analysis of breaches.</p> <p><b>19.</b> Industry Guidance should be supplemented to include additional information in respect of AML red flags and risk factors.</p>

### 5.3 Progress update on the 2020 residual risks and their status in 2023

5.3.1 Based on the work completed against the 22 recommended actions the ten residual risks have been allocated a current status of:

- a. Addressed
- b. Largely addressed
- c. Partly addressed
- d. Not addressed.

5.3.2 Additionally it is recognised that some residual risks are ‘ongoing’ therefore this is reflected in Table 5.2 which also includes a brief comment in support of the allocated rating.



Table 5.2: 2023 status of 2020 residual risks

		2023 Status
RR1	The Authorities understanding of ML risk is not developed to a sufficiently granular level to fully understand ML risk in key market sectors	Largely addressed Ongoing
RR2	Available data collected is not uniform or sufficient to monitor ongoing ML risk	Addressed Ongoing
<p><b>Comment</b></p> <p>RR1 and RR2 are to be merged and to be considered ‘business as usual’ risk understanding and mitigation.</p> <p>Phase 3 of the National Risk Assessment work (2024 onwards) will look to dynamically consider risk in key market sectors and high-risk areas.</p> <p>Data will continue to be collected to support this work.</p> <p><i>RR1: Paragraphs 5.4.2 to 5.4.15</i> <i>RR2: Paragraphs 5.4.16 to 5.4.32</i></p>		
RR3	For both authorities and industry, there is not a fully developed understanding of the risk specific jurisdictions pose to Jersey in respect of cross-border ML risk	Largely addressed Ongoing
<p><b>Comment</b></p> <p>This residual risk considered developing further understanding of the threat posed by the main jurisdictions with which Jersey does business.</p> <p>The Financial Services Jurisdictional Risk Group (“FSJRG”) has been established and created a list of higher risk jurisdictions for ML purposes. The list is available to all agencies through publication online and is updated and monitored through the national risk process.</p> <p>The work of the FSJRG needs to continue to develop and should include updating the jurisdictional position as threats change and emerge.</p> <p><i>Paragraphs 5.4.33 to 5.4.38</i></p>		
RR4	Policy development is not sufficiently resourced or agile enough to fully develop and co-ordinate a policy response to emerging threats faced by Jersey as an IFC	Addressed Risk refined in 2023 residual risks
<p><b>Comment</b></p> <p>The National Structure, supported by the Financial Crime Strategy team, acts as a permanent platform for cooperation and coordination at policymaking and operational levels between the competent authorities.</p> <p>This should be monitored going forward in a broader residual risk concerning maintaining a permanent structure in this regard, including consideration of evolving risk.</p> <p><i>Paragraphs 5.4.39 to 5.4.48</i></p>		

2023 Status		
<b>RR5</b>	LEA cooperation with jurisdictions where common predicate offences occur still requires development to pursue effective ML investigations and prosecutions in Jersey.	Partly addressed Ongoing
	<p><b>Comment</b></p> <p>There has been ongoing progress concerning this position both LEA to LEA and Government to Government where appropriate.</p> <p>The LOD have continued to develop and expand relationships with jurisdictions where common predicate offences occur, and this has looked to enhance MLA requests and co-operation more generally. This is further enhanced by ongoing investment into resources in the MLA team of the LOD who will specifically look to develop relationships to enhance co-operation with specific jurisdictions.</p> <p><i>Paragraphs 5.4.49 to 5.4.55</i></p>	
<b>RR6</b>	<p>For both authorities and industry, the understanding of specific topics relevant to ML is still developing and is uneven in key industry sectors most exposed to those risks. This is exacerbated by the limited understanding of ML risk in common foreign markets with which Jersey interacts.</p> <p>Specific topics of note are: (i) PEPs, (ii) Complex Structures, (iii) Specific Funds ML risk.</p>	<p>Largely addressed</p> <p>Ongoing – Phase 3 risk assessment work</p>
	<p>Further risk understanding has been developed concerning a number of these topics, through completed risk assessments.</p> <p>The 2023 LPA NRA contains relevant material for both PEPs and complex structures.</p> <p>A focused piece of risk work has been completed on JPFs.</p> <p>Further work on PEPs, complex structures, and specific funds ML risk will continue in Phase 3 of the NRA Work.</p> <p><i>Paragraphs 5.4.56 to 5.4.68</i></p>	
<b>RR7</b>	<p>The quality of intelligence available to the FIU, combined with processing challenges and resource constraints, means that Jersey has yet to fully resource financial crime investigation.</p> <p>It therefore remains challenging to identify, investigate and prosecute ML in areas that present the greatest threat to Jersey such as cross-border ML threat.</p> <p>This is exacerbated by foreign co-operation risks outlined in RR 5.</p>	<p>Partly addressed</p> <p>Ongoing</p>

## 2023 Status

**Comment**

Resource considerations and effectiveness of the FIU and LEAs are now subject to review by the Financial Crime Agencies Review Group ("FCARG") regularly and reports are made to the PSG. This shifts Jersey from a phase of bulk resource increase (2018 - 2023) to a phase of active monitoring of resources/capacity against current/emerging threats.

At present resource levels remain under careful monitoring (through FCARG) to ensure further resource is applied as required in the correct areas. For example, in 2023 the FIU has a resource bid to develop capacity and capability, and the LOD has bid to enlarge the MLA team on the basis that case progression can be enhanced with additional MLA resource based on previous residual risk concerns.

*Paragraphs 5.4.69 to 5.4.84*

**RR8**

The effectiveness of tax enforcement and cooperation may indicate challenges in identifying and investigating tax evasion as a common predicate offence presenting a risk to Jersey significant sectors.

Largely addressed  
Ongoing

**Comment**

Since this residual risk was identified, the Island authorities have engaged with industry and have also sought independent research and analysis in the following areas: Risk of predicate tax offences overseas; risk of laundering the proceeds of overseas tax offences as ML, and the effectiveness of the Island's mitigation measures.

The effectiveness of tax enforcement and cooperation has also been considered as part of this work.

The work has resulted in developing further risk understanding amongst the Island authorities of the scale and risk of ML related to foreign tax evasion and has generated a series of potential policy proposals, which will be considered in 2024. This is in line with the scale and risk identified in the work done, and the need to carefully consider any further policy proposals for regime change through consultation with industry.

*Paragraphs 5.4.85 to 5.4.89*

**RR9**

The supervisory approach is not fully tailored to higher risk sectors and themes in order to effectively mitigate ML risk.

Largely Addressed  
Ongoing

**Comment**

The JFSC's risk-based supervisory approach is continually improved, with supervisory activity being driven by the JFSC's increasing understanding of risk, particularly the cyclical 'full scope' AML/CFT inspections undertaken by the specialist FCEU, and the development of the risk model based on ongoing updates but also the annual Supervisory Risk Data.

The JFSC have developed their risk model by updating the underlying calculations of inherent risk to improve alignment with the NRA findings, making better use of Supervisory Risk Data, and addressing recommendations from third-party reviews. There has also been automated updating of entity risk scores where a country has been grey-listed which is based on an entity's exposure to that country.

2023 Status			
	<p>Alongside enhancements to the model, the JFSC also undertook a programme of assurance which included the validity, accuracy and completeness of risk scoring, governance processes, and how effectively the model is used within Supervision.</p> <p>Building on the 2020 ML NRA sectoral risk assessments were undertaken by the JFSC for the highest risk sectors identified within the NRA (TCSPs, Banking, Investment Business and Fund Services Businesses (“FSBs”)) and also the DNFBP sector as a whole.</p> <p><i>Paragraphs 5.4.90 to 5.4.96</i></p>		
<b>RR10</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 5px;">                     Typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understand the ML risk in those sectors.                 </td> <td style="width: 40%; padding: 5px; text-align: center;">                     Largely Addressed  Ongoing                 </td> </tr> </table>	Typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understand the ML risk in those sectors.	Largely Addressed  Ongoing
Typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understand the ML risk in those sectors.	Largely Addressed  Ongoing		
	<p><b>Comment</b></p> <p>ML red flags and risk factors are a feature of the JFSC Handbook. Additionally, the 2023 Money Laundering Typologies report includes red flags for each of the 20 typologies presented.</p> <p>Typologies represent an ongoing exercise for authorities, particularly the FIU, to develop. There is also the need to develop typologies on the abuse of legal persons and arrangements as per the conclusions of the 2023 LPA NRA.</p> <p><i>Paragraphs 5.4.97 to 5.4.109</i></p>		

## 5.4 Progress against the 2020 recommended actions

5.4.1 This section provides greater detail regarding the 22 recommended actions which supports the current status of the residual risks as set out in Table 5.2.

### Residual Risk 1

The Authorities understanding of ML risk is not developed to a sufficiently granular level to fully understand ML risk in key market sectors.

#### *Recommended action 7:*

*Develop an Island strategy to prioritise and drive forward key areas of ML/TF risk and policy for Jersey.*

5.4.2 The 2022 National Strategy clearly documents Jersey’s position in supporting international efforts in the fight against all forms of financial crime and identified the areas of focus to increase effectiveness.

5.4.3 The strategy includes:

- a. A vision to provide a clear direction of travel as we combat financial crime together.
- b. Seven strategic priorities to ensure the FATF recommendations are fully implemented.
- c. A National Action Plan to deliver the strategic priorities.

- 5.4.4 It was presented to industry on publication, is owned by the Government of Jersey. The National Action Plan is reviewed by the Financial Crime Political Steering Group (“PSG”), the highest financial crime forum on the Island.
- 5.4.5 To design and implement the 2022 National Strategy the PSG approved the National Financial Crime Policy and Strategy Cooperation and Coordination structure which took effect in January 2021.

*Recommended action 12:*

*Introduce national-level training to Law Enforcement Agencies (“LEAs”), prosecutors and judiciary to enhance their understanding of the local AML regime and the ability to prosecute ML offences in full.*

- 5.4.6 Recognising that Jersey is in a similar position to the other Crown Dependencies (Guernsey and the Isle of Man) and Gibraltar, discussions regarding development of quad-island national-level training continues.
- 5.4.7 Whilst work continues on developing a national-level training plan, there has been training at a national level to the LEAs, prosecutors and the judiciary on ML matters. Additionally, manuals of Guidance in relation to ML investigations have been published to the LOD by the AG, and both SoJP and ECCU have produced their own Financial Investigation Manual.

*Recommended action 21:*

*The statutory AML/CFT framework should be reviewed with regard to the definitions of activities subject to the AML/CFT regulatory regime.*

*This may include clarifying activities captured (e.g. revising the definitions of “estate agency services”) and considering whether additional activities (e.g. property development) should be captured for AML/CFT purposes in line with the FATF standards.*

- 5.4.8 Consideration has been given to the scope of the regulatory framework. As described in section 4.5, significant change occurred on 30 January 2023 with the replacement of Schedule 2 to the Proceeds of Crime Law so it is now aligned with the FATF definitions of FIs, DNFBPs and VASPs.
- 5.4.9 To assist with understanding the activities subject to the regulatory regime, the JFSC has published Guidelines on Interpretation, issued under Article 36(2) of the Proceeds of Crime Law<sup>23</sup>.
- 5.4.10 Additional activities with significance for Jersey are included in Schedule 2, as risk assessments develop other activities with a significant ML risk may be added as they emerge.

*Recommended action 22:*

*The current statutory exemptions and concessions from AML/CFT obligations should be reviewed to determine:*

- *if the existing exemptions are demonstrably justifiable,*
- *whether any further exemptions should be added, and*
- *whether the way in which the use of exemptions are notified, reported and/or recorded is appropriate.*

<sup>23</sup> [JFSC - guidelines on interpretation, issued under Article 36\(2\) of the Proceeds of Crime Law](#)

- 5.4.11 Consideration of the statutory exemptions has been completed. Section 4.5 provides detail regarding the work completed and the current status.
- 5.4.12 In summary:
- a. Schedule 2 to the Proceeds of Crime Law has been aligned with the activities caught by the FATF definitions of FI, DNFBP and VASP.
  - b. Registration with the JFSC is required by the 30 September 2023.
  - c. Until 1 October 2024, if a person is only within scope as they carry on the TCSP activity of acting as a Director (paragraph 23(2) of Schedule 2 to the Proceeds of Crime Law), the Money Laundering Order requirements have been reduced. A full ML risk assessment of Directors will be undertaken before 1 October 2024 with the reduced level of requirements in place in the interim period.

### Status of Residual Risk 1

- 5.4.13 The residual risk that the competent authorities understanding of ML risk is not developed to a sufficiently granular level to risk in key market sectors has been **Largely addressed**.
- 5.4.14 Residual risks 1 and 2 to be merged and considered 'business as usual' risk management and mitigation, as this work is by its nature continuous and ongoing.
- 5.4.15 Phase 3 of the NRA work (2024 onwards) will look to dynamically consider risk in key market sectors and high-risk areas. Understanding risk is a dynamic/ongoing function as risks emerge and change.

### Residual Risk 2

Available data collected is not uniform or sufficient to monitor ongoing ML risk.

#### *Recommended action 2:*

*Determine whether there are specific reasons for the lack of data available in evidencing ML investigations and introduce policies to address these reasons if appropriate.*

- 5.4.16 Data on ML investigations is held by several competent authorities including ECCU, SoJP and JCIS. The data is maintained by each investigating competent authority and, although in the same general format (conforming to the requirements of MONEYVAL), completion of the 2020 ML NRA highlighted that the data points held differed slightly and the data was rarely collated centrally.
- 5.4.17 The Government of Jersey has developed a National Statistics Database ("NSD") along with the competent authorities. In developing the NSD agreement has been reached on the data points to be collated centrally and the frequency of collation. The NSD information will be reviewed and discussed by the Financial Crime Agencies Review Group ("FCARG") with the output presented to the PSG at least twice a year. It is intended that this information and analysis be used to evidence the effectiveness of ML investigations and also dynamically monitor resource levels.

#### *Recommended action 8:*

*The collection of data can be improved and enhanced by introducing various measures, including:*

- *A standard template to record data across all relevant LEAs and departments.*
- *Updating the SAR portal template to collect adequate and consistent information (e.g. distinguish between domestic and foreign predicates).*
- *Supplementing and/or expanding data collection to allow agencies to better understand potential risks (e.g. the use of PTCs).*

### **Standard Template**

5.4.18 Introduction of the National Statistics Database referred to in paragraph 5.4.17 required all data to be standardised.

### **SAR Portal Template**

- 5.4.19 The adequacy and consistency of the intelligence information collected through the SAR template has seen significant improvement since February 2022. This improvement is the result of a new SAR template launched following the collaborative efforts of the FIU, the JFSC and a dedicated industry SAR Template User Group. There has been significant work to:
- Align the entities and sectors in the SAR Template with the JFSC information.
  - Add a field to collect data on the primary country if a natural person is a PEP.
  - Add a radio button on “Assets” to confirm whether the asset is a virtual asset or not.
- 5.4.20 The SAR template was enhanced again at the start of Q2 2023 to take account of the change to the regulatory framework scope (section 4.5), the findings of the 2023 LPA NRA and to address industry feedback.

### **Expand Data Collection**

- 5.4.21 The JFSC continues to gather data through its annual Supervisory Risk Data collection<sup>24</sup> process and supplements this with additional sector specific requests when required.
- 5.4.22 The Supervisory Risk Data collection exercise comprises a series of Excel workbooks with the nature of a reporting entities activity dictating the amount of data to be provided. The data is used to:
- improve the JFSC’s understanding of the activities undertaken by reporting entities and modify its risk-based approach accordingly, and
  - assist in the preparation of, and enhancement to, the National Risk Assessments for Jersey.
- 5.4.23 Whilst the core of the data collected as Supervisory Risk Data remains constant, the data requested each year is amended to better understand potential risks.
- 5.4.24 With the introduction of the Disclosure and Provision of Information legislation the data held centrally by the Registry has been enhanced to include information on significant persons. In addition the LPA NRA recommends that activity data is collected on a regular basis from legal persons and the legal arrangement established through the Registry.

<sup>24</sup> [JFSC - Supervisory Risk Data](#)



5.4.25 Through revisions to the SAR template the FIU has expanded the quantity of intelligence data collected and improved the quality of data provided.

*Recommended action 9:*

*Consider how data sharing between law enforcement agencies can be improved.*

5.4.26 Strategic Priority Two of the 2022 National Strategy: Better Information Sharing and Coordination. Has five actions, as set out below:

- a. FIU Industry engagement – creation of a Jersey equivalent to the UK Joint Money Laundering Intelligence Task Force.
- b. Undertake a cross-agency review of lessons learnt and best practice to be implemented from the recent sanctions exercise.
- c. Enhance domestic operational information sharing between key financial crime competent authorities.
- d. Develop international information sharing mechanisms.
- e. Enhance public private partnership (“PPP”) approach.

5.4.27 With respect to FIU industry engagement and PPPs, the Jersey Financial Intelligence Network (“JFIN”) has been created and has met. The first PPP comprises competent authority representatives and a number of Jersey FIs (banks). The Island will continue to develop its approach to PPPs such that the model covers sectors other than banking.

5.4.28 As a result of the 2022 focus on sanctions, the competent authorities identified areas where improvements could be made. One of these relates to data sharing. Implementation of the NSD will greatly assist with sharing key data across the competent authorities at an operational level. Additionally at a strategic level, the NSD information will be reviewed and discussed by the FCARG with the output of those discussions presented to the PSG at least twice a year.

5.4.29 Following the 2020 ML NRA Jersey considered its access to international information sharing mechanisms. The results of this work are set out in section 7.18 Effectiveness of International Cooperation (below).

## **Status of Residual Risk 2**

5.4.30 The residual risk that the available data is not uniform or sufficient to monitor ongoing ML risk is **Addressed**.

5.4.31 Residual risks 1 and 2 to be merged and considered ‘business as usual’ risk management and mitigation.

5.4.32 Data collection must remain tailored to support such risk assessment and should be proactively managed to ensure both correct data points and data quality.



**Residual Risk 3**

For both authorities and industry, there is not a fully developed understanding of the risk specific jurisdictions pose to Jersey in respect of cross-border ML risk.

*Recommended action 6:*

*In order to better understand the ML Threat posed by the main jurisdictions with which Jersey does business, a detailed analysis of those jurisdictions should be undertaken and the risk profile for each of the jurisdictions should be set out in one document which is maintained on an ongoing basis and accessible to all agencies.*

- 5.4.33 Work is ongoing to better understand the risks posed by those jurisdictions identified as posing a higher ML risk. A series of presentations and workshops initiated by JFL and delivered in partnership with an external specialist firm have covered jurisdictional risk in relation to a number of higher risk jurisdictions (including UAE, South Africa, Kenya, Nigeria and Saudi Arabia). This involved a series of joint sessions between industry, competent authorities, and in-country experts from the subject jurisdiction. The workshops focused on the conduct of customer risk assessments and specific matters relevant to industry where there is a connection to that higher risk jurisdiction.
- 5.4.34 Separately, the Government has established the Financial Services Jurisdictional Risk Group ("FSJRG"), a cross-departmental group which considers higher risk jurisdictions from an ML perspective with the objective of achieving alignment between different Government departments. The FSJRG has developed a template for considering jurisdictions and has completed an initial risk profile for each identified jurisdiction. The group will provide a Government risk view to other competent authorities and to bodies such as JFL and the private sector.
- 5.4.35 Further information regarding the work to understand the ML threat can be found in section 6.

**Status of Residual Risk 3**

- 5.4.36 The residual risk that both authorities and industry do not have a fully developed understanding of the risk specific jurisdictions pose to Jersey in respect of cross-border ML risk is **Largely addressed**.
- 5.4.37 The FSJRG has been established and established a list of higher risk jurisdictions for ML purposes. The list is available to all agencies through publication online and is updated and monitored through the national risk process.
- 5.4.38 The work of the FSJRG needs to continue to develop and should include updating the jurisdictional position as existing threats change and new threats emerge.

#### **Residual Risk 4**

Policy development is not sufficiently resourced or agile enough to fully develop and coordinate a policy response to emerging threats faced by Jersey as an IFC.

##### *Recommended action 3:*

*Review the current legal framework for imposition of sanctions for breaches of AML/CFT obligations; and make changes where necessary to facilitate the imposition of effective, proportionate and dissuasive sanctions where appropriate.*

- 5.4.39 The Financial Services Commission (Amendment No 8) (Jersey) Law 2022 came into force on 29 April 2022, this extended the JFSC's civil financial penalty regime in two ways:
- a. Extended the penalty regime to cover breaches of the Money Laundering Order.
  - b. The scope of civil financial penalties extended to include DNFBPs, their Principal Persons and Key Persons. Also extended to include other members of Senior Management for all FIs, DNFBPs and VASPs.

##### *Recommended action 4:*

*Improve the Money Laundering Order to allow for criminal and civil sanctions to be taken more effectively.*

- 5.4.40 To achieve the outcome sought by this recommended action the Money Laundering Order has not been amended. Rather, the JFSC has been granted enhanced powers which enable them to impose financial penalties on both entities and senior management for contraventions of the Money Laundering Order.
- 5.4.41 In addition, new sanction tools have been added to the regulatory framework:
- a. The Proceeds of Crime Law was amended on 24 June 2022 to include the offence of failing to prevent money laundering.
  - b. The Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023 was implemented on 3 March 2023, see also paragraph 4.6.4.

##### *Recommended action 5:*

*Ensure policy development is sufficiently resourced and agile enough to fully develop and co-ordinate a policy response to emerging threats faced by Jersey as an IFC.*

- 5.4.42 On a day-to-day basis the Government, in conjunction with a number of key competent authorities, develops ML policy and coordinates the actions associated with this policy development and implementation. As a result of the ML risk assessment work, which resulted in the 2020 ML NRA, there has been a substantial resource increase.
- 5.4.43 All Government departments and competent authorities (with the exception of the JFSC) obtain their funding from central Government. This is detailed annually in the Government Plan and is subject to a centralised Government Plan funding process. A successful funding bid for additional headcount from the 2021 Government Plan was facilitated by the PSG and resulted in an uplift of 30 individuals spread across one Government department and three competent authorities, as follows:

- a. The implementation of the Financial Crime Strategy Team within the Economy Department of the Government of Jersey.
  - b. The FIU
  - c. The ECCU
  - d. The SoJP (specifically the Joint Financial Crime Unit)
- 5.4.44 In addition, the JFSC is a key competent authority in policy development, but as an independent body it is responsible for its own resource funding. The JFSC has significantly increased its overall resources since 2020. In terms of staff the headcount of the JFSC has effectively doubled between 2018 and 2023. Whilst an independent review by Oliver Wyman in 2022 concluded that policy resources within the JFSC are comparative to peer jurisdictions, this is under further review due to current and expected demands for policy development. A revised policy resource target operating model is in development which has a 2023 year-end target date for approval and the commencement additional staff recruitment.
- 5.4.45 To address the 2022 focus on sanctions the competent authorities utilised their resources in an agile way by creating multi-agency task forces at both an operational and strategic level. This work included policy development associated with the emerging threats.

#### Status of Residual Risk 4

- 5.4.46 The residual risk that policy development is not sufficiently resourced or agile enough to fully develop and co-ordinate a policy response to emerging threats faced by Jersey as an IFC is **Addressed**.
- 5.4.47 The Government created the National Structure in 2021 for effective implementation of risk assessment findings and to act as a permanent platform for cooperation and coordination at policymaking and operational levels between the competent authorities. This has been supported by a permanent dedicated Government policy and strategy team, the Financial Crime Strategy team. This structure has consistently addressed risks, developed policies for the Island, and co-ordinated operational co-operation between parties as matters have arisen.
- 5.4.48 This work should be continued and take on a broader view of residual risk, as well as maintaining a permanent structure that also deals with evolving risk.

#### Residual Risk 5

LEA co-operation with jurisdictions where common predicate offences occur still requires development to pursue effective ML investigations and prosecutions in Jersey.

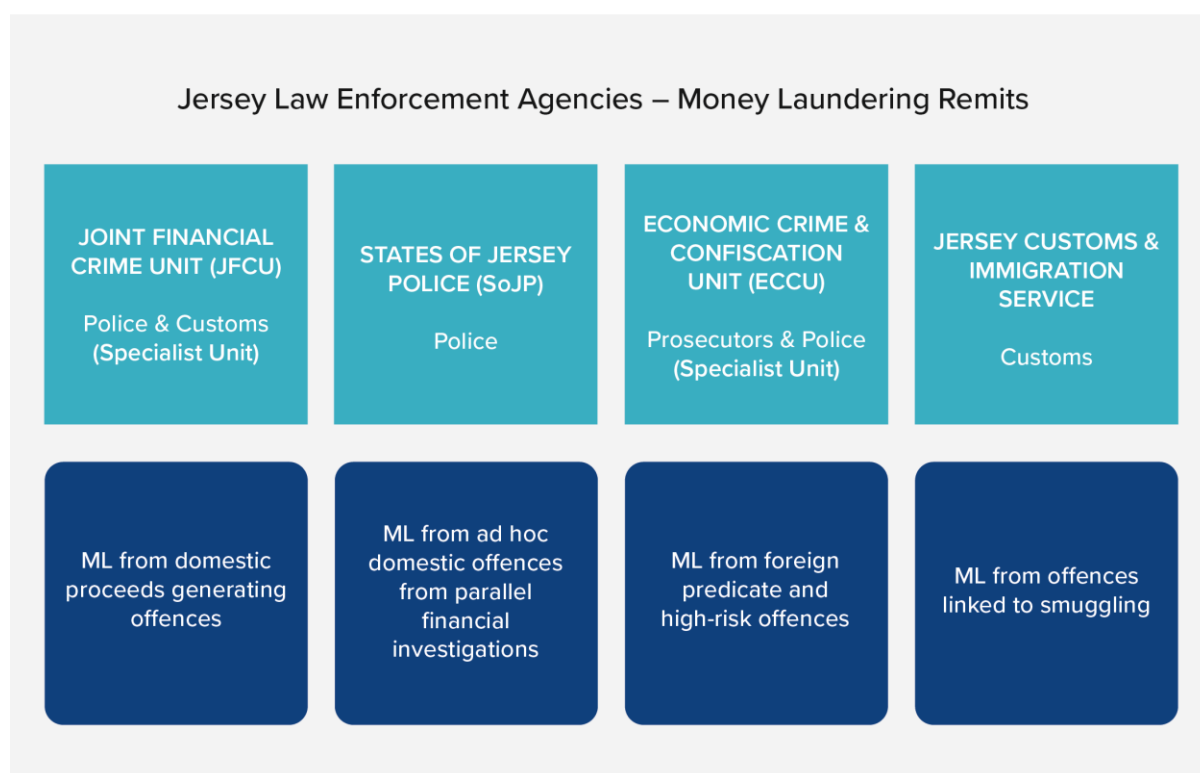
#### *Recommended action 1:*

*Policies and procedures around civil/criminal enforcement should be amended to ensure parallel<sup>25</sup> ML investigations occur whenever international predicate offences are identified and there is a link to a domestic individual or regulated entity.*

<sup>25</sup> A 'parallel financial investigation' refers to conducting a financial investigation alongside, or in the context of, a (traditional) criminal investigation into ML, TF and/or predicate offence(s).

- 5.4.49 The policies and procedures have been amended regarding parallel financial investigations and the AG issued guidance<sup>26</sup> in this regard in July 2022.
- 5.4.50 There are three law enforcement agencies with the specific remit to conduct ML/TF investigations, and parallel financial investigations.
- The ECCU has responsibility for investigating cases which involve, among other things, foreign predicate offences. All ECCU cases are by their nature financial investigations. The ECCU case adoption criteria provides guidance to other competent authorities (including law enforcement departments) on referring complex financial investigations to ECCU.
  - The JFCU conducts parallel financial investigations into all domestic proceeds generating offences, including (but not limited to) drug trafficking and fraud. The policy in relation to the requirement for JFCU to conduct parallel financial investigations in respect of all appropriate cases is set out in the SoJP Parallel Financial Investigation Policy, published January 2023.
  - The JCIS conduct parallel financial investigations in respect of all investigations conducted within its remit, specifically the smuggling of narcotics, cash, and illegal immigration.

**Figure 5.1: Jersey Law Enforcement Agencies – Money Laundering Remits**



<sup>26</sup> [LOD - AG's guidelines and directives: parallel financial investigations](#)

*Recommended action 10:*

*Jersey LEAs should work to actively encourage better collaboration with other jurisdictions to facilitate increased exchange of information with those jurisdictions.*

- 5.4.51 The Jersey LEAs have a proactive approach to both formal and informal international cooperation. Since 2020 this approach is reflected in the significant increase in active information exchanges undertaken with foreign counterparts by the Jersey FIU and the increase in the number of outgoing mutual legal assistance (“MLA”) requests. Efficient international cooperation is a very important aspect of the work of the LEAs with respect to ML.
- 5.4.52 Further information regarding the work to encourage better collaboration with other jurisdictions and achieve more effective international cooperation can be found in section 7.18.

**Status of Residual Risk 5**

- 5.4.53 The residual risk that LEA co-operation with jurisdictions where common predicate offences occur requires development to pursue effective ML investigations and prosecutions in Jersey is **Partly addressed**.
- 5.4.54 There has been ongoing progress concerning this position both LEA to LEA and Government to Government where appropriate.
- 5.4.55 The LOD have continued to develop and further pursue relationships with jurisdictions where common predicate offences occur, and this has looked to enhance MLA requests and co-operation more generally. This is further enhanced by ongoing investment into resources in the MLA team of the LOD who will specifically look to develop relationships to enhance co-operation with specific jurisdictions.

**Residual Risk 6**

For both authorities and industry, the understanding of specific topics relevant to ML is still developing and is uneven in key industry sectors most exposed to those risks. This is exacerbated by the limited understanding of ML risk in common foreign markets with which Jersey interacts. Specific topics of note are: (i) PEPs, (ii) Complex Structures, and (iii) Specific Funds ML risk.

*Recommended action 20:*

*As new and emerging risks are identified such as the use of VASPs and/or Fintech, relevant typologies should be issued. Equally, further typologies should be produced on high-risk areas, such as PEP Relationships and complex structures.*

- 5.4.56 The January 2023 typologies report issued jointly by the JFCU and the FIU takes into account the ML risks identified in the 2020 ML NRA. It draws upon the intelligence held by the FIU along with the experience of law enforcement officers, the JFSC, the finance industry, litigators and insolvency practitioners.
- 5.4.57 The typology report sets out 20 typologies which are a mix of local and hypothetical cases. For each typology the report highlights red flags and for many it identifies learning points. These red flags and learning points include references to PEPs and the use of complex structures.

- 5.4.58 In May 2022 the Government published a VASP overview document which recommends that the Government and competent authorities should seek to deepen their understanding of the virtual asset sector. This would lead to developing a legislative and regulatory regime that is fit for purpose to effectively monitor the sector and manage the risks.
- 5.4.59 Since publication of the VASP risk overview the regulatory regime has been amended (see section 4.5) such that the FATF definition of VASP is now reflected in Schedule 2 of the Proceeds of Crime Law and the regulatory framework applies in full. An assessment of the risks associated with the VASP sector is ongoing and is expected to be published in Q1 2024.
- 5.4.60 Consideration of some core inherent risks associated with the growing private fund product (JPFs) was undertaken in 2021/2022 which resulted in the production of a report in Q3 2022. The findings of this work were communicated to industry through trade association presentations and have been used to inform the current ML risk refresh, although this work is ongoing (see section 10).
- 5.4.61 Continued enhancement of risk understanding should be developed through completion of targeted risk assessments involving competent authorities and industry.

*Other relevant information for Residual Risk 6*

*PEPs*

- 5.4.62 Whilst there is still the need to conduct further work with respect to this Residual Risk, the risk assessment work completed to date, especially the 2023 LPA risk assessment, has considered data in relation to both PEP exposure and complex structures. The 2023 LPA NRA specifically considered the specific types of legal persons and arrangements and the underlying residency jurisdiction of beneficial owners and controllers and PEPs. This has facilitated a greater level of understanding to be developed around PEPs and complex structures and their ML risks. Consideration of PEP exposure is an ongoing process.
- 5.4.63 PEPs are a current focus of work given the recent amendment to the Money Laundering Order which amended Article 15A such that in certain circumstances a person designated as either a domestic or foreign PEPs may be de-designated. See also section 4.9.

*Complex Structures*

- 5.4.64 The 2023 LPA NRA contains material relevant to how legal persons and arrangements can be used in structuring but does not specifically focus on the most complex of structures. It does, however, develop understanding around how structures are used for common high-risk activities linked to Jersey (e.g. mining) and how trusts and companies are structured in common structures.

*Specific Funds ML Risk*

- 5.4.65 In respect of the ML risk in relation to specific funds, whilst public funds still have the greatest number of investors and the highest value of assets under management, the JPF is the growth product.

- 5.4.66 The growth of the JPF triggered a focused piece of risk work regarding two of the core inherent risks. This risk work was undertaken in 2021/2022 and resulted in finalisation of a report in Q3 2022 with an associated engagement programme with industry. There has also been ongoing JFSC thematic work concerning the controls associated with the JPF in 2020 and more recently starting June 2023, the feedback on which is ongoing. Initial conclusions of this work have been incorporated into the funds sector refresh (section 10).

### Status of Residual Risk 6

- 5.4.67 The residual risk that the understanding by competent authorities and industry of specific topics relevant to ML is still developing and is uneven in key industry sectors most exposed to those risks, is **Partly addressed**.
- 5.4.68 Further risk understanding has been developed concerning a number of these topics, through completed risk assessments. However, further work on PEPs, complex structures, and specific funds ML risk will continue in Phase 3 of the NRA Work.

### Residual Risk 7

The quality of intelligence available to the FIU, combined with processing challenges and resource constraints, means that Jersey has yet to fully resource financial crime investigation. It therefore remains challenging to identify, investigate and prosecute ML in areas that present the greatest threat to Jersey such as cross-border ML threat. This is exacerbated by foreign co-operation risks outlined in Risk 5.

#### *Recommended action 13:*

*Consider better aligning investigation and prosecution resources across supervisory and law enforcement agencies.*

- 5.4.69 There have been progressive increases in resources across all agencies, both supervisory, investigation and prosecution. This work has been facilitated by the agenda of the PSG and has resulted in significant increases in many agencies.
- 5.4.70 The FIU is a signatory to the 2023 MOU on Investigation and Prosecution of financial crime and a member of the FCARG which looks to analyse the effectiveness of financial agencies performance and looks to consider matters relevant to resources and capacity. The FCARG will report on resources to the PSG.
- 5.4.71 The FIU is also in the process of bidding for (in line with Government financial planning cycles) further resource to continue to develop capacity and capability. As the FIU evolves post 2023, Ministerial intention is to facilitate a full exit from Police Headquarters creating a fully standalone unit with appropriate further funding and premises. This is an ongoing project for Jersey to ensure the FIU is adequately resourced to provide the intelligence support Jersey requires to combat financial crime effectively.



5.4.72 The JFSC authorise, supervise and enforce against non-criminal breaches. The JFSC has expanded its perimeter and resources substantially since 2020. The JFSC 2023 Business Plan states that<sup>27</sup>:

*“Globally, the remit of financial services regulation has grown, driven by financial failures, political concerns, product innovation, and growth in new sectors. Consequently, the perimeter that regulators are responsible for is increasing substantially and this trend is anticipated to continue. Jersey is not immune to this change and in 2022 we saw an extension of our responsibilities to include for example NPOs and the introduction of new regimes for VASPs and MVTs [Money or Value Transfer Services].*

*“Independent analysis performed on our resourcing levels in relation to comparable regulators and their scope of work, has enabled us to gain external validation about the need to add additional resource to ensure the JFSC continues to be an effective regulator.”*

**Recommended action 14:**

*Address the challenges currently faced by the FIU when identifying, investigating and prosecuting ML (namely poor quality of intelligence available, processing challenges and resource constraints).*

### Poor quality intelligence

5.4.73 The adequacy and consistency of the intelligence information collected through the SAR template has seen significant improvement since February 2022. This improvement is the result of a new SAR template launched following the collaborative efforts of the FIU, the JFSC and a dedicated industry SAR Template User Group.

5.4.74 There is an ongoing focus on the quality of intelligence received through SARs. Starting in Q1 2023, feedback is now provided on every portal submission to improve the quality of future submissions. This feedback is provided to the submitter. In addition, working with the SAR Template User Group, feedback covers 14 key areas of the submission (see Table 5.3) as well as providing general comments.

5.4.75 As part of the general feedback the FIU summarise the whole submission by stating whether is it “good”, “adequate” or “inadequate” (noting that following the initial period of feedback these labels will be changing to “Good Standard”, “Meets Standard” and “Below Standard”).

**Table 5.3: 14 key areas of FIU feedback on portal submissions**

Key area	Key area
Type of report chosen for the submission (SAR / Miscellaneous Intelligence Report / Continuation Report)	Country of predicate offence
Details of criminality suspected	What activity prompted the submission
Details of suspicion	Source of funds / source of wealth information

<sup>27</sup> [JFSC - 2023 business plan \(page 21\)](#)



Key area	Key area
Measures taken to address the suspicion	Full details of other associated persons, companies or assets
Details of introducer / intermediary	Consent Requests
Subjects	Companies
Assets	Attachments

### Processing challenges and resources

- 5.4.76 The FIU has undergone a structural change which is covered in section 4.4. In 2018, the FIU followed a 'law enforcement' model and was overseen by a Detective Inspector who had responsibility for the intelligence unit and financial crime investigations.
- 5.4.77 The FIU now follows an 'administrative' model, is established with 30 staff, and is overseen by a Director of FIU and a Deputy Director/Operations Manager. It is supported by one senior legal advisor and one assistant legal advisor both provided by the LOD and based at Police Headquarters (where the FIU is currently hosted). As part of their role they provide legal advice to the JFCU investigation team.
- 5.4.78 The FIU operates a risk-based approach when analysing and disseminating intelligence received as part of its core functions. This assessment is aligned with the FIU Grading Policy and the threats identified in Jersey's suite of NRAs such as tax crimes and corruption. Resources are allocated in line with the risk-based approach.
- 5.4.79 The FIU has the capacity to adapt and flex to current affairs that could influence the type and volume of SARs being submitted the FIU. This is evidenced from the invasion of Ukraine by Russia and the subsequent sanction restrictions that were then imposed on Russian nationals and entities. The FIU saw increased reporting on sanctioned individuals in March 2023, when the FIU dedicated staff to solely focus on the receipt, analysis and processing of these, working closely with LEAs and the Government sanctions team.

### Status of Residual Risk 7

- 5.4.80 The residual risk is **Partly addressed**, and the risk is ongoing. This residual risk is refined in the 2023 ML NRA Residual Risks.
- 5.4.81 Resource considerations and effectiveness of the FIU and LEAs are now subject to regular review by the FCARG and reports made to the PSG at least twice a year. This shifts Jersey from a phase of bulk resource increase (2018 - 2023) to a phase of active monitoring of resources/capacity against current threats.
- 5.4.82 The FIU now follows an administrative model, is established by specific statute with 30 staff, and is overseen by a Director of FIU and a Deputy Director/Operations Manager. It is in the process of bidding for further resource to continue to develop capacity and capability.

- 5.4.83 There has been progressive investment through successive Government plans in resource in the ECCU, SOJP Ops and other agencies which has been targeted on appropriately increasing skills and resources where necessary. This has focused on both technology resources as well as human resources, with the adoption of case management software in the LOD/ECCU and specific human resources as cases evolve.
- 5.4.84 The 2023 residual risk from resource levels remains under careful monitoring, now through the FCARG, to ensure further resource is applied as required in the correct areas. For example, additional resource in 2023 has been bid for in the LOD to increase resource in the MLA team. Case progression can be enhanced with additional MLA resource based on previous residual risk concerns (see Residual Risk 5).

### Residual Risk 8

The effectiveness of tax enforcement and co-operation may indicate challenges in identifying and investigating tax evasion as a common predicate offence presenting a risk to Jersey significant sectors.

#### *Recommended action 15:*

*Determine what challenges are being experienced in identifying and investigating tax evasion as a common predicate offence.*

- 5.4.85 Following the action in the National Action Plan (Action 9.7.3) and 2020 ML NRA, the jurisdiction is currently undertaking a piece of work with industry to better understand the tax controls applied by industry with a view to preventing the proceeds of tax crimes being present. An external specialist firm are also engaged to support this work. The initial delivery of findings has been recently received.
- 5.4.86 Jersey's participation in FATCA and the OECD Common Reporting Standard and related tax treaties provides a fallback mechanism to help overseas tax administrations identify the proceeds of tax evasion by their tax residents. This is dealt with in more detail in paragraph 7.21.

### Status of Residual Risk 8

- 5.4.87 The residual risk that the effectiveness of tax enforcement and co-operation may indicate challenges in identifying and investigating tax evasion as a common predicate offence presenting a risk to Jersey significant sectors is **Largely addressed**.
- 5.4.88 Since this residual risk was identified, the Island authorities have engaged with industry and have completed research and analysis to further understand the risk of predicate tax offences overseas and the effectiveness of the Island's mitigation measures.
- 5.4.89 The initial work has been considered by the Island authorities, along with a series of potential recommended policy proposals. Based on the risk level established, these will be considered in 2024 with further work concerning policy and Jersey's approach to monitoring the risk of laundering the proceeds of foreign tax evasion.

**Residual Risk 9**

The supervisory approach is not fully tailored to higher risk sectors and themes in order to effectively mitigate ML risk.

*Recommended action 11:*

*Ensure that the higher risk sectors and themes are taken into account when developing ongoing AML/CFT supervisory approaches.*

- 5.4.90 The JFSC's risk-based supervisory approach is continually improved, with supervisory activity being driven by the JFSC's increasing understanding of risk, particularly the cyclical "full scope" AML/CFT inspections undertaken by the specialist Financial Crime Examination Unit ("FCEU") and the development of the risk model based on ongoing updates but also an annual data collection.
- 5.4.91 This has been supplemented by further supervisory activity, both onsite examinations and desk-based supervision, conducted by other supervision teams. As well as the programme of thematic examinations which focusses on risks identified by the suite of NRAs or otherwise identified emerging risks.
- 5.4.92 A restructure of the Supervision Division was undertaken in 2022 to further align resources to risk. In 2023 a new supervision team was created to focus on DNFBPs, NPOs and VASPs enabling the JFSC to enhance their understanding of these sectors and how they mitigate their risks. There has been significant investment in training, infrastructure and supervision staff (almost doubling the supervisory headcount from 57 in 2018, 67 in 2020, to a target of 100 in 2023).
- 5.4.93 The JFSC's risk-based supervisory approach, particularly in the way it is driven by its Risk Model, has increasingly focused on the highest risk sectors. This focus leverages the additional understanding gained from: (i) a suite of National and Sectoral risk assessments, (ii) a programme of continuous improvement of the assessments within the Risk Model, to identify the sectors and entities that pose the highest risk, and (iii) via structural changes to Supervision such as the introduction of the Heightened Risk Response team to tackle the highest risk entities.

**Status of Residual Risk 9**

- 5.4.94 The residual risk, that the supervisory approach is not fully tailored to higher risk sectors and themes in order to effectively mitigate ML risk, is **Largely addressed**. This residual risk is refined in the 2023 ML NRA Residual Risks.
- 5.4.95 Since the risk was identified, significant additional resource has been allocated within the JFSC Supervision teams, as well as setting up new teams to focus on matters such as new sectors coming within the scope of the regulatory framework and entities requiring heightened monitoring.
- 5.4.96 The JFSC Risk team has worked closely with Supervision to develop the risk understanding, supported by ever improved data trends from the annual Supervisory Risk Data collection exercise.

### **Residual Risk 10**

Typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understand the ML risk in those sectors.

#### *Recommended action 16:*

*Communication with Industry should be enhanced by:*

- *increasing the feedback given to industry on the outcomes of SAR reporting;*
- *conducting trend analysis and communicating themes and typologies to industry,*
- *conducting and/or publishing more granular and detailed trend analysis.*

5.4.97 As part of its change programme the FIU has appointed a Communications Officer and has significantly increased its communication with industry and other competent authorities.

5.4.98 FIU staff regularly present at Government organised industry events including the January 2023 event which coincided with the publication of an updated typologies document<sup>28</sup>.

5.4.99 The FIU now provides regular feedback to industry following submission of SARs and publishes a quarterly report including SAR trends<sup>29</sup>.

#### *Recommended action 17:*

*Public statements regarding enforcement action should include:*

- *sufficient details of the behaviour and actions of the entities/individuals to dissuade similar behaviour, and*
- *reference the relevant provisions of the regulatory codes and aligning with AML codes and Money Laundering Order that may have been breached.*

5.4.100 The JFSC enforcement public statements<sup>30</sup> published on its website are now comprehensive and designed to advise industry what went wrong and how they can ensure their own mitigants are effective.

5.4.101 The public statements include specific reference to the element(s) of the regulatory framework which have been breached.

#### *Recommended action 18:*

*Agencies to consider publication of statistics of public and non-public sanctions, and trend / theme analysis of breaches.*

5.4.102 The JFSC and Revenue Jersey are both competent authorities with the power to either independently, or through the courts system, levy non-criminal sanctions when persons do not comply with the requirements of the regulatory framework. The JFSC supervises industries' compliance with the regulatory framework and receives breach notifications.

<sup>28</sup> [SoJP and FIU - 2023 ML Typologies](#)

<sup>29</sup> [FIU - Statistics & Updates](#)

<sup>30</sup> [JFSC - public statements](#)

- 5.4.103 Following formation of the Registry Supervision function in 2022 the Registrar now publishes a quarterly report which covers the results of the work completed in the previous quarter. This provides examples of best practice identified during examinations and, starting with the Q2 2023 report, provides details of sanctions applied<sup>31</sup>.
- 5.4.104 In addition to the public statements published by the Enforcement Division of the JFSC, the Supervision Division publish feedback reports following completion of thematic examinations, as well as annual reports of the work of the FCEU. These provide insight into compliance rates, key themes and examples of best practice. Industry is expected to read and action the findings and recommendations from these published reports, even if their firm was not assessed.
- 5.4.105 Revenue Jersey has the power to publish aggregate statistics of the penalties it levies with respect to non-compliance with the jurisdiction's domestic tax laws. It does not yet routinely do so but envisages incorporating such penalties within its annual Tax Statistics Digest in the future.

*Recommended action 19:*

*Industry Guidance should be supplemented to include additional information in respect of AML red flags and risk factors.*

- 5.4.106 AML red flags and risk factors are a feature of the Handbook both in respect of conducting business and customer risk assessments as well as in respect of specific sectors.
- 5.4.107 Additionally, the 2023 Money Laundering Typologies report includes 'red flags' for each of the 20 typologies presented.

### **Status of Residual Risk 10**

- 5.4.108 The residual risk that typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understand the ML risk in those sectors, is **Partly addressed**.
- 5.4.109 Typologies represent an ongoing exercise for authorities, particularly the FIU, to develop. There is also the need to continue to develop typologies of abuse of legal persons and arrangements as per the conclusions of the 2023 LPA NRA.

## **5.5 2023 Residual Risks and Recommended Actions**

- 5.5.1 Throughout this 2023 ML NRA refresh, recommendations have been made which are combined with any ongoing actions from the 2020 ML NRA. They are categorised under Residual Risk headings, with a number carried over from the 2020 ML NRA.
- 5.5.2 Where appropriate, the actions will be added to the National Action Plan and reported on regularly through governance.

<sup>31</sup> [Companies Registry - Registry Supervision: Quarterly Reports](#)

Table 5.4: 2023 Residual Risks

	Sectoral Focus	Foreign/ Domestic/ Both	2023 Recommended Actions
<b>RR1</b>	<b>[Merged and refined from 2020]</b>		
	The Authorities are yet to agree and publish a long-term plan for undertaking ongoing risk assessment and for identifying emerging ML risks in the medium-long term. This plan should be supported by a long-term adequate resource structure for risk assessment, policy development, co-ordination and data collection. The structure must facilitate policy development in accordance with identified risks, using suitable resources and data points from across the authorities and industry.		
	All	Both	<p><b>1.</b> Government to develop and publish to industry a long-term plan for undertaking ongoing risk assessment and for identifying emerging ML risks in the medium-long term. This should include engagement with the PPP work being led by the FIU and developing the JFIN to play a greater role in dynamic risk assessments.</p> <p><b>2.</b> Government to develop a data framework to facilitate evidence-led risk assessments in the medium-long term.</p> <p><b>3.</b> Government to review the structure for policy development and co-ordination with the objective of establishing a future long-term structure to meet the needs of the Island taking into account the changing risk picture.</p>
<b>RR2</b>	<b>[Ongoing from 2020]</b>		
	For both authorities and industry, there is not a fully developed understanding of the risk that specific jurisdictions pose to Jersey in respect of cross-border ML risk.		
	TCSP Banking Funds and FSB Lawyers	Both	<p><b>4.</b> Government Financial Services Jurisdictional Risk Group (“FSJRG”) to continue to develop its work to consider and update the analysis of jurisdictions that present a higher threat to Jersey considering customer connections and financial flow data. This should include updating the position as threats change and emerge.</p> <p><b>5.a.</b> Continue to work with Jersey Finance Limited and industry to actively develop the understanding of risk in key target markets that have been identified as higher risk.</p>
	Banking	Domestic	<b>5.b.</b> JCIS to analyse which UK bank and post office branches receive Jersey bank notes and the quantities.

	Sectoral Focus	Foreign/ Domestic/ Both	2023 Recommended Actions
<b>RR3</b>	<b>[Ongoing from 2020]</b>		
	LEA co-operation with jurisdictions where common predicate offences occur still requires development to pursue effective ML investigations and prosecutions in Jersey.		
	All	Foreign  Specifically, but not limited to certain cross-border threat countries	<p><b>6.</b> LEA to continue to further pursue relationships with jurisdictions where common predicate offences occur and enhance mutual legal assistance requests and co-operation more generally.</p> <p><b>7.</b> Where particular difficulties arise as to obtaining information or evidence from jurisdictions where common predicate offences occur, LEAs to consider diplomatic engagement, as appropriate, to enhance relationships.</p> <p><b>8.</b> Government to consider the jurisdiction's approach to risk appetite further where persistent issues occur in obtaining information or evidence from jurisdictions where common predicate offences occur.</p>
<b>RR4</b>	<b>[Ongoing from 2020]</b>		
	For both authorities and industry, the understanding of specific topics relevant to ML is still developing. It is uneven in key industry sectors most exposed to those risks – this is exacerbated by the limited understanding of ML risk in common foreign markets with which Jersey interacts.		
	Specific topics of note are: (i) PEPs, (ii) Complex Structures, (iii) Specific Funds' ML risk.		
	TCSP Banking Funds and FSB Lawyers	Foreign	<b>9.</b> Incorporate in Phase 3 of the National Risk Assessment work (2024 onwards) the development of further understanding on PEPs and complex structures.
<b>RR5</b>	<b>[Refined from 2020]</b>		
	Without ongoing monitoring and enhancement, there remains a risk that the quality of intelligence available to the FIU, identification of major cases and resource constraints produce capacity challenges for Jersey in the investigation and prosecution of complex financial crime. This may be exacerbated by foreign co-operation risks outlined in Risk 3.		
	All	Both  (Foreign more significant)	<p><b>10.</b> FCARG to act as an active monitoring group for financial crime agency effectiveness, reporting regularly to PSG, making targeted and appropriate requests for resource increases where required.</p> <p><b>11.</b> Continue to invest in the evolution of the FIU, including human and technological resources. Increase capacity for advanced analysis, both operational and strategic, and develop the opportunities presented by the JFIN.</p>



	Sectoral Focus	Foreign/ Domestic/ Both	2023 Recommended Actions
<b>RR6</b>	The effectiveness of tax enforcement and co-operation may indicate challenges in identifying and investigating tax evasion as a common predicate offence presenting a risk to Jersey significant sectors.		
	TCSP Banking	Both	<b>12.</b> Government to consider the risks identified in the initial research and analysis concerning predicate tax offences overseas and the effectiveness of the Island's mitigation and develop additional policy responses, as appropriate.
<b>RR7</b>	<b>[Refined from 2020]</b> The supervisory approach requires ongoing monitoring and development in respect of higher risk sectors, new sectors coming within the scope of the regulatory framework and entities requiring heightened monitoring in order to continue to effectively mitigate ML risk.		
	TCSP Banking Funds and FSB	Both	<b>13.</b> The JFSC to continue to develop their supervisory approach, particularly to higher risk sectors and new sectors coming within the scope of the regulatory framework and entities requiring heightened monitoring. This should include the use of data trends from the annual Supervisory Risk Data collection exercise, development of the risk model and enhancement of resource capability, where appropriate.
<b>RR8</b>	<b>[Ongoing from 2020]</b> Typologies of ML and guidance for specific important sectors, combined with outreach, is required to ensure the industry fully understands the ML risk in those sectors.		
	TCSP Banking Funds and FSB Lawyers	Both	<b>14.</b> FIU to develop further typologies, particularly in the FIU with enhanced strategic analysis. This should focus on higher risk areas for Jersey and include areas where typologies have recently not been readily available, such as the abuse of legal persons and arrangements.
<b>RR9</b>	<b>[New residual risk]</b> The emergence of new technologies presents specific new challenges in identifying underlying ML/TF trends and investigating any issues identified. Jersey authorities may not yet have sufficient access to all appropriate resources, both human and technological, to investigate these cases in a timely manner.		
	All	Both	<b>15.</b> The relevant competent authorities to continue to develop skills and capacity (both human and technological) in the FIU, LEA and the JFSC to identify and investigate ML/TF trends arising from new technologies.



	Sectoral Focus	Foreign/ Domestic/ Both	2023 Recommended Actions
<b>RR10</b>	<b>[New residual risk]</b>		
	The changing geopolitical climate has resulted in rapid changes in risks emanating from certain jurisdictions (notably in 2022, Russia). Jersey authorities may not yet have enough data or systems to ascertain their exposure to a specific risk (be it country related, or product/service related) to react as quickly as possible to the changing risk profile.		
	All	Both	<b>16.</b> Alongside the creation of a data framework for ML/TF risk assessment, Government to consider the collection and use of data for emerging risk profiles and how this can be utilised in short order to provide the jurisdiction with near 'real time' data on risk exposure so that swift action can be taken to mitigate risks.

## Part B – National ML risk

### 6 National ML Threat

#### 6.1 Introduction and methodology

6.1.1 In the 2020 ML NRA the money laundering threat faced by Jersey was reviewed against 2013 – 2019 data from a range of competent authorities and publications. This update report considers data up to and including 2022.

6.1.2 As an IFC, the majority of Jersey's customer base is non-resident by both number and value of business transacted. Therefore, activities that result in funds being held in Jersey will take place largely outside the jurisdiction. It follows that should the source of funds be the proceeds of crime the predicate offence will have been committed overseas. The Island remains most exposed to the placement/layering of criminal proceeds. As before, this threat assessment considers: -



- a. Cross-border threat
- b. Foreign predicate offences
- c. Domestic predicate offences
- d. Typologies

6.1.3 In support of updating the position regarding overseas threats, the Centre for Financial Crime and Security Studies at RUSI were engaged. They ran a National Threats Workshop attended by representatives from the competent authorities. The objective of the workshop was to consider the ML threats that Jersey faces or might face in the future. In line with the approach to the NRA generally, the view was to refresh the 2020 ML NRA work and identify if threats had changed or new threats had emerged.

6.1.4 Qualitative and quantitative analysis of indicators of ML threats was undertaken utilising a range of data sources from both competent authorities as well as from external agencies, academia and think tanks, alongside intelligence and additional open and commercially relevant data.

6.1.5 Consideration of the threats faced by Jersey has confirmed the 2020 ML NRA position that Jersey's overall threat level is medium-high. This is supported by the investigations and FIU intelligence requests (see data tables 6.6 and 6.7 respectively). The data continues to show corruption, fraud and tax evasion as the most common foreign predicate offences leading to investigations.

#### *JFIN PPP*

6.1.6 The recently formed JFIN PPP is a welcome addition to the toolkit for identifying threats. The initial JFIN model focuses on collaboration in the banking sector with the plan to develop further FIN partnerships across other sectors.

- 6.1.7 As an example of the value it is expected to add to the threat understanding, it has already undertaken an exercise to consider the potential risk that Jersey, either as an IFC or domestically, may be exposed to modern slavery human trafficking (“MSHT”) related threats. Their data analysis exercise identified that there were nationalities, deemed to be at a higher risk of either exploitation or as the criminal controller, that had opened retail bank accounts in Jersey. However, based on the nationality indices, they considered the accounts proportionate to the diaspora communities present. No additional indicators were identified.
- 6.1.8 Global experience and examples highlight that MSHT, and related exploitation, can happen in plain sight and doesn’t necessarily exhibit financial indicators. Therefore, it must be considered possible that it is occurring in Jersey even though it is not evidenced through the main clearing banks. Continuing diligence should be exercised.
- 6.1.9 In addition, a review of the current UK understanding was carried out to see what were considered red flags in certain typologies, with a view to assessing how these may be relevant to an IFC. Further consideration was made on how Jersey may be used by criminal gangs in abusing the nature of IFCs through the layering and hiding of criminal proceeds from MSHT and other crimes.

## 6.2 Cross-Border Threat

- 6.2.1 To better understand the cross-border threat the Government has established the FSJRG, which has conducted a detailed analysis of jurisdictions that present a higher ML threat to Jersey considering customer connections and financial flow data. This group has developed a template for considering jurisdictions and has completed an initial risk profile for each identified jurisdiction. The group will provide a Government risk view to other competent authorities and to bodies such as JFL and the private sector.

### Geographical Threat Changes

- 6.2.2 A significant growth in the potential threat arising from a jurisdiction can occur when a piece of business is taken on by a financial services business but the number of existing connections is small. This may also be a jurisdiction where Jersey collectively has limited experience and knowledge. Whilst overall volumes of business may remain low, the percentage growth in Jersey’s exposure to that jurisdiction will have increased more significantly and may appear in more than one industry sector.
- 6.2.3 It may also align to an evolving threat picture and how certain geographies may be purposefully and systematically abused or used (either knowingly through corrupt regimes, or unknowingly) by criminal groups or state threat actors attempting to exploit criminal opportunities.

### Displacement Risk

- 6.2.4 Other matters which may trigger a change in the risk associated with a particular jurisdiction are events that result in the movement of business from one jurisdiction to another. Where this occurs, there is potential for the risks associated with the receiving jurisdiction to increase. Business movement may be due to:

- a. Global events (such as the Russian invasion of Ukraine).
  - b. A jurisdiction having inferior or less mature controls compared to other countries; criminals see it as an easier location to exploit (it is assumed that criminals also exchange information on countries with less effective controls).
- 6.2.5 The Russian invasion of Ukraine in 2022 has impacted beyond the conflict zone and had far-reaching effects on energy, supply chains and the cost of living. It required a rapid response from Jersey as an IFC. Jersey published a Ministerial statement to advise industry of its response<sup>32</sup>. The statement highlighted:
- “...I have instructed officials and agencies to establish an operational taskforce to ensure that all relevant agencies, including the Jersey Financial Services Commission and Financial Intelligence Unit of the States of Jersey Police, are coordinated in actively identifying and investigating relevant Russian assets in Jersey. This will support our cooperation with international authorities, in particular those in the UK and across the transatlantic taskforce, where potential activities or assets are identified.”*
- 6.2.6 The taskforce represented a quickly formed partnership and a financial crime risk ‘playbook’ that is now established. This can be used in future when swift financial crime threat mitigation action is required across the private and public sector.
- 6.2.7 The media widely reported that Russian money was believed to have moved to the UAE which was of particular interest to Jersey due to historic linkages and current business relationships. For 22 years a Middle Eastern bank had its head office in Jersey. Consequently, Jersey has strong ties to the region and in 2018 JFL opened a regional office in the Dubai International Finance Centre. The UAE has the second largest jurisdiction exposure in the banking sector (see Table 11.5, page 135) with the 2022 reported Supervisory Risk Data identifying that 5.1% of its customers were connected to the UAE.

## Methodology

- 6.2.8 In the 2020 ML NRA, an assessment was made of the cross-border threat offered by other jurisdictions. Two methodologies were used to identify those places that potentially posed a threat to Jersey, or vice versa. The methodology utilised is set out in the 2020 ML NRA, sections 7.23 to 7.29, with the outcome set out in section 7.30 (reproduced at Table 6.1 below).

**Table 6.1: higher risk jurisdictions from the 2020 ML NRA**

Methodology 1	Methodology 2
India	HKC
Kenya	Ireland
Russia	Switzerland
	UAE
UK	UK
USA	USA

<sup>32</sup> [Government of Jersey - 2022 News - Statement on Ukraine](#)

- 6.2.9 Methodology 2 focusses on Jersey's significant links with other financial centres and includes a review of each country identified using that methodology.
- 6.2.10 As risk understanding grows methodologies evolve, for the purpose of refreshing the national threat position the following has been completed primarily utilising the 2019 to 2022 Supervisory Risk Data:
- Consideration of whether the jurisdictions identified in Methodology 1 remain valid. See paragraph 6.2.11.
  - Consideration of whether the jurisdictions identified in Methodology 2 remain valid. Also, consideration of whether any additional IFCs should be considered higher risk. See paragraph 6.2.12
  - Identification of additional jurisdictions that present a higher risk to Jersey (Methodology 3). See paragraph 6.2.15 to 6.2.20.

#### *2020 ML NRA Methodology 1*

- 6.2.11 The 2019 to 2022 Supervisory Risk Data identified a general decrease in exposure to the three Methodology 1 jurisdictions that are not also financial centres. It is important to note that as a small jurisdiction, the arrival or departure of one large connection can make a noticeable percentage impact where historically there were few customers.

**Table 6.2: exposure changes for non-financial centre Methodology 1 jurisdictions**

<b>Jurisdiction</b>	<b>Reported customers/beneficial owners and controllers/fund investor connections</b>	<b>Reported PEP connections</b>	<b>Comment</b>
India	9% decrease	17% decrease	No longer considered a higher risk jurisdiction
Kenya	Stable	9% increase	Remains a higher risk jurisdiction
Russia	38% decrease	49% decrease	Remains a higher risk jurisdiction due to the ongoing situation with Ukraine
UK and USA covered in paragraph 6.2.12			

#### *2020 ML NRA Methodology 2*

- 6.2.12 In addition to the financial centres identified using Methodology 2 consideration of the 2019 to 2022 Supervisory Risk Data was undertaken to determine whether any other financial centres needed to be added to list – none were added.

Table 6.3: exposure changes for Methodology 2 jurisdictions

Jurisdiction	Reported connections <sup>33</sup>	Reported PEP connections	Comment
Hong Kong	159% increase	16% increase	Remains a higher risk jurisdiction Increases driven by banking (across the period) and public fund sectors (slight increase in 2021, a significant increase in 2022)
Ireland	18% decrease	10% decrease	Remains a higher risk jurisdiction
Switzerland	59% decrease	11% decrease	Remains a higher risk jurisdiction Decreases driven by the fund sector
UAE	3% decrease	26% increase	Remains a higher risk jurisdiction Increase of reported PEP connections across all sectors (except the legal sector), largest increase in fund sector
UK	5% decrease	12% increase	Remains a higher risk jurisdiction Increase of reported PEP connections driven by the accountancy and fund sectors
USA*	Less than 2% change	14% change	Remains a higher risk jurisdiction

\* The USA figures are calculated as using the period 2020 to 2022 due to an anomaly with the 2019 reported data.

6.2.13 The UK, USA, Hong Kong and UAE are reported as being the jurisdiction of residency for many customers or beneficial owners and controllers / fund investors (35% in 2022) and are financial centres which makes them more susceptible to imported risk. These two factors mean they remain higher risk ML jurisdictions for Jersey.

6.2.14 An additional concern is that a proportion of the Jersey workforce has lived or has strong connections with these jurisdictions. Therefore, they may perceive them to carry a lower threat than is the case in reality. However, the competent authority links with the three jurisdictions, particularly the UK, are some of the strongest. Their response when Jersey authorities reach out for assistance is deemed to be very good.

### 2023 additional higher risk jurisdictions – Methodology 3

6.2.15 Appendix D2 of the AML/CFT/CPF Handbook provides details of countries, territories and areas that have been identified by reliable and independent third-party sources as presenting a higher risk of ML, TF, and the financing of

<sup>33</sup> Customers / beneficial owners and controllers / fund investors

proliferation of weapons of mass destruction. Appendix D2 was used as the base document for the 2023 work to identify any additional higher risk jurisdictions.

6.2.16 As at July 2023 Appendix D2 includes 141 jurisdictions identified through consideration of 13 sources, of which two relate to the FATF. To determine which of these pose the greatest threat to Jersey only those jurisdictions which meet the following criteria are considered to pose a higher risk:

a. Identified by the FATF as being a high-risk jurisdiction where there is a call for action or a jurisdiction under increased monitoring,

**OR**

b. Appear on three or more of the remaining 11 sources.

**AND**

c. The 2022 Supervisory Risk Data indicates more than 400 reported customer/beneficial owner and controller/fund investor connections.

6.2.17 Using this methodology another twelve jurisdictions were added. An additional jurisdiction was added to the higher risk list due to its current specific circumstances. The 2023 complete list of higher risk jurisdictions is provided in Table 6.4 and comprises 20 jurisdictions.

Table 6.4: 2023 list of ML higher risk jurisdictions

Jurisdiction	Methodology 1	Methodology 2	Methodology 3
Belarus			X
Cayman Islands*			X
Egypt			X
Gibraltar*			X
Hong Kong		X	
Ireland		X	
Jordan*			X
Kenya	X		X
Lebanon			X
Nigeria			X
Pakistan			X
Philippines			X
Russia	X		X

Jurisdiction	Methodology 1	Methodology 2	Methodology 3
South Africa*			X
Switzerland		X	
Turkey			X
UAE*		X	X
UK	X	X	
USA	X	X	
Zimbabwe			X

\* These jurisdictions are captured due to their inclusion on the June 2023 FATF list of jurisdictions under increased monitoring.

6.2.18 Methodology 3 includes an element of cross-border exposure. Using the 2022 Supervisory Risk Data, Table 6.5 sets out the exposure to the 20 jurisdictions listed in Table 6.4 as a % of the reported connections (customer/beneficial owners/fund investors) for the sectors which feature in Part C of this report.

6.2.19 The jurisdictions are presented in two groups with the second group being five of the six Methodology 2 jurisdictions. The UAE is presented in the first group as it also features in Methodology 3.

**Table 6.5: Cross-border exposure as a percentage of reported connections**

Jurisdiction	Legal	Banking	TCSP	Total funds <sup>34</sup>	JPF	UNR	Public
Belarus	0.00%	0.00%	0.02%	0.00%	0.00%	0.00%	0.00%
Cayman Islands	0.94%	0.14%	0.37%	1.74%	1.87%	1.41%	1.74%
Egypt	0.12%	0.24%	0.19%	0.00%	0.01%	0.03%	0.00%
Gibraltar	0.05%	0.15%	0.14%	0.07%	0.04%	0.14%	0.07%
Jordan	0.11%	0.06%	0.18%	0.03%	0.13%	0.00%	0.02%
Kenya	0.15%	0.50%	0.98%	0.12%	0.10%	0.03%	0.13%
Lebanon	0.28%	0.28%	0.65%	0.11%	0.50%	0.06%	0.04%

<sup>34</sup> Total funds is not the sum of the three fund products. The percentages are against the reported connections for that sector. As the greatest connections are with the public funds a jurisdiction with significant public fund connections will have a higher total funds percentage.



Jurisdiction	Legal	Banking	TCSP	Total funds <sup>34</sup>	JPF	UNR	Public
Nigeria	0.07%	0.30%	0.29%	0.03%	0.00%	0.00%	0.04%
Pakistan	0.12%	0.06%	0.09%	0.01%	0.00%	0.00%	0.01%
Philippines	0.02%	0.09%	0.11%	0.05%	0.04%	0.00%	0.05%
Russia	0.10%	0.08%	0.23%	0.04%	0.10%	0.06%	0.03%
South Africa	0.90%	2.95%	2.26%	10.41%	0.40%	0.11%	12.44%
Turkey	0.10%	0.14%	0.20%	0.06%	0.12%	0.17%	0.04%
UAE	1.26%	5.10%	1.95%	1.18%	2.00%	1.66%	1.02%
Zimbabwe	0.04%	0.24%	0.16%	0.06%	0.00%	0.00%	0.07%
<i>Total</i>	<b>4.26%</b>	<b>10.33%</b>	<b>7.82%</b>	<b>13.91%</b>	<b>5.31%</b>	<b>3.67%</b>	<b>15.70%</b>
Hong Kong	0.80%	4.71%	1.49%	13.84%	1.90%	3.37%	16.90%
Ireland	1.02%	0.71%	1.20%	0.65%	0.58%	0.69%	0.66%
Switzerland	1.11%	0.75%	2.00%	3.67%	3.98%	2.59%	3.67%
UK	18.74%	20.37%	32.36%	19.75%	26.40%	31.55%	18.19%
USA	2.69%	2.90%	5.06%	16.27%	8.28%	21.64%	15.73%
<i>Total</i>	<b>24.36%</b>	<b>29.44%</b>	<b>42.11%</b>	<b>54.18%</b>	<b>51.14%</b>	<b>59.84%</b>	<b>55.15%</b>

6.2.20 The customer and PEP higher risk data included in Part C of this report does not include data with respect to the following five jurisdictions: Hong Kong, Ireland, Switzerland, the UK and the USA. These jurisdictions are only captured by Methodology 2 and their inclusion would distort the data.

### 6.3 Foreign Predicate Offences

#### Overview

6.3.1 The National Threats Workshop did not highlight any areas (jurisdictions or products/services) which were not already under consideration as a higher ML risk jurisdiction. A review was included as to whether a threat emanated from too many SARs, or defensive SARs reports, being submitted to the FIU relating to any given jurisdiction. Over-reporting can cause challenges for any FIU as explained in a 2021 Council of Europe report which gave rise to Resolution 2365 (2021): *Urgent*

*need to strengthen Financial Intelligence Units – Sharper tools needed to improve confiscation of illegal assets<sup>35</sup>.*

- 6.3.2 An analysis of the jurisdiction and nature of the predicate offences being investigated by ECCU (who focus on foreign predicate offences) highlights that the offences are predominately corruption, fraud and tax evasion.

**Table 6.6: ECCU investigation data: foreign and domestic predicate offences**

	Foreign Predicate Offences						Domestic Predicate Offences					
	2017/ 2018	2019	2020	2021	2022	Total	2017/ 2018	2019	2020	2021	2022	Total
Corruption	4	3	4	3	3	17				1	1	2
Fraud	2	5	5	1	1	14	3				1	4
Tax Evasion			5	1	1	7						0
Money Laundering Order						0	1	1	1		1	4
Insider Dealing	1	1				2						0
Cultivation			1			1						0
Drugs Offences	1					1	1					1
Embezzlement				1		1						0
Larceny	1					1	1					1
Treason		1				1						0
Sanctions Breaches						0	1	3			1	5
<b>Total</b>	<b>8</b>	<b>10</b>	<b>15</b>	<b>6</b>	<b>5</b>	<b>45</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>17</b>

## Fraud

- 6.3.3 Table 6.7 shows that overall, the number of incoming international FIU requests for assistance has remained flat over the period 2020 to 2022. However, within the total there is a change in the mix. The number of requests relating to fraud has decreased whilst the number of requests relating to corruption has increased, with tax crimes remaining flat. There is no clear, evidence-based rationale for the decrease in fraud and increase in corruption requests.
- 6.3.4 Jersey joined the International Anti-Corruption Coordination Centre (“IACCC”) at a similar time to the increase in sharing figures. Additionally, global attention was focused on potential kleptocracy and corruption concerns related to Russia around this time. Either may have driven an increase in numbers.
- 6.3.5 It is acknowledged that international fraud cases are complex and subject to continual legal challenge which causes delays. Ultimately however funds can be repatriated.

### *Example: Repatriating Proceeds of Crime*

- 6.3.6 The AG worked with the United States Department of Justice in repatriating just under \$529,000 to the United States<sup>36</sup> in the case of Anthony Gignac, a Colombian-born, Michigan-raised resident of South Florida. On 14 January 2019,

<sup>35</sup> [Resolution 2365 \(2021\) - Urgent need to strengthen financial intelligence units – Sharper tools needed to improve confiscation of illegal assets](#)

<sup>36</sup> [Government of Jersey - 2022 News - Attorney General secures repatriation of \\$529,000 to U.S.A.](#)

Gignac was indicted by a Grand Jury for the Southern District of Florida, and subsequently entered pleas of guilty in respect of: conspiracy to commit wire fraud; wire fraud; aggravated identity theft, and impersonating a foreign diplomat. On 31 May 2019, he was sentenced to a total of eighteen years and eight months' imprisonment.

**Table 6.7 – Incoming International FIU Requests by criminality**

<b>Criminality</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
Fraud	40	30	24	94
Tax crimes relating to direct and indirect taxes	16	22	16	54
Corruption	18	14	24	56
Other - undetermined	7	22	21	50
Terrorism	3	4	3	10
Illicit trafficking in narcotic drugs and psychotropic substances	5	2	2	9
Human trafficking and migrant smuggling	3	0	1	4
Insider trading and market manipulation	0	0	1	1
Murder	1	0	0	1
Cybercrime	0	1	0	1
Illicit trafficking in stolen and other goods	0	0	1	1
<b>Total</b>	<b>93</b>	<b>94</b>	<b>94</b>	<b>281</b>

### **Overseas Tax Evasion**

- 6.3.7 Jersey companies are generally subject to a 0% tax rate and any distributions to non-Jersey individuals from a Jersey company are not subject to income tax in Jersey (but may be taxable upon receipt by the non-Jersey individual where they are tax resident). This makes Jersey legal persons and arrangements attractive to worldwide investors due to their neutral tax position. See also the 2023 LPA NRA.
- 6.3.8 The Jersey authorities and Jersey Finance Limited have engaged with a specialist third party economics expert in the undertaking of further analysis concerning the residual risk of ML from foreign tax crimes in Jersey. The output from this work will feed into future consideration of Jersey's threat position from foreign predicate tax offences and further consideration of any structural or policy changes as a result of that risk. That work is currently risk and policy work under development subject to ongoing consideration by the Jersey authorities.
- 6.3.9 The National Threats Workshop included a discussion regarding assistance provided to other countries and understanding what happens next with respect to tax matters. Jersey's participation in Foreign Account Tax Compliance Act ("FATCA") and the OECD Common Reporting Standard ("CRS") and related tax treaties provides a fallback mechanism to help overseas tax administrations identify the proceeds of tax evasion by their tax residents. This is dealt with in more detail in section 7.21.

- 6.3.10 Revenue Jersey routinely seeks feedback from partner tax administrations about the outcomes of tax investigations overseas which have relied on information provided under FATCA/CRS and by “exchange of information on request” or spontaneous exchange. Feedback can be limited and, in line with international best practice, the majority of tax investigations tend to be settled both civilly and confidentially.
- 6.3.11 In 2022, the OECD Global Forum on Transparency and Exchange of Tax Information awarded Jersey the highest available rating for implementation of the CRS<sup>37</sup>.
- 6.3.12 In 2020, the Solicitor General (“SG”) resolved a very important point of principle in tax evasion cases in the Crown’s favour. The entire contents of a bank account were held to be vulnerable to forfeiture if it was opened or used as a tool or instrumentally to commit tax evasion, re-affirming the strong public interest in discouraging use of accounts in Jersey for such activity (*AG v Ian Ellis*<sup>38</sup>).

### Professional Money Laundering

- 6.3.13 Professional money laundering networks involve organisations and individuals facilitating money laundering, often in return for a fee or commission, and often in a highly sophisticated and organised manner. It may involve utilising complex, opaque and global ownership structures, cross-jurisdictional transactions, and the handling of larger sums of money.
- 6.3.14 In 2022 three people were sentenced to a total of ten years in prison for attempting to launder £60,000 in Jersey. They attempted to move the money through businesses such as car dealerships, high street retailers and banks in the Island. The launderers were described by prosecutors as a professional team who had been contracted by organised crime to clean their cash.<sup>39</sup>

### International Cooperation

- 6.3.15 Jersey works closely with FIUs of IFC jurisdictions of similar size which also have close ties to the UK through the Quad Island Group of FIUs (Guernsey, Isle of Man, Jersey and Gibraltar). Despite there being a number of similarities, the participant jurisdictions support a different mix of business which sees them subject to different threats and a consequential varying mix of SAR submissions. The work of the Quad Island Group enables better understanding of the risks they each face.
- 6.3.16 The FIU is regularly contacted by overseas FIUs via the Egmont Secure Web seeking assistance with ongoing matters in their jurisdictions. Table 6.7 sets out the range of crime types that feature on the incoming international requests, demonstrating that the three most common defined requests by criminality are fraud, tax crimes, and corruption. This remains unchanged from the 2020 ML NRA and aligns with the ECCU foreign predicate offence data in Table 6.6. See Table 6.8 for data on incoming requests by geographical region.

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<sup>37</sup> [Government of Jersey – 2022 News - Jersey recognised for tax cooperation](#)

<sup>38</sup> [JerseyLaw - AG v Ellis \(24-Nov-2020\)](#)

<sup>39</sup> [JerseyLaw - AG v Umurzokov and Ors \(24-Apr-2022\)](#)

6.3.17 National threat discussions have highlighted that if there is a lack of infrastructure or willingness to assist in the foreign jurisdiction, then a jurisdiction poses an enhanced risk to Jersey should an investigation be required. An example being Sierra Leone which is not a Member of the Egmont Group<sup>40</sup>. Jersey's understanding of cross-border exposure is informed by the outgoing and incoming requests of the FIU.

**Table 6.8: Outgoing and Incoming International FIU Requests by Regions**

Region	Outgoing FIU requests by region			Incoming FIU requests by region		
	2020	2021	2022	2020	2021	2022
Non-EU Europe	45	53	42	44	36	34
Europe	31	39	28	23	31	25
Asia Pacific (APG)	20	17	11	11	6	11
Eastern & Southern Africa (ESAAMLG)	12	19	15	4	3	4
North America	12	5	6	4	3	4
Caribbean (CFATF)	2	8	11	3	0	4
Middle East & North Africa (MENAFATF)	7	4	2	0	6	6
Latin America (GAFILAT)	7	3	1	1	1	2
Eurasia (EAG)	6	4	2	3	5	2
West Africa (GIABA)	1	5	6	0	2	1
<b>Total</b>	<b>143</b>	<b>157</b>	<b>124</b>	<b>93</b>	<b>94</b>	<b>94</b>

<sup>40</sup> [Egmont - Members by Region](#)

- 6.3.18 The comprehensive Money Laundering Typologies Report published on the FIU website in January 2023 has specifically highlighted the use of company structures and offshore bank accounts as vehicles for the layering stage of money laundering. Furthermore, the predicate offences are shown to include (predominantly) foreign corruption.
- 6.3.19 The introduction of non-conviction-based confiscation (forfeiture) has widened the reach of the Jersey authorities to combat ML and confiscate tainted monies held in bank accounts. Although this is always considered only after a prosecution for substantive ML has been ruled out, forfeiture has become an extremely effective tool in the fight against ML on the Island. Significant sums have been recovered and this sends a strong message that tainted property will be confiscated.
- 6.3.20 As seen in Table 6.6: ECCU Foreign and Domestic Predicate Offences, foreign corruption occurs in over 27% of the foreign predicate offences. Additionally, Table 6.9 highlights that where Civil Forfeiture has been used, five of the nine civil forfeitures are related to corruption and encompass three jurisdictions:
- Mozambique
  - Nigeria
  - USA

**Table 6.9: Civil forfeiture – amounts and jurisdictions since August 2018**

Offence	Jurisdiction	Currency	Amount '000's
Corruption	Mozambique	£	778
	Nigeria	\$	1,700
		£	485
		€	294
		£	38
USA	\$	16,829	
Drugs	UK	£	34
Fraud	Spain	£	5
	UK	£	61
	USA	\$	1,303
Larceny	USA	\$	22

- 6.3.21 Jersey has signed asset recovery agreements with several countries which feature in the examples below.

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### Jersey, Nigeria, and USA Asset Recovery Agreement, 2020<sup>41</sup>

- 6.3.22 On 3 February 2020 the Government of Jersey, the Federal Republic of Nigeria and the Government of the United States of America entered into an Asset Recovery Agreement to repatriate more than US\$300 million of forfeited assets to Nigeria.
- 6.3.23 The funds were laundered through the US banking system and then held in bank accounts in Jersey via a British Virgin Islands company, in the name of the son of the former Head of State of Nigeria, General Sani Abacha. In 2014 a US Federal Court in Washington D.C. forfeited the money as property involved in the illicit laundering of the proceeds of corruption arising in Nigeria during the period from 1993 to 1998 when General Abacha was Head of State.
- 6.3.24 In addition, on 28 May 2021 a forfeiture notice was served on Lieutenant General Useni (retired) seeking the forfeiture of approximately £1.9 million. It was argued that the accounts were created to hold and conceal bribes, or other proceeds of corruption, received by him during the period he held high political office in the Abacha regime.

### Jersey and Kenya Asset Recovery Agreement, 2022<sup>42</sup>

- 6.3.25 In 2022, Jersey and Kenya reached an agreement which facilitated the return of £3 million to support Kenya's Government in their ongoing response to the COVID-19 pandemic. The funds were confiscated by Jersey authorities in 2016, following the successful conviction of Windward Trading Ltd for money laundering offences. The AG emphasised the importance of international cooperation:
- “Corruption is not a victimless crime. It has both direct and indirect consequences for people living in countries where corrupt practices have taken place. The signing of this agreement today shows that Jersey does not tolerate financial crime and that our officers will confiscate monies associated with corruption and ensure that such funds are returned for the benefit of the people who have suffered from the effects of corruption.”*
- 6.3.26 The United Nations Office on Drugs and Crime (“UNODC”) said: “UNODC recognises the innovative work that the Governments of Kenya, Jersey, Switzerland, and the UK have undertaken in developing the Framework for Return of Assets from Crime and Corruption in Kenya.”

## 6.4 Domestic Predicate Offences

### Overview

- 6.4.1 In addition to the ECCU data in Table 6.5, a search was undertaken of public information on domestic predicate offences just prior to and since publication of the 2020 ML NRA.
- 6.4.2 Published crime statistics support Jersey as a safe place with low criminality. Jersey has one of the lowest crime rates in the British Isles, with the majority of crimes being non-violent. Community safety is strong across all twelve parishes. However, it still suffers criminality with the resultant proceeds of crime.

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<sup>41</sup> [Government of Jersey - 2020 News - repatriation agreement between Jersey, Nigeria and USA](#)

<sup>42</sup> [Government of Jersey - 2022 News - Jersey and Kenya sign historic Asset Recovery Agreement](#)

6.4.3 The SoJP report the total of all recorded crimes as<sup>43</sup>:

Year	2019	2020	2021
Crime Numbers	3,394	2,972	3,056

6.4.4 As a small jurisdiction there are some characteristics which act as a preventative measure against domestic predicate offences and ML.

6.4.5 The population of Jersey is comparatively well connected which can be seen to help reduce localised threats. An example of how this can be used to thwart those seeking to generate the proceeds of crime is the use of social media to advise of individuals knocking on doors offering unlicensed roofing work. This was picked up by the local media<sup>44</sup> and the message spread quickly through the community. Overall, the competent authorities are able to work together to deliver messages to industry and the wider general public regarding financial crime.

6.4.6 The counter argument to being well connected is that trust could be felt to replace tight due diligence in some areas, and this could assist those seeking to commit certain predicate offences. Examples are provided at paragraph 6.4.15.

6.4.7 Whilst the FATF state that real estate is a popular choice for investment, it also attracts criminals who use property in their illicit activities or to launder their criminal profits. The competent authorities who participated in the National Threats Workshop felt that whilst they understood the risks surrounding property there are several features that considerably lower this threat in Jersey:

- a. There is a limited stock of real estate property.
- b. There are limitations on who is allowed to occupy property in Jersey.
- c. All mortgages must be registered with the Royal Court.
- d. Most properties (by volume) are bought by local residents.

## FIU SARs

6.4.8 In line with the recent legislative changes the FIU published its first Biennial Review and Statistics on 3 August 2023 covering 2021 and 2022<sup>45</sup>. This report provides valuable insight into the level of reporting and the types of criminality that the FIU received over the two-year period covered.

6.4.9 The FIU refined their SAR template on 1 February 2022. Industry is now required to identify the suspected predicate offence, although on occasions industry may find it a challenge to know what the predicate offence is in each situation. In the SAR data, the highest number of SARs are categorised as 'other'. These may be for know your customer concerns or similar undetermined reasons. Given that industry is required to report suspicions, it is considered positive behaviour that reports continue to be made even though they may be unclear on the predicate offence. The FIU data identifies fraud as the highest identified criminality activity.

<sup>43</sup> [SoJP - Annual Reports](#)

<sup>44</sup> [Channel ITV - 2023 News - Police issue warning after men knock on doors offering unlicensed roofing work in Jersey](#)

<sup>45</sup> [FIU – biennial review and statistics 2021 - 2022](#)



6.4.10 The SAR template also requires industry to disclose the country where the suspected predicate criminality occurred. The SAR data indicates there is a high percentage of predicate offending occurred in Jersey, and an initial review suggests the correct country of predicate crimes is not always identified. The identification of the original criminality may be challenging when those involved hold Jersey bank accounts. Work is ongoing with industry regarding completion of this field.

**Fraud**

6.4.11 The SAR data shows that domestic fraud is a concern in Jersey, whilst potentially not as extensive as in other jurisdictions, where NRAs call out the risks from fraud:

- a. UK ML NRA 2020<sup>12</sup>: Fraud and tax offences remain the largest known source of criminal proceeds from offending in the UK, as well as the most common crime type.
- b. USA ML NRA 2022<sup>46</sup>: Fraud outstrips all other proceed-generating crimes that are laundered in or through the United States

6.4.12 Whilst the overall threat from cryptocurrency and virtual assets are deemed to be low for Jersey, cryptocurrency can be a component part in fraud and other financial crimes. The threat from cryptocurrency was deemed by those attending the National Threat Workshop as similar to the threat levels from cash use. Residents of Jersey have lost significant sums of money in cryptocurrency frauds, with the JFCU advising that frauds in just three months of 2023 totalled £600,000. The SoJP issued a warning about cryptocurrency fraud after a family lost their life savings to “heartless” scammers<sup>47</sup>. A VASP risk assessment is ongoing as at the time of publication of this report.

6.4.13 Transparency International recently published an Anti-Corruption Helpdesk brief<sup>48</sup> stating that: “*Cryptocurrency is becoming an increasingly popular tool for organised crime groups (“OCGs”) to conduct illicit activities. OCGs can exploit the inherent pseudonymity and decentralised nature of cryptocurrencies to conduct money laundering and other crimes related to corruption. The competent authorities are in the process of completing a VASP risk assessment to quantify the level of risk in Jersey.*”

6.4.14 The Jersey Fraud Prevention Forum is a local initiative with the objective of developing a coordinated and strategic approach to the protection of the Island’s general public from frauds and scams. It publishes a regular newsletter<sup>49</sup> (right) which is delivered to all households in Jersey assisting them to understand fraudsters methods.



46 [US Department of Treasury - national risk assessments for ML, TF, and PF](#)

47 [SoJP – 2023 cryptocurrency fraud warning](#)

48 [Transparency International Knowledge Hub - cryptocurrencies, corruption and organised crime: implications of the growing use of cryptocurrencies in enabling illicit finance and corruption](#)

49 [Jersey Fraud Prevention Forum](#)

- 6.4.15 As noted in paragraph 6.4.2 Jersey does suffer domestic criminality which generates proceeds of crime. Examples of the higher profile domestic fraud cases reported in the Island include:
- a. 2022: Mother and daughter took £17k in “cruel and nasty financial exploitation” of elderly man<sup>50</sup>.
  - b. 2018: Two extradited to face fraud charges in Jersey<sup>51</sup>.
  - c. 2022: NatWest customers in the Channel Islands affected by card fraud<sup>52</sup>.
  - d. 2023: Three Islanders in court after alleged £3.7m fraud<sup>53</sup>.
  - e. 2022: Islanders lose almost £400,000 to romance fraud in four years<sup>54</sup>.
  - f. 2023: Jersey Facebook fraudster in £22,000 housing deposit scam<sup>55</sup>.

## Drugs

- 6.4.16 The trafficking of drugs to Jersey supplies a comparatively small and finite market. The drugs sold in Jersey are imported from elsewhere (usually the UK) and Jersey is an end destination rather than being used to repackage and ship drugs to other destinations.
- 6.4.17 Drugs in Jersey are known to be more expensive than in neighbouring jurisdictions<sup>56</sup>. However, any drug proceeds generated in cash provide drug traffickers with an additional challenge as they often need to smuggle the cash back to the UK. Should they succeed they then face the challenge of, potentially, trying to pay Jersey bank notes into UK bank accounts, an action which may raise suspicion with the branch of the UK bank; Jersey notes and coins are not widely accepted in the UK. Although depositing the notes does occur, we are unclear on the UK SAR reporting approach and/or rationale for the deposit of Jersey notes into a UK branch.
- 6.4.18 Involvement in drugs can also result in facilitation of other crimes such as local tax evasion<sup>57</sup>.
- 6.4.19 There are multiple examples of domestic drug cases during the period in question. A couple of the most notable being:
- a. [AG v Darius Pearce, Jeweller<sup>58</sup>](#): A local jeweller, Mr Darius Pearce, was sentenced to 7½ years for three counts of money laundering on 5 July 2021. He assisted a UK gang by moving cash from Jersey to the UK, where the drugs were purchased. The prosecution highlighted the principles from an earlier case (AG v Goodwin) when sentencing, in particular the “*interest of Jersey as a finance centre justifies a deterrent element*”.

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<sup>50</sup> [AG v Bellas and Louis \(23-Sep-2022\)](#)

<sup>51</sup> [International Adviser - two extradited to face fraud charges in Jersey](#)

<sup>52</sup> [Channel ITV - NatWest customers in the Channel Islands affected by card fraud](#)

<sup>53</sup> [Jersey Evening Post - three Islanders in court after alleged £3.7m fraud](#)

<sup>54</sup> [Jersey Evening Post - Islanders lose almost £400,000 to romance fraud in four years](#)

<sup>55</sup> [SoJP - online property scams](#)

<sup>56</sup> [Manchester Evening News - How Curtis 'Cocky' Warren tried to flood a sleepy island with £1m of drugs](#)

<sup>57</sup> [JerseyLaw - AG v Jones 1\(3-Feb-2019\)](#)

<sup>58</sup> [JerseyLaw - Pearce v AG \(26-Jan-2022\)](#)

- b. [AG v Thurban, Sait, Brown, Riley, Roy, Wolff](#)<sup>59</sup>: The defendants each played a role in a criminal enterprise which was concerned with the importation of commercial quantities of Class A and Class B controlled drugs into Jersey, supply to the local drugs market, and the laundering of proceeds of crime. Sentences ranged from to 2 years to over 14 years' imprisonment.
- 6.4.20 Other examples of drug related predicate offences during the period are:
- a. 2021: Drug trafficking in relation to local organised crime<sup>60</sup>.
- b. 2022: Two sentenced for drug trafficking and money laundering offences<sup>61</sup>.
- c. 2022: Three men from Liverpool were sentenced to a total of 28 years following charges of conspiracy to supply cocaine and offences relating to money laundering.<sup>62</sup>
- d. 2022: Three couriers sentenced for attempted importation of cocaine<sup>63</sup>.
- e. 2023: Three men have been jailed for seven-and-a-half years each for drug offences in Jersey.<sup>64</sup>

### Trade-Based Money Laundering Threat to Jersey

- 6.4.21 The FATF states that trade-based money laundering is defined as the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illicit origins<sup>65</sup>. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports. Whilst Jersey is primarily a service-based economy rather than a goods-based economy, the routes used by criminals to integrate the proceeds of crime into the economy can involve the misrepresentation of the price, quantity or quality of imports or exports. It is recognised that JCIS have a leading role in applying national controls. See paragraphs 6.4.26 and 6.4.27.
- 6.4.22 Jersey has a minimal trade base of manufacturing or export. High value goods such as art and cars are on the Island, but these are usually in the possession of local residents.
- 6.4.23 The service-based nature of Jersey companies is supported by the 2023 LPA NRA which identifies that the predominant activities of Jersey companies are: (i) holding equity in other non-Jersey companies (14.6%); (ii) holding commercial real estate (14.2%), and (iii) holding equity in other Jersey companies (11.3%).
- 6.4.24 From the responses to a business survey, completed in conjunction with a public consultation on an export strategy, there is evidence that many businesses are

<sup>59</sup> [JerseyLaw - AG v Thurban Sait Brown Riley Roy Wolff Hughes \(23-Sep-2020\)](#)

<sup>60</sup> [JerseyLaw - AG v Agathangelou Bayliss Bisson and Morgan \(01-Mar-2021\)](#)

<sup>61</sup> [JerseyLaw - AG v Dryden and Whitcombe \(05-Jan-2022\)](#)

<sup>62</sup> [Government of Jersey - 2022 News - three sentenced for drug and money laundering offences and JerseyLaw - AG v Ferguson, Morgan and Saunders \(10-Mar-2022\)](#)

<sup>63</sup> [Government of Jersey – 2022 News - three couriers sentenced for attempted importation of cocaine](#)

[JerseyLaw - AG v Silbourne \(19-Oct-2022\),](#)

[JerseyLaw - AG -v- Mitchell \(11-Oct-2022\),](#)

[JerseyLaw - AG-v-Massay \(11-Oct-2022\)](#)

<sup>64</sup> [JerseyLaw - AG v Cholewinski Ciejka Wierzbicki \(20-Mar-2023\)](#)

<sup>65</sup> [FATF - trade-based ML](#)

small (38% reported 5 or fewer employees), and a significant number are exclusively Jersey based. The results also highlighted that the most prevalent industries for the respondents were digital, information and communication followed by agriculture and fishing, with over 45% of the respondents having an annual turnover of less than £1 million.

- 6.4.25 There remains a further piece of analysis that would be useful to undertake in future risk assessment work, looking at any links between trade-based money laundering and complex structures with a Jersey connection. There remains the potential for very complex structures (often involving companies and trusts in multiple jurisdictions, including Jersey) to be set up to obfuscate ownership and create complexity related to large scale trade-based money laundering activities. Whilst no evidence currently exists of this, it is felt worthy of further consideration.

### JCIS controls

- 6.4.26 All freight is manifested. There is only one seaport and airport for freight to come to the Island, therefore this 'one door' approach makes it considerably easier for the Police and Customs to maintain close scrutiny over the freight and passengers passing through the ports. The overwhelming majority of all freight is routed from or to the UK.
- 6.4.27 Many customs processes and procedures are both designed and implemented to ensure goods declarations are true and accurate. Where applicable (i.e. the export licencing of cultural goods) these processes include specific processes to mitigate ML risk. In addition to these standard practices, JCIS has well developed relationships with all freight and shipping companies, many of which operate under customs trusted trader schemes, which mitigate the risk of smuggling or untrue declarations being made by importers or exporters. All imports and exports must be manifested on JCIS' IT platform (CAESAR) which ensures traceability and audits are possible on all goods movements and allows for targeted risk screening. CAESAR recorded £3.7 million imported consignments in 2022. In addition, tailored screenings are in place for high-risk jurisdictions, proscribed organisations, and for designated persons and entities.

### TBML conclusion and next steps

- 6.4.28 The threat from trade-based money laundering is currently considered to be low based on the work conducted to date.
- 6.4.29 The Egmont Annual Report 2021/2022 (published July 2023) refers to work in progress regarding "*Detecting Trade-Based Money Laundering (TBML) and Abuse of Corporate Structures*"<sup>66</sup>. When this work is finalised, and a report published, this should be utilised to complete further work with respect to TBML related to complex structures as outlined above.

## 6.5 Typologies

- 6.5.1 In January 2023, the JFCU and FIU jointly published the most recent ML typologies report<sup>28</sup> which was compiled in conjunction with local regulatory specialists. The report draws on the financial crime intelligence held by the FIU

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<sup>66</sup> [Egmont Group - Annual Report 2021 - 2022](#) (page 12)

and the experience of law enforcement officers, the JFSC, the finance industry, litigators and insolvency practitioners.

6.5.2 The report sets out 20 typologies which are a mix of local and hypothetical cases and take into account the risks identified in the 2020 ML NRA and 2021 TF NRA. Red flags are highlighted for each typology and for many learning points are also identified. These red flags and learning points include references to PEPs and the use of complex structures. The 20 typologies and includes typologies on:

- a. Tax evasion
- b. Drug trafficking
- c. Fraud
- d. Internet fraud
- e. Money laundering
- f. Corruption
- g. Insurance
- h. Insider dealing
- i. Terrorism



6.5.3 Whilst some of the typologies are hypothetical rather than being based on actual cases, they are all realistic and act as a learning tool for industry.

## 6.6 Overall Money Laundering Threat Assessment and Conclusion

6.6.1 The information and data gathered and analysed further supported the individual elements and overall rating set out in the 2020 ML NRA, they did not indicate that the rating for any element should be changed.

6.6.2 The overall threat ratings remain unchanged.

ML Threat	Foreign Predicate Offences	Cross-Border	Domestic	Overall
2020 Rating	Medium-High	Medium	Medium-Low	Medium-High
2023 Rating	Medium-High	Medium	Medium-Low	Medium-High

## 7 National ML Vulnerabilities

### 7.1 The 22 National Vulnerabilities

- 7.1.1 The risk of money being laundered successfully through a jurisdiction can be mitigated through the application of strong controls at a national level. Consideration of the strength of the national controls is undertaken through the 22 national vulnerabilities and covers matters such as the quality and the AML policy and strategy, along with the integrity and independence of financial crime investigators, prosecutors and the judges.
- 7.1.2 One aspect of the national controls which is not considered by the 22 vulnerabilities is the operations of the JFSC as the regulatory supervisor. The effectiveness of the supervision procedures and practices as well as the availability and enforcement of administrative sanctions is considered at a sectoral level. The rationale being that there may be more than one supervisor within a jurisdiction, or the single supervisor may perform its activities better with respect to one sector than another.

### 7.2 How to Use This Section

- 7.2.1 This paragraph contains updates to the initial assessment of the 22 national ML vulnerabilities in section 8 of the 2020 ML NRA. The updates primarily focus on changes and do not retell what was previously written.
- 7.2.2 For each vulnerability the previous score has been included for reference, alongside the revised 2023 score.

### 7.3 Summary of refreshed national vulnerabilities

- 7.3.1 Table 7.1 below provides an overview of the 2020 rating for each national vulnerability along with the 2023 refreshed rating.
- 7.3.2 The “rating” is assigned using an assessment scale which can be reflected as a number, colour and status. For ease of understanding the assessment scale is provided below:

Assessment										
Based on the assessment criteria and the information/data collected, decide the appropriate rating for this variable.										
Excellent	Close to Excellent	Very High	High	Medium High	Medium	Medium Low	Low	Very Low	Close to Nothing	Does not Exist
1.0 ■	0.9 ■	0.8 ■	0.7 ■	0.6 ■	0.5 ■	0.4 ■	0.3 ■	0.2 ■	0.1 ■	0.0 ■



Table 7.1: National Vulnerabilities 2020 rating versus 2023 refresh rating

1. Quality of AML Policy and Strategy	2. Effectiveness of ML Crime Definition	3. Comprehensiveness of Asset Forfeiture Laws	4. Quality of FIU Intelligence Gathering and Processing
<b>2023 refresh: 0.8</b>	<b>2023 refresh: 0.9</b>	<b>2023 refresh: 0.7</b>	<b>2023 refresh: 0.6</b>
2020 original: 0.4	2020 original: 0.9	2020 original: 0.7	2020 original: 0.4
5. Capacity and Resources for Financial Crime Investigations	6. Integrity and Independence of Financial Crime Investigators	7. Capacity and Resources for Financial Crime Prosecutions (including Asset Forfeiture)	8. Integrity and Independence of Financial Crime Prosecutors
<b>2023 refresh: 0.6</b>	<b>2023 refresh: 0.9</b>	<b>2023 refresh: 0.7</b>	<b>2023 refresh: 0.9</b>
2020 original: 0.5	2020 original: 0.9	2020 original: 0.7	2020 original: 0.9
9. Capacity and Resources for Judicial Processes (including Asset Forfeiture)	10. Integrity and Independence of Judges (including Asset Forfeiture)	11. Quality of Border Controls	12. Comprehensiveness of Customs Regime on Cash and Similar Instruments
<b>2023 refresh: 0.7</b>	<b>2023 refresh: 0.9</b>	<b>2023 refresh: 0.8</b>	<b>2023 refresh: 0.7</b>
2020 original: 0.7	2020 original: 0.9	2020 original: 0.8	2020 original: 0.7
13. Effectiveness of Customs Controls on Cash and Similar Instruments	14. Effectiveness of Domestic Cooperation	15. Effectiveness of International Cooperation	16. Availability of Independent Audit
<b>2023 refresh: 0.6</b>	<b>2023 refresh: 0.7</b>	<b>2023 refresh: 0.7</b>	<b>2023 refresh: 0.7</b>
2020 original: 0.6	2020 original: 0.6	2020 original: 0.5	2020 original: 0.7
17. Level of Financial Integrity	18. Effectiveness of Tax Enforcement	19. Formalization Level of Economy	20. Availability of Reliable Identification Infrastructure
<b>2023 refresh: 0.8</b>	<b>2023 refresh: 0.6</b>	<b>2023 refresh: 0.9</b>	<b>2023 refresh: 0.8</b>
2020 original: 0.8	2020 original: 0.5	2020 original: 0.9	2020 original: 0.8
21. Availability of Independent Info Sources	22. Availability and Access to Beneficial Ownership Info		
<b>2023 refresh: 0.6</b>	<b>2023 refresh: 0.8</b>		
2020 original: 0.6	2020 original: 0.7		

#### 7.4 Module 1: Quality of AML policy and strategy

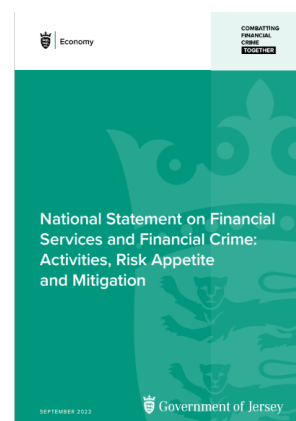
**2023 Assessment: 0.8 Very High**

Previously: 0.4 Medium Low

- 7.4.1 Jersey's Chief Minister committed to the FATF President to fully implement the revised Recommendations and the FATF Methodology, post their development and adoption in 2012 and 2013 respectively. This makes compliance with the Recommendations a national commitment for Jersey and therefore of national interest.



7.4.2 Completion of the 2020 ML NRA identified the need for an Island strategy to prioritise and drive forward key areas of ML risk and policy for Jersey, this resulted in National Structure being established in 2021. The National Structure puts effective mechanisms in place which support the implementation of risk assessment findings and serves as a permanent platform for cooperation and coordination at policymaking and operational levels between the competent authorities. It also serves as an allocation mechanism which allows the jurisdiction to focus its resources in the most effective, risk-based way to fight financial crime.



7.4.3 Alongside the National Structure, the need for a permanent dedicated Government policy and strategy team was determined. This has resulted in the creation of the Financial Crime Strategy Team, headed by the Director of Financial Crime Strategy (who is also the Head of Delegation to MONEYVAL) and associated staff who lead the national co-ordination function for AML policy and strategy in the Island.

7.4.4 The National Structure includes a permanent national coordination mechanism, at the top of which is the PSG, chaired by the Minister with responsibility for Financial Services. Its membership includes other Ministers, the AG, the Director General of the JFSC, and the Chief of Police along with senior representatives from the competent authorities including the Government.

7.4.5 The PSG's responsibilities are clearly laid out in the terms of reference for the National Structure initially adopted by the PSG 18 January 2021 and last updated 23 March 2023, though these are not laid out in legislation.

7.4.6 In September 2022, the political commitment to the FATF Recommendations was reiterated in the Foreword to the 2022 National Strategy<sup>22</sup>. The Chief Minister stated:

*“Jersey has been strongly committed to combatting all forms of money laundering, the financing of terrorism and the financing of proliferation of weapons of mass destruction for many years. This commitment, set out in this strategy document, is supported by laws, regulations and policies, and is one of Jersey’s highest priorities.*

*“At the highest level of Government, Jersey supports the work of the Financial Action Task Force (FATF) and, as a member of MONEYVAL, is committed to fully implementing the FATF standards and actively works to contribute to the work of both organisations.*

*“All forms of financial crime cause great harm to our society and prey upon all citizens within and outside of Jersey. We are determined to anticipate, prevent, mitigate, and eradicate wherever we can, across Industry and agencies.”*

7.4.7 The vision, strategy, and action plan, in combination with the NRAs and National Risk Appetite<sup>16</sup>, set out the Government of Jersey’s main approaches for combatting ML. These are all documents that are designed to be updated as new risks are identified, in the knowledge that criminals/errant state entities never stand still and are also continually changing their own methods.

- 7.4.8 The vision informs the strategy. The National Risk Appetite and NRAs also inform the strategy and subsequent action plan. In addition, the NRAs may inform the appetite if changes are required to eradicate/mitigate newly identified risks.
- 7.4.9 On publication of each NRA or refresh, FIs, DNFBPs and VASPs are obliged to update their BRAs as per the Money Laundering Order to show how they have considered and mitigated their ML risks.
- 7.4.10 Since 2020 significant improvements have been made regarding the Island's AML policy and strategy. The effectiveness of these is still to be fully demonstrated as many changes are quite recent.
- 7.4.11 It is recommended that the Government enhances the structure it has in place to deliver the suite of NRAs. This should include monitoring for trigger events that may impact the risks in a particular sector both positively and negatively. For example, in December 2022, MoneyGram ceased trading in Jersey<sup>67</sup> and the impact of this event should be considered as a trigger for the money service business sector.
- 7.4.12 It is recommended that the Government enhance the existing NRA forward looking plan and publish a schedule of proposed NRAs. This would aid industry's own planning regarding updating their BRA and the subsequent Board review of the refreshed BRA.

## 7.5 Module 2: Effectiveness of ML crime definition

**2023 Assessment: 0.9 Close to Excellent**

Previously: 0.9 Close to Excellent

- 7.5.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.5.2 To summarise the position remains as follows:
- a. ML is criminalised in line with Vienna and Palermo Conventions by virtue of the Proceeds of Crime Law. Criminal conduct is defined in Article 1 of the Proceeds of Crime Law as meaning conduct which constitutes an offence specified in Schedule 1 to the Proceeds of Crime Law (or if occurring outside Jersey would have constituted such an offence if occurring in Jersey).
  - b. Self-laundering is criminalised in Jersey. The ML offences in Articles 30 and 31 of the Proceeds of Crime Law also apply in relation to the person who committed the predicate offence.
  - c. A person convicted of an ML offence under Articles 30 and 31 Proceeds of Crime Law is liable to a maximum penalty of 14 years' imprisonment and/or an unlimited fine. Aside from murder, which has a mandatory life imprisonment penalty, 14 years is the highest statutory maximum penalty. ML is treated as one of the most serious offences, with similar penalties for offences under the Terrorism (Jersey) Law 2002 and the Misuse of Drugs (Jersey) Law 1974. The issue of proportionality in sentencing for ML is addressed in great detail in the judgement AG v Bhojwani [2010]<sup>68</sup>. The Royal

<sup>67</sup> [Jersey Post - MoneyGram to cease trading in Jersey](#)

<sup>68</sup> [JerseyLaw - AG v Bhojwani \(25-June-2010\)](#)

Court has recently re-emphasised the importance of strong sanctioning in the 2021 ML case of the AG v Pearce.

- d. Parallel proceedings are not precluded albeit criminal proceedings take priority and any civil or administrative proceedings are often stayed, pending the outcome of the criminal proceedings.
- e. Jersey does not have formal sentencing guidelines (which are more common in larger jurisdictions with multiple courts). It will however consider previous cases as guidance on starting points for sentencing and then apply aggravating and mitigating factors (such as guilty plea).

## 7.6 Module 3: Comprehensiveness of Asset Forfeiture Laws

**2023 Assessment: 0.7 High**

Previously: 0.7 High

7.6.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.

7.6.2 To summarise:

- a. Under the provisions of Part 2 of the Proceeds of Crime Law, proceeds of crime may be confiscated as it will be property obtained from criminal conduct and therefore Article 3 of the Proceeds of Crime Law is engaged. The Court can proceed to determine if the defendant has benefitted from the criminal conduct (with the assumptions under Article 5 also being engaged) and make a confiscation order.
- b. Where, proceedings have been instituted against a defendant, or the court is satisfied proceedings are to be instituted, or a criminal investigation has been started in Jersey in respect of alleged criminal conduct and the Court is satisfied there is reasonable cause to believe the offender has benefitted from criminal conduct,

the AG may apply to Court for a Saisie Judiciaire (“Saisie”). On the making of a Saisie, all realisable property (defined in Article 2 of the Proceeds of Crime Law) of the defendant vests in the Viscount (Articles 15, 16 of the Proceeds of Crime Law). The Viscount is the executive officer of the Royal Court.

- c. The non-conviction based forfeiture (“NCBF”) regime permits seizure and forfeiture of tainted property in Jersey. The civil standard of proof applies, and the assets are presumed tainted. It is for the account holder to show that the assets are not tainted. The introduction of NCBF has widened the reach of the Jersey authorities to combat ML and confiscate tainted cash and monies held in bank accounts.

7.6.3 In 2023, the AG issued Guidance to Investigators and Prosecutors on Money Laundering and Financial Crime. This is a foundational guidance document for all investigators and prosecutors involved in financial crime (including criminal asset recovery) and deals specifically with “Asset Restraint, Forfeiture, and Confiscation”, providing detailed protocols as well as analysis of the relevant law and Jersey cases (including relevant UK decisions).

## 7.7 Module 4: Quality of FIU Intelligence Gathering and Processing

**2023 Assessment: 0.6 Medium High**

Previously: 0.4 Medium Low

- 7.7.1 During 2023, the FIU transitioned to being an operationally independent, administrative-style FIU and continues to evolve under this new model. Until recently the FIU has been a Law Enforcement styled FIU based within the premises of the SoJP and resourced with both police officers and civilian intelligence investigators and analysts. See also section 4.4.
- 7.7.2 SAR templates were amended in 2022 and 2023, as a result of a collaborative approach between the FIU and local money laundering reporting officers (“MLROs”). As a result the quality of SAR submissions improved greatly. The FIU has provided a user guide and webinar presentation to explain the changes and to help industry complete the new template correctly. The template amendments:
- Provide a more detailed, clear and methodical way of reporting of ML suspicion and any requisite consent requests.
  - Enable the FIU to action suspicion of ML and consent matters faster.
  - Enable the FIU to work with industry to improve the quality of SARs.
  - Facilitate collection of better statistical information leading to better outreach and engagement with industry on current typologies.
- 7.7.3 The FIU now produce enriched strategic and operational analysis which is included in their published quarterly reports.
- 7.7.4 The FIU disseminates the results of its intelligence analysis and all other relevant information to LEAs, supervisory authorities and revenue (tax) authorities spontaneously and without delay upon request.
- 7.7.5 The FIU has direct access to local law enforcement databases, both SoJP, and JCIS. This includes access to SoJP intelligence, crime recording and conviction data; and cross-border cash data held by JCIS.
- 7.7.6 Through its connection to the SoJP the FIU also has access to UK law enforcement databases, including data on convictions and wanted persons held on the UK Police National Computer database.
- 7.7.7 The above improvements have resulted in the vulnerability of the quality of FIU intelligence gathering and processing being improved to 0.6 (medium-high) from 0.4 (medium-low).

## 7.8 Module 5: Capacity and Resources for Financial Crime Investigations (including Asset Forfeiture)

**2023 Assessment: 0.6 Medium-High**

Previously: 0.5 Medium

- 7.8.1 Since the 2020 ML NRA additional capacity and resources have been provided for financial crime investigations. See paragraph 5.4.43. These resources require a

period of time for all additional recruits to be fully effective, although the increase in resources has undoubtedly had a positive impact.

7.8.2 There are three law enforcement agencies with the specific remit to conduct ML investigations, and parallel financial investigations.

#### *ECCU*

- a. ECCU has expanded since it was created in 2017 and now holds more than twice its original staff resources with a further growth bid pending.
- b. It is housed within the LOD (under the direction of the AG), employs a version of the 'Roskill Model' (as employed by the UK's Serious Fraud Office SFO) and investigators and prosecutors (which are referred to as legal advisers in Jersey) work together from the start of a case.
- c. It is a multi-disciplinary team, drawing on specialist skills from investigators, legal advisers, an accountant, a data analyst, whilst also drawing on external legal, investigative, and accounting expertise as required.
- d. Its experts, two Crown Advocates (also Senior Legal Advisers), are able to prosecute cases in Court on behalf of the AG.
- e. ECCU has a rapidly expanding caseload focussing on complex, cross-border financial crime often involving complex structures (legal persons and arrangements) and very high value assets.
- f. In 2018, ECCU held 15 live investigations. In 2022, ECCU held 26 live investigations and 15 pre-investigations, spanning the globe and billions of dollars of assets subject to judicial criminal law freezing orders.

#### *SoJP - JFCU*

- g. JFCU is an operational police unit that conducts investigations into domestic proceeds generating offences as well as parallel financial investigation, including (but not limited to) drug trafficking and fraud.
- h. The JFCU resources have also been increased.

#### *JCIS*

- i. JCIS conduct financial crime investigations in respect of all offences conducted within its remit, specifically the smuggling of narcotics, cash, and illegal immigration.

7.8.3 The Viscount is responsible for asset forfeiture in Jersey. No issues arise in relation to capacity and resources.

7.8.4 Given there is greater capacity and resources for financial crime investigators, but the changes have yet to be fully effective, the vulnerability has improved to 0.6 (medium-high) from 0.5 (medium).

## 7.9 Module 6: Integrity and Independence of Financial Crime Investigations (including Asset Forfeiture)

**2023 Assessment: 0.9 Close to Excellent**

Previously: 0.9 Close to Excellent

- 7.9.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.9.2 JFCU and ECCU staff are a mix of SoJP employees and civilians (including lawyers), all of which are held to high professional standards, codes of conduct and legislative requirements. These standards are enforced by the Professional Standards Department in the case of police officers and the relevant professional body such as the Law Society of Jersey.
- 7.9.3 The decision on whether an investigation or prosecution should proceed is an independent one that is taken free of any undue influence on a decision maker by any person or persons. The Royal Court will exercise independent supervision over the holders of public office. For example, a locally elected Constable was directed to resign by the Royal Court<sup>69</sup> as they were deemed not fit for public office.
- 7.9.4 The level of corruption and inference with the integrity and independence of persons such as financial crime investigators are considered through external third parties. In relation to corruption, the World Bank Worldwide Governance Indicators<sup>70</sup> measure Control of Corruption for many countries including Jersey. This indicator places Jersey in the top quartile regarding lack of corruption.

## 7.10 Module 7: Capacity and Resources for Financial Crime Prosecutions (including Asset Forfeiture)

**2023 Assessment: 0.7 High**

Previously: 0.7 High

- 7.10.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.10.2 Amongst other roles, the AG is the public prosecutor, and it is their function to deliver an independent public prosecution service for the Island. Legal advisers within the LOD may exercise some of the AG's prosecutorial powers. Only Crown Advocates are entitled to exercise certain Royal Court and statutory functions on behalf of the AG and can do so, by virtue of statutory delegation.
- 7.10.3 As noted in section 7.8, ECCU is housed within the LOD and employs both investigators and prosecutors. It was established in 2017. Its resources have more than doubled since its inception and ECCU supplements its resources extensively by engaging specialist independent counsel and forensic accountants, to ensure it can meet the demands of the caseload it carries.

<sup>69</sup> [JerseyLaw - In the matter of the Connétable and the Procureurs du Bien Public of the Parish of St John \(15-Mar-2021\)](#)

<sup>70</sup> [Worldwide Governance Indicators 2022](#)

7.10.4 Paragraph 7.8.2 is also relevant in respect of the resources relating to financial crime prosecutors.

**7.11 Module 8: Integrity and Independence of Financial Crime Prosecutors (including Asset Forfeiture)**

**2023 Assessment: 0.9 Close to Excellent**

Previously: 0.9 Close to Excellent

7.11.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.

7.11.2 The AG and the SG are appointed by His Majesty the King, a process which is independent of the Island's political system.

7.11.3 The decision on whether a prosecution should proceed is free of undue influence from any person or persons. The AG's Code on the decision to prosecute ("the Code") sets down two stages in a decision to prosecute.

- a. The first stage is the evidential test, i.e. is there sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. If the case does not pass the evidential test, it must not go ahead no matter how important or serious it may be.
- b. If the case does pass the evidential test, the second stage is to consider whether a prosecution is in the public interest.

7.11.4 The Code is applied to all criminal prosecutions in Jersey, including money laundering cases.

7.11.5 The Viscount is responsible for asset forfeiture in Jersey. No issues arise in relation to integrity and independence. The Viscount is appointed by the Bailiff and the Deputy Viscount is appointed by the Viscount with the consent of the Bailiff.

**7.12 Module 9: Capacity and Resources for Judicial Processes (including Asset Forfeiture)**

**2023 Assessment: 0.7 High**

Previously: 0.7 High

7.12.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.

7.12.2 Jersey has a system which enables complex financial crime cases to be heard before a court consisting of a legally qualified judge and, in the case of statutory offences (such as ML and breaches of the Money Laundering Order) and asset forfeiture, the judge is joined by two full time lay judges ("Jurats") who are the 'fact finders'. In the case of customary law offences (such as fraud and perverting the course of justice) the 'fact finders' are a jury of 12 citizens.

7.12.3 In 2013, the States re-affirmed that there is an obligation upon Ministers to ensure the judiciary has sufficient resources to discharge its duties.



- 7.12.4 The Royal Court has two full time judges, the Bailiff and the Deputy Bailiff, who are locally qualified lawyers and who will usually have served as the AG, and possibly the SG, before taking office. Consequently, both the Bailiff and Deputy Bailiff have significant experience of ML and asset forfeiture matters in their previous roles.
- 7.12.5 The judiciary also comprises five Jersey-based Royal Court Commissioners (two of which are former Bailiffs). The Bailiff may appoint the Commissioners to preside over any particular case. Individuals will often be appointed owing to their particular expertise and experience. Therefore, Commissioners who have acted in, or sat on, ML trials in the UK could be appointed to deploy their invaluable experience in presiding over similar trials in Jersey.
- 7.12.6 There remains potential for the judicial process to be slowed due to the limitations of both court space and the number of judges.
- 7.12.7 There are no capacity or resource issues with the Viscount's department.

### 7.13 Module 10: Integrity and Independence of Judges (including Asset Forfeiture)

**2023 Assessment: 0.9 Close to Excellent**

Previously: 0.9 Close to Excellent

- 7.13.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.13.2 The judiciary in Jersey is independent and has high levels of integrity. It is able to conduct proceedings, at a pace and to an outcome, which is without interference, political or social pressure, corruption, intimidation or abuse of office. There is a robust code of conduct for the judiciary<sup>71</sup> and a complaints procedure, meaning that Jersey has a comprehensive framework against judicial corruption.
- 7.13.3 The Bailiff and Deputy Bailiff hold office until they reach the age of 70 or they are removed by His Majesty for bad behaviour. The Deputy Bailiff holds office on the same terms as the Bailiff and may discharge any function appertaining to the office of Bailiff.
- 7.13.4 The role of Deputy Bailiff is advertised and a stringent recruitment process completed before a candidate is recommended to His Majesty. The role of Bailiff is not as it is customary for the Deputy Bailiff to succeed to this role when the Bailiff retires.
- 7.13.5 The Judicial Committee of the Privy Council, which is the highest appellate Court of Jersey, is constituted by Justices of the Supreme Court of the United Kingdom.

<sup>71</sup> [Government of Jersey \(Bailiff's Chambers\) - Judiciary of Jersey: members' code of conduct](#)

## 7.14 Module 11: Quality of Border Controls

**2023 Assessment: 0.8 Very High**

Previously: 0.8 Very High

- 7.14.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.14.2 The Island has two major ports of entry, a seaport and an airport. As an Island of 45 square miles, the vast majority of passenger, vehicular, and freight traffic passes through either the seaport of Elizabeth Ferry Terminal, St Helier, or Jersey Airport, St Peter. Both major ports of entry are both staffed seven days a week by Customs and Immigration Officers. In addition, when specific intelligence is received JCIS Officers will be deployed to non-commercial small ports around the Island.
- 7.14.3 The border controls at the seaport and airport are considered robust which is reflected, statistically, in the number of searches that take place, and the quantity of drugs and cash seized.
- 7.14.4 Investigations conducted by JCIS fall into two types:
- a. *Pro-active, intelligence led operations* conducted using special investigative techniques (covert initiatives) to further an investigation against syndicates that are importing commercial quantities of drugs and/or exporting the proceeds of crime.
  - b. *Reactive*, following the seizure of commercial quantities of drugs, other prohibited items or cash seized at the border.
- 7.14.5 In addition, JCIS Officers undertake other border control activities such as being on duty at the Post Office every day when mail arrives at the depot. All postal goods entering or leaving the Island must be accompanied by a customs declaration.

## 7.15 Module 12: Comprehensiveness of Customs Regime on Cash and Similar Instruments

**2023 Assessment: 0.7 High**

Previously: 0.7 High

- 7.15.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.15.2 Jersey operates a disclosure system not a declaration system. Any person who refuses to disclose the value of cash held by them, or knowingly or recklessly makes and untrue disclosure is guilty of an offence and is liable to a term of imprisonment for two years and/or a fine.
- 7.15.3 Given that the highest threat related to cross-border movement of cash derives from drug trafficking, officers from the JCIS operate as part of the JFCU and conduct financial analysis to support confiscation and forfeiture applications primarily related to domestic drug trafficking seizures. The JFCU oversee criminal

and civil cross-border seizures of cash. An officer may seize anything that has been obtained in consequence of commissioning of an offence or that it is considered to be evidence in relation to an offence.

## 7.16 Module 13: Effectiveness of Customs Controls on Cash and Similar Instruments

**2023 Assessment: 0.6 Medium High**

Previously: 0.6 Medium High

- 7.16.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.16.2 JCIS officers have wide powers. They are empowered to carry out searches on persons, their baggage and their means of transport and are tasked with controlling the movement of prohibited and restricted goods, including cash. Law enforcement staff are assigned specifically to border protection duties and are supported by intelligence, investigation and freight specialists. JCIS will utilise the services of the SoJP 'Crime Scene Investigators' to gather fingerprints and DNA. JCIS also has its own specifically trained search dogs, which can search for cash and narcotics.
- 7.16.3 A risk-based and intelligence-led approach is adopted for the examination of arriving and departing passenger and vehicular traffic. While postal and freight traffic is examined on a daily basis, the overall proportion of items examined is low. Procedures are in place with security search providers at both the seaport and airport whereby officers are notified when cash is found either on a passenger or in their baggage on export. JCIS officers are regularly alerted to passengers carrying significant quantities of cash by the port security staff. The policies and procedures apply equally to incoming and outgoing cash.
- 7.16.4 Annual cross-border cash exercises are carried out by uniformed JCIS officers at the seaport and airport. These have a focus of stopping travellers leaving the Island and requiring the disclosure of any cash carried by them. A May 2022 cross border cash risk testing exercise, conducted by JCIS supported by both UK Border Force and Cash Detector Dog Teams, focussing on outbound checks at the seaport and airport, resulted in cash seizures.
- 7.16.5 The Customs and Excise Law provides that travellers can be detained for the purpose of asking questions in relation to the origin of any cash held by them and its intended use. Cash is a feature of several recent drugs cases:
- a. AG v Dryden and Whitcombe<sup>61</sup> (2022)
  - b. AG v Agathangelou Bayliss Bisson and Morgan<sup>60</sup> (2021)
  - c. AG v Hall Myers Whittingham<sup>72</sup> (2020)
- 7.16.6 The FIU is currently working on a strategic report regarding Jersey notes being repatriated back to the Island as they are not legal tender in the UK. The 2020 ML NRA noted physical cross border movement of cash as posing a threat of ML and that the authorities have evidence of multi million pounds of Jersey currency being

<sup>72</sup> [JerseyLaw - AG v Hall Myers Whittingham \(09-Mar-2020\)](#)

repatriated back to the Island. The report will assist in understanding better the nature of these funds.

## 7.17 Module 14: Effectiveness of Domestic Cooperation

**2023 Assessment: 0.7 High**

Previously: 0.6 Medium High

- 7.17.1 The National Structure provides the framework for co-operation and co-ordination mechanisms on a policy level.
- 7.17.2 The process by which the FIU co-operates with other competent authorities and law enforcement agencies at a strategic level is through a multi-agency tripartite coordination group. This coordination group consists of SoJP, ECCU and the JFSC. Historically the tripartite meetings were at an operational-level and provided both a forum for the FIU to propose dissemination of ML intelligence packages, and an opportunity for JFSC to discuss ongoing cases which might impact upon LEA action. Following a review the tripartite operates at a strategic level and enables all agencies to discuss and inform partners of any ongoing matters that may require support or parallel action.
- 7.17.3 Jersey has a wide variety of mechanisms to ensure operational co-ordination and information-exchange between competent authorities.
- 7.17.4 The FIU share intelligence analysis directly with domestic competent authorities based on investigative criteria. In urgent cases where there is a pressing need to initiate law enforcement action, there are strong open lines of communication amongst competent authorities. This allows meetings to be held at short notice and intelligence shared to enable immediate action. This was particularly evidenced at an operational level during the Russia-Ukraine crises when operational co-operation occurred both immediately and regularly to consider a rapidly evolving situation. The formal lessons learned output is still to be finalised.
- 7.17.5 The private-public partnership model has been launched and the first meeting held.
- 7.17.6 The Law Officers' Department, JFCU, JCIS and the JFSC are able to conduct joint investigations with, or their own investigations on behalf of, counterparts if they think fit.
- 7.17.7 FCARG is a recently established body designed to facilitate domestic cooperation through utilisation of the new MOU on Investigation and Prosecution of Financial Crime.
- 7.17.8 The above improvements have resulted in the vulnerability of the effectiveness of domestic cooperation being improved to 0.7 (high) from 0.6 (medium-high).

## 7.18 Module 15: Effectiveness of International Cooperation

**2023 Assessment: 0.7 High**

Previously: 0.5 Medium

- 7.18.1 Jersey has a strong record in assisting other jurisdictions in recovering the value of significant illicit assets and returning them. Jersey participates in international efforts to combat ML.
- 7.18.2 Mechanisms are in place for providing assistance to other jurisdictions, including MLA, financial intelligence exchange, and co-operation amongst law enforcement and financial regulators.
- 7.18.3 Effective and efficient international cooperation is a very important aspect of the work of the LEAs and extensive cooperation with other jurisdictions routinely takes place. For instance, in two large ECCU investigations, involving a very large number of legal persons and a number of natural persons as suspects, ECCU are liaising directly with two jurisdictions. Both countries are now moving to prosecute further defendants.
- 7.18.4 LEAs take a proactive approach to both formal and informal international cooperation and are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes including the identification, and tracing, of proceeds and instrumentalities of crime. This approach is reflected in the significant increase in active FIU information exchanges with foreign counterparts and the increase in the number of outgoing MLA requests, made and received by the LOD.
- 7.18.5 Better collaboration has resulted in the statistics for formal cooperation showing improvements in execution times over the last five years. Additionally, this has resulted in assets of over £3.2 million and US\$320 million being shared with other jurisdictions as a result of MLAs undertaken during this time.
- 7.18.6 Competent authorities have access to numerous international cooperation mechanisms through which the LEAs can exchange information both spontaneously and upon request. Crucially, there is a central register of beneficial ownership that meets international standards, which helps to share information with authorities around the world. Jersey is:
- a. A member of the Egmont Group (since January 1999).
  - b. A member of the Camden Asset Recovery Interagency Network (“CARIN”) (since its inception).
  - c. A core donor nation to the International Centre for Asset Recovery, part of the Basel Institute on Governance (since 2018).
  - d. Has observer membership of the IACCC (since July 2020) – specifically aimed at exchanging intelligence in respect of ‘grand corruption’ cases.
  - e. A member of the United Nations Global Operational Network of Anti-Corruption Law Enforcement Authorities (“GLOBE Network”), in conjunction with the UK (2021).
  - f. An observer member of the Balkan Asset Management Interagency Network (“BAMIN”) (since June 2023).

- g. A member of the Criminal Assets Management and Enforcement Regulators Association (“CAMERA”).
  - h. Has indirect access to Interpol via the UK’s Interpol Bureau.
- 7.18.7 In addition Revenue Jersey regularly responds to international requests for tax information. In this respect, Jersey has signed up to numerous cooperation and information sharing mechanisms, it:
- a. Is an associate of the OECD’s base erosion and profit-sharing initiative, exchanging information under the Country-by-Country Reporting Regime, as well as information on cross-border tax rulings.
  - b. Is a signatory to the Multi-Lateral Convention on Mutual Administrative Assistance in Tax Matters.
  - c. Is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.
  - d. Was an early adopter of the FATCA and CRS, exchanging information on trusts under the Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015.
  - e. Was the third jurisdiction to bring into force the multilateral legal instrument to ensure that its double tax agreements could not be used for the purposes of tax avoidance or tax evasion.
- 7.18.8 An increasing use of international exchange of information has been seen since 2020 to aid in compliance activities. Reviews of compliance with economic substance legislation requirements is increasing and Revenue Jersey is an active participant in the OECD’s forum on harmful tax practices.
- 7.18.9 Jersey scored top marks from the OECD on tax transparency, receiving a ‘fully compliant’ rating in the OECD’s Global Forum assessment, reflecting the Island’s commitment to the highest standards of tax transparency and information exchange.
- 7.18.10 Since the 2020 ML NRA Jersey has expanded the mechanisms through which it is able to engage in international cooperation as well as undertaking engagement on a far more frequent basis. As a result the vulnerability of the effectiveness of domestic cooperation is being improved to 0.7 (high) from 0.5 (medium).

## 7.19 Module 16: Availability of Independent Audit

<b>2023 Assessment: 0.7 High</b>
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Previously: 0.7 High
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- 7.19.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.19.2 There is an auditing standards requirement for auditors to confirm their independence and disclose in writing any independence issues within the audit report and as part of their communications with those charged with governance. Additionally, the UK ethical standards (applicable to Jersey auditors) require notification of independence breaches to the audit firm’s supervisory authority commonly the ICAEW and FRC.

- 7.19.3 International Standards on Quality Management 1 “*Quality Management for Firms that Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements*” (“ISQM 1”) applies to all audit firms and reinforces the requirements of the audit firm’s internal control procedures with respect to proactively managing audit quality and auditor independence. Audit firms must monitor compliance with policies and procedures as well as the design, implementation and operating effectiveness of their internal controls. Oversight of an audit firm’s compliance with ISQM 1 is carried out by their supervisory authority.
- 7.19.4 There have been no known integrity breaches by independent auditors/audit firms over the past few years.
- 7.19.5 The UK Government commissioned an independent review into the quality and effectiveness of the UK audit market (the Brydon review<sup>73</sup> published 2019) which made recommendations on how to increase confidence in the audit sector. The recommendations of the Brydon review have yet to be fully implemented The FRC itself has said the auditing work of the Big Four firms has improved.
- 7.19.6 Whilst Jersey company law does not require fees for audit and non-audit services to be disclosed by customers of auditors, there is a requirement for public interest reporting entities or their auditors to disclose such fees under international ethical standards.

## 7.20 Module 17: Level of Financial Integrity

**2023 Assessment: 0.8 Very High**

Previously: 0.8 Very High

- 7.20.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.20.2 As stated in the 2020 ML NRA, Jersey has a significant professional services community which has been established for many years. The number of cases encompassing integrity failures are not sufficiently significant to suggest the systemic involvement (ranging from unwitting facilitation to acting as witting accomplice) in ML by professional intermediaries (third party money laundering).

## 7.21 Module 18: Effectiveness of Tax Enforcement

**2023 Assessment: 0.6 Medium High**

Previously: 0.5 Medium

- 7.21.1 Revenue Jersey remains a non-ministerial department of the States Treasury and Exchequer, broadly reflecting the administrative governance of the UK (HMRC) and the Westminster/Commonwealth model. The Comptroller of Revenue and Revenue Jersey staff are independent officers enforcing tax laws independent of Ministers and other civil servants.

<sup>73</sup> [UK Government - The quality and effectiveness of audit: independent review](#)



- 7.21.2 Since the 2020 ML NRA, Revenue Jersey has introduced significant changes that have impacted and extended its transformation period. Impactful changes in the period include, but are not limited to:
- a. Effecting the legislative amendments in the Revenue Administration (Jersey) Law 2019 (“RAL”) for civil powers to obtain information and civil penalties for tax wrongdoing. See also paragraph 7.21.4
  - b. Effecting legislative amendments in the Taxation (Income Tax, Goods and Services Tax and revenue Administration) (Amendment) (Jersey) Law 2021 to modernise the criminal sanctions for tax evasion and other wrongdoing.
  - c. Enhanced compliance activity yielding combined additional tax revenue of £54.7m for 2020, 2021 and 2022.
  - d. The professional upskilling of staff due to various training interventions and supporting the pursuit of formal relevant qualifications through offering study funding and study leave. Revenue Jersey has recently launched its own self developed Jersey Tax Professional Qualification, similar to that available in the UK, but specifically in respect of Jersey’s unique tax laws. This course is currently only available to Revenue Jersey staff.
  - e. Risk capability and the process for risk identification has developed. This has included establishment of a risk team, internal processes and templates becoming more established and sophisticated, and improvements to risk registers.
- 7.21.3 Whilst there have been no significant prosecutions since 2010, the building blocks for the prosecutions process are now in place and there are cases in the pipeline with the LOD.
- 7.21.4 The RAL came into force on 1 January 2020 and significantly enhances the powers of Revenue Jersey:
- a. New legal gateways have been created with other Government departments and public bodies, enabling information to be shared more easily.
  - b. Civil penalties, for providing inaccurate information to Revenue Jersey, may be levied on individuals and companies (in respect of declarations made on or after 1 January 2020).
  - c. Revenue Jersey can formally request information; failure to respond results in an initial civil penalty being imposed immediately after the expiry date of required submission. A daily penalty is enforced after a month for each day that the information remains outstanding. These powers have been utilised. Revenue Jersey maintains a detailed register of these requests and penalties.
- 7.21.5 Revenue Jersey considers there is a culture of tax compliance in Jersey and their ability to analyse the risk of tax avoidance and evasion has grown. As in all jurisdictions, there is some level of tax non-compliance arising from both error and misunderstanding of tax law, as well as deliberate avoidance and/or evasion.
- 7.21.6 Revenue Jersey introduced its Compliance Strategy built upon the ‘promote, prevent, respond’ model. Since 2020, an annual Compliance Programme has been published outlining areas of focus for the year, with the areas identified based on risk. The programme may look at larger and/or riskier

taxpayers/industries/sectors as well as compliance checks on 'principle' cases where the amount is considered immaterial.

- 7.21.7 Previously, most non-compliance cases were addressed by civil settlements to enable the levying of compliance penalties and not generally through the criminal Courts. This process has improved significantly with systems functionality introduced to impose compliance penalties together with the enabling legislation and standardisation for the imposition of compliance penalties improving the compliance behaviours displayed.
- 7.21.8 As a result the vulnerability regarding the effectiveness of tax enforcement is being improved to 0.6 (medium-high) from 0.5 (medium).

## 7.22 Module 19: Level of formalisation of the Economy

**2023 Assessment: 0.9 Close to Excellent**

Previously: 0.9 Close to Excellent

- 7.22.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.22.2 As detailed in the 2020 ML NRA, Jersey's geography permits effective control over its borders and, therefore, scrutiny of people entering and leaving Jersey (and ultimately working within it). Controls over living and working in Jersey, together with its developed financial services industry, support a view of a high degree of formalisation of the Jersey economy.
- 7.22.3 Successful inter-agency investigations and prosecutions into unlicensed businesses have been published in local media with clear messaging to encourage members of the public to report such behaviour to the authorities. The number of investigations is not currently published.
- 7.22.4 Jersey has a relatively straightforward tax regime and lower rates of tax than in many other jurisdictions, whilst having a high cost of living. Approximately 24% of households/individuals are on low income (before housing costs) - £510 per week/£26,520 pa. There is an assumption that there is an incentive to 'moonlight'.
- 7.22.5 However, given the size of the financial services industry in Jersey (37.5% of GVA<sup>74</sup>), higher salaries (compared to the UK), and the factors considered above, the size of Jersey's informal economy is likely to be smaller than in the UK. On balance, it is estimated that circa 5% - 10% of Jersey's GDP could be attributed to the informal economy.

## 7.23 Module 20: Availability of Reliable Identification Infrastructure

**2023 Assessment: 0.8 Very High**

Previously: 0.8 Very High

- 7.23.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.

<sup>74</sup> [Statistics Jersey - measuring Jersey's economy –GVA and GDP 2022](#)

- 7.23.2 The Government and Parish authorities issue a range of documents suitable for use in the verification of identity, including Jersey driving licences. This has not changed since the 2020 ML NRA.
- 7.23.3 There continues to be much reliance on customers to provide supporting documentation to verify their address, such as utility bills and bank statements – certified where required. Utility bills are the default requirement for almost every FI and DNFBP when seeking to evidence proof of address.

#### 7.24 Module 21: Availability of Independent Information Sources

**2023 Assessment: 0.6 Medium High**

Previously: 0.6 Medium High

- 7.24.1 There have been no changes deemed to be of sufficient substance since the 2020 ML NRA to change the rating.
- 7.24.2 There is limited public information available to assist in determining Jersey resident customer profiles and expected transactional activity. However, through organisations such as Digital Jersey, there is a local community working in the provision of risk-screening tools which can be used to develop a customer transaction profile for resident and non-resident customers alike.
- 7.24.3 As the majority of business in Jersey is with non-resident customers, FIs and DNFBPs have developed significant expertise in accessing external data sources.

#### 7.25 Module 22: Availability and Access to Beneficial Ownership Information

**2023 Assessment: 0.8 Very High**

Previously: 0.7 High

- 7.25.1 Jersey has made significant legislative and technological changes, in line with the development of international best practice and standards in this area. This has resulted in a revised policy approach to obtaining adequate, accurate and current basic and beneficial ownership information.
- 7.25.2 As part of Jersey’s strategic review of compliance, and after a significant period of engagement between competent authorities and industry, 2020 saw the introduction of a suite of disclosure and provision of information legislation. In early 2021, the launch of Jersey’s new digital registry enabled Registry to display back to entities the information they submitted which is held centrally.
- 7.25.3 The disclosure and provision of information legislation introduces a clear legal basis for all legal entities to provide and update their beneficial owner and controller information and significant person information (those holding director and equivalent positions). Updates must be undertaken within 21 days of (i) a change or (ii) an error or inaccuracy being identified. The information provided must be confirmed annually as accurate and up to date with failure to provide the confirmation on time resulting in a late filing fee.
- 7.25.4 Compliance with the requirements of the disclosure and provision of information legislation and the relevant entity legislation, such as the Companies (Jersey) Law 1961, is monitored by the Registry Supervision Team.

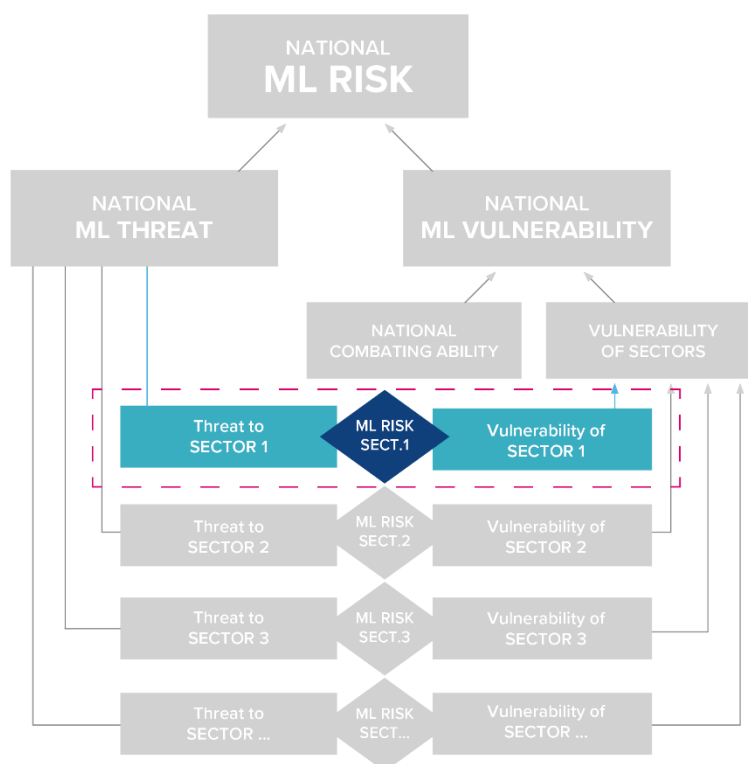
- 7.25.5 Registry has introduced an automated vetting system enabling perpetual screening on all Jersey registered entities, beneficial owners, controllers and significant persons connected to Jersey registered entities. Screening is also completed against sanctions and PEP lists, as well as news feeds.
- 7.25.6 In terms of accessibility:
- a. Significant person information was made public for the first time in 2021 through the Registry website.
  - b. Direct access, to all information held in the Registry is available to local competent authorities (FIU, Revenue Jersey, and the LOD).
  - c. Obligated entities do not currently have access to the Registry information for the purposes of conducting CDD. Following a consultation on this proposal in Q4 2022, implementation has been delayed following the ruling of the Court of Justice of the European Union in the joined cases C-37/20 Luxembourg Business Registers and C-601/20 Sovim.
- 7.25.7 Further information regarding availability and access to beneficial ownership information is available in the 2023 LPA NRA.
- 7.25.8 The new disclosure and provision of information legislation, together with changes to the Registry operations, moves the vulnerability regarding availability and access to beneficial ownership information to 0.8 (very high) from 0.7 (high).

## Part C – Sectoral ML Risk

### 8 Overview

#### 8.1 Methodology

8.1.1 Sections 10 to 12 provide an update on the ML risk for four industry sectors. As identified in the diagram below the ML risk associated with each sector is a combination of the threats and vulnerabilities they face.



8.1.2 For three sectors (TCSP, banking and legal) working groups were established comprising representatives from industry, the JFSC and Government. The work of these groups was augmented with input from the FIU, Revenue Jersey and the LOD.

8.1.3 The objective of the working groups was to refresh the ML risks, not to reconsider all risks. Consequently, they focused on whether the ML risks have changed as a result of changes to the overall profile of the sector. These changes may have adversely impacted the: (i) threats to the sector; (ii) inherent vulnerabilities posed by the products and services offered, or (iii) the strength of controls applied.

8.1.4 The work supporting section 10 – funds sector – is different to that supporting the other sectors. At this stage no working group has been convened, rather the update of the funds sector is ongoing, and this is a current status report. To date the work has focused on the trended Supervisory Risk Data, JFSC thematic reviews and a targeted piece of work on JPFs.

- 8.1.5 Whilst public funds have the greatest number of investors and the highest value of assets under management, the JPF is the growth product. Recognising this growth, the competent authorities and private sector worked in partnership in 2021-2022 to consider two of the core inherent vulnerabilities for JPFs. The results were communicated to the private sector through a targeted outreach and engagement programme in Q3/Q4 2022, but the report was not published. This targeted work informs this update.
- 8.1.6 From a controls perspective the JFSC published a thematic report regarding the controls associated with JPFs in 2020. Between June and August 2023 the JFSC completed a repeat of this thematic examination with the feedback report due for publication later in 2023. As the vulnerability of a sector is a combination of inherent vulnerabilities and the strength of the controls applied it is important that the results of this work are factored into the refresh. Consequently, the JFSC has provided early indications of the results to inform the controls element of the funds sector refresh (section 10).
- 8.1.7 The support of all working group members is greatly appreciated in the compilation of this ML NRA refresh.

## 9 TCSP Sector

### 9.1 Key Findings

- 9.1.1 Workshops were undertaken with representatives from across the TCSP sector to better understand the threats, inherent vulnerabilities and controls applied. The analysis was undertaken taking into account the size of the firm, based on number of employees.
- 9.1.2 Only one control vulnerability rating was amended: the *Availability and Access to Beneficial Ownership Information*, which was strengthened from high to very-high. Overall the quality of AML controls remains at medium-high.
- 9.1.3 The 2023 LPA NRA is a key document to understanding the ML risks in the TCSP sector as it covers the primary TCSP customers<sup>75</sup>. Figure 9.2 shows that 42.6% of the TCSPs customers are trusts, 39.7% Jersey companies and 11.8% non-Jersey companies.
- 9.1.4 The sector continues to risk rate 30% of its customers as higher risk and 14.2% of its customers are reported as PEPs. The top five reported jurisdictions of residency (excluding Jersey) are all IFCs with the UK taking top spot with 32.4% of the customers.
- 9.1.5 The work to determine the ML risks associated with family offices needs to be completed along with a focused piece of work to better understand the increase in the provision of limited services.
- 9.1.6 The risk profile of the TCSP sector remains stable but the mix of risks has changed, therefore overall the risk position remains unchanged following this refresh.

**Table 9.1: TCSP sector risk position 2020 versus 2023**

ML NRA	Threat	Vulnerability	Inherent Vulnerability	Quality of AML Controls
2020	High	Medium-high	See Table 9.6	Medium high
2023	High	Medium-high		Medium-high

### 9.2 Overview of TCSP Sector

- 9.2.1 This section builds on Section 9 of the 2020 ML NRA.
- 9.2.2 In addition to the 2020 ML NRA, the 2023 LPA NRA is a key document for understanding the ML risk associated with the TCSP sector as two-thirds of Jersey companies are administered by a TCSP.

<sup>75</sup> For the purposes of this section where a TCSP customer is not a natural person it is the vehicle it administers. Consequently, whilst trusts do not have legal personality, they are considered a customer in this section.



- 9.2.3 In December 2021, the Government of Jersey published its Financial Services Policy Framework<sup>76</sup> which states that:
- “Jersey’s financial services industry is centred on four pillars: private wealth, funds, capital markets, and banking. These pillars are underpinned by Jersey’s mature and developed financial ecosystem, which has depth in the skills and resource of its workforce and the digital capability of its businesses and the Island. The TCSP sector is key in supporting the private wealth pillar.”*
- 9.2.4 In common with other IFCs, Jersey has a large and significant TCSP sector. It is the home jurisdiction to several internationally active TCSP groups. Over time, due to mergers and acquisitions, there has been a shift in the profile of TCSPs both in terms of ownership and size (by number of employees). Jersey is the global headquarters for several TCSP groups, including some that are listed.
- 9.2.5 The TCSP Working Group highlighted several reasons why customers chose Jersey as a location for their structures and determined the characteristics below to be key factors attracting business to the Island:
- a. Politically stable.
  - b. Sterling based economy.
  - c. Close proximity to, and good transport links with, the UK.
  - d. Centre of excellence for financial services with a long history of providing TCSP services.
  - e. Experienced and skilled workforce, including knowledge of cross-border rules.
  - f. Tax neutrality.
  - g. Well regulated.
- 9.2.6 The factors align closely with those of Locate Jersey<sup>77</sup>, who also highlight the Island-wide 1GB fibre connectivity as well as the collaboration between the Government and other competent authorities to promote financial technology.
- 9.2.7 Unlike some other jurisdictions, all persons that wish to provide TCSP services as a business are required to register with the JFSC. Any law firm or accountancy practice is not permitted to provide TCSP services without a separate TCSP authorisation.
- 9.2.8 Section 3.4, Table 3.1 highlights that between the start of 2019 and the end of 2022, the number of registered TCSPs is relatively stable with a small decline of approximately 6%. This decline is a result of a reduction in the number of natural persons and participating members registered to conduct TCSP activity (combined fall of 8%), against a marginal increase (4%) in the number of TCSP groups (affiliation leaders) and non-affiliated companies.
- 9.2.9 As at the end of 2022 the absolute number of registered TCSP was 795. This includes participating member companies (591) and natural persons (87). Participating members are not required to submit individual Supervisory Risk Data (the affiliation leader submits a consolidated return) and not all natural persons

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<sup>76</sup> [Government of Jersey - Policy Framework for Jersey Financial Services Industry](#)

<sup>77</sup> [Locate Jersey- Financial Services](#)

submit data. Consequently approximately 180 Supervisory Risk Data returns have been received for each of the years 2019 to 2022, see Table 9.1.

- 9.2.10 Table 9.2 highlights that, at the end of 2022, eight very large TCSPs reported having more than 200 employees. Whilst not included in the table, the 2022 Supervisory Risk Data shows that these eight TCSPs collectively reported approximately 26% of the total customers for the sector.

**Table 9.2: TCSPs by number of employees (Supervisory Risk Data data)**

Number of reported employees	Number of TCSPs providing data to JFSC			
	2019	2020	2021	2022
0. Very Small (0-5) <sup>78</sup>	89	87	94	90
1. Small (6-10)	15	20	20	20
2. Medium (11-50)	39	38	35	35
3. Large (51-200)	27	26	24	25
4. Very Large (>200)	9	9	9	8
Total reporting entities	179	180	182	178

- 9.2.11 It is important to note that this section considers the shape of the TCSP sector as at the end of 2022, i.e. prior to changes set out in section 4.5. The impact on family offices of the regulatory framework scope change is described in paragraphs 9.3.15 to 9.3.27.

### 9.3 Threats in the TCSP Sector

- 9.3.1 Internationally the provision of TCSP services is recognised as being an activity susceptible to being used by those seeking to launder the proceeds of crime. The Jersey TCSP sector is very aware that certain persons may find it attractive to use a TCSP to structure and administer their wealth structures. Consequently, the controls surrounding customer take-on are rigorously applied and the sector takes a conservative approach to onboarding new customers.

- 9.3.2 The sector services a significant number of high-net-worth individuals and persons designated as PEPs. Table 9.3 shows that for 2022 TCSPs reported PEP connections as 14.2% of their customer base.

#### Enforcement Action/ Legal Cases

- 9.3.3 During the period 2019 to 2022 there have been three JFSC enforcement cases, full details are available from the public statements published on the JFSC website, in summary:

<sup>78</sup> This group a number of natural persons holding a limited registration – providing director services but not able to hold customer assets alone.

- a. February 2021: Action taken against SG Kleinwort Hambros Trust Company (CI) Limited (along with two other companies in the same group) SGKH Entities<sup>79</sup> as their failures left them under-informed regarding their compliance risk and whether they were operating robust systems and controls to mitigate against ML. A civil financial penalty was levied on each company with the TCSP fined £155,476.
- b. July 2022: IQ EQ<sup>80</sup> had multiple contraventions of AML/CFT regulatory requirements in the period 1 January 2018 to 29 November 2019 resulting in civil financial penalty of £803,661.
- c. December 2022: Lutea Holdings<sup>81</sup> had failed to organise and control its affairs effectively for the proper performance of its business activities and had not operated adequate risk management systems in the period 1 January 2018 to 2 September 2021. The JFSC determined the matters were ineligible for consideration of a civil financial penalty.
- 9.3.4 Additionally, on 19 February 2021, the Royal Court imposed a fine of £550,000 on LGL Trustees Limited (“LGL”), and awarded costs of £50,000, for failing to comply with the requirements of the Money Laundering Order.

#### [AG v LGL Trustees Limited<sup>82</sup>](#).

- 9.3.5 LGL had pleaded guilty on 4 December 2020 to two related offences under Article 37(4) of the Proceeds of Crime Law for breaches of the Money Laundering Order.
- 9.3.6 The SG commented: “*Proper compliance by financial service providers with the Money Laundering Order is a key defence against abuse of the Island’s finance industry by criminals and an important aspect of Jersey’s international commitment to combatting money laundering. The decision to prosecute LGL for serious compliance failures and seek a significant fine reflect the gravity with which such breaches of the law are viewed.*”

#### **Cross border Threat**

- 9.3.7 The cross-border threat is thought to be similar to the threat at a national level, as set out on section 6.2.
- 9.3.8 Table 9.3 shows a steadily increasing percentage of the TCSP customer base is reported as being Jersey-based, 29% in 2022 up from 23% in 2019. Whereas the percentage of customers reported as being connected to a higher risk jurisdiction<sup>83</sup> is noted as being stable over the period (between 6.0% and 6.5%). The higher risk jurisdiction list includes several focus markets<sup>84</sup> for Jersey.
- 9.3.9 The TCSPs are required to risk rate their customers as ‘higher’, ‘standard’ or ‘lower’ risk and report the results to the JFSC as part of the annual Supervisory

<sup>79</sup> [JFSC – public statement - SGKH Entities](#)

<sup>80</sup> [JFSC – public statement - IQ EQ \(Jersey\) Limited \(formerly, First Names \(Jersey\) Limited\)](#)

<sup>81</sup> [JFSC – public statement - Lutea Holdings Limited and Lutea Trustees Limited](#)

<sup>82</sup> [AG v LGL Trustees Limited 19-02-2021 \(jerseylaw.je\)](#)

<sup>83</sup> The methodology behind identifying the “higher risk” jurisdictions is set out in the ML Threat section. To ensure proper comparison across the period the higher risk customers for all years utilises the same list of higher risk jurisdictions.

<sup>84</sup> Being: the Cayman Islands, Gibraltar, Kenya, Nigeria, South Africa and the UAE.

Risk Data return. Table 9.3 highlights that during the period 2019 to 2022 the sector consistently reported approximately 30% of their customers to be higher risk. In the same period they have reported PEP connections anywhere between 12.9% and 14.6% of their customers, with 9.8% of the PEPs connected to jurisdictions with significant connections to Jersey or which are focus jurisdictions (this does not include section 6.2 jurisdictions that are only Methodology 2 jurisdictions e.g. UK and USA).

- 9.3.10 TCSP customer relationships are developed over many years or even generations. During this time the customer’s circumstances may not have changed, although the country where they reside may well now be viewed as higher risk than historically. This will affect the customer risk rating. Of the 14.2% higher risk PEPs reported for 2022 over half are connected to the UAE which has been listed as a FATF jurisdiction under increased monitoring (March 2022).
- 9.3.11 Given the length of some relationships, the TCSP Working Group determined there was a potential legacy threat within historic back books of business. Some customers may have been onboarded many years ago, possibly prior to the current regulatory framework. Regulatory remediation exercises can be protracted, and some structures and relationships may be difficult to exit. It is important to note that a lot of remediation and review work has already been undertaken, and continues to be undertaken.
- 9.3.12 The number of PEPs reported as being linked to higher risk jurisdictions with less significant connections to Jersey has fallen across the period from 8.5% in 2019 to 7.2% in 2022. Whilst not impacting the 2022 data, on 1 September 2023 an amendment to the Money Laundering Order provides that in certain circumstances a person may be declassified from being a PEP (see section 4.9). This amendment is expected to impact the data collected for 2023.

**Table 9.3: Country and Customer Risk Summary for TCSP Sector**

			2019	2020	2021	2022
<b>Country Risk</b>	Customers	Jersey-Based Customers (% of Total)	23%	26%	25%	29%
		% of reported connections with a higher risk jurisdiction: significant connections and focus areas	6.5%	6.1%	6.4%	6.0%
		% of reported connections with a higher risk jurisdiction: less significant connections	2.1%	2.1%	2.0%	1.8%
<b>Customer Risk</b>	Customer Risk Ratings by industry	Higher Risk Customers as a % of all Customers	30.8%	31.2%	30.9%	31.6%
		All PEPs as % of all Customers	13.9%	12.9%	14.6%	14.2%

			2019	2020	2021	2022
	PEP Connections	% of reported PEP connections with a higher risk jurisdiction: significant connections and focus areas	9.6%	10.2%	8.2%	9.8%
		% of reported PEP connections with a higher risk jurisdiction: less significant connections	8.5%	8.3%	6.7%	7.2%

9.3.13 Table 9.4 highlights that in 2022 the top five jurisdictions for reported residency of TCSP customers are all IFCs and are identified in section 6 as being a higher risk jurisdiction. The strength of these connections is expected and understood as it reflects the profile of both the TCSP sector and the wider Jersey financial services industry, see also Table 9.5: cross-border exposure as a percentage of reported connections (paragraph 6.2.19).

Table 9.4: Top five Jurisdictions for reported as residency TCSP Customers (excluding Jersey)

2021			2022		
	Jurisdiction	% of Total		Jurisdiction	% of Total
1	United Kingdom	35.1%	1	United Kingdom	32.4%
2	United States of America	4.8%	2	United States of America	5.1%
3	South Africa	2.4%	3	South Africa	2.3%
4	United Arab Emirates	2.0%	4	Switzerland	2.0%
5	Saudi Arabia	2.0%	5	United Arab Emirates	1.9%

9.3.14 In terms of exposure to higher risk jurisdictions which are not IFCs, Table 9.5 highlights that level of exposure has very slightly decreased to these jurisdictions between 2021 and 2022 but the jurisdictions remain the same.

Table 9.5: Top five Higher Risk Jurisdictions reported as residency for TCSP Customers

2021			2022		
	Jurisdiction	% of Total		Jurisdiction	% of Total
1	Kenya	1.07%	1	Kenya	0.98%
2	Lebanon	0.62%	2	Lebanon	0.65%

2021			2022		
	Jurisdiction	% of Total		Jurisdiction	% of Total
3	Russian Federation	0.41%	3	Nigeria	0.29%
4	Nigeria	0.26%	4	Russian Federation	0.23%
5	Turkey	0.24%	5	Turkey	0.20%

### Family Offices

- 9.3.15 'Family office' is a term applied to entities that vary greatly both in structure and activities undertaken therefore the ML risks associated with family offices can vary considerably.
- 9.3.16 Jersey's Policy Framework highlights its strategy regarding family offices: "*Our objective is to ensure that our operating environment, regulatory framework and fiscal policies enable Jersey to remain a specialist centre for global family offices.*"
- 9.3.17 The flexibility associated with the establishment of a family office means they have characteristics which make them potential threats from an ML perspective, see the case of Jahangir Hajiyev in the UK<sup>85</sup>. There have been other cases involving family offices. In 2022 the UK Financial Conduct Authority ("FCA") fined a firm £2 million for failing to ensure it had effective systems and controls to identify and reduce the risk of financial crime and money laundering in its business. The firm provided trading and investment management services to family offices.<sup>86</sup>
- 9.3.18 Whilst there is no agreed definition of what it means to be a family office, it is commonly accepted that they primarily exist to preserve family wealth, protect family assets, enable philanthropy, and maintain independence and/or portability of family wealth structures. JFL maintain a webpage providing information about family offices in Jersey.<sup>87</sup>
- 9.3.19 There are at least five main types of family office relevant to Jersey ML risk.
- A multi-family office with staff in Jersey, which independently manages the affairs of more than one family, while still providing a bespoke service to each family it supports.
  - A multi-family office with staff in Jersey, which uses services provided by a regulated TCSP to manage the affairs of more than one family.
  - The single-family office with staff in Jersey, which independently handles the affairs of a single family.
  - A single family office with staff in Jersey, which uses services provided by a regulated TCSP to handle the affairs of a single family.

<sup>85</sup> [Bloomberg article - Dirty Money Spotlights Role of Family Offices as Enablers](#)

<sup>86</sup> [FCA press release - The TJM Partnership Limited \(in liquidation\) £2 million for serious financial crime control failings in relation to cum-ex trading](#)

<sup>87</sup> [JFL website - Offshore Family Office](#)

- e. A single family office with staff outside Jersey who handle the affairs of a single family and who engage the services of a regulated TCSP in Jersey to provide a PTC or other entities as part of the family's wealth structuring.
- 9.3.20 The 2020 ML NRA highlighted that additional consideration should be undertaken regarding the ML risk associated with family offices. The focus was expected to be on single-family offices. Any entity operating as multi-family office is likely to be in the business of carrying on TCSP and therefore required to register with the JFSC, who will monitor them for compliance with the regulatory framework.
- 9.3.21 With respect to single family offices, the terms 'family office' and 'PTC' are often used interchangeably but they are different.

*Family office that is also a PTC*

- 9.3.22 When structuring a family office a PTC may be used but PTCs are also used for other purposes. A PTC is defined in law<sup>88</sup>, essentially it is a person carrying on trust and company services that meets specific characteristics.
- 9.3.23 Section 4.5 provides details regarding amendments to the scope of the regulatory framework which meant that as of 30 January 2023, PTCs and all legal entities acting as trustee of an express trust were brought within scope of the regulatory framework. As of that date they were required to comply with the Money Laundering Order and register with the JFSC (transitional provisions applied such that an application for registration had to be submitted by 30 June 2023).
- 9.3.24 As a consequence, the PTC aspect of any family office structure (and any other entity within the wider corporate structure conducting an FI, DNFBP or VASP activity as a business) is fully regulated by the JFSC for AML/CFT purposes.

*Family office that is not a PTC*

- 9.3.25 A family office that is not a PTC may need to register with the JFSC if they are deemed to be in the business of providing TCSP services, or any other activity that falls within Schedule 2 of the Proceeds of Crime Law such as lending.
- 9.3.26 Discussions continue regarding the ML risk posed by these businesses and the application of the regulatory framework. To facilitate these discussions, for a narrowly defined group of persons the transitional provision has been extended from 30 June to 30 September 2023.
- 9.3.27 In conclusion the ML risks associated with "family offices" operating in or from within Jersey has not been fully assessed. Whilst this is an ongoing piece of work any multi-family office is expected to have registered with the JFSC.

## 9.4 Vulnerabilities in the TCSP Sector

- 9.4.1 The ML vulnerability of the TCSP sector comprises of inherent vulnerability, linked to the type of service provided to customers, and the control vulnerability which measures the quality of the controls applied.

<sup>88</sup> [Paragraphs 4 and 4a of the Schedule to the Financial Services \(Trust Company Business \(Exemptions\)\) \(Jersey\) Order 2000](#)



## Inherent vulnerabilities

- 9.4.2 TCSP services are provided to assist customers with:
- Managing family wealth distribution through the generations.
  - Creating structures to assist and provide greater certainty where there is a need to distribute wealth across different jurisdictions.
  - Protecting individuals who may be elderly or disabled.
  - Protecting wealth against an aggressive neighbouring country who either actively interferes or invades another country or threatens to.

## TCSP activities

- 9.4.3 The TCSP Working Group did not reconsider the inherent vulnerabilities as presented in the 2020 ML NRA report and provided below in Table 9.5.
- 9.4.4 As explained above the situation regarding PTCs changed on 30 January 2023. The PTC ratings in Table 9.6 relate to consideration of the services provided to PTCs by registered TCSPs; they do not consider the inherent vulnerabilities associated with the PTC activity. Paragraph 9.62 of the 2020 ML NRA states: *“In summary, the TCSP NRA working group concluded that PTCs pose a higher inherent risk in terms of AML than other aspects of the TCSP sector, and the value of the underlying assets, means they are worthy of separate consideration”*.
- 9.4.5 Give the extended transition period discussed above, and the lack of PTC risk assessment, for the purpose of this refresh the inherent vulnerabilities from the 2020 ML NRA remain unchanged.

**Table 9.6: Inherent Vulnerabilities in the TCSP Sector Updated**

Inherent Vulnerability	Management Services	PTCs	Limited services	Other services
Total size/ volume	High	Medium	Medium	Medium low
Customer base profile	High	High	High	High
Professional secrecy	Light	Light	Light	Light
Use of agents	Medium low	Medium low	Medium low	Medium
Anonymous use of the product	Not available	Not available	Available	Available
Difficulty in tracing transactions	Easy to trace	Easy to trace	Difficult / time consuming	Difficult / time consuming
Existence of ML typologies	Exist	Exist but limited	Exist but limited	Exist but limited

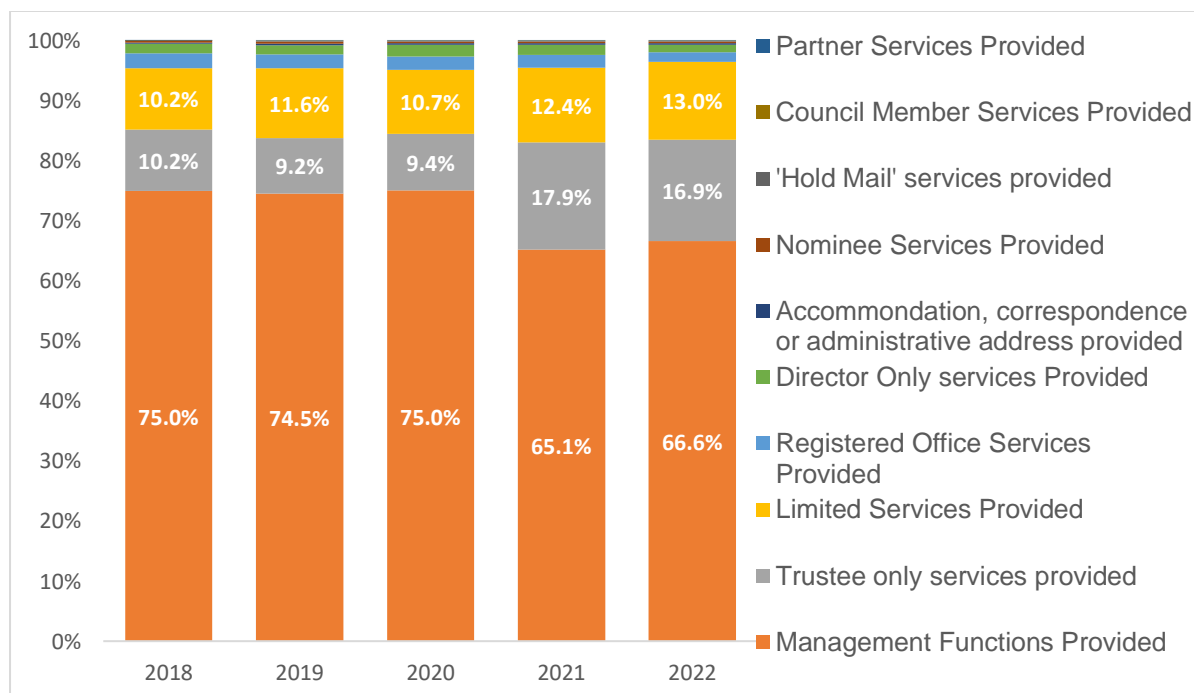
Inherent Vulnerability	Management Services	PTCs	Limited services	Other services
Use of tax evasion / fraud	Exist	Exist	Exist	Exist but limited
Non face to face availability of products	Available	Available	Available and prominent	Available
<b>Inherent vulnerability</b>	<b>Medium-high</b>	<b>Medium-high</b>	<b>Medium-high</b>	<b>Medium</b>

9.4.6 The sector offers a full range of TCSP activities with management services<sup>89</sup> being the activity reported as most often provided to customers, see Figure 9.1. However, the management services activity is 66.6% of the reported activity in 2022 as against 75% in 2019. There has been a rise in the provision of limited services and a trustee-only service.

9.4.7 Whilst the JFSC has a long-standing policy of treating limited services as a high-risk activity, the 2020 ML NRA rated this as having an inherent vulnerability of medium-high (final vulnerability of medium after the application of controls). The FIU has advised that they see a comparatively large number of SARs from TCSPs providing these services, a position supported by ECCU.

9.4.8 It is recommended that a focused piece of risk work be undertaken regarding limited services. The objective being to better understand the rationale for the increase in this business and the associated ML risk.

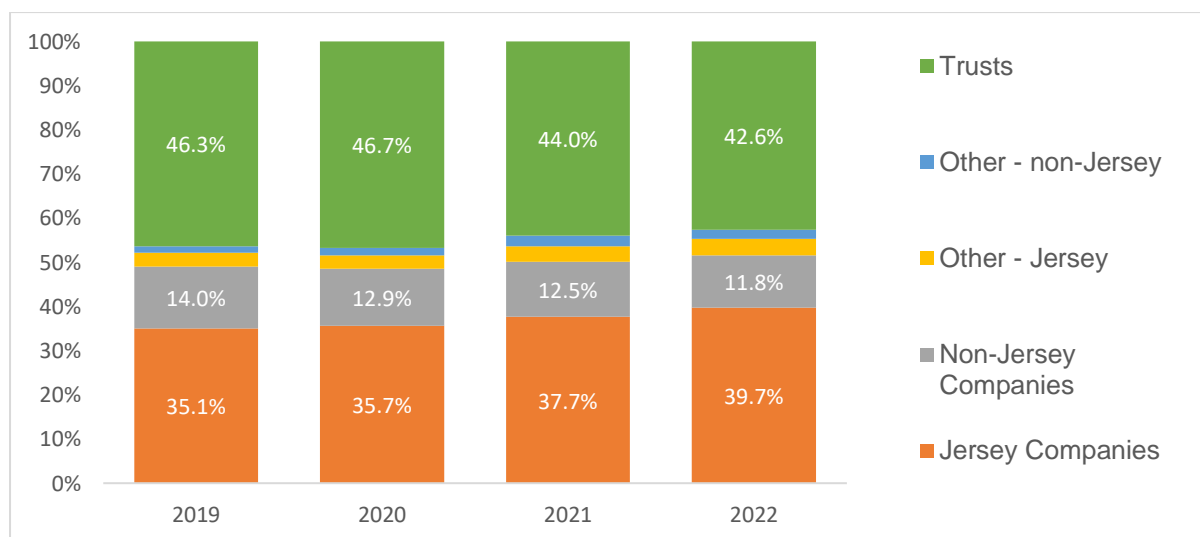
**Figure 9.1: breakdown of services provided 2019 to 2022**



<sup>89</sup> Management services is where the TCSP (or an officer thereof) provides the director, partner, qualifying member of a foundation or trustee in respect of a customer structure.

- 9.4.9 The annual Supervisory Risk Data provides a breakdown of the type of customer administered by TCSPs. Figure 9.2 shows that the balance of customers has remained relatively stable over the period.
- 9.4.10 There has been a slight decrease in the number of trusts administered which is offset by an increase in the number of Jersey companies. There has also been a decline in the number of non-Jersey companies administered as customers express a preference for Jersey companies, which did not feature as prominently as some other jurisdictions in recent data leaks.
- 9.4.11 The 2023 LPA NRA identified trusts and non-Jersey companies as having a higher risk of being used for ML, therefore a decrease in both these structure types represents a potential decrease in the profile of the TCSP sector.
- 9.4.12 With respect to non-Jersey companies, the 2023 LPA NRA considered why these may be administered by a TCSP (section 13) and identified that 37% of them had a Jersey-law governed trust within their structure and 25% had a Jersey company in the structure. This supports the understanding that non-Jersey companies may be administered in the jurisdiction due to connections to other Jersey legal persons and arrangements.

**Figure 9.2: type of vehicles administered 2019 to 2022**



**Trusts**

- 9.4.13 Jersey does not have a central register of trusts, nor is one required under FATF standards. But trustees (professional and non-professional) have obligations to obtain and update information regarding all parties to a trust. In addition, any person in the business of providing trustee services is required to register with the JFSC. The lack of central trust registration requirements may be perceived as increasing the vulnerability of trusts for misuse, however, the strong control mechanisms surrounding professional trustees mitigates this, coupled with established trust law based on English law trust principles dating back at least four decades.
- 9.4.14 Further information regarding the ML risks associated with trusts is provided in Section 14 of the 2023 LPA NRA.

## Ownership

- 9.4.15 Ownership of TCSPs is not captured as a specific factor to be considered in the World Bank Methodology, although the TCSP Working Group, in line with the position taken previously, consider it is a factor. It was noted that a number of TCSPs have changed ownership and Private Equity (“PE”) ownership of TCSPs continues. Whilst PE ownership brings focus and experience to a firm, it can potentially bring vulnerabilities due to the requirement to grow the TCSP for onward sale, thereby providing the PE firm with a return on their investment.
- 9.4.16 However, the TCSP Working Group highlighted that merger and acquisition activity can be beneficial. TCSPs often review all customer connections, including historic connections, and the merger and acquisition process has been a catalyst for legacy (higher risk) connections being exited, resulting in a reduced risk profile of the book.

## Control vulnerabilities

- 9.4.17 The TCSP Working Group considered some but not all the control vulnerabilities. No ratings were amended by the TCSP Working Group, although additional commentary is provided for a number of the control vulnerabilities.
- 9.4.18 The rating for the Availability and Access to Beneficial Ownership Information has increased to very high from high. This change is in line with the national vulnerability section 7.25. The control ratings for the Availability of Reliable Identification Infrastructure have not been aligned with the national vulnerability section. This position remains unchanged from the 2020 ML NRA where they were not in alignment.

**Table 9.7: Control Vulnerabilities in the TCSP**

	Control Vulnerability Variables	2020 ML NRA result as amended in 2023	
		Rating	Score
1	Comprehensiveness of AML Legal Framework	Very high	0.8
2	Effectiveness of Supervision Procedures and Practices	High	0.7
3	Availability and Enforcement of Administrative Sanctions	Medium high	0.6
4	Availability and Enforcement of Criminal Sanctions	Medium	0.5
5	Availability and Effectiveness of Entry Controls	Very high	0.8
6	Integrity of Staff in TCSP Firms	High	0.7
7	AML Knowledge of TCSP Firms’ Staff	Medium high	0.6
8	Effectiveness of Compliance Systems	Medium high	0.6

Control Vulnerability Variables		2020 ML NRA result as amended in 2023	
		Rating	Score
9	Effectiveness of Suspicious Activity Monitoring and Reporting	Medium high	0.6
10	Level of Market Pressure to Meet AML Standards	Very high	0.8
11	Availability and Access to Beneficial Ownership Information	Very High was High	0.8 was 0.7
12	Availability of Reliable Identification Infrastructure	Medium high	0.6
13	Availability of Independent Information Sources	Medium-high	0.6

### Gatekeepers / Family Offices

9.4.19 TCSP Working Group agreed with the 2020 ML NRA which noted that there may be occasions where, due to cultural reasons, it may not be possible to deal directly with the ultimate customer. This is more common when dealing with customers from the Middle East and some ultra-high net worth customers that often utilise either gatekeepers or a family office to deal with matters relating to their wealth.

### Availability and Enforcement of Administrative Sanctions

9.4.20 The JFSC enforcement division's public statements provide details on the underlying causes giving rise to the enforcement action and the action taken. These provide the TCSP sector with invaluable information against which they can consider if any of the same issues reside within their own businesses.

9.4.21 The TCSP Working Group were clear that financial penalties do change behaviour. However, the TCSP Working Group consider that the cost of applying remediation measures far outweighs any fine issued. This is a position supported by industry experts who have indicated that research shows that remediation costs are twelve times greater than the amount of the initial fine.

9.4.22 In addition to the JFSC civil financial penalties, the Registrar has started to refer Jersey companies to the Magistrate's Court where they have failed to comply with the Disclosure and Information legislation. The Magistrate's Court judgements are public and the fines imposed range in value – the Registrar of Companies Q2 2023 quarterly report shows the largest fine to be £8,000.

### AML Knowledge of TCSP Firms' Staff

9.4.23 TCSPs are further upskilling their staff such that they have the right level of understanding on how to prevent ML. The TCSP Working Group commented on the importance of this noting that there is a very real risk of being sanctioned if a firm's staff do not have sufficient knowledge.

9.4.24 The introduction of the corporate criminal offence of failing to prevent money laundering would apply to TCSPs and due notice has been taken (see section 4.6).

### **Effectiveness of Compliance Systems**

- 9.4.25 The effectiveness of the compliance systems remains medium-high. The TCSP Sector Working Group consider that due to a number of reasons including retirements and individuals leaving the financial services sector, there is a shortage of experienced and skilled compliance staff to fill the increasing number of positions within the sector.
- 9.4.26 This is not only a concern of the TCSP sector as it applies across the industry. For the larger and more complex TCSPs the shortage is felt more keenly due to the depth of knowledge that is often required.
- 9.4.27 This position was not considered severe enough to impact the control rating, but it should be monitored.

### **Recommended actions**

- 9.4.28 It is recommended that:
- a. The work to assess the ML risks associated with family offices is concluded and an appropriate supervisory model applied.
  - b. A focused piece of risk work is completed regarding the provision of limited services.
  - c. The position regarding the availability and experience of compliance staff is monitored to determine whether this is having a negative impact of the effectiveness of the compliance systems.

## 10 Securities Sector – Funds

### 10.1 Key Findings

- 10.1.1 The work on updating the funds sector risk assessment is ongoing. This section provides a profile of the sector, indications of work completed and any possible rating changes.
- 10.1.2 Whilst the public funds are the largest fund product by both number of investors and Net Asset Value (“NAV”) the JPF is the growth product due to its flexibility. Figure 10.4 highlights that in terms of the number of funds the JPF will soon overtake the public funds.
- 10.1.3 A significant targeted piece of work on JPFs was completed in 2021/2022 through partnership working between the public and private sectors. The results were communicated to industry in Q3/Q4 2022 and are informing this risk assessment. The work provided greater insight into the inherent vulnerabilities and supported the 2020 ML NRA rating.
- 10.1.4 The investor base remains predominately overseas with exposure to the higher risk jurisdictions being mostly through the public funds. South Africa currently accounts for most of this exposure as it was added to the FATF list of jurisdictions under increased monitoring in February 2023.
- 10.1.5 The volume of legacy private funds is decreasing however this is at a slower rate than envisaged. The risk associated with this group of private funds should continue to be assessed.
- 10.1.6 No ratings have changed since the 2020 ML NRA was published.

Table 10.1: Funds sector risk position 2020 versus 2023

ML NRA	Threat	Vulnerability	Final inherent Vulnerability	Quality of AML Controls
2020	High	Medium	Medium-High	Medium
2023	High	Medium	Medium-High	Medium

### 10.2 Overview of Funds Sector

- 10.2.1 The Government’s Financial Services Policy Framework<sup>76</sup> underlines the Government’s support for the funds industry:

*We will support and enable the continued growth and international success of our funds sector by adapting regulations and products which meet international standards and attract new markets and business.*

*Jersey offers funds a full complement of support services, including modernised digital platforms, specialist investment advisory, corporate and funds administration, legal and accountancy, governance, director, treasury and payment services. In recent years, fund managers and investment managers in the alternative market have relocated their headquarters and, in some cases, their principals to Jersey, enhancing an already highly competent ecosystem. We are committed to ensuring that Jersey continues to be aligned and compliant with the*



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*international markets it serves, and to ensure that funds are able to seamlessly migrate to Jersey.*

- 10.2.2 The Jersey funds sector offers both public and private fund products with the primary investor target market being professional/sophisticated investors. There are 17 classes of FSB in the Financial Services (Financial Service Business) (Jersey) Order 2009 with the principal activity undertaken being the provision of fund administration and management services.
- 10.2.3 The 2020 ML NRA concluded that analysis of the ML risk in the funds sector is best undertaken through consideration of the four different types of fund products. It is the characteristics of the fund products that drives the inherent ML vulnerability of the sector. The control framework can also be considered by fund product type as it comprises overarching preventative measures augmented by specific controls per fund product. Consequently, this update continues to consider the ML risk in the funds sector through the following four fund product types:

#### *Public funds*

- 10.2.4 *Public Funds*: A Collective Investment Fund<sup>90</sup> (“CIF”) granted a certificate or permit by the JFSC with collection of investment capital by way of public offer.
- 10.2.5 *Unregulated Funds*<sup>91</sup>: A public fund that meets, and continues to, meet the eligibility criteria of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.

#### *Private funds*

- 10.2.6 *JPFs*: A private fund vehicle launched in April 2017. These are not CIFs, as they cannot be offered to the public. Rather, they must be offered to a restricted circle of persons, which must not be retail investors and they must always have 50 or fewer offers/investors.
- 10.2.7 *Legacy Private Funds*: No longer available, prior to April 2017 there were various types of private funds, these are collectively known as the Legacy Private Funds and comprise:
- a. COBO-only Fund
  - b. Private Placement Fund
  - c. Very Private Fund

### **Size and Volume of Fund Products**

#### *Legacy private funds*

- 10.2.8 The JFSC collects some data on some of the legacy private funds as part of the quarterly funds’ statistics exercise. However, they are not included in the annual Supervisory Risk Data collection process in the same way as public funds, JPFs

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<sup>90</sup> As defined in Article 1 of the Collective Investment Funds (Jersey) Law 1988

<sup>91</sup> Despite their name unregulated funds have been within the scope of JFSC regulation and supervision for AML/CFT purposes since their creation in 2008.

and unregulated funds. To complete the 2020 ML NRA a specific data collection exercise was undertaken capturing data from 10 service providers.

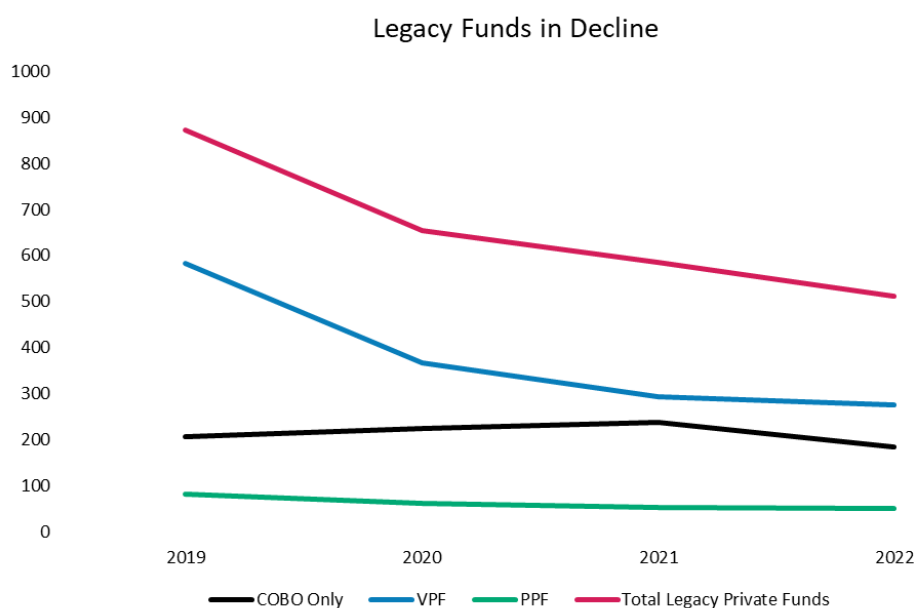
10.2.9 Paragraph 10.7 of the 2020 ML NRA states:

*“The Fund’s NRA working group also recognises that, while Legacy Private Funds continue to pose a risk, it is no longer possible to establish these types of funds consequently this is not an area of growth risk by volume of product/customers. The risks posed by the residual Legacy Private Funds will nevertheless need to be appropriately supervised until cessation.”*

10.2.10 The volume of legacy private funds continues to shrink, see Figure 10.1. Many legacy private funds are time limited with the ability to extend the cessation date once, as a result the volume is not decreasing as rapidly as anticipated.

10.2.11 The ongoing risk associated with the legacy private funds needs to be considered as part of this funds sector refresh.

**Figure 10.1: Legacy Private Fund decline 2019 to 2022**



*All fund products*

10.2.12 Figure 10.2 graphically highlights that, allowing for the impact of the 2008 – 2009 global financial crises, the total number of funds administered in Jersey, has been steadily decreasing but the total NAV (in £ billions) has been steadily increasing.

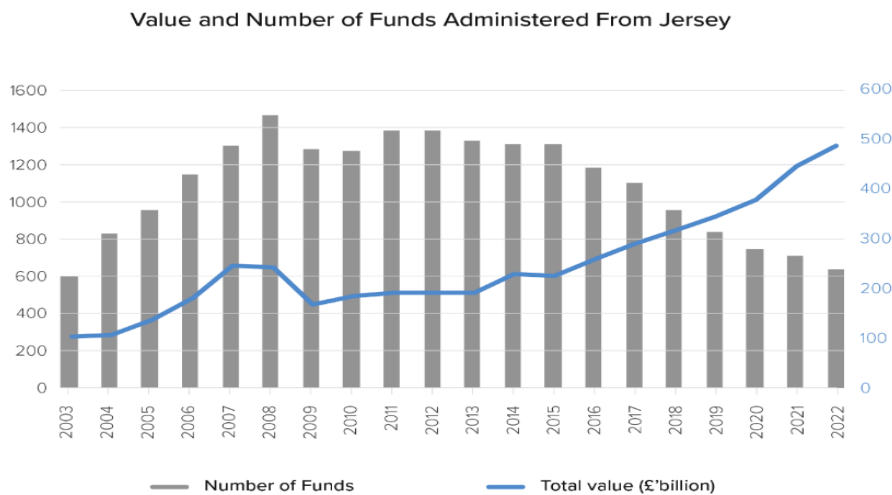
10.2.13 The significant dip in value (2008 – 2009) with the subsequent gradual increase represents the significant impact the global financial crises had on share prices and how this manifested itself in the funds industry.

10.2.14 At the end of 2022 the reported NAV of funds stood at approximately £488bn. Figure 10.3 breaks this down into the various fund products and highlights that the public funds account for 87% of the total NAV.

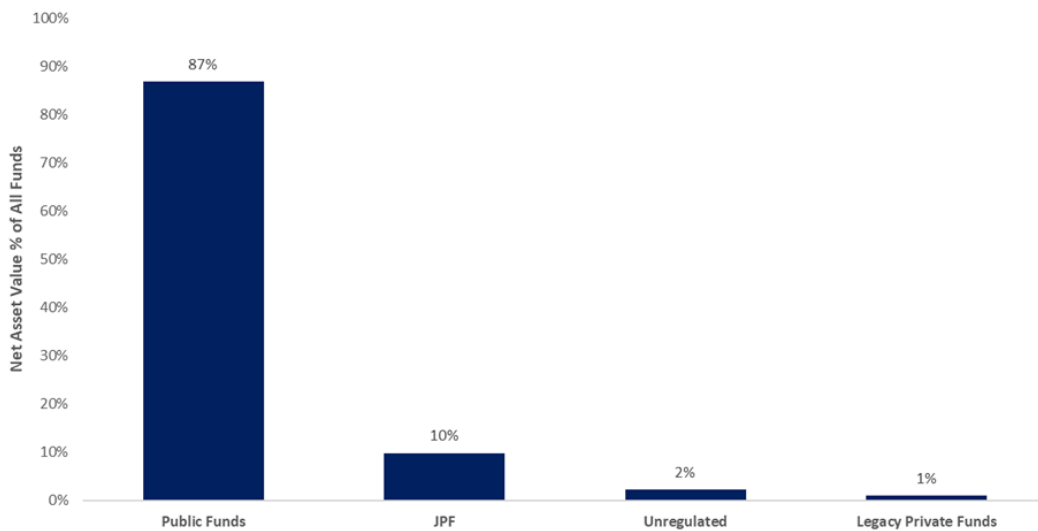
10.2.15 In a similar manner Figure 10.4 presents the number of funds for 2019 to 2022 broken down into the fund products. This clearly highlights that the JPF is the growth product in terms of number of funds. The number of unregulated funds is stable, legacy private funds is declining and public funds is has declined since 2019.

10.2.16 When considering the funds sector as a whole the public funds data has a distorting effect as they account for the majority of both the NAV and the number of investors. As at the end of 2022, the public funds reported close to 87,500 investors/ultimate beneficial owners whereas the combined total for unregulated funds and JPFs is just over 17,500.

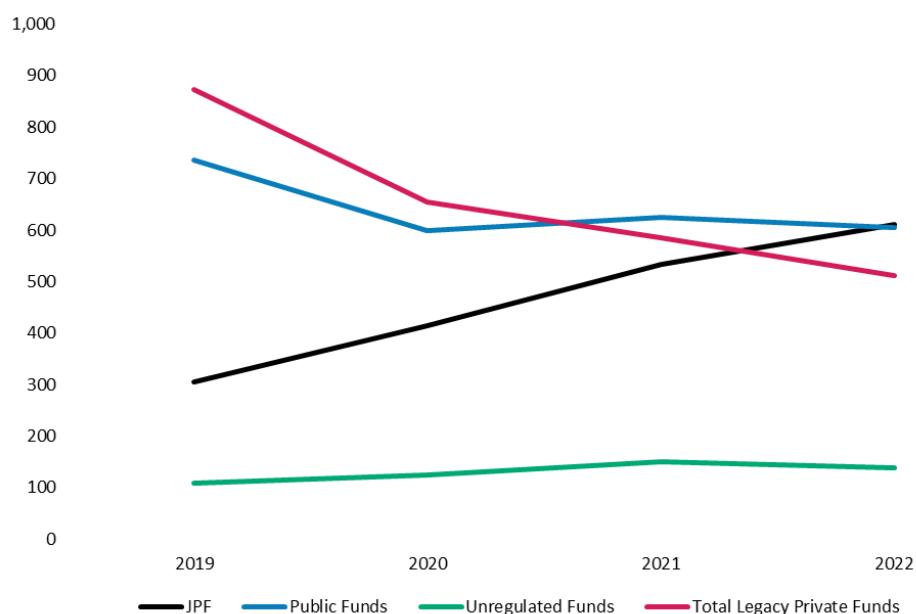
**Figure 10.2: Total number and value of funds administered from Jersey<sup>92</sup>**



**Figure 10.3: Comparative Sizes of Fund Products by NAV**



92 [Financial services statistics](#)

**Figure 10.4: Growth Trend in Fund Products**

10.2.17 The remainder of the data points in this section only cover public funds, unregulated funds and JPFs.

### 10.3 Threats in the Funds Sector

10.3.1 Whilst the primary target market for new funds is professional / sophisticated investors there remains four specific public funds, Recognized Funds, which have a sizable portion of retail investors. These are historic funds and are the most heavily regulated fund product.

10.3.2 Jersey public and private fund products are highly flexible which can make them attractive to persons seeking to integrate their criminal proceeds/assets from overseas predicate offences such as tax evasion, fraud and corruption into the financial system. JPFs are particularly flexible and can be established faster than the public funds.

10.3.3 JPF investors can be located anywhere in the world, but they must be professional investors (definition provided in JPF Guide). The investors can invest directly or indirectly and may be discretionary investment managers. If the investor is a discretionary investment manager who invests, directly or indirectly, for or on behalf of one or more persons who are not professional investors, then the discretionary investment manager must be satisfied that:

- a. such investment is suitable for the underlying investor, and
- b. the underlying investors are able to bear the economic consequences of investment in the relevant JPF, including the possibility of the loss of their entire investment.

10.3.4 Consideration of the threats in the funds sector continues however there are no indications that the profile of the sector has changed to warrant a reduction, therefore the threat level remains at high.

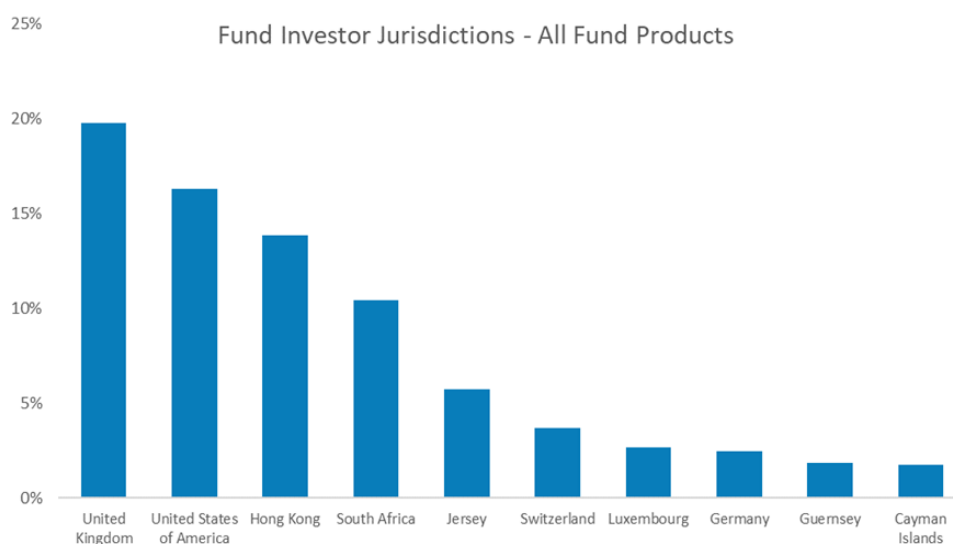
## Enforcement Action / Legal Cases

- 10.3.5 During the period 2019 to 2022 there has been one JFSC enforcement case with respect to an FSB controls failure, full details are available from the public statements published on the JFSC website, in summary:
- a. February 2021: Action taken against SG Kleinwort Hambros Corporate Services (CI) Limited (along with two other companies in the same group) SGKH Entities<sup>93</sup> as their failures left them under-informed regarding their compliance risk and whether they were operating robust systems and controls to mitigate against ML. A civil financial penalty was levied on each company with the FSB fined £53,375.
- 10.3.6 There are no criminal cases involving a fund product or FSB in the period 2019 to 2022.

## Cross-border Threat

- 10.3.7 The JFSC annual Supervisory Risk Data collects information on public funds, JPFs and unregulated funds. This data has been utilised to highlight the cross-border threat and is presented in a manner that facilitates comparison between the three fund products to gain a better understanding of the overall threat.
- 10.3.8 Figure 10.5 presents the combined view of the 2022 top ten reported jurisdiction of residency for investors in public funds, JPFs and unregulated funds<sup>94</sup>. Consistent with other data, the top two jurisdictions are the UK and USA, followed by Hong Kong and South Africa.
- 10.3.9 Jersey has strong ties to South Africa not least due to three of its 19 registered banks being headquartered there. The Hong Kong connection is more recent (2022) and is understood to relate to an FSB restructuring which resulted in a number of funds being administered from Jersey.

**Figure 10.5: Reported Fund Investors Jurisdiction Exposure – All Fund Products**



<sup>93</sup> [JFSC – public statement - SGKH Entities](#)

<sup>94</sup> Note, the number of investors into public funds significantly impacts this graph.

- 10.3.10 Most investors are reported as non-resident. Across all fund products the percentage of reported Jersey-based investors is very low ranging from 5.0% (public funds) to 9.5% (JPFs).
- 10.3.11 Public funds have the greatest number of reported non-resident investors. This is expected as this includes the investors in the Recognized funds where many are retail and UK-based.

**Table 10.2: Jersey-based investors (percentage of total reported investors)**

	2019	2020	2021	2022
Public funds	4.9%	5.5%	6.2%	5.0%
JPFs	8.9%	11.1%	10.1%	9.5%
Unregulated funds	6.6%	7.9%	6.0%	9.1%
<i>Combined total</i>	<i>5.2%</i>	<i>6.0%</i>	<i>6.6%</i>	<i>5.7%</i>

- 10.3.12 Section 6.2 identifies jurisdictions that are considered a higher risk for ML in Jersey. An analysis of the funds sector against these jurisdictions (not including Hong Kong, Ireland, Switzerland, the UK and the USA) is provided in Table 10.3. The table is split between those where there is a significant connection to Jersey, or the jurisdiction is a focus market and those with less significant connections.
- 10.3.13 The public funds exposure is significantly impacted by South Africa (listed by the FATF as a jurisdiction under increased monitoring<sup>95</sup> in February 2023). The 2022 reporting highlighted that connections to South Africa account for 12.4% of the total reported connections therefore the remaining jurisdictions make up the remaining 3.0% of the reported 15.4%. This exposure is in line with the profile of the financial service industry as noted in paragraph 10.3.9.

**Table 10.3: Higher risk jurisdiction exposure as a % of reported connections**

		2019	2020	2021	2022
Public funds	significant number of connections and focus areas	12.6%	15.4%	16.0%	15.4%
	less significant number of connections	0.4%	0.3%	0.3%	0.3%
JPFs	significant number of connections and focus areas	3.6%	5.0%	4.0%	4.4%
	less significant number of connections	0.4%	0.7%	1.4%	0.9%

<sup>95</sup> To complete this risk assessment all data points have been analysed against the Island's latest view of higher risk jurisdictions which includes South Africa.

		2019	2020	2021	2022
Unregulated funds	significant number of connections and focus areas	3.3%	3.4%	3.9%	3.3%
	less significant number of connections	0.2%	0.1%	0.9%	0.3%
Combined total	<i>significant number of connections and focus areas</i>	12.0%	14.3%	14.5%	13.6%
	<i>less significant number of connections</i>	0.4%	0.4%	0.4%	0.4%

### Risk rating investors

- 10.3.14 Funds are required to risk rate their investors as 'higher', 'standard' or 'lower' risk and report the results to the JFSC as part of the annual Supervisory Risk Data return.
- 10.3.15 JPFs have consistently reported a larger percentage of their investors as higher risk than the public funds or unregulated funds, with this percentage being stable between 2021 and 2022 (18.3%). However, the reported data for the public funds and unregulated funds has been steadily increasing.
- 10.3.16 An increase in the number of investors rated as higher risk does not necessarily indicate the risk profile of the investors is increasing. There are many reasons why this figure may increase such as a change in the risk appetite of the fund, a better understanding of risk and therefore a regrading of some investors, or a change to the international view of a particular jurisdiction. The FATF listing of South Africa and the UAE as jurisdictions under increased monitoring impacted this sector.

Table 10.4: Higher Risk Investors (as identified by industry) as a percentage of reported investors

	2019	2020	2021	2022
Public funds	6.2%	5.1%	5.5%	7.1%
JPFs	16.0%	16.6%	18.3%	18.3%
Unregulated funds	8.9%	9.7%	9.5%	10.1%
<i>Combined total</i>	3.3%	2.9%	3.3%	4.2%

### PEPs

- 10.3.17 As is the case for all product types, when a business relationship includes a PEP, this can bring additional risk. In the context of the funds sector, PEPs are either investing their own funds into a fund product or they may be associated with the fund but have not themselves invested, e.g. sit on the board of a corporate trustee to a unit trust. In some cases PEPs are both investing and acting as a beneficial owner / controller.



10.3.18 Between 2021 and 2022 the exposure to PEPs as a percentage of the total reported investor base has decreased for all three product types. An analysis of the JPF decrease (2021: 14.1% to 2022: 9.1%) identifies that the change results from both an increase in the total investor numbers reported and a decrease in the reported number of PEP connections.

**Table 10.5: All PEP connections as a percentage of reported investors**

	2019	2020	2021	2022
Public funds	2.6%	4.8%	6.0%	4.8%
JPFs	15.4%	13.2%	14.1%	9.1%
Unregulated funds	8.5%	9.6%	11.8%	4.7%
<i>Combined total</i>	3.3%	5.6%	7.0%	5.4%

10.3.19 As part of the 2021 – 2022 targeted JPF risk work additional data regarding PEPs was collected and extensive analysis undertaken to better understand the nature of the PEP connections.

10.3.20 As at 30 June 2021, 65% of the JPFs reported not having any PEP connections and 30% of the designated service providers (“DSPs”) reported that they did not administer any JPFs with PEP connections. Consequently, the PEP connections were identified as being concentrated in 35% of the JPFs, with nine DSPs administering JPFs that accounted for 86% of the reported PEP connections.

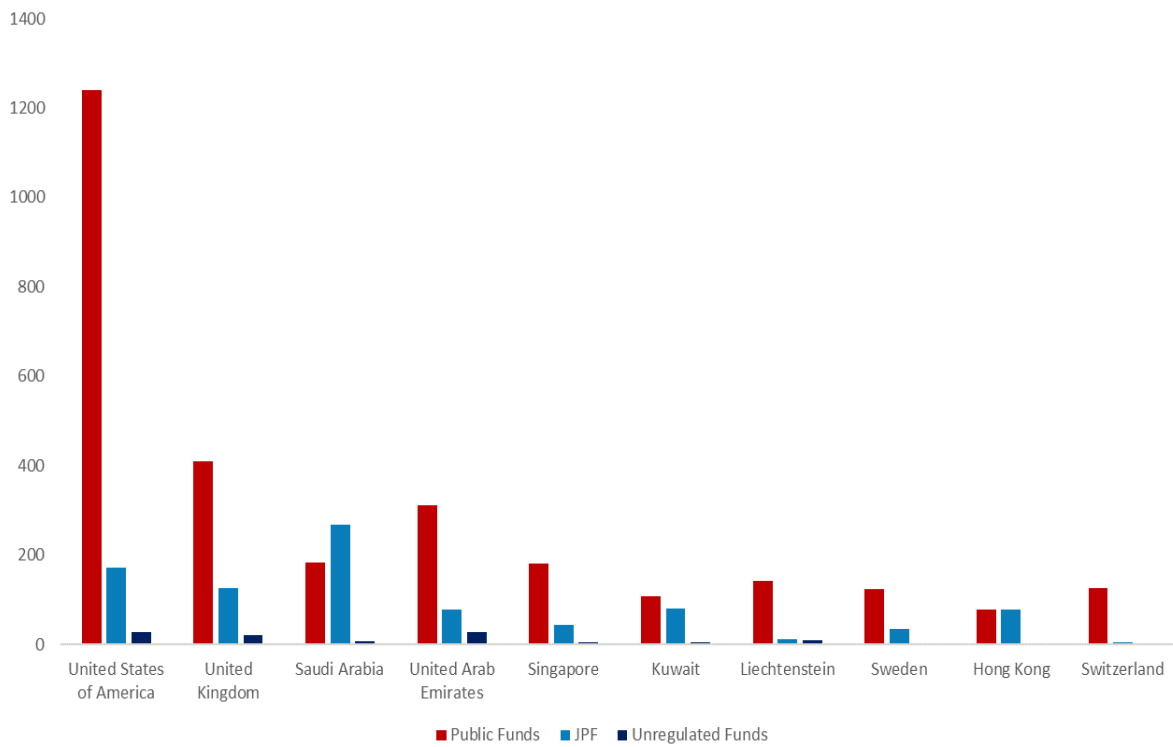
10.3.21 In line with the recommendation from the targeted risk work, the concentration risk information was utilised by the JFSC in setting its 2023 supervisory programme. Specifically, which persons should be included in the 2023 repeat thematic examination regarding JPF controls.

10.3.22 Using the 2022 Supervisory Risk Data consideration has been given to the reported jurisdiction of the PEPs. Figure 10.6 shows the absolute volume of PEP connections by jurisdiction by fund product whereas Figure 10.7 reflects the % of total PEP connections reported at a fund product level. For example, Figure 10.6 shows just over 1,200 PEPs were reported as connected to the USA and Figure 10.7 shows that this represents almost 30% of the reported PEP connections.

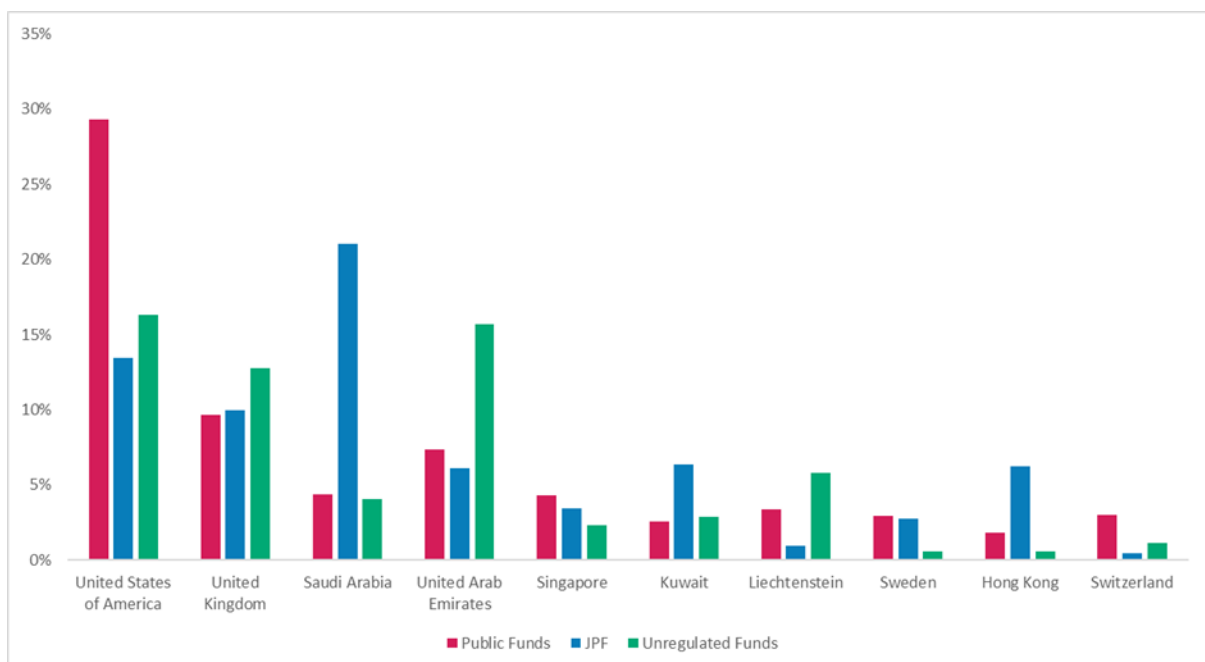
10.3.23 Whilst the UK and USA are clearly significant jurisdictions, the graphs highlight that, from a PEP perspective, some fund products are more popular than others in some jurisdictions.

10.3.24 The analysis also highlights significant connections to Asia and the Middle East with limited European PEP connections.

**Figure 10.6: Volume of Reported PEP Connections**



**Figure 10.7: Percentage of the total PEP connections reported by fund product**



## 10.4 Vulnerabilities in the Funds Sector

### Inherent Vulnerabilities

10.4.1 The work to refresh the inherent vulnerabilities in the funds sector continues, so no changes to the ratings have been finalised. Indications are that the inherent vulnerability associated with the JPF is liable to increase due to the increased volume. Table 10.6 presents the 2020 ML NRA inherent vulnerabilities for information.

**Table 10.6: Inherent Vulnerabilities in the Funds Sector – 2020 ML NRA**

Inherent Vulnerability	Public	Unregulated	JPF	Legacy Private
Total size / volume	High	Low	Low	Medium Low
Complexity and diversity of the portfolio of the product type	High			
Customer base profile of the product type	High			
Existence of investment / deposit feature for the product type	Available and Prominent			
Liquidity of the portfolio of the product type	Medium	Medium	Low	Low
Frequency of international transactions associated with the product type	High			
Anonymous use of the product	Available			
Existence of ML typologies	Exist			
Use in market manipulation, insider trading or securities fraud	Exist but limited			
Difficulty in tracing records	Easy to trace	Difficult/ time consuming	Easy to trace	Difficult/ time consuming
Non-face-to-face availability of products	Available and prominent			
Level of cash activity	Does not exist			
Availability of product specific AML controls	Exist and comprehensive	Exist and limited	Exist and limited	Exist and limited
<b>Inherent vulnerability</b>	<b>Medium-high</b>	<b>Medium-high</b>	<b>Medium-high</b>	<b>Medium</b>

---

**Total size / volume**

- 10.4.2 The 2020 ML NRA records the JPF and unregulated funds as low volume products. This is no longer the case as the number of JPFs is on a par with the number of public funds and the NAV of the JPFs is 10% of the total NAV whereas, the unregulated funds are only 2%.
- 10.4.3 Given the growth in the JPF product it is expected this will impact the inherent vulnerability rating.

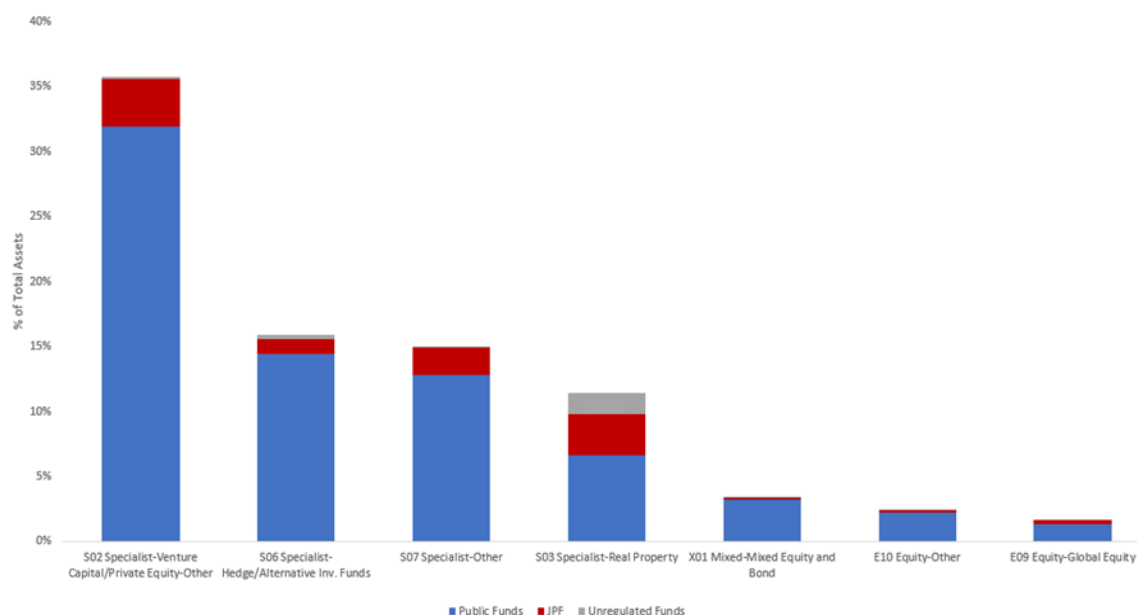
**Complexity and diversity of the portfolio of the product type***Flexibility of fund products*

- 10.4.4 Whilst public funds and JPFs are both flexible products, the JPF is more flexible. This flexibility introduces an inherent vulnerability as depending on how each JPF is constructed it may be more or less vulnerable to being used for ML, particularly the layering stage. The flexible features of the JPF determine its complexity and include:
- a. Ability to consist of a single or multiple classes of assets.
  - b. Requires a consent from the JFSC under the Control of Borrowing (Jersey) Order 1958, but the fund vehicle does not have to be a Jersey vehicle.
  - c. No limitation on the nature of the fund vehicle i.e. companies, partnerships and trusts are all accepted.
  - d. Ability to theoretically hold any type of asset in a JPF.
  - e. The assets can be located anywhere in the world and held directly or indirectly by the JPF.
  - f. The level of service provided by the DSP to the JPF, which is a key part of the control framework.

*Asset Classes*

- 10.4.5 Whilst it is known that a variety of assets are held in the public funds, JPFs and unregulated funds, the 2022 Supervisory Risk Data, figure 10.8, shows that securities and real estate are the most held assets.
- 10.4.6 Collectively real estate accounts for just over 10% of the asset value with JPFs and unregulated funds featuring heavily in this category. However, the majority of assets held are securities (equity, bonds and interests in other funds).

**Figure 10.8: Percentage of total asset value by asset class**



### Control Vulnerabilities

10.4.7 The work to refresh the control vulnerabilities in the funds sector continues therefore no changes to the ratings have been finalised. Table 10.7 presents the 2020 ML NRA inherent vulnerabilities for information.

### Comprehensiveness of AML Legal Framework

10.4.8 Section 4.5 provides details regarding amendments to the scope of the regulatory framework which meant that as of 30 January 2023, supported fund operators<sup>96</sup> were brought within scope of the regulatory framework. As of that date they were required to comply with the Money Laundering Order and register with the JFSC (transitional provisions applied such that an application for registration had to be submitted by 30 June 2023).

10.4.9 The JFSC are still processing applications therefore the impact of this amendment has not yet been assessed.

### Effectiveness of Supervision Procedures and Practices

10.4.10 The JFSC is to undertake a thematic examination by the end of 2023 focusing on the application of customer identification and verification obligations for unregulated funds. The results of this work may impact on this control and the control relating to the effectiveness of compliance functions.

### Effectiveness of Compliance Function

10.4.11 In March 2021 the JFSC published<sup>97</sup> a Jersey Private Fund Thematic Review Q3 2020 – Q1 2021. The conclusion to the report states:

<sup>96</sup> Supported fund operators are persons providing fund services that are themselves administered by a regulated person.

<sup>97</sup> [JFSC - JPF Thematic Review Q3 2020 – Q1 2021](#)

*“The JFSC is concerned that at the time Registered Persons became DSPs and commenced providing services, in many cases the DSPs were unable to demonstrate that they had implemented adequate and effective internal systems and controls (including policies and procedures) to comply with the duties and obligations imposed by the JPF Guide and the AML/CFT requirements.*

*“The cornerstone of the JPF Guide, which was subject to extensive consultation with Industry, is that the Jersey regulated Service Provider (the DSP) makes confirmations / declarations to the JFSC regarding the JPFs it acts for, and on this basis the JPF is authorised by the JFSC on a fast track basis, with this also factored into the JFSC’s supervisory approach.*

*“The 23 examination findings have demonstrated that there are examples of both the DSPs and the JPFs they act for not being compliant with the JPF Guide and the Money Laundering Order. Five out of the six DSPs had filed JPF Returns where the JPF was not fully compliant with the JPF Guide and/or the Money Laundering Order.”*

10.4.12 On receipt of the thematic report, both the firms examined as part of the thematic review and the funds industry used the findings to improve controls around JPFs.

10.4.13 The JFSC Supervision team completed a thematic review focussing on JPFs and their service providers between June and August 2023. Whilst the process to finalise the work and produce a feedback report for publication is ongoing, early indications are that the level of compliance with the requirements has increased.

**Table 10.7: Control Vulnerabilities in the Funds Sector – 2020 ML NRA**

	<b>Control Vulnerability</b>	<b>Public</b>	<b>Unregulated</b>	<b>JPFs</b>	<b>Legacy Private</b>
1	Comprehensiveness of AML Legal Framework	High			
2	Effectiveness of Supervision Procedures and Practices	Medium high	Medium low	Medium	Medium low
3	Availability and Enforcement of Administrative Sanctions	Medium	Medium low	Medium low	Medium low
4	Availability and Enforcement of Criminal Sanctions	Medium low			
5	Availability and Effectiveness of Entry Controls	Medium high			
6	Integrity of Staff in Funds Firms	High			
7	AML Knowledge of Funds Firms’ Staff	Medium high			
8	Effectiveness of Compliance Function	Medium high			
9	Effectiveness of Suspicious Activity Monitoring and Reporting	high			

	<b>Control Vulnerability</b>	<b>Public</b>	<b>Unregulated</b>	<b>JPFs</b>	<b>Legacy Private</b>
10	Level of Market Pressure to Meet AML Standards	Very high			

**Recommended actions**

10.4.14 It is recommended that work continues to complete the assessment of threats, inherent and control vulnerabilities in the funds sector. Once complete the results should be published and communicated to industry.



## 11 Banking Sector

### 11.1 Key Findings

- 11.1.1 Workshops were undertaken with representatives from across the banking sector to better understand the threats, inherent vulnerabilities and controls applied. The analysis was undertaken taking into account the size of the firm, based on number of employees.
- 11.1.2 The risk position of the banking sector remains unchanged following this refresh.
- 11.1.3 Only one control vulnerability rating was amended, the *Availability and Access to Beneficial Ownership Information* which was strengthened from medium-high to very-high. Overall the quality of AML controls remains at medium-high.
- 11.1.4 The Banking Sector Working Group concluded that three inherent vulnerabilities warranted amendment. In each case the inherent vulnerability was slightly increased but overall there was no change to the final vulnerability rating per segment (see Table 11.2).

**Table 11.1: Banking sector risk position 2020 versus 2023**

ML NRA	Threat	Vulnerability	Inherent Vulnerability	Quality of AML Controls
2020	High	Medium	See Table 11.7	Medium high
2023	High	Medium		Medium-high

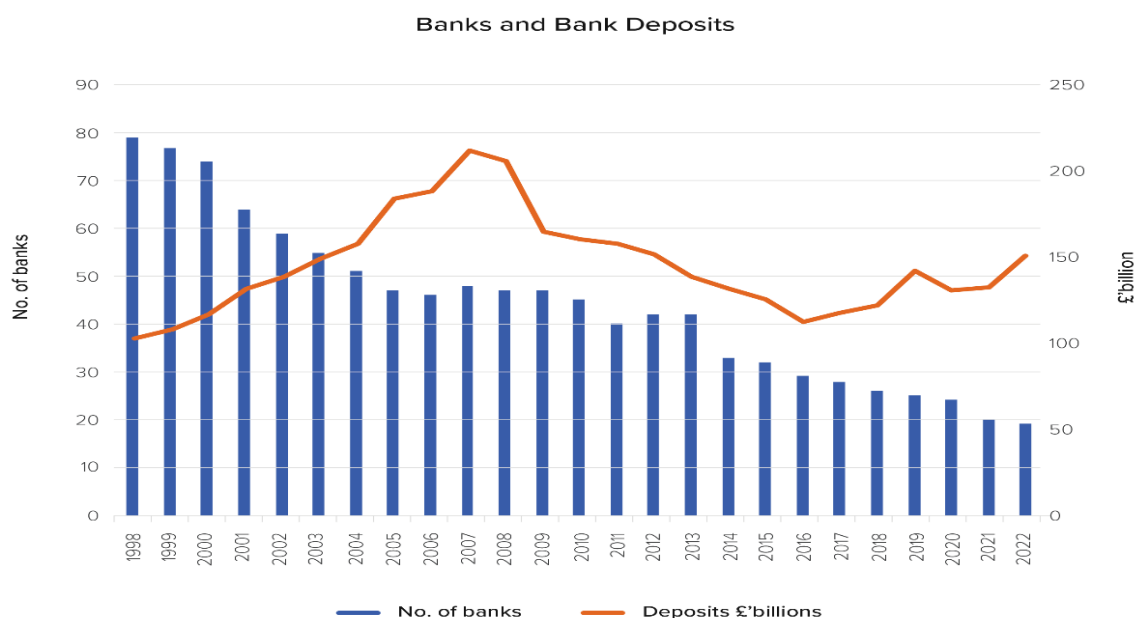
**Table 11.2: 2023 final inherent vulnerability ratings – unchanged from 2020**

Segment	2023 Final vulnerability Rating (unchanged from 2020)
Retail Local <5m	Medium-Low
Retail International <5m	Medium-High
Private Banking	Medium
Corporate Trading	Medium-Low
Corporate Large/Global	Medium
Corporate TCSPs	Medium

- 11.1.5 The banking sector remains a key part of Jersey's financial services offering, with around 60% of its customer base reported as not being Jersey resident. The value of bank deposits has been steadily increasing since September 2017.

- 11.1.6 As a percentage of the total reported customers the number of PEPs has remained stable. Whilst the data shows an increase in PEPs from higher risk jurisdictions, this was expected as three of the 19 registered banks are headquartered in South Africa. South Africa was listed by the FATF in February 2023 as a jurisdiction under increased monitoring<sup>98</sup>.
- 11.1.7 In terms of international connections the UK dominates the sector. In 2022 the UK accounted for 20.4% of the reported customers, 89% of the volume and 42.5% of the value of international payments.
- 11.2 Overview of the Banking Sector**
  - 11.2.1 This section builds on Section 11 of the 2020 ML NRA.
  - 11.2.2 Banks in Jersey are diversified between well-known UK high street banks and global private banks. The sector provides traditional services to the local market together with corporate solutions for the investment funds industry and TCSPs, such as treasury specialists, together with international banking for expatriates and UK resident non-domiciled customers.
  - 11.2.3 Whilst the banking sector is mature it has been through a period of consolidation and re-structuring over the last 34 years, with the number of banks having reduced to 19 in 2023. The level of bank deposits peaked at £212bn just prior to the Global Financial Crisis and hit a low of £113bn by 2016 before recovering to £151bn by the end of 2022.

**Figure 11.1: number of banks and bank deposit levels<sup>8</sup>**



<sup>98</sup> To complete this risk assessment all data points have been analysed against the Island’s latest view of higher risk jurisdictions which includes South Africa.

- 11.2.4 The recent interest rate increases favour banks with large deposit books, which should positively impact the income of a number of Jersey's banks. The 2023 banking events / forced takeovers in the USA and Switzerland have not had a direct effect on the Jersey banking sector.
- 11.2.5 As has been done for other sectors, analysis has been undertaken looking at the entities by size, as per Table 11.3. Whilst not shown in the table approximately 90% of the reported customers are associated with the largest six banks. These banks heavily influence the data for the banking sector.

**Table 11.3: Banks by Number of Employees**

Number of reported employees	Number of banks providing data to JFSC			
	2019	2020	2021	2022
1. Small (6-10)	7	4	4	2
2. Medium (11-50)	5	5	5	5
3. Large (51-200)	5	3	3	5
4. Very Large (>200)	8	8	8	6
Total	25	20	20	18

- 11.2.6 As at the end of July 2023 there are 19 banks registered with the JFSC as deposit-takers (the business model of one is such that all its customers are intragroup therefore it does not feature in the data tables). The majority of the banks operate as branches of companies incorporated overseas with four Jersey companies currently registered with the JFSC for deposit-taking business.

### 11.3 Threats in the Banking Sector

- 11.3.1 The banking sector will always face the threat of being used to launder the proceeds of crime as it is often the gateway to the financial services industry. This is especially true where cash is involved in Jersey as there are very few money service businesses.
- 11.3.2 The Jersey banking sector is very aware that certain persons may find it attractive to have an offshore bank account. Consequently, the controls surrounding account opening are rigorously applied and the sector takes a conservative approach to onboarding new customers. This rigorous application can sometimes have unintended consequences in terms of de-risking and both individuals and corporate bodies can struggle to build new business relationships with the sector.
- 11.3.3 The FATF launched a project<sup>99</sup> to study and mitigate the unintended consequences resulting from the incorrect implementation of the FATF Standards, including de-risking, financial exclusion, and undue targeting of NPOs.

<sup>99</sup> [FATF - Mitigating the Unintended Consequences of the FATF Standards](#)

- 11.3.4 As the cost of compliance and the risks of 'getting it wrong' increases, the threat of financial exclusion does exist in Jersey.
- 11.3.5 Jersey does not host the global headquarters of any bank. The head offices of some of the larger banks are located in the UK, USA, South Africa, France and Switzerland. A position which is somewhat reflected in the reported geographical data regarding the sectors customers/beneficial owners and controllers (see Table 11.5).

### Enforcement Action / Legal Cases

- 11.3.6 During the period 2019 to 2022 one bank was convicted and subject to a fine imposed by the Royal Court. The JFSC levied civil penalties against two other banks. This is a substantial increase in enforcement action compared to the period considered in the 2020 ML NRA.
- 11.3.7 The enforcement action relates to the banks' failure to apply the preventative measures controls rather than ML occurring in the Island through a bank. The increase in enforcement action is considered to be the result of competent authorities being more proactive in taking action rather than the controls at banks failing more often or more seriously.
- 11.3.8 Whenever any part of a banking group is sanctioned, either criminally or by a regulator, invariably a review occurs, and any necessary remediation is undertaken across all group entities.
- 11.3.9 The civil financial penalties imposed by the JFSC on banks totalled just over £1 million and both related to non-compliance with the AML/CFT code of practice set out in the AML/CFT/CPF Handbook. Full details are available from the public statements published on the JFSC website:
- a. February 2021: Action taken against SG Kleinwort Hambros Bank (CI) Limited (along with two other companies in the same group) SGKH Entities<sup>100</sup> where a civil penalty was levied on all three companies with the largest being issued to the bank at £510,599.
  - b. August 2022: Action taken against Lloyds Bank Corporate Markets Plc, Jersey Branch<sup>101</sup> where a civil financial penalty of £498,000 was imposed.

### [AG v Abu Dhabi Commercial Bank PJSC Jersey Branch<sup>102</sup>](#)

- 11.3.10 On 5 February 2020 the Abu Dhabi Commercial Bank was fined by the Royal Court £475,000, with £25,000 costs awarded. This sanction was applied following the bank's 2019 conviction for failing to comply with the requirements of the Money Laundering Order. The bank pled guilty to the charge that it failed to apply adequate monitoring of account activity and failed to assess the risk of ML adequately. Mitigants to case were noted as:
- a. Guilty plea at an early stage.
  - b. Fully cooperative with the investigation and the JFSC.

<sup>100</sup> [JFSC – public statement - SGKH Entities](#)

<sup>101</sup> [JFSC – public statement - Lloyds Bank Corporate Markets Plc, Jersey Branch](#)

<sup>102</sup> [JerseyLaw - AG v Abu Dhabi Commercial Bank PJSC Jersey Branch \(05-Feb-2020\)](#)

- c. The breach was not systemic.
- d. The bank is not continuing business in Jersey.

### Cross Border Threat

- 11.3.11 The cross-border threat is thought to be similar to the threat at a national level, as set out in section 6.2.
- 11.3.12 From a banking perspective some additional considerations were identified:
- a. For some jurisdictions, particularly where the Governmental infrastructure is not as well developed, it is more challenging to obtain the correct CDD.
  - b. Banks often get introduced to customers from their parent company and this influences the jurisdictional mix of its portfolio of customers. This is partly evident in Table 11.5. It was deemed that there was a medium threat from this business due to the controls in place which ensure local regulations are complied with.
  - c. Whilst all banks have comprehensive policies and procedures either written locally or part of those across the wider Group, they also operate outsourcing models. Processing is often completed in centres of excellence within their own group, in countries outside of Jersey. These centres of excellence may be in the UK or elsewhere in the world. This model enables expertise to be built up in a larger number of people and helps to reduce the cost of compliance which has steadily increased over recent years.
- 11.3.13 In terms of the number of reported connections, the 2022 Supervisory Risk Data highlights that the banking sector accounts for over 60% of the total reported connections across all reporting sectors and that approximately 40% of the banking sector's customers are Jersey-based. Both positions remain stable across the period 2019 to 2022.
- 11.3.14 The percentage of connections reported as being to a higher risk jurisdiction<sup>103</sup> is noted as being stable over the period. The higher risk jurisdiction list includes several focus markets<sup>104</sup> for Jersey. The higher figure reported for 2021 relates to an increase in reported connections to the UAE which was not sustained into 2022. Of the 9.1% figure reported for 2022 8.0% is represented by reported connections with the UAE (5.1%) and South Africa (2.9%) respectively, see Table 11.5. These are familiar jurisdictions to the Jersey banking sector as the financial services industry has a history of doing business with customers from these jurisdictions. Three of the 19 registered banks are headquartered in South Africa.
- 11.3.15 The banks are required to risk rate their customers and report the results to the JFSC as part of the annual Supervisory Risk Data return. In 2022, the banking sector reported 4.5% of its customers as posing a higher risk. This low figure is in line with the conservative approach being taken to onboarding customers and the reported PEP connections.

<sup>103</sup> The methodology behind identifying the "higher risk" jurisdictions is set out in the ML Threat section. To ensure proper comparison across the period the higher risk customers for all years utilises the same list of higher risk jurisdictions.

<sup>104</sup> Being: the Cayman Islands, Gibraltar, Kenya, Nigeria, South Africa and the UAE.

11.3.16 The sector reported that 1.0% of its overall customer base is considered a PEP, a stable figure 2020 to 2022. Table 11.4 highlights that almost a quarter (22.7%) of the reported PEP connections relate to jurisdictions which have been deemed to be higher risk jurisdictions with significant connections to Jersey or which are focus jurisdictions. However, it is important to note that of this figure over 47% are reported as being connected to just two jurisdictions: UAE and South Africa.

11.3.17 Additionally, the number of PEPs reported as being linked to other higher risk jurisdictions has fallen during the period (2019: 8.6%, 2022: 5.7%).

11.3.18 The banks do not have a growth appetite with respect to PEPs.

**Table 11.4: Aggregated reported country and customer risk data for the Banking Sector**

			2019	2020	2021	2022
<b>Country Risk</b>	Customers	Jersey-Based Customers (% of total)	38%	39%	40%	39%
		% of reported connections with a higher risk jurisdiction: significant connections and focus areas	9.3%	9.2%	9.5%	9.1%
		% of reported connections with a higher risk jurisdiction: less significant connections	1.1%	1.1%	1.1%	1.2%
<b>Customer Risk</b>	Customer Risk Ratings by industry	Higher Risk Customers as a % of all Customers	4.0%	3.8%	4.4%	4.5%
	PEP Connections	All PEPs as % of all Customers	0.8%	1.0%	1.0%	1.0%
		% of reported PEP connections with a higher risk jurisdiction: significant connections and focus areas	16.6%	18.2%	22.0%	22.7%
		% of reported PEP connections with a higher risk jurisdiction: less significant connections	8.6%	7.6%	6.7%	5.7%

11.3.19 Table 11.5 demonstrates strong connections to five jurisdictions, of which three are identified in section 6 as being higher risk jurisdictions as they are IFCs (UK, Hong Kong and USA). The strength of these connections is expected and understood as it reflects the structure of the banking sector as noted in paragraph 11.3.5.

**Table 11.5: Top five jurisdictions for reported as residency for banking customers (excludes Jersey)**

2021			2022		
	Jurisdiction	% of Total		Jurisdiction	% of Total
1	United Kingdom	19.8%	1	United Kingdom	20.4%
2	United Arab Emirates	5.4%	2	United Arab Emirates	5.1%
3	Hong Kong	4.7%	3	Hong Kong	4.7%
4	South Africa	3.0%	4	South Africa	2.9%
5	United States of America	1.9%	5	United States of America	2.9%

11.3.20 In terms of exposure to higher risk jurisdictions which are not IFCs, Table 11.6 highlights that both the level of exposure and the jurisdictions is stable between 2021 and 2022.

**Table 11.6: Top five higher risk jurisdictions reported as residency for banking customers**

2021			2022		
	Jurisdiction	% of Total		Jurisdiction	% of Total
1	Kenya	0.52%	1	Kenya	0.50%
2	Nigeria	0.29%	2	Nigeria	0.30%
3	Zimbabwe	0.27%	3	Lebanon	0.28%
4	Lebanon	0.21%	4	Egypt	0.24%
5	Egypt	0.20%	5	Zimbabwe	0.24%

### International Payments

11.3.21 A summary of the combination of incoming and outgoing international payments (excluding locally based payment methods) for higher risk Methodology 2 jurisdictions (as per paragraph 6.2.17) is provided in Table 11.7.

11.3.22 The UK dominates the data with respect to both the value and volume of transactions in both 2021 and 2022. The UK flows have been identified as including a large number of retail transactions with high volume (89% of total reported transactions) and low value (42.5% of the total reported 2022 value). This is in contrast to the other Methodology 2 jurisdictions.

11.3.23 Whilst not identified as a higher risk jurisdiction utilising Methodology 2, Luxembourg has been included in Table 11.7. The money flows with Luxembourg rank third in terms of both value of volume and it is an IFC with significant links to Jersey through the funds sector.

**Table 11.7: Comparison of combined payments in and out by value and volume for Methodology 2 jurisdictions and Luxembourg**

Jurisdiction	% of total value		% of total volume	
	2021	2022	2021	2022
United Kingdom	43.1%	42.5%	89.0%	89.0%
United States of America	17.3%	25.1%	2.1%	2.3%
Switzerland	2.3%	1.9%	0.5%	0.5%
Ireland	2.1%	1.8%	0.5%	0.5%
Hong Kong	1.0%	1.0%	0.2%	0.3%
United Arab Emirates	0.4%	0.5%	0.2%	0.2%
Luxembourg	9.8%	8.6%	1.4%	1.2%

11.3.24 Table 11.8 provides a similar comparison but for the methodology 1 and 3 higher risk jurisdictions. This shows that the volume and value of wire transfers to these jurisdictions is a very small percentage of the total payments business. Unsurprisingly the greatest volume and value is to Gibraltar and South Africa but given the dominance of the UK all relative values are very small.

**Table 11.8: comparison of combined payments in and out by value and volume for higher risk jurisdictions**

Jurisdiction	% of total value		% of total volume	
	2021	2022	2021	2022
Belarus	0.00%	0.00%	0.00%	0.00%
Cayman Islands	0.11%	0.11%	0.04%	0.04%
Egypt	0.02%	0.01%	0.01%	0.01%
Gibraltar	0.20%	0.13%	0.33%	0.41%
Jordan	0.00%	0.00%	0.00%	0.00%
Kenya	0.01%	0.01%	0.03%	0.02%



Jurisdiction	% of total value		% of total volume	
	2021	2022	2021	2022
Lebanon	0.00%	0.01%	0.00%	0.00%
Nigeria	0.03%	0.03%	0.02%	0.02%
Pakistan	0.02%	0.00%	0.00%	0.00%
Philippines	0.01%	0.01%	0.03%	0.03%
Russia	0.02%	0.01%	0.04%	0.02%
South Africa	0.61%	0.42%	0.27%	0.29%
Turkey	0.02%	0.02%	0.02%	0.03%
Zimbabwe	0.02%	0.02%	0.01%	0.01%
<b>Total</b>	<b>1.07%</b>	<b>0.78%</b>	<b>0.80%</b>	<b>0.88%</b>

## 11.4 Vulnerabilities in the Banking Sector

11.4.1 The ML vulnerability of the banking sector comprises of inherent vulnerability, linked to the type of customers, and the control vulnerability which measures the quality of the controls applied.

### Inherent vulnerabilities

11.4.2 To recognise that not all customers have the same inherent vulnerabilities the 2020 ML NRA considered the banking sector through six lenses, all of which have been reconsidered at a high level:

- a. Retail
  - Local retail <£5 million
  - International retail <£5 million
- b. Private Banking (local and international)
- c. Corporate
  - Trading
  - Large and global multinationals
  - TCSPs

11.4.3 The Banking Sector Working Group considered the inherent vulnerabilities as reported in the 2020 ML NRA and concluded that three categories warranted amendment:

- a. *Corporates Trading – Anonymous use of the product.* Vulnerability increased to ‘available’ it was previously rated as ‘not available’. The Banking Sector Working Group did not agree with this position.
- b. *Retail Local <5m – Existence of ML typologies.* Vulnerability increased to ‘available-significant’ it was previously rated as ‘exist’. The Banking Sector Working Group considered the ML typologies to be equally relevant for the local retail customers and therefore elevated the rating to match that of Retail International <5m.
- c. *Private Banking-- Existence of ML typologies.* As for the Retail <5m the Banking Sector Working Group considered the rating should be equivalent to that of the Retail International <5m.

11.4.4 The change in the rating did not impact the overall position of the segments of the banking sector.

**Table 11.9: Inherent Vulnerabilities in the Banking Sector Updated**

	Retail		Private Banking	Corporate		
	Local <£5m	International <£5m		Trading	Large/ Global	TCSP
Total size / volume	Medium	High	Medium-High	Low	High	Medium-High
Average transaction size	Low	low	Medium	Medium	Medium-High	Medium-High
Customer base profile	Low	High	High	Low	Medium	High
Existence of investment / deposit feature	Available - limited	Available - prominent	Available - prominent	Available - limited	Available-limited	Available - prominent
Level of cash activity	Medium - High	Low	Low	High	Medium - Low	Low
Frequency of international transactions	Low	High	Medium - High	Low	High	High
Anonymous use of the product	Not available	Not available	Not available	Available was not available	Available	Available
Difficulty in tracing transactions	Easy to trace					
Existence of ML typologies	Exist - significant was exist	Exist - significant	Exist and significant was exist	Exist - limited	Exist	Exist
Use in tax evasion/ fraud	Exist - significant	Exist - significant	Exist - significant	Exist	Exist	Exist - significant
Non-face to face availability	Available	Available - prominent	Available	Available	Available	Available - prominent
Availability of product specific AML controls	Exist - limited	Exist - limited	Exist - comprehensive	Exist - limited	Exist - limited	Exist - comprehensive
<b>Inherent vulnerability</b>	<b>Medium Low</b>	<b>Medium</b>	<b>Medium</b>	<b>Medium Low</b>	<b>Medium</b>	<b>Medium</b>

**Control vulnerabilities**

- 11.4.5 The Banking Sector Working Group considered some but not all the control vulnerabilities.
- 11.4.6 The Banking Sector Working Group did not change any ratings however additional commentary is provided for a number of the control vulnerabilities.
- 11.4.7 The rating for the Availability and Access to Beneficial Ownership Information has increased to very high from medium high. This change is in line with the national vulnerability section 7.25. The control ratings for the Availability of Reliable Identification Infrastructure and Availability of Independent Information Sources have not been aligned with the national vulnerability section. This position remains unchanged from the 2020 ML NRA where they were not in alignment.

Table 11.10: control vulnerability ratings

Control Vulnerability Variables		2020 ML NRA result as amended in 2023	
		Rating	Score
1	Comprehensiveness of AML Legal Framework	Very high	0.8
2	Effectiveness of Supervision Procedures and Practices	Very high	0.8
3	Availability and Enforcement of Administrative Sanctions	High	0.7
4	Availability and Enforcement of Criminal Sanctions	Medium high	0.6
5	Availability and Effectiveness of Entry Controls	Close to excellent	0.9
6	Integrity of Staff in Banking Firms	Close to excellent	0.9
7	AML Knowledge of Banking Firms' Staff	Very high	0.8
8	Effectiveness of Compliance Systems	High	0.7
9	Effectiveness of Suspicious Activity Monitoring and Reporting	Medium high	0.6
10	Level of Market Pressure to Meet AML Standards	Very high	0.8
11	Availability and Access to Beneficial Ownership Information	Very High <i>was Medium high</i>	0.8 <i>was 0.6</i>
12	Availability of Reliable Identification Infrastructure	Medium high	0.6
13	Availability of Independent Information Sources	Medium	0.5

### **Effectiveness of Supervision Procedures and Practices**

- 11.4.8 The Banking Sector Working Group agreed that JFSC public statements have become increasingly useful as they detail enforcement action taken and the matters which gave rise to the action. This allows the Banking Sector to undertake a review of what went wrong and determine if there are any common characteristics with their own business which means they should take corrective action. This was considered to increase the effectiveness of supervision.
- 11.4.9 In contrast it was acknowledged that the scope of business supervised by the JFSC has increased which has caused some challenges for the JFSC when recruiting and retaining experienced staff in a very competitive employment market. It was noted that the JFSC has gone through a period of high turnover in recent years which diluted the level of expertise in supervision. However, it was also noted that the JFSC staffing position seems to have stabilised in 2023.
- 11.4.10 One of the characteristics of a small jurisdiction is that the regulator (the JFSC) and the industry are often trying to attract the same staff. Resourcing is discussed further in the next section.
- 11.4.11 Overall, the Banking Sector Working Group agreed that the effectiveness of supervision procedures and practices should remain unchanged.

### **Effectiveness of compliance systems**

- 11.4.12 The effectiveness of the compliance systems remains high. However, the Banking Sector Working Group consider that, due to a number of reasons, the current environment is such that there is a shortage of experienced and skilled compliance staff to fill the increasing number of positions within the banking sector.
- 11.4.13 This is not only a concern of the banking sector, but it also applies across the industry. For the larger and more complex banks the shortage is felt more keenly due to the depth of knowledge that is often required.
- 11.4.14 This position was not considered severe enough to impact the control rating, but it should be monitored.
- 11.4.15 Many large globally active banking groups have created centres of excellence which support their branches and subsidiaries. Jersey does not host any of these centres of excellence therefore many banks operate an outsourcing model. The vulnerability is that these centres may not understand every element of the regulatory framework and therefore unintentionally find they have complied with (say) UK regulations but not those in Jersey, which may not be exactly the same.
- 11.4.16 Whilst recognising the vulnerability of outsourcing to centres of excellence the Banking Sector Working Group did not consider the position has significantly changed since the initial assessment therefore the rating was left unchanged. There is strong awareness of ensuring that the centres are able to build a strong knowledge of the Jersey regulatory framework.

### **Effectiveness of Suspicious Activity Monitoring and Reporting**

- 11.4.17 The Banking Sector Working Group was conscious of the need for systems to regularly monitor for changes to jurisdiction risk ratings as a result of international perceptions and FATF/ Regional Bodies assessments. These changes can shift the risk profile of a historic book of business, even though the underlying customers and their own circumstances may not have changed.
- 11.4.18 Additionally, the Banking Sector Working Group agreed that there are occasions when they are in possession of information and consider the island would benefit from an informal sharing mechanism. This is especially true when there are common customers across banking groups and they wish to share information to mitigate a specific risk or a rapidly emerging risk.
- 11.4.19 The Banking Sector Working Group determined that Jersey could improve how it shares information on a confidential basis to strengthen the overall control framework. They referenced the newly formed public private partnership, which brings together the competent authorities and representatives from the banking sector, and considered this will help with information flows.

### **Recommended action**

- 11.4.20 Continue to monitor the position regarding the availability and experience of compliance staff to fill the increasing number of positions within the banking sector to determine whether this is having a negative impact of the effectiveness of the compliance systems.

## 12 Legal Sector

### 12.1 Key Findings

- 12.1.1 Workshops were undertaken with representatives from across the legal sector to better understand the threats, inherent vulnerabilities and controls applied. The analysis was undertaken taking into account the size of the firm, based on number of employees.
- 12.1.2 Given the nature of legal services (many customers engage with the legal sector on a one-off transactional basis rather than building a business relationship) year on year comparisons are less informative than in other sectors. However, the size of the legal sector remains stable, and the trend is towards less risky business, with all industry participants reporting an increasing understanding of ML risk and a decreasing risk appetite.
- 12.1.3 The quality of the AML controls has increased since publication of the 2020 ML NRA. A position significantly assisted by changes to the regulatory framework and the change in the JFSC approach to supervision of the sector (see section 12.4). Table 12.1 summarises the 2020 versus 2023 risk position.

**Table 12.1: Legal sector risk position 2020 versus 2023**

ML NRA	Threat	Vulnerability	Inherent Vulnerability	Quality of AML Controls
2020	Medium	Medium	Medium	Medium low
2023	Medium	Medium	Medium	Medium

- 12.1.4 The sector has a significant number of 'sole practitioners', defined for this purpose as a law firm with five or fewer employees. At the suggestion of the Legal Working Group an additional inherent vulnerability was added to specifically consider the inherent vulnerability associated with these businesses, which mirrors the approach previously taken with the accountancy sector. This vulnerability was considered Low (see paragraphs 12.4.4 and 12.4.5).
- 12.1.5 It is recommended that a future risk assessment considers the following four control vulnerabilities separately for the sole practitioners and larger law firms: (i) Integrity of Staff in Legal Firms; (ii) AML Knowledge of Legal Firms' Staff; (iii) Effectiveness of Compliance Systems, and (iv) Effectiveness of Suspicious Activity Monitoring.

### 12.2 Overview of the Legal Sector

- 12.2.1 This section builds on Section 13 of the 2020 ML NRA.
- 12.2.2 The FATF Recommendations do not capture all activities undertaken by the legal sector. Paragraph 21 of Schedule 2 to the Proceeds of Crime Law details the activities that bring a law firm within scope of the regulatory regime. The focus of activity is on the provision of legal or notarial services to third parties when participating in financial, or immovable property, transactions. As a result there remain Jersey-based law firms that are not within the regulatory scope (for AML

purposes), although all local law firms are regulated for conduct purposes by the Law Society of Jersey.

- 12.2.3 The nature of activity undertaken by Jersey-based law firms is varied. Some law firms are involved in large multi-national transactions, where they often play a discrete role. There are several law firms where the customer base is predominately domestic. The Working Group thought that a challenge for the JFSC when supervising the sector is that a single approach might not work for such a varied industry, and the JFSC was building its own internal knowledge of the sector. Importantly, the 2019 FATF Guidance For A Risk-Based Approach: Legal Professionals<sup>105</sup> states:

*“The Guidance acknowledges that legal professionals operate within a wide range of business structures – from sole practitioners to large, multi-national firms and provide a variety of services in different jurisdictions. Given the diversity in scale, activities and risk profile, there is, therefore, no one-size-fits-all approach.”*

- 12.2.4 Data is collected annually by the JFSC from the law firms registered with it under the SBL. These law firms are a mixture of firms practising Jersey law as well as those practising the law of other jurisdictions from within Jersey. This data provides an insight into the shape of the Jersey legal sector.
- 12.2.5 The persons registered with the JFSC under paragraph 21 of Schedule 2 to the Proceeds of Crime Law includes natural persons and law firms employing hundreds of staff and operating internationally. The reported data in Table 12.2 highlights that during the period 2019 to 2022 approx. 60% of the law firms employed no more than ten individuals.

**Table 12.2: Size of firms in the legal sector**

Number of reported employees	Number of law firms providing data to JFSC			
	2019	2020	2021	2022
0. Very small (0-5)	20	23	20	19
1. Small (6-10)	7	7	8	7
2. Medium (11-50)	10	10	9	10
3. Large (>51)	8	8	9	8
<b>Total</b>	<b>45</b>	<b>48</b>	<b>46</b>	<b>44</b>

### 12.3 Threats in the Legal Sector

#### Overall

- 12.3.1 Globally the legal sector is understood to be attractive to criminals as its use can add credibility and assist with integration of illicit funds into legitimate structures.

<sup>105</sup> [FATF - Guidance for a Risk-Based Approach Guidance for Legal Professionals](#)

- The legal sector remains vulnerable to criminals trying to hide illicit funds via the creation and formation of trusts and companies.
- 12.3.2 Unlike in some other jurisdictions persons registered with the JFSC as a law firm are not permitted to provide TCSP services unless they are registered with the JFSC for that activity. Whilst this lessens the ML risk in the legal sector there is an overlap with the TCSP and fund sector, as legal professionals provide legal advice on corporate structuring.
- 12.3.3 The Legal Working Group commented that ‘shopping around’ for legal services was becoming more noticeable. The current business climate / costs and legacy Covid impact has resulted in business development for a number of firms focusing on good business from established markets (products and jurisdictions). Consequently, law firms were comfortable not taking on business outside their risk appetite.
- 12.3.4 Whilst the tables below show that the data year-on-year remains stable, the Legal Working Group were clear that much legal activity takes the form of one-off transactions rather than a customer business relationship being formed. Given this relationship law firms rarely terminate business, rather they do not take on the next piece of work requested.
- 12.3.5 Whilst the threat remains at medium the trend is moving towards medium-low rather than medium-high.

#### **Enforcement Action/ Legal Cases**

- 12.3.6 During the period 2019 to 2022 there are no recorded ML prosecutions in the legal sector. However, the Legal Working Group were of the view that the Law Society of Jersey would take disciplinary action where appropriate and that the competent authorities would investigate and prosecute members of the legal profession should this be necessary. A position supported by the following examples of action being taken against members of the legal profession practising in Jersey:
- a. Action taken against a dual-qualified lawyer based in Jersey who was disbarred in 2021 by the UK Bar Standards Board having already been struck off the Jersey Solicitors’ Roll by the Royal Court. The individual served a three-and-a-half year prison sentence for fraudulent activity at his solicitors’ practice. He pleaded guilty to 20 counts of fraudulent conversion and one count of fraudulent conversion by a trustee<sup>106</sup>.
  - b. Lawyer sentenced to three years in prison for a breach of trust of a vulnerable elderly woman by fraudulently converting £28,000 to her own use. She was struck off the Roll of Solicitors by the Royal Court<sup>107</sup>.
  - c. Lawyer removed from the Roll of Advocates by the Royal Court for breaches of the Law Society’s Code of Conduct<sup>108</sup>. As the individual was dual-qualified (being a non-practising barrister), the UK Bar Standards Board have instigated disciplinary proceedings following reference by the Law Society of Jersey. A disciplinary hearing is in the process of being convened.

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<sup>106</sup> [Law Society Gazette - Jersey lawyer disbarred after fraud conviction](#)

<sup>107</sup> [JerseyLaw - AG v Harrigan \(10-Mar-2022\)](#)

<sup>108</sup> [JerseyLaw - In the matter of the Jersey Law Society re Advocate A. P. Begg \(13-Jul-2022\)](#)



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**Cross Border**

- 12.3.7 The Legal Working Group noted that there are a number of factors which may influence the amount and direction of cross-border work and consequently the threats faced by the legal sector. In the 2019 to 2022 period these factors included:
- a. Activity by JFL in countries such as the UAE and Saudi Arabia.
  - b. The impact of Covid which significantly impacted Hong Kong-based customers and influences the 2021 data.
  - c. A reduction of work relating to the British Virgin Islands.
  - d. The Russian-Ukrainian situation.
- 12.3.8 Table 12.3 shows that across the period 2019 to 2022, the number of customers reported as being Jersey-based has been stable, ranging between 58.6% and 62.0% of the total number of reported customers. It is important to note that real estate property transactions invariably include the use of a law firm and accounts for a significant portion of the Jersey-based customer transactions (see Table 12.6).
- 12.3.9 In 2022 over 40% of the customers were reported as being based outside Jersey. Whilst the threat of ML is not immediately higher when a customer is cross-border this is a factor which the legal sector will consider, recognising that some of the larger law firms maintain a presence in jurisdictions other than Jersey e.g. the UK. Jersey and the UK account for 80.69% and 77.34% of the reported residency of customers in 2021 and 2022 respectively.
- 12.3.10 The percentage of customers reported as being from a higher risk jurisdiction<sup>109</sup> that either has a significant reported connection to Jersey or is a focus market<sup>110</sup> is also noted as being relatively stable over the period. The increase in 2022 is accounted for by business from the Cayman Islands and the UAE<sup>111</sup>. Of the 3.4% figure reported for 2022, 3.1% is represented by reported connections with the UAE (1.26%), Cayman Islands (0.94%) and South Africa (0.90%). These are familiar jurisdictions to the Jersey law firms as the financial services industry has a history of doing business with customers from these jurisdictions.
- 12.3.11 In line with the requirements of the regulatory framework, the law firms risk rate their customers. In 2022, the legal sector classified 8.6% of its customers as posing a higher risk, the increase is understood to reflect a greater understanding of how to risk rate customers rather than an actual increase in the riskiness of the customer base. Within these customers will be PEPs. In 2022, the sector reported 4.8% of its overall customer base as being a PEP, of which 12.3% are connected to jurisdictions with significant reported connections or are a focus jurisdiction; the UAE makes up the majority of this number.

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<sup>109</sup> The methodology behind identifying the 'higher risk' jurisdictions is set out in the ML Threat section. To ensure proper comparison across the period the higher risk customers for all years utilises the same list of higher risk jurisdictions.

<sup>110</sup> Being: the Cayman Islands, Gibraltar, Kenya, Nigeria, South Africa and the UAE.

<sup>111</sup> Noting that the FATF listed the Cayman Islands and UAE as jurisdictions under increased monitoring in February 2021 and March 2022 respectively.

12.3.12 The Legal Working Group considered that the wide definition of a PEP combined with the risk averse nature of many of law firms mean there is the potential that the submitted PEP data overstates the position. On 1 September 2023 an amendment to the Money Laundering Order provides that in certain circumstances a person may be declassified from being a PEP (see section 4.9). The amendment directly addresses the concerns of the Legal Working Group regarding the wide definition of a PEP.

12.3.13 It is understood that within the reported data there will be a level of customer double counting. The same customer dealing with different partners in a single law firm for different types of legal services may be counted more than once by that firm.

**Table 12.3: Aggregated reported country and customer risk data for the legal sector**

			2019	2020	2021	2022
<b>Country Risk</b>	Customers	Jersey-Based Customers (% of Total)	62.0%	59.0%	61.3%	58.6%
		% of reported connections with a higher risk jurisdiction: significant connections and focus areas	2.6%	2.1%	2.6%	3.4%
		% of reported connections with a higher risk jurisdiction: less significant connections	1.0%	1.0%	0.9%	0.9%
<b>Customer Risk</b>	Customer Risk Ratings by industry	Higher Risk Customers as a % of all Customers	5.1%	4.7%	7.1%	8.6%
	PEP Connections	All PEPs as % of all Customers	6.2%	7.8%	5.7%	4.8%
		% of reported PEP connections with a higher risk jurisdiction: significant connections and focus areas	10.4%	8.5%	13.7%	12.3%
		% of reported PEP connections with a higher risk jurisdiction: less significant connections	9.9%	7.2%	4.9%	6.3%

12.3.14 Table 12.4 demonstrates the strong connection to the UK with three of the other four jurisdictions being IFCs identified in section 6 as higher risk jurisdictions under Methodology 2 (USA, UAE and Switzerland). In both 2021 and 2022 Saudi Arabia features in the top five residency jurisdictions; it also features in the JPF data and there is a clear link between the legal sector and the funds sector.

**Table 12.4: Top five jurisdictions reported as residency for legal sector customers 2021/2022 (excludes Jersey)**

2021			2022		
Ranking	Jurisdiction	% of Total	Ranking	Jurisdiction	% of Total
1	United Kingdom	19.35%	1	United Kingdom	18.74%
2	United States of America	2.17%	2	United States of America	2.69%
3	United Arab Emirates	1.35%	3	Saudi Arabia	1.49%
4	Ireland	1.21%	4	United Arab Emirates	1.26%
5	Saudi Arabia	1.11%	5	Switzerland	1.11%

12.3.15 In terms of exposure to higher risk jurisdictions which are not IFCs, Table 12.5 highlights that there is a decreasing level of exposure to these jurisdictions.

12.3.16 Given the very small percentages reported it is important to recognise that the underlying customer number may be very small. It may relate to one family matter undertaken by one law firm rather than representing many touch points across a number of law firms.

**Table 12.5: Top five higher risk jurisdictions reported as residency for legal sector customers 2021/2022**

2021			2022		
Ranking	Jurisdiction	% of Total	Ranking	Jurisdiction	% of Total
1	Lebanon	0.31%	1	Lebanon	0.28%
2	Russian Federation	0.25%	2	Kenya	0.15%
3	Kenya	0.19%	3	Pakistan	0.12%
4	Egypt	0.14%	4	Egypt	0.12%
5	Turkey	0.07%	5	Russian Federation	0.10%

## 12.4 Vulnerabilities in the Legal Sector

12.4.1 The ML vulnerability of the legal sector comprises of inherent vulnerability, linked to the products and services provided, and the control vulnerability which measures the quality of the controls applied.

## Inherent vulnerabilities

12.4.2 The JFSC collects data relating to the activities of the law firms which has been presented for 2021 and 2022 in Table 12.6. This highlights that law firms reported the most common activity as the provision of services relating to the buying and selling of property. This is a change from the 2020 ML NRA which reported the creation, operation or management of legal persons or arrangements, and buying and selling of business entities, as the most common activity.

**Table 12.6: Legal Sector Reported Activity in Supervisory data Return 2021**

Activity	2021	2022
Buying and selling of property	43%	46%
Creation, operation or management of legal persons or arrangements, and buying and selling of business entities	30%	37%
Managing of customer money, securities or other assets	17%	10%
Organisation of contributions for the creation, operation or management of companies	8%	5%
Management of bank, savings or securities accounts	2%	2%

12.4.3 The Legal Sector Working Group considered each of the inherent vulnerabilities in Table 12.7 and made no changes to the ratings reported in the 2020 ML NRA. However, they did add an extra inherent vulnerability “sole practitioner” (for this purpose law firms reporting 0 – 5 employees).

12.4.4 Given the make-up of the sector the Legal Working Group considered this inherent vulnerability, which was considered for the accountancy sector in the 2020 ML NRA, to be equally relevant for the legal sector. The main factor to be considered was identified as whether the sole practitioners are inherently more vulnerable to ML given the potential fees which may arise from business originating from higher risk jurisdictions.

12.4.5 Through face-to-face discussions with representatives of the sole practitioners it was apparent that they are risk averse. Whilst there may be higher fees associated with business from higher risk jurisdictions, the risks sit outside their risk appetite. They were very clear that as smaller law firms, bad business impacts them and their staff very quickly therefore their risk appetite is low. All new business is considered carefully from a risk perspective, meaning that there is a low inherent vulnerability associated with sole practitioners.

**Table 12.7: Inherent vulnerabilities in the legal sector**

Inherent Vulnerability	Score in 2020 ML NRA	2023 Refreshed Score
Total size/volume	Medium	
Customer base profile	High	

Inherent Vulnerability	Score in 2020 ML NRA	2023 Refreshed Score
Level of cash activity	Low	
Use of agents	Does not exist	
Frequency of international transactions	High	
Anonymous use of the product	Not available	
Difficulty in tracing transactions	Easy to trace	
Existence of ML typologies	Exist	
Use of tax evasion/ fraud	Exist	
Non face to face availability of products	Available	
Professional secrecy/ customer privilege	Medium	
Customer accounts	Medium	
Paid with proceeds of crime	Medium	
Sole practitioners (up to 5 people)		Low

### Control vulnerabilities

12.4.6 The Legal Working Group considered each of the control vulnerabilities in Table 12.8 and made a number of changes to the ratings. Some of these changes are a direct result of the changes to the regulatory framework (set out in section 4), whilst others stem from changes at the law firms or within the JFSC.

12.4.7 The changes to the control vulnerabilities following this refresh process are highlighted in Table 12.8 by green shading.

Table 12.8: Control vulnerabilities in the legal sector

	Control Vulnerability Variables	2020 ML NRA rating		2023 Refreshed rating	
1	Comprehensiveness of AML Legal Framework	High	0.7	High	0.7
2	Effectiveness of Supervision Procedures and Practices	Medium low	0.4	Medium	0.5
3	Availability and Enforcement of Administrative Sanctions	Low	0.3	Medium high	0.6
4	Availability and Enforcement of Criminal Sanctions	Low	0.3	Medium low	0.4

Control Vulnerability Variables		2020 ML NRA rating		2023 Refreshed rating	
5	Availability and Effectiveness of Entry Controls	Medium	0.5	Medium high	0.6
6	Integrity of Staff in Legal Firms	Medium low	0.4	Medium low	0.4
7	AML Knowledge of Legal Firms' Staff	Medium high	0.6	Medium high	0.6
8	Effectiveness of Compliance Systems	Medium	0.5	Medium	0.5
9	Effectiveness of Suspicious Activity Monitoring and Reporting	Medium high	0.6	Medium high	0.6

### Effectiveness of Supervision Procedures and Practices

- 12.4.8 In the 2020 ML NRA it was noted that the majority of law firms were subject to pooled supervision and there was a low level of examinations being conducted. The report noted that comfort was taken from the oversight work of the Law Society of Jersey, acknowledging that this was conduct rather than AML oversight.
- 12.4.9 Since publication of the 2020 ML NRA, JFSC examinations of law firms now occur both on a firm-specific basis and through inclusion of law firms in thematic examinations. The JFSC supervision teams have been restructured in 2023 such that all law firms are now supervised by a newly formed team which focusses on DNFBPs, NPOS and VASPs. This restructure enables the JFSC to better understand these sectors and how they mitigate their risks. The team will conduct a series of risk-based thematic examinations, issue feedback papers setting out their findings and deliver a programme of outreach and engagement to raise awareness and standards.
- 12.4.10 The Legal Working Group considered the level of supervisory activity increases the control rating slightly. However, they concluded that it is too early to determine the effectiveness of the JFSC structural changes, and the effectiveness of the supervision being undertaken. Consequently, the control rating has moved from medium-low to medium.

### Availability and Enforcement of Administrative Sanctions

- 12.4.11 The legislation which determines who and for what reason the JFSC may apply an administrative penalty has significantly expanded to include law firms and senior managers of law firms, and any breaches of the Money Laundering Order. There have been no sanctions against law firms to date. This equally applies to other DNFBPs and is described in section 4.6.
- 12.4.12 To date no administrative penalties have been applied to a law firm or any individual working for a law firm.
- 12.4.13 Given the significant additional administrative sanctioning powers available to the JFSC combined with the fact that none have yet been applied, the Legal Working Group has moved the control rating from low to medium-high.

### **Availability and Enforcement of Criminal Sanctions**

- 12.4.14 There has been no change to the available criminal sanctions within the period. The Legal Working Group noted the actions taken by the Royal Court as set out in paragraph 12.3.6 which resulted in two persons being removed from the Royal Court Roll of Solicitors, both of whom were given custodial sentences for fraud and breach of trust respectively, and one person being removed from the Roll of Advocates.
- 12.4.15 These actions provided the Legal Working Group with evidence that the Law Society of Jersey does take action against its members and, where appropriate, criminal sanctions would be applied.
- 12.4.16 The Legal Working Group has moved the control rating from low to medium-low.

### **Availability and Effectiveness of Entry Controls**

- 12.4.17 Since March 2022 the JFSC has had stronger legislative powers regarding the entry controls applied to law firms, described in section 4.7.
- 12.4.18 As a consequence, to the change in the regulatory framework the Legal Working Group has moved the control rating from medium to medium-high.

### **Integrity of Staff in Legal Firms**

- 12.4.19 The rating of medium-low for the integrity of staff in legal firms was queried by the Legal Working Group given the high standards staff are held to and the disciplinary processes applied by the Law Society of Jersey.
- 12.4.20 The JFSC has the power to “ban” individuals from working in the industry through the issuance of a “direction”. Since 2018 seven such directions have been issued to individuals due to a lack of integrity. Of these two were lawyers and both were banned after being convicted of fraud.
- 12.4.21 Consequently, the control rating remains unchanged.

### **AML Knowledge of Legal Firm’s Staff**

- 12.4.22 The Legal Working Group considered that risk awareness has continued to build following publication of the 2020 ML NRA. There was a clear understanding of the wider risks to Jersey if one firm makes an error of judgement with respect to ML risks, and the impact it would have on the Island as a whole. Additionally, publication of the 2022 National Strategy and 2022 Risk Appetite Statement were commented on as aiding staff risk awareness and AML knowledge.
- 12.4.23 Whilst risk awareness and AML knowledge were agreed as improving the Legal Working Group did not amend the control rating as this position is not yet substantiated by JFSC examination findings.

### **Effectiveness of Compliance Systems**

- 12.4.24 As law firms conduct a series of one-off transactions rather than build a business relationship, each time a law firm undertakes a new transaction they seek to refresh the customer due diligence they hold. This maintains the accuracy and thoroughness of their due diligence.

- 12.4.25 Unlike the larger law firms which have dedicated compliance teams, the sole practitioners do not always have a formal compliance department. In these cases the senior staff in the firm, often the partners that own the law firm, are responsible for the compliance process. It was emphasised that any risk to the business is a risk to their livelihood; they take compliance matters very seriously.
- 12.4.26 The 2020 ML NRA noted a shortage of good quality senior compliance staff in the Island. This position remains unchanged therefore the Legal Working Group agreed to leave the control rating as it was but noted the change in structure of the JFSC supervision team together with the increased inclusion of law firms in specific and thematic examinations. The results of the JFSC examination work should be used to reconsider this control vulnerability in a future risk assessment.

#### **Effectiveness of Suspicious Activity Monitoring and Reporting**

- 12.4.27 Consideration of this control vulnerability is ongoing across the sectors. The implementation of the new SAR template in 2022 and a more systematic feedback process in Q2 2023 is providing the FIU with more and better-quality data but it is too early to form a view of these improvements.
- 12.4.28 Once the new JFSC has conducted more examinations under the revised supervision structure, and the FIU improved process have operated for longer, consideration of this control vulnerability across the sectors can be completed.
- 12.4.29 The control rating remains unchanged and awaits conclusion of the cross-sector work.

#### **Recommended action**

- 12.4.30 The Legal Working Group noted that whilst the control vulnerabilities of the legal sector have been considered and reported in aggregate in some sectors this is not the case e.g. the funds sector. Having considered whether there is an inherent vulnerability associated with sole practitioners the Legal Working Group recommend that a future risk assessment considers the following four control vulnerabilities separately for the sole practitioners and larger law firms: (i) Integrity of Staff in Legal Firms; (ii) AML Knowledge of Legal Firms' Staff; (iii) Effectiveness of Compliance Systems, and (iv) Effectiveness of Suspicious Activity Monitoring and Reporting.



# Appendices

## Appendix 1: Introduction to Jersey

- 1 The Bailiwick of Jersey (“Jersey”) is an Island territory situated in the bay of St Malo, 14 miles from the French coast and 85 miles south of the English coast. Jersey is the largest of the Channel Islands, spanning 5 miles in length and 9 miles in width. Jersey is divided into 12 Parishes, with each Parish being presided over by the elected head of that Parish, the Connétable. Jersey has a total population of 103,267 at the last census<sup>112</sup> (21 March 2021).
- 2 Jersey is not part of the United Kingdom, but rather a British Crown Dependency; it is defended and internationally represented by the UK government. With the Lieutenant-Governor of Jersey acting as the personal representative of His Majesty the King on the Island. Jersey is a parliamentary democracy and is self-governing, maintaining its own financial and legal systems and its own courts of law. The States has 49 elected members. Jersey also operates its own judicial system, which is based on common law principles.
- 3 The ability for Jersey to determine its own laws, raise taxation, and hold elections is based on a long-standing constitutional precedent, dating back to 1204. Jersey does not receive subsidies from or pay contributions to the UK, though Jersey does make annual voluntary contributions towards the costs of defence and international representation by the UK. The States has the power to:
  - 3.1 pass and amend laws and regulations,
  - 3.2 approve the annual budget and taxation,
  - 3.3 appoint and remove the Chief Minister.
- 4 The States currently comprises of the 12 Connétables, who have the dual role as both head of the Parish and member of the States of Jersey. Since 2022, there are also 37 Deputies, who represent the interests of their electoral constituencies (of which there are nine) in the States.
- 5 Jersey has a Royal Court, which is equal to the UK’s Crown Court for criminal matters, and the UK’s High Court for civil matters. It also runs an administrative jurisdiction similar to that in the Divisional Court and receives statutory appeals from executive committees of the States. It exercises a supervisory and an appellate jurisdiction over the island’s lower criminal and civil courts.

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<sup>112</sup> [Government of Jersey - Population characteristics](#)

## Appendix 2: Glossary

Acronym	Meaning
2020 ML NRA	<a href="#">National Risk Assessment of Money Laundering, published September 2020</a>
2021 TF NRA	<a href="#">National Risk Assessment of Terrorist Financing, published April 2021</a>
2022 JPF Risk Assessment	Jersey Private Funds – Money Laundering Risk Assessment
2022 National Strategy	<a href="#">National Strategy for Combatting Money Laundering, the Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction, published September 2022</a>
2022 NPO NRA	<a href="#">National Risk Assessment of Non-Profit Organisations, published April 2022</a>
2022 Risk Appetite Statement	<a href="#">National Statement on Financial Services and Financial Crime: Activities, Risk Appetite and Mitigation, published September 2022</a>
2022 VASP Risk Overview	<a href="#">Virtual Assets Money Laundering and Terrorist Financing National Risk Overview, published May 2022</a>
2023 LPA NRA	<a href="#">Legal Persons / Legal Arrangements National Risk Assessment</a>
2023 TF NRA Update Report	A refresh of the 2021 TF NRA resulting in an update report published in May 2023
AG	Attorney General
AML/CFT	Anti-money laundering/combating the financing of terrorism
Handbook	<a href="#">Handbook for the prevention and detection of money laundering and the countering of terrorist financing</a>
Jersey	Bailiwick of Jersey
BRA	Business Risk Assessment
CDD	Customer Due Diligence
RUSI	Centre for Financial Crime and Security Studies at the Royal United Services Institute
CFT	Combating the financing of terrorism
CIF	Collective Investment Fund
COBO	Control of Borrowing (Jersey) Order 1958

<b>Acronym</b>	<b>Meaning</b>
CPF	Combatting Proliferation Financing
CRS	Common Reporting Standards
Disclosure and Provision of Information legislation	<p>Collective name for:</p> <ul style="list-style-type: none"> <li>• Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020</li> <li>• Financial Services (Disclosure and Provision of Information) (Jersey) Order 2020</li> <li>• Financial Services (Disclosure and Provision of Information) (Jersey) Regulations 2020</li> </ul>
DNFBP	Designated Non-Financial Businesses and Professions
DPA	Deferred Prosecution Agreement
DSP	Designated Service Provider
ECCU	Economic Crime and Confiscation Unit
EEA	European Economic Area
EU	European Union
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FCA	UK Financial Conduct Authority
FCARG	Financial Crime Agencies Review Group
FCEU	Financial Crime Examination Unit
FI	Financial Institution
FIU	Financial Intelligence Unit Jersey
FSB	Fund Services Business
FSJRG	Financial Services Jurisdictional Risk Group
GBP	Great Britain Pounds
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
Government	Government of Jersey

<b>Acronym</b>	<b>Meaning</b>
GVA	Gross Value Added
HMRC	His Majesty's Revenue and Customs
IACCC	International Anti-corruption Coordination Centre
IFC	International Finance Centre
JCIS	Jersey Customs and Immigration Service
JFL	Jersey Finance Limited
JFCU	Joint Financial Crimes Unit
JFIN	Jersey Financial Intelligence Network
JFSC	Jersey Financial Services Commission
JPF	Jersey Private Fund
Key Person	Has the meaning in Article 1 of the Supervisory Bodies Law
LEA	Law Enforcement Agency
LOD	Law Officers' Department
LPA	Legal Persons and Arrangements
MER	Mutual Evaluation Report
ML	Money laundering
MLA	Mutual Legal Assistance
MLCO	Money Laundering Compliance Officer
MLRO	Money Laundering Reporting Officer
MOU	Memorandum of Understanding
Money Laundering Order	Money Laundering (Jersey) Order 2008
MSHT	Modern slavery human trafficking
National Action Plan	Areas of focus to increase effectiveness through strategic priorities – set out in the 2022 National Strategy
NAV	Net Asset Value
NCBF	Non-Conviction Based Forfeiture

<b>Acronym</b>	<b>Meaning</b>
NPO	Non-profit organisation
NRA	National Risk Assessment
NSD	National Statistics Database
OCG	Organised Crime Group
OECD	Organisation for Economic Cooperation and Development
Palermo Convention	United Nations Convention Against Transnational Organised Crime 2000
PEP	Politically Exposed Person
PF	Proliferation Financing
PPP	Public Private Partnership
Principal Person	Has the meaning in Article 1 of the Supervisory Bodies Law
Proceeds of Crime Law	Proceeds of Crime (Jersey) Law 1999
PSG	Financial Crime Political Steering Group
PTC	Private Trust Company
RAL	Revenue Administration (Jersey) Law 2019
Registrar	Registrar of companies
Registry	Registry refers to the Companies Registry which sits within the Jersey Financial Services Commission
Revenue Jersey	Revenue Jersey forms part of the Government of Jersey's Treasury and Exchequer department. They administer and collect revenue each year which funds Jersey's public services - <a href="http://RevenueJersey.gov.je">Revenue Jersey (gov.je)</a>
RP	Representative Person
<i>saisie judiciaire</i>	A <i>saisie judiciaire</i> is granted by the Bailiff, on behalf of the Royal Court, and is a formal means of "restraining" assets (realisable property).
SAR	Suspicious Activity Report
SG	Solicitor General
Shipping Regulations	Shipping (Registration) (Jersey) Regulations 2004

<b>Acronym</b>	<b>Meaning</b>
SoJP	States of Jersey Police Force
Supervisory Bodies Law	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
TBML	Trade based money laundering
TCSP	Trust and Company Service Providers
TF	Terrorist Financing
the States	Assembly of the States of Jersey
UAE	United Arab Emirates
UK	United Kingdom
UODC	The United Nations Office on Drugs and Crime
USA	United States of America
VASP	Virtual Asset Service Provider
Vienna Convention	United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988