



Jersey Financial
Services Commission

**HANDBOOK ON
INTERNATIONAL CO-OPERATION
AND
INFORMATION EXCHANGE**

**FOR THE USE OF OVERSEAS
SUPERVISORY AUTHORITIES**

ISSUED: NOVEMBER 2012

GLOSSARY OF TERMS

The following table sets out a glossary of terms used in this handbook.

AML/CFT	means anti-money laundering/countering the financing of terrorism
Commission	means the Jersey Financial Services Commission
Commission Law	means the Financial Services Commission (Jersey) Law 1998
Companies Law	means the Companies (Jersey) Law 1991
confidential information	means information that is not public knowledge nor in the public domain and which is not restricted information
EU	means the European Union
Financial Services Law	means the Financial Services (Jersey) Law 1998
financial services legislation	is the collective name for the: <ul style="list-style-type: none">• Banking Business (Jersey) Law 1991;• Financial Services (Jersey) Law 1998;• Insurance Business (Jersey) Law 1996; and• Collective Investment Funds (Jersey) Law 1988
JFCU	means the Joint Financial Crimes Unit (Jersey's financial intelligence unit)
NPO	means non-profit organization
NPO Law	means the Non-Profit Organizations (Jersey) Law 2008
prudentially supervised businesses	means banks, insurance companies, fund services businesses, investment businesses (investment managers, dealers and advisers), trust and company service providers, general insurance mediation businesses, money service businesses (bureaux de change and money transmitters) and fund products
overseas supervisory authority	has the same meaning as 'relevant supervisory authority' and 'relevant overseas supervisory authority' under the regulatory laws
relevant overseas supervisory authority and relevant supervisory authority	means, in relation to a country or territory outside Jersey, an authority discharging in that country or territory any function that is the same as, or similar to, a function of the Commission

restricted information	information that relates to the business or affairs of a person, received by the Commission either: <ul style="list-style-type: none">• under or for the purposes of one of the regulatory laws; or• directly or indirectly from a person who has so received it
Regulatory Laws	is the collective name for the: <ul style="list-style-type: none">• Banking Business (Jersey) Law 1991;• Financial Services (Jersey) Law 1998;• Insurance Business (Jersey) Law 1996;• Collective Investment Funds (Jersey) Law 1988; and• Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008
UK	means the United Kingdom

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1 INTRODUCTION

1.1 Purpose and structure of this handbook

1.1.1 This handbook has been prepared to assist overseas supervisory authorities where they seek to obtain assistance from the Jersey Financial Services Commission (the “**Commission**”) in the discharge of a function that is the same as, or similar to, a function of the Commission.

1.1.2 Sections 2 and 3 provide an overview of Jersey and the Commission, respectively.

1.1.3 The remaining sections in this handbook explain the types of assistance that the Commission can provide. It does this in the following sections:

SECTION 4

International co-operation and information exchange under the financial services legislation

SECTION 5

International co-operation and information exchange under AML/CFT oversight legislation

SECTION 6

Information exchange under non-profit organization oversight legislation

SECTION 7

Investigations into suspected insider dealing or market manipulation

SECTION 8

Investigations into the affairs of a Jersey company

1.1.4 This handbook also includes three appendices:

APPENDIX A

Template request letter where information is sought

APPENDIX B

A summary of the information confidentiality provisions that apply to information disclosed to the Commission by an overseas supervisory authority

APPENDIX C

A summary of the types of assistance that may be available from other agencies in Jersey

1.2 Legislation

1.2.1 This handbook will make reference to a number of pieces of legislation. A copy of all of the legislation can be obtained from the website of the Jersey Legal Information Board (www.jerseylaw.je).

1.3 The convention used in this handbook to describe requirements and policy

1.3.1 This handbook sets out a number of requirements that must be met to enable the Commission to provide assistance to an overseas supervisory authority. Where a requirement is the result of a statutory provision the text will make that clear.

1.3.2 Text that is shown in *italics* indicates Commission policy in respect of the administration of certain aspects of legislation.

2 THE ISLAND OF JERSEY

2.1 Location, area and population

2.1.1 Jersey is situated 22.5 kilometres off the north-west coast of France and 137 kilometres from the south coast of England. The Island has a total surface area of 118.2 square kilometres and a population of approximately 98,000.

2.2 Constitutional status

2.2.1 Jersey, together with the other Channel Islands, was part of the Duchy of Normandy before the Norman Conquest but remained loyal to the King of England when continental Normandy was lost in the year 1204.

2.2.2 The Island is a self-governing dependency of the English Crown. The Crown - in practice through Her Majesty's Government in the United Kingdom ("UK") - is formally responsible for the Island's international relations. The UK is also responsible for the defence of the Island. The Island has autonomy in relation to its domestic affairs, including taxation.

2.2.3 The Island's parliament is known as the Assembly of the States of Jersey and has 51 elected members and operates a ministerial system of government. The Island's Council of Ministers is led by a Chief Minister.

2.3 Relationship with the UK and the European Union

2.3.1 Jersey is not represented in the UK Parliament and does not form part of the UK.

2.3.2 The UK Parliament does not legislate for the Island without Jersey's consent. On occasion, with insular consent, Acts of the UK Parliament include a section which permits the extension of the Act to the Island by an Order of Her Majesty in Council, with appropriate exceptions, modifications and adaptations.

2.3.3 It is settled constitutional practice that the UK consults Jersey before it may bind the Island to obligations in international law. By agreement, Jersey has been included in many important international conventions to which the UK is a party. By a Framework Agreement signed with the UK it was agreed that, in the context of the UK's responsibility for Jersey's international relations, the UK will not act internationally on account of Jersey without prior consultation.

2.3.4 The Island has a special relationship with the European Union (the "EU") provided by Protocol 3 to the UK's Treaty of Accession in 1973. This relationship cannot be changed without the unanimous agreement of all Member States and Island Authorities. Under Protocol 3, the Island is part of the customs territory of the European Community. The common customs tariff, levies and other agricultural import measures therefore apply to trade between the Island and non-Member States. There is free movement of goods and trade between the Island and Member States.

2.3.5 Jersey is not part of the EU, and, as a result, is not required to implement EU Directives on such matters as movement of capital, company law or money

laundering. But Jersey will emulate such measures where appropriate having particular regard to the Island's commitment to meeting international standards of financial regulation and countering money laundering and terrorist financing.

3 THE JERSEY FINANCIAL SERVICES COMMISSION

3.1 Overview

- 3.1.1 The Commission is responsible for the regulation and supervision of the financial services industry in Jersey. It is a statutory body corporate, set up under the Financial Services Commission (Jersey) Law 1998 (the “**Commission Law**”).
- 3.1.2 The Commission also operates Jersey’s Registry for companies, limited partnerships, limited liability partnerships and business names.
- 3.1.3 The Commission Law establishes the Commission as an independent body, fully responsible for its own regulatory decisions. The Commission is accountable for its overall performance to Jersey’s parliament through the Minister for Economic Development.
- 3.1.4 The Commission’s key purpose is to maintain Jersey’s position as an international finance centre that applies high regulatory standards by:
- 3.1.4.1 reducing risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers;
 - 3.1.4.2 protecting and enhancing the Island’s reputation and integrity in commercial and financial matters;
 - 3.1.4.3 safeguarding the Island’s best economic interests; and
 - 3.1.4.4 countering financial crime both in Jersey and elsewhere.
- 3.1.5 In support of its key purpose, the Commission aims to:
- 3.1.5.1 ensure that all prudentially supervised businesses (defined in 3.2.1) that are authorised meet fit and proper criteria;
 - 3.1.5.2 ensure that all prudentially supervised businesses are operating within accepted standards of good regulatory practice;
 - 3.1.5.3 monitor compliance by prudentially supervised businesses and other businesses with anti-money laundering/ countering the financing of terrorism (“**AML/CFT**”) legislation;
 - 3.1.5.4 help to determine whether non-profit organizations are assisting or being used to assist terrorism;
 - 3.1.5.5 match international standards in respect of banking, securities, trust company business, insurance regulation, anti-money laundering, and terrorist financing defences; and
 - 3.1.5.6 identify and deter abuses and breaches of regulatory standards.

3.1.6 The Commission is a signatory to the multilateral memorandum of understanding of the International Organisation of Securities Commissions and has also entered into more than 40 separate bi-lateral memoranda of understanding. A full list is available on the Commission's website (www.jerseyfsc.org/the_commission/international_co-operation/list-of-memoranda.asp).

3.2 Prudential supervision of financial services

3.2.1 The Commission has responsibility for the prudential oversight of banks, insurance companies, fund services businesses, investment businesses (investment managers, dealers and advisers), trust and company service providers, general insurance mediation businesses, money service businesses (bureaux de change and money transmitters) and fund products. Collectively, these will be referred to herein as "**prudentially supervised businesses**".

3.2.2 The legal basis for overseeing prudentially supervised businesses is contained in the following laws: the Banking Business (Jersey) Law 1991; the Collective Investment Funds (Jersey) Law 1988; the Financial Services (Jersey) Law 1998; and the Insurance Business (Jersey) Law 1996 (together, "**financial services legislation**").

3.2.3 Financial services legislation, combined with the Commission Law, provides the Commission with the statutory power to conduct off-site and on-site supervision of prudentially supervised businesses. Financial services legislation also provides the Commission with various tools and powers to ensure that it can carry out effective supervision.

3.3 AML/CFT oversight

3.3.1 The Commission is also responsible for registering and overseeing those businesses that are subject to AML/CFT legislation and associated regulatory requirements. The businesses covered by this oversight include prudentially supervised businesses, lawyers, accountants, estate agents and high value goods dealers.

3.3.2 The legal basis for this oversight for compliance with AML/CFT measures is contained in the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the "**Supervisory Bodies Law**"). To enable the Commission to carry out effective oversight this law provides the Commission with similar statutory powers to those contained in financial services legislation.

3.4 Oversight of non-profit organizations

3.4.1 The Non-Profit Organizations (Jersey) Law 2008 (the "**NPO Law**") requires certain non-profit organizations to register with the Commission. The Commission is given, inter alia, an obligation under the NPO Law to help to determine if an NPO is assisting or being used to assist terrorism. Where it suspects that an NPO is assisting or being used to assist terrorism, the Commission must immediately inform Jersey's Attorney General (Chief Prosecutor).

3.5 Investigating suspected insider dealing and market manipulation

- 3.5.1 Under the Financial Services (Jersey) Law 1998 (the “**Financial Services Law**”), the Commission has the power to investigate suspected cases of insider dealing or market manipulation.
- 3.5.2 The Commission has the statutory power, amongst other things, to require persons to provide such information and documents as the Commission may specify. The Commission may also require a person to provide answers to questions that the Commission reasonably requires the person to answer for the purpose of investigating the suspected contravention.

3.6 Investigations into the affairs of a Jersey company

- 3.6.1 The Companies (Jersey) Law 1991 (the “**Companies Law**”) provides the Commission with the power to appoint an inspector to investigate and report upon the affairs of a Jersey company.
- 3.6.2 An inspector appointed by the Commission has wide powers to obtain information and documents, and require persons to answer questions related to the investigation.
- 3.6.3 The Commission also has access - direct and indirect - to information on the beneficial ownership of Jersey companies.

4 INTERNATIONAL CO-OPERATION AND INFORMATION EXCHANGE UNDER FINANCIAL SERVICES LEGISLATION (EXCEPT FOR INVESTIGATIONS INTO SUSPECTED INSIDER DEALING OR MARKET MANIPULATION)

4.1 Overview

4.1.1 Financial services legislation provides the Commission with a wide range of powers to license, supervise and enforce the regulatory regime in Jersey. Moreover, the Commission is able to exercise many of these powers at the request of, or for the purposes of assisting, overseas supervisory authorities.

4.1.2 Some of the key areas where the Commission is able to assist an overseas supervisory authority include:

4.1.2.1 Obtaining and providing information to an overseas supervisory authority in relation to applications from financial institutions for licensing in the overseas jurisdiction, or applications on behalf of principal persons (beneficial owners and senior managers of financial institutions);

4.1.2.2 Obtaining and providing information in response to enquiries relevant to the fitness and properness of overseas financial institutions or their senior management in Jersey;

4.1.2.3 Obtaining and providing information where it is suspected that a person is conducting financial business in an overseas jurisdiction without a licence; and

4.1.2.4 Assisting an overseas supervisory authority to undertake onsite examinations in Jersey of branches or subsidiaries of overseas companies.

4.2 The powers the Commission may exercise to assist an overseas supervisory authority

4.2.1 Financial services legislation permits the Commission to exercise the following powers in order to assist an overseas supervisory authority:

4.2.1.1 Power to refuse or revoke a prudentially supervised business' registration;

4.2.1.2 Power to impose, revoke or vary conditions of a prudentially supervised business' registration;

4.2.1.3 Power to apply to the Royal Court for an order making a prudentially supervised business subject to such supervision, restraint or conditions as the Royal Court may specify;

4.2.1.4 Power to obtain information and documents;

4.2.1.5 Power to appoint an inspector;

- 4.2.1.6 Power to apply to Jersey's Bailiff (Chief Judge) for a warrant to enter and search premises; and
- 4.2.1.7 Power to communicate information that is in the possession of the Commission (notwithstanding requirements on dealing with confidential and restricted information).

4.3 Conditions precedent

- 4.3.1 Financial services legislation requires certain conditions to be met before the Commission may assist an overseas supervisory authority. These are described below.
- 4.3.2 The Commission must be satisfied that the overseas supervisory authority is an authority discharging any function that is the same as, or similar to, a function of the Commission.
- 4.3.3 *The Commission interprets "similar function" to apply such that an authority matching the following cumulative criteria will be included in the definition:*
 - 4.3.3.1 *Its functions include the regulation of financial services;*
 - 4.3.3.2 *It is required, ordinarily by statute, to ascertain the fitness and properness of persons before they operate in a particular area of financial services; and*
 - 4.3.3.3 *It has the ability to take action against such persons (including removal of status) should they subsequently fall below required standards.*
- 4.3.4 Before exercising any of the powers described in 4.2 above the Commission must be satisfied that its use is to assist an overseas supervisory authority in the exercise of one or more of its supervisory functions.
- 4.3.5 Where a breach of legislation is suspected, whilst the Commission does not expect an overseas supervisory authority to demonstrate that an offence has been committed, in order for the Commission to give assistance, financial services legislation requires the Commission to receive information that shows there are reasonable grounds for suspecting that an offence has been committed.
- 4.3.6 In addition, where information in the possession of the Commission is to be disclosed to an overseas supervisory authority, the Commission must be satisfied that the authority will treat the information communicated with appropriate confidentiality and will comply with any conditions attached to the disclosure.
- 4.3.7 In deciding whether to exercise any of the powers described above, financial services legislation states that the Commission may take the following factors (among others) into account:
 - 4.3.7.1 Whether corresponding assistance would be given in that country or territory to the Commission;

- 4.3.7.2 Whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;
- 4.3.7.3 The seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means; and
- 4.3.7.4 Whether it is otherwise appropriate in the public interest to give the assistance.

4.4 Costs of assisting

- 4.4.1 Financial services legislation provides that the Commission may refuse to assist an overseas supervisory authority unless the authority undertakes to make such contribution towards the costs of the exercise of the relevant power as the Commission considers appropriate.
- 4.4.2 *Notwithstanding this legal provision, the Commission's policy is to assist an overseas supervisory authority without charging, unless the exercise of the relevant power would be likely to involve substantial cost to the Commission. Where a charge is considered necessary, the Commission will first of all discuss with the overseas supervisory authority what contribution towards the costs of the work would be appropriate.*

4.5 Making a request for assistance

- 4.5.1 Please make your request in writing, specifying the information you seek and why it is required. Your request should be in the English language. To assist overseas supervisory authorities a template request letter is shown in Appendix A.
- 4.5.2 Where breaches of legislation are suspected or the exercise of one of the powers described in 4.2.1.1 to 4.2.1.6 above is sought, please additionally specify the assistance you seek and why it is needed. In these types of cases, the Commission has often found that it is helpful for an overseas supervisory authority to initially discuss the request orally with the Commission so that guidance can be given on how best to structure the formal written request, in due course.
- 4.5.3 As referred to in 4.3.6, the Commission must be satisfied that an overseas supervisory authority will treat any information disclosed to it with appropriate confidentiality. In this regard, please include in your letter a summary of the confidentiality provisions that will apply in your jurisdiction to any information that the Commission provides you with. (A briefing note on the information confidentiality provisions applying to information disclosed to the Commission by an overseas supervisory authority can be found in Appendix B.)

4.5.4 Please send your request to:

Mr Barry Faudemer
Director - Enforcement
Jersey Financial Services Commission
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822137
Facsimile: +44 (0) 1534 822001
Email: b.faudemer@jerseyfsc.org

4.6 Relevant legislation

- Article 47 of the Banking Business (Jersey) Law 1991.
- Article 25 of the Collective Investment Funds (Jersey) Law 1988.
- Article 36 of the Financial Services (Jersey) Law 1998.
- Article 33 of the Insurance Business (Jersey) Law 1996.

5 INTERNATIONAL CO-OPERATION AND INFORMATION EXCHANGE UNDER AML/CFT OVERSIGHT LEGISLATION

5.1 Overview

- 5.1.1 The Commission is responsible for registering and overseeing those businesses that are subject to AML/CFT legislation and associated regulatory requirements. This involves overseeing prudentially supervised businesses for AML/CFT compliance and others such as lawyers, accountants, estate agents and high value goods dealers. (For a full list of businesses that are overseen, see Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 – available from www.jerseylaw.je.)
- 5.1.2 The legal basis for this oversight is contained in the Supervisory Bodies Law. To enable the Commission to carry out effective oversight the Supervisory Bodies Law provides the Commission with similar statutory powers to those contained in financial services legislation.
- 5.1.3 The Commission is able to exercise many of these powers at the request of, or for the purposes of assisting, overseas supervisory authorities.
- 5.1.4 Some of the key areas where the Commission is able to assist an overseas supervisory authority include:
 - 5.1.4.1 Obtaining and providing information to an overseas supervisory authority in relation to new applications for licensing/registering by entities under AML/CFT oversight legislation in the overseas jurisdiction;
 - 5.1.4.2 Obtaining and providing information in response to enquiries relevant to the fitness and properness of certain categories of person overseen by the Commission pursuant to the Supervisory Bodies Law;
 - 5.1.4.3 Obtaining and providing information where it is suspected that a person is conducting a business in an overseas jurisdiction without the necessary licence or registration under AML/CFT oversight legislation; and
 - 5.1.4.4 Assisting an overseas supervisory authority to undertake onsite examinations of branches or subsidiaries of overseas companies.

5.2 The powers the Commission may exercise to assist an overseas supervisory authority

- 5.2.1 The Supervisory Bodies Law permits the Commission to exercise the following powers in order to assist an overseas supervisory authority:
 - 5.2.1.1 Power to refuse or revoke a business' registration;
 - 5.2.1.2 Power to impose, revoke or vary conditions of a business' registration;

- 5.2.1.3 Power to apply to the Royal Court for an order making a business subject to such supervision, restraint or conditions as the Royal Court may specify;
- 5.2.1.4 Power to obtain information and documents;
- 5.2.1.5 Power to appoint an inspector;
- 5.2.1.6 Power to apply to Jersey's Bailiff (Chief Judge) for a warrant to enter and search premises; and
- 5.2.1.7 Power to communicate information that is in the possession of the Commission (notwithstanding requirements on dealing with confidential and restricted information).

5.3 Conditions precedent

- 5.3.1 The Supervisory Bodies Law requires certain conditions to be met before the Commission may assist an overseas supervisory authority. These are described below.
- 5.3.2 The Commission must be satisfied that the overseas supervisory authority is an authority discharging any function that is the same as, or similar to, a function of the Commission.
- 5.3.3 *The Commission interprets "similar function" to apply such that an authority matching the following cumulative criteria will be included in the definition:*
 - 5.3.3.1 *Its functions include those related to the regulation of financial services and/or supervision of designated non-financial businesses and professions (as defined by the Financial Action Task Force);*
 - 5.3.3.2 *It is required, ordinarily by statute, to ascertain the fitness and properness of persons or register persons before they operate in a particular area of financial services or operate a designated non-financial business or profession; and*
 - 5.3.3.3 *It has the ability to take action against such persons (including the removal of status) should they subsequently fall below required standards.*
- 5.3.4 Before exercising any of the powers described in 5.2 above, the Commission must be satisfied that its use is to assist the overseas supervisory authority in the exercise of one or more of its supervisory functions.
- 5.3.5 Where a breach of legislation is suspected, whilst the Commission does not expect an overseas supervisory authority to demonstrate that an offence has been committed, in order for the Commission to give assistance, the Supervisory Bodies Law requires the Commission to receive information that shows there are reasonable grounds for suspecting that an offence has been committed.
- 5.3.6 In addition, where information in the possession of the Commission is to be disclosed to an overseas supervisory authority, the Commission must be satisfied

that the authority will treat the information communicated with appropriate confidentiality and comply with any conditions attached to the disclosure.

5.3.7 In deciding whether to exercise any of the powers described above, the Supervisory Bodies Law states that the Commission may take the following factors (among others) into account:

5.3.7.1 Whether corresponding assistance would be given in that country or territory to the Commission;

5.3.7.2 Whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;

5.3.7.3 The seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means; and

5.3.7.4 Whether it is otherwise appropriate in the public interest to give the assistance.

5.4 Costs of assisting

5.4.1 The Supervisory Bodies Law provides that the Commission may refuse to assist an overseas supervisory authority unless the authority undertakes to make such contribution towards the costs of the exercise of the relevant power as the Commission considers appropriate.

5.4.2 *Notwithstanding this legal provision, the Commission's policy is to assist an overseas supervisory authority without charging, unless the exercise of the relevant power would be likely to involve substantial cost to the Commission. Where a charge is considered necessary, the Commission will first of all discuss with the overseas supervisory authority what contribution towards the costs of the work would be appropriate.*

5.5 Making a request for assistance

5.5.1 Please make your request in writing, specifying the information you seek and why it is required. Your request should be in the English language. To assist overseas supervisory authorities a template request letter is shown in Appendix A.

5.5.2 Where breaches of legislation are suspected or the exercise of one of the powers described in 5.2.1.1 to 5.2.1.6 above is sought, please additionally specify the assistance you seek and why it is needed. In these types of cases, the Commission has often found that it is helpful for an overseas supervisory authority to initially discuss the request orally with the Commission so that guidance can be given on how best to structure the formal written request, in due course.

5.5.3 As referred to in 5.3.6, the Commission must be satisfied that an overseas supervisory authority will treat any information disclosed to it with appropriate confidentiality. In this regard, please include in your letter a summary of the confidentiality provisions that will apply in your jurisdiction to any information

that the Commission provides you with. (A briefing note on the information confidentiality provisions applying to information disclosed to the Commission by an overseas supervisory authority can be found in Appendix B.)

5.5.4 Please send your request to:

Mr Barry Faudemer
Director - Enforcement
Jersey Financial Services Commission
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822137
Facsimile: +44 (0) 1534 822001
Email: b.faudemer@jerseyfsc.org

5.6 Relevant legislation

- Article 39 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

6 INFORMATION EXCHANGE UNDER NON-PROFIT ORGANIZATION OVERSIGHT LEGISLATION

6.1 Overview

6.1.1 The NPO Law requires certain non-profit organizations to register with the Commission. The Commission is given, inter alia, an obligation under the NPO Law to help to determine if an NPO is assisting or being used to assist terrorism. Where it suspects that an NPO is assisting or being used to assist terrorism, the Commission must immediately inform Jersey's Attorney General.

6.1.2 The NPO Law requires NPOs to provide the Commission with certain information to enable the Commission to assess the extent (if any) to which the NPO is assisting or being used to assist terrorism or is likely to assist or be used to assist terrorism.

6.2 The passing of information on an NPO to a body outside Jersey

6.2.1 The NPO Law allows the Commission to supply to a body outside Jersey that exercises functions that are similar to the functions that the Commission has under the NPO Law non-public information that the Commission holds in relation to an NPO.

6.2.2 Note that the Commission's functions are limited to assisting in the countering of terrorism. The Commission does not have wider oversight responsibilities and does not fulfil the role of a charity commission.

6.3 Conditions precedent

6.3.1 Before passing information to a body outside Jersey, the NPO Law requires the Commission to be satisfied that the information is to be used by the body solely in the exercise of its functions that are similar to the functions that the Commission exercises under the NPO Law.

6.3.2 *The Commission interprets "similar function" to apply such that a body matching the following cumulative criteria will be included in the definition:*

6.3.2.1 *Its functions include those related to the area of NPOs;*

6.3.2.2 *It is required, ordinarily by statute, to register NPOs (with or without an assessment of fitness and properness); and*

6.3.2.3 *It has the ability to take action, or to recommend that another body takes action, against NPOs and connected persons should they subsequently fall below required standards.*

6.3.3 *The Commission will wish to be satisfied that the overseas body will treat any information to be disclosed with appropriate confidentiality and comply with any conditions attached to the disclosure.*

6.3.4 *In deciding whether to exercise any of the powers described above, the Commission may take the following factors (among others) into account:*

6.3.4.1 *Whether corresponding assistance would be given in that country or territory to the Commission;*

6.3.4.2 *Whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;*

6.3.4.3 *The seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means; and*

6.3.4.4 *Whether it is otherwise appropriate in the public interest to give the assistance.*

6.4 Costs of assisting

6.4.1 *The Commission's policy is to assist overseas bodies without charging, unless the exercise would be likely to involve substantial cost to the Commission. Where a charge is considered necessary, the Commission will first of all discuss with the overseas body what contribution towards the costs of the work would be appropriate.*

6.5 Making a request for information

6.5.1 For enquiries relating to NPOs overseen by the Commission under the NPO Law please make your request in writing, specifying the information you seek and why it is required. Your request should be in the English language. To assist overseas supervisory authorities a template request letter is shown in Appendix A.

6.5.2 Please include in your letter a summary of the confidentiality provisions that will apply in your jurisdiction to any information that the Commission discloses to you. (A briefing note on the information confidentiality provisions applying to information disclosed to the Commission by an overseas supervisory authority can be found in Appendix B.)

6.5.3 The Commission has often found that it is helpful for an overseas body to initially discuss the request orally with the Commission so that guidance can be given on how best to structure the formal written request, in due course.

6.5.4 Please send your request to:

Mr Barry Faudemer
Director - Enforcement
Jersey Financial Services Commission
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822137
Facsimile: +44 (0) 1534 822001
Email: b.faudemer@jerseyfsc.org

6.6 Relevant legislation

- Article 19 of the Non-Profit Organizations (Jersey) Law 2008.

7 INVESTIGATIONS INTO SUSPECTED INSIDER DEALING OR MARKET MANIPULATION

7.1 Overview

- 7.1.1 The Financial Services Law provides the Commission with powers to investigate suspected cases of insider dealing or market manipulation.
- 7.1.2 The Commission may also use these powers to assist an overseas supervisory authority where it is investigating a suspected case of insider dealing or market manipulation with a Jersey connection.
- 7.1.3 Two of the key areas where the Commission is able to assist an overseas supervisory authority are:
 - 7.1.3.1 Obtaining and providing information to ascertain if the profits from a case of suspected insider dealing or market manipulation have been credited to a Jersey bank account; and
 - 7.1.3.2 Obtaining and providing information from an investment dealer relating to the sale or purchase of the relevant securities.

7.2 The powers the Commission may exercise to assist an overseas supervisory authority

- 7.2.1 The particular powers that the Financial Services Law provides for the Commission to exercise in order to assist an overseas supervisory authority in the investigation of a suspected case of insider dealing or market manipulation are:
 - 7.2.1.1 Power to obtain information and documents;
 - 7.2.1.2 Power to appoint an inspector;
 - 7.2.1.3 Power to apply to Jersey's Bailiff (Chief Judge) for a warrant to enter and search premises; and
 - 7.2.1.4 Power to communicate information that is in the possession of the Commission (notwithstanding confidentiality provisions).

7.3 Conditions precedent

- 7.3.1 The Financial Services Law requires certain conditions to be met before the Commission may assist an overseas supervisory authority where it is investigating a suspected case of insider dealing or market manipulation with a Jersey connection. These are described below.
- 7.3.2 The Commission must be satisfied that the overseas supervisory authority is an authority discharging any function that is the same as, or similar to, a function of the Commission. See 4.3.3 above.
- 7.3.3 Before exercising any of the powers described in 7.2 above, the Commission must be satisfied that their use is to assist the overseas supervisory authority in the exercise of one or more of its supervisory functions.

- 7.3.4 Whilst the Commission does not expect an overseas supervisory authority to demonstrate that an insider dealing or market manipulation offence has been committed, in order for the Commission to give assistance, the Financial Services Law requires the Commission to receive information that shows there are reasonable grounds for suspecting that an offence has been committed.
- 7.3.5 In addition, where information in the possession of the Commission is to be disclosed to an overseas supervisory authority, the Commission must be satisfied that the overseas supervisory authority will treat the information communicated with appropriate confidentiality and comply with any conditions attached to the disclosure.
- 7.3.6 In deciding whether to exercise any of the powers described above, the Financial Services Law states that the Commission may take the following factors (among others) into account:
- 7.3.6.1 Whether corresponding assistance would be given in that country or territory to the Commission;
 - 7.3.6.2 Whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;
 - 7.3.6.3 The seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means; and
 - 7.3.6.4 Whether it is otherwise appropriate in the public interest to give the assistance.

7.4 Costs of assisting

- 7.4.1 The Financial Services Law provides that the Commission may refuse to assist an overseas supervisory authority unless the authority undertakes to make such contribution towards the costs of the exercise of the relevant power as the Commission considers appropriate.
- 7.4.2 *Notwithstanding this legal provision, the Commission's policy is to assist an overseas supervisory authority without charging, unless the exercise of the relevant power would be likely to involve substantial cost to the Commission. Where a charge is considered necessary, the Commission will first of all discuss with the overseas supervisory authority what contribution towards the costs of the work would be appropriate.*

7.5 Making a request for assistance

- 7.5.1 Please make your request in writing, specifying the assistance you seek and why it is needed. Your request should be in the English language. To assist overseas supervisory authorities a template request letter is shown in Appendix A.
- 7.5.2 As referred to in 7.3.5, the Commission must be satisfied that an overseas supervisory authority will treat any information communicated with appropriate confidentiality. In this regard, please include in your letter a summary of the

confidentiality provisions that will apply in your jurisdiction to any information that the Commission provides you with. (A briefing note on the information confidentiality provisions applying to information disclosed to the Commission by an overseas supervisory authority can be found in Appendix B.)

7.5.3 The Commission has often found that it is helpful for an overseas supervisory authority to initially discuss the request orally with the Commission so that guidance can be given on how best to structure the formal written request, in due course.

7.5.4 Please send your request to:

Mr Barry Faudemer
Director - Enforcement
Jersey Financial Services Commission
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822137
Facsimile: +44 (0) 1534 822001
Email: b.faudemer@jerseyfsc.org

7.6 Relevant legislation

- Article 36 of the Financial Services (Jersey) Law 1998.

8 INVESTIGATIONS INTO THE AFFAIRS OF A JERSEY COMPANY

8.1 Overview

8.1.1 The Companies Law provides the Commission, on the application of the Jersey Registrar of Companies¹, with the power to appoint an inspector to investigate the affairs of a company and to report on them to the Commission. Whilst the Companies Law does not restrict the scope of an inspection into the affairs of a company, a key area where such an inspection may assist an overseas supervisory authority is to examine whether the actions of the directors of a company were unlawful, constitute misconduct (whether fraudulent or not), or otherwise prejudiced shareholders.

8.1.2 The Commission also has access - direct and indirect - to information on the beneficial ownership of Jersey companies. A request for information on the ownership of a Jersey company should be submitted in line with 4.5 above.

8.2 The powers of an inspector appointed by the Commission

8.2.1 An inspector appointed by the Commission has wide powers that include:

8.2.1.1 Power to obtain information and documents;

8.2.1.2 Power to examine a person on oath;

8.2.1.3 Power to call for the records of a director's bank account, in cases of suspected misconduct; and

8.2.1.4 Power to apply to Jersey's Bailiff (Chief Judge) for a warrant to enter and search premises.

8.3 Conditions precedent

8.3.1 *Before appointing an inspector under the Companies Law, on the application of the Jersey Registrar of Companies, the Commission will wish to be satisfied that there is a proper basis for the appointment and that the appointment will assist the overseas supervisory authority in the exercise of one or more of its supervisory functions.*

8.3.2 *Whilst the Commission does not expect the Jersey Registrar of Companies or overseas supervisory authority to demonstrate that misconduct, an unlawful act, etc. has been committed, in order for the Commission to appoint an inspector, the Commission will wish to receive information that shows there are reasonable grounds for suspecting misconduct, an unlawful act, etc. has occurred.*

8.3.3 In order to share an inspector's report with an overseas supervisory authority, the Companies Law requires the Commission to satisfy itself that the overseas supervisory authority is an authority discharging supervisory functions corresponding to those of the Commission in respect of bodies corporate.

¹ The Jersey Registrar of Companies is the Director General of the Commission.

- 8.3.4 *In addition, the Commission will wish to be satisfied that the authority will treat any information disclosed with appropriate confidentiality and comply with any conditions attached to the disclosure.*
- 8.3.5 *In deciding whether to appoint an inspector on the application of the Jersey Registrar of Companies, the Commission may take the following factors (among others) into account:*
- 8.3.5.1 *Whether corresponding assistance would be given by the overseas supervisory authority to the Commission;*
- 8.3.5.2 *Whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;*
- 8.3.5.3 *The seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means; and*
- 8.3.5.4 *Whether it is otherwise appropriate in the public interest to give the assistance.*

8.4 Costs of assisting

- 8.4.1 *The Commission's policy is to assist an overseas supervisory authority without charging, unless the exercise of the relevant power would be likely to involve substantial cost to the Commission. Where a charge is considered necessary, the Commission will first of all discuss with the overseas supervisory authority what contribution towards the costs of the work would be appropriate.*

8.5 Making a request for assistance

- 8.5.1 Please make your request in writing, specifying the assistance you seek and why it is needed. Your request should be in the English language.
- 8.5.2 The Commission has often found that it is helpful for an overseas supervisory authority to initially discuss the request orally with the Commission so that guidance can be given on how best to structure the formal written request, in due course.
- 8.5.3 Please send your request to:

Mr Barry Faudemer
Director - Enforcement
Jersey Financial Services Commission
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822137
Facsimile: +44 (0) 1534 822001
Email: b.faudemer@jerseyfsc.org

8.6 Relevant legislation

- Part 19 of the Companies (Jersey) Law 1991.

APPENDIX A

TEMPLATE REQUEST LETTER
TO BE USED BY AN OVERSEAS SUPERVISORY AUTHORITY
WHEN SEEKING INFORMATION

APPENDIX A

TEMPLATE REQUEST LETTER TO BE USED BY AN OVERSEAS SUPERVISORY AUTHORITY WHEN SEEKING INFORMATION

[Addressee]
Jersey Financial Services Commission
PO Box 267
14-18 Castle Street
St Helier
Jersey
Channel Islands
British Isles
JE4 8TP

Re: [Name of person or entity to which the information request relates]

1. Introduction

[This section should include:

- a summary of the information sought;
- the name of the person or entity that is believed to hold the information;
- whether the information request is being made pursuant to a memorandum of understanding;
- the timescale in which the information is sought.]

2. Background to the request for information

[This section should include:

- a detailed description of the background (e.g. the trading activity) that has led to the need for the information;
- if the information is sought in connection with suspected unlawful action, a description of the law that is suspected to have been breached and a note of the maximum penalty that can be imposed in respect of such a breach.]

3. Purpose for which the information is sought

[This section should describe the purpose for which the information is sought. For example, the information may be sought to confirm that a certain person has benefitted from the proceeds of insider dealing.]

4. Information requested

[This section should set out in very specific detail the information that is requested. For example:

- the name and address of the person whom, or entity which, is believed to hold the information that is sought;
- where copy bank statements are requested, the name of the account holder, the account numbers (where known) and the time period which the statements should cover;
- what copy documentation is sought (e.g. “copies of all credit slips in the period X to Y”, “all documentation confirming the identity of the beneficial owner of the account”]

5. Confirmations

[In this section the requesting authority should confirm that:

- any information disclosed to it by the Commission will only be used by the requesting authority in the discharge of its supervisory functions;
- it will treat any information disclosed as confidential and make no voluntary onward disclosure of the information without the consent of the Commission;
- it will comply with any conditions attached by the Commission to the disclosure of the information;
- the Commission’s consent will be sought in good time before the voluntary onward disclosure of the information provided to the requesting authority by the Commission;
- wherever practicable, the Commission will be notified in good time by the requesting authority of the possibility of the onward disclosure of the information by virtue of a legal obligation, and the requesting authority will, if requested by the Commission, assert such appropriate legal exemptions or privileges with respect to the information as may be available;
- where the circumstances are such that it is not practicable for the requesting authority to notify the Commission of the possibility of the onward disclosure of the information by virtue of a legal obligation, the requesting authority will assume that the Commission would wish it to assert such appropriate legal exemptions or privileges with respect to the information as may be available.]

6. Information confidentiality

[This section should summarise the information confidentiality provisions that will apply in the jurisdiction of the requesting authority to any information that the Commission discloses to it.

By way of example, see Appendix B in this handbook for a briefing note on the information confidentiality provisions applying to information disclosed to the Commission by an overseas supervisory authority.

This section 6 will not be required where the requesting authority has previously supplied such a summary to the Commission and there has not subsequently been any material change to the information therein.]

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APPENDIX B

CONFIDENTIALITY PROVISIONS APPLYING TO INFORMATION DISCLOSED TO
THE COMMISSION BY AN OVERSEAS SUPERVISORY AUTHORITY

APPENDIX B

CONFIDENTIALITY PROVISIONS APPLYING TO INFORMATION DISCLOSED TO THE COMMISSION BY AN OVERSEAS SUPERVISORY AUTHORITY

Introduction

This is a briefing note on the information confidentiality provisions that apply to information disclosed by an overseas supervisory authority to the Commission. Information received by the Commission under or for the purposes of its regulatory laws is “**restricted information**”.

The laws that govern how the Commission must treat restricted information can be split into four categories as set out below. A copy of all of the legislation referred to may be obtained from the website of the Jersey Legal Information Board (www.jerseylaw.je).

Category 1: Financial services legislation

Under this legislation the Commission prudentially supervises businesses that carry on specified types of financial services business. There are four pieces of legislation:

- Banking Business (Jersey) Law 1991
- Collective Investment Funds (Jersey) Law 1988
- Financial Services (Jersey) Law 1998
- Insurance Business (Jersey) Law 1996

The Financial Services (Jersey) Law 1998 also provides the Commission with the power to investigate suspected cases of insider dealing and market manipulation.

Category 2: AML/CFT oversight legislation

Under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 the Commission oversees businesses for their compliance with anti-money laundering/countering the financing of terrorism legislation and related regulatory requirements.

Category 3: Oversight of non-profit organizations legislation

Under the Non-Profit Organizations (Jersey) Law 2008 the Commission has an obligation to help determine if a non-profit organization is assisting or being used to assist terrorism.

Category 4: Companies legislation

Under the Companies (Jersey) Law 1991 the Commission has the power to appoint an inspector to investigate and report upon the affairs of a Jersey company.

Provisions applying to information disclosed by an overseas supervisory authority to the Commission

This part summarises how Jersey law protects information received by the Commission from an overseas supervisory authority. In summary, the Commission may only disclose restricted information received from an overseas supervisory authority where the Commission has a statutory information gateway that it may use or it is legally obliged to disclose the information, as further described below.

Statutory information gateways

The provisions dealing with information received by the Commission (“**restricted information**”) and the mechanisms by which it may be disclosed (“**information gateways**”) under each of the four categories of legislation set out in the introduction to this briefing note differ slightly, so each category is described separately below. The information gateways that are summarised allow, but do not require, the Commission to share information.

Where the Commission receives information from an overseas supervisory authority that has been provided with restrictions on its use, then, subject to any legal obligation to provide information that may apply, the Commission will respect such restrictions. However, were the Commission to resolve to voluntarily disclose such information without the consent of the relevant overseas supervisory authority, the Royal Court might, on the application of that authority, prevent such disclosure by way of injunction.

Legal obligation to provide information

Under Jersey law the Commission is legally obliged to make disclosures in the circumstances set out in the Annex.

Where the Commission receives a legally enforceable demand for information, e.g. it is served with a court order (see paragraph 1 in the Annex), but the information sought had been provided to the Commission on the condition that the Commission will not disclose the information without the consent of the overseas supervisory authority, then the Commission can apply to the Royal Court to impose a duty of confidence on the Commission. In such a case, it is possible that the Royal Court may decide to override such a condition and order the Commission to disclose where the interests of justice require it.

Circumstances can also arise where the Commission is legally obliged to spontaneously disclose information that it receives from an overseas supervisory authority, despite the fact that the information was provided on the condition that the Commission not disclose it. The most likely instance would be where the information received by the Commission indicates that a person has been engaged in money laundering or terrorist financing. In such cases, the Commission would be required to report the matter to Jersey’s financial intelligence unit (part of the States of Jersey Police). Further information can be found in paragraphs 4 and 5 in the Annex.

Data protection legislation

The Commission is also bound by the Data Protection (Jersey) Law 2005, which protects personal data (i.e. data about living individuals) and governs the Commission's ability to disclose personal data in Jersey and overseas.

Generally speaking, where the Commission is satisfied that it can disclose restricted information under a law in one of the four categories of legislation covered above, the disclosure will also be permissible under the Data Protection (Jersey) Law 2005.

Category 1: Financial services legislation

Financial services legislation broadly makes any disclosure by the Commission of information received under, or for the purposes of, financial services legislation a criminal offence, including information supplied to the Commission by an overseas supervisory authority for the purposes of the Commission's functions, except in the following circumstances:

- Where the person from whom the information was obtained, and (if different) the person to whom it relates, consents;
- Where the information is already available to the public from other sources;
- Where the information is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person;
- Where the information shows whether a person is registered, holds a permit or certificate -this includes the disclosure of any conditions which are attached to a registration, permit or certificate;
- Where the Commission has a gateway through which to disclose information (see below)²; and
- Where the Commission is obligated to disclose information by law (see the Annex).

INFORMATION GATEWAYS UNDER FINANCIAL SERVICES LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
Viscount (executive officer of the Royal Court).	No restriction.
Comptroller and Auditor General (examines how public bodies spend money and looks at how best they can achieve value for money).	For the purpose of enabling or assisting the carrying out of any of the Comptroller and Auditor General's functions in relation to the Commission.
Any person exercising a statutory function.	For the purpose of enabling or assisting that person to exercise their statutory functions in relation to any person or class of person in respect of whom the Commission has statutory functions.
Any person.	1) For the purpose of enabling or assisting any of the following - (i) the Commission or any person acting on its behalf; (ii) a person appointed under an enactment by any of the following - (a) the Commission; (b) the Royal Court, on the application of the Commission;

² Note that certain of the gateways require the Commission to be satisfied, before disclosing any information, that the recipient complies with, or will comply with, any conditions to which the Commission may, in its discretion, subject the disclosure of the information.

INFORMATION GATEWAYS UNDER FINANCIAL SERVICES LEGISLATION

Gateway to:	Circumstances in which the gateway may be used:
	<p>(c) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,</p> <p>to discharge the Commission's functions or that person's functions under financial services legislation or under any other enactment.</p> <p>2) To show whether or not any person is registered under financial services legislation including any conditions which are attached to the registration.</p> <p>3) With a view to the investigation of a suspected offence, or institution of, or otherwise for the purposes of, any criminal proceedings in Jersey or elsewhere.</p> <p>4) In connection with any proceedings arising out of financial services legislation.</p>
An overseas supervisory authority.	To assist in the exercise of one or more of its supervisory functions.
The public.	<p>The name of -</p> <p>(i) a director of a company that carries on investment business and is registered under the Financial Services (Jersey) Law 1998;</p> <p>(ii) a director of a company that is a partner in a partnership that carries on investment business and is registered under the Financial Services (Jersey) Law 1998;</p> <p>(iii) a person employed as a dealer, discretionary investment manager, adviser or supervisor by a person that carries on investment business and is registered under the Financial Services (Jersey) Law 1998.</p>
Attorney General (Chief Prosecutor) or police officer (in respect of information that is collected under financial services legislation or otherwise in the possession of the Commission for certain uses under financial services legislation).	Any information disclosed by the Commission may only be subsequently disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence or a prosecution in Jersey or, at the discretion of the Attorney General, elsewhere.
Any person or body responsible for a compensation scheme in relation to one or more financial services.	Where it appears to the Commission that disclosing the information would enable or assist the recipient of the information or the Commission to discharge its functions, but any such disclosure may only be made if the recipient has given to the

INFORMATION GATEWAYS UNDER FINANCIAL SERVICES LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
	Commission a written undertaking that the information will not be further disclosed without the prior consent of the Commission.
Auditor of – (i) a registered person; (ii) a formerly registered person; or (iii) a person who appears to the Commission to be carrying on, or has carried on, unauthorised business.	Where it appears to the Commission that disclosing the information would be in the interests of customers or potential customers of the person.
An international body or organization whose functions include the assessment of Jersey’s compliance with international standards of financial regulation.	For the purpose of enabling or assisting the body or organization to discharge its assessment function.
Professional body responsible for setting standards and disciplining persons who fail to meet those standards (e.g. professional accounting bodies and law societies).	To enable or assist the body to discharge its functions in relation to a person who fails, or is alleged to have failed, to meet the body’s set standards.

Category 2: AML/CFT oversight legislation

The Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 broadly makes any disclosure by the Commission of information received under, or for the purposes of, this law a criminal offence, including information supplied to the Commission by an overseas supervisory authority for the purposes of the Commission's functions, except in the following circumstances:

- Where the person from whom the information was obtained, and (if different) the person to whom it relates, consents;
- Where the information is already available to the public from other sources;
- Where the information is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person;
- Where the information shows whether a person is registered under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, including any conditions attached to a registration;
- Where the Commission has a gateway through which to disclose information (see below)³; and
- Where the Commission is obligated to disclose information by law (see the Annex).

INFORMATION GATEWAYS UNDER AML/CFT OVERSIGHT LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
Viscount (executive officer of the Royal Court).	No restriction.
Any person.	<p>For the purpose of enabling or assisting the Commission (and any other supervisory body designated under this law⁴) to discharge its functions under this law or similar functions under any other enactment.</p> <p>To show whether or not any person is registered under this law including any conditions which are attached to the registration.</p> <p>With a view to the investigation of a suspected offence, or for the purposes of, any criminal proceedings in Jersey or elsewhere.</p> <p>In connection with any proceedings arising out of this law.</p>
An overseas supervisory authority.	To assist in the exercise of one or more of its supervisory functions.

³ Note that certain of the gateways require the Commission to be satisfied, before disclosing any information, that the recipient complies with, or will comply with, any conditions to which the Commission may, in its discretion, subject the disclosure of the information.

⁴ No body other than the Commission is currently designated a supervisory body.

INFORMATION GATEWAYS UNDER AML/CFT OVERSIGHT LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
Professional bodies (e.g. professional accounting bodies and law societies).	With a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of his professional duties by an auditor of a registered person or formerly registered person or an auditor, accountant or other person nominated or approved for the purposes of a report commissioned under this law.
Attorney General (Chief Prosecutor) or police officer (in respect of information that is collected under this law or otherwise in the possession of the Commission for certain uses under this law) .	Any information disclosed by the Commission may only be subsequently disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence or a prosecution in Jersey or, at the discretion of the Attorney General, elsewhere.
Auditor of - (i) a registered person; (ii) a formerly registered person; or (iii) a person who appears to the Commission to be carrying on, or has carried on, unauthorised business.	Where it appears to the Commission that disclosing the information would enable or assist the Commission (and any other supervisory body designated under this law ⁵) to discharge its functions under this law or the disclosure would be in the interests of customers or potential customers of the person.
Any qualified person on any matter requiring the exercise of professional skill.	To enable the Commission (and any other supervisory body designated under this law ⁶) to properly discharge any of its functions under this law, where disclosure is necessary to ensure that the qualified person concerned is properly informed with respect to the matters on which advice is sought.
An investigator appointed under this law, insider dealing legislation or Jersey Companies Law.	No restriction.

⁵ As footnote 3 .

⁶ As footnote 3 .

Category 3: Oversight of non-profit organizations legislation

The Non-Profit Organizations (Jersey) Law 2008 provides the Commission with gateways to enable it to pass restricted information that has come into the Commission's possession as a result of it carrying out its obligations under this law.

This law also enables the Commission to publish information in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.

Jersey customary law would also enable the Commission to disclose restricted information where the person from whom the information was obtained, and (if different) the person to whom it relates, consents.

There are also circumstances in which the Commission is obligated to disclose restricted information by law (see the Annex).

INFORMATION GATEWAYS UNDER NPO OVERSIGHT LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
Minister for Economic Development in Jersey.	No restriction, but this law provides that the Commission may, in particular use the gateway, if it is satisfied that the information is required – <ul style="list-style-type: none"> (i) to investigate a suspected offence in or outwith Jersey; (ii) to institute criminal proceedings in or outwith Jersey; or (iii) in respect of any proceedings arising under this law.
Attorney General (Chief Prosecutor).	No restriction, but this law provides that the Commission may, in particular use the gateway, if it is satisfied that the information is required – <ul style="list-style-type: none"> (i) to investigate a suspected offence in or outwith Jersey; (ii) to institute criminal proceedings in or outwith Jersey; or (iii) in respect of any proceedings arising under this law.
An overseas supervisory authority.	No restriction other than the Commission must be satisfied that the information is to be used by the body solely in the exercise of its functions that are similar to the functions that the Commission may exercise under this law.

INFORMATION GATEWAYS UNDER NPO OVERSIGHT LEGISLATION

Gateway to:	Circumstances in which the gateway may be used:
An international body whose functions include the assessment of Jersey's compliance with international standards.	For the purpose of enabling the body to discharge its assessment function.

Category 4: Companies legislation

The Companies (Jersey) Law 1991 provides the Commission with a gateway (see below) to enable it to pass on a report - which may contain restricted information - that has been produced by an inspector appointed under this law by the Commission.

Jersey customary law would also enable the Commission to disclose restricted information where the person from whom the information was obtained, and (if different) the person to whom it relates, consents.

There are also circumstances in which the Commission is obligated to disclose restricted information by law (see the Annex).

GATEWAY UNDER COMPANIES LEGISLATION	
Gateway to:	Circumstances in which the gateway may be used:
<ul style="list-style-type: none"> (i) Any member of the company or other body corporate which is the subject of the inspector's report; (ii) Any person whose conduct is referred to in the Inspector's report; (iii) The auditors of the company or that body corporate; (iv) The applicants for the investigation; (v) An overseas supervisory authority; (vi) Any person whose financial interests appear to the Commission to be affected by the matters dealt with in the report, whether as a creditor of the company or as a body corporate, or otherwise. 	<p>The passing of a report which has been produced by an Inspector appointed by the Commission to investigate the affairs of a company incorporated under the provisions of this law.</p>

ANNEX

Obligation to disclose restricted information

Under Jersey law the Commission is legally obliged to make disclosures in the following circumstances:

1. Where Jersey's Attorney General (Chief Prosecutor), Bailiff (Chief Judge) or Royal Court (as the case may be) uses powers granted under statute to compel the Commission to produce information with a view to the investigation of a suspected offence, or institution of, or otherwise for the purposes of, any criminal proceedings to which the Commission is not a party, e.g. under the Investigation of Fraud (Jersey) Law 1991, the Evidence (Proceedings in other Jurisdictions) (Jersey) Order 1983, the Criminal Justice (International Co-operation) (Jersey) Law 2001, the Drug Trafficking Offences (Jersey) Law 1988, the Proceeds of Crime (Jersey) Law 1999, the Terrorism (Jersey) Law 2002.
2. Where Jersey's Chief Minister uses powers granted under the Terrorist Asset-Freezing (Jersey) Law 2011 to compel the Commission to furnish information which the Chief Minister may require for the purpose of securing compliance with, or detecting evasion of, that Order or similar legislation in the United Kingdom, the Isle of Man and certain other territories.
3. Where Jersey's Attorney General, Chief Minister or Agent of the Impôts (as the case may be) uses powers granted under the Al-Qa'ida and Taliban (United Nations Measures) (Channel Islands) Order 2002 to compel the Commission to furnish information which they may require for the purpose of securing compliance with, or detecting evasion of, that Order.
4. Where it is of the opinion that the information indicates that any person has or may have been engaged in money laundering or terrorist financing (Article 23 of the Money Laundering (Jersey) Order 2008).
5. Where it believes or suspects that another person has committed an offence under Articles 15 to 18 of the Terrorism (Jersey) Law 2002 (Article 20 of the Terrorism (Jersey) Law 2002) or knows or suspects that another person is engaged in money laundering (Article 34A of the Proceeds of Crime (Jersey) Law 1999).
6. Where an individual requests to be informed of any personal data held by the Commission on that individual (Article 7 of the Data Protection (Jersey) Law 2005), except (inter alia) to the extent that disclosure of data would be likely to prejudice the proper discharge of the Commission's functions (Article 31 of the Data Protection (Jersey) Law 2005) or the data are processed for the prevention, detection or investigation anywhere of crime (Article 29 of the Data Protection (Jersey) Law 2005).

APPENDIX C

ASSISTANCE THAT MAY BE AVAILABLE TO
OVERSEAS SUPERVISORY AUTHORITIES
FROM OTHER JERSEY AGENCIES

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ASSISTANCE THAT MAY BE AVAILABLE TO OVERSEAS SUPERVISORY AUTHORITIES FROM OTHER JERSEY AGENCIES

This appendix summarises the main types of assistance that may be available from other agencies in Jersey in connection with money laundering, the financing of terrorism and other financial crimes.

The contact details for the two agencies mentioned in this appendix are as follows:

Joint Financial Crimes Unit of the States of Jersey Police and States of Jersey Customs and Immigration Service

Joint Financial Crimes Unit (JFCU)
States of Jersey Police
PO Box 789
Rouge Bouillon
St Helier
Jersey
JE4 8ZD

Telephone: +44 (0) 1534 612250
Facsimile: +44 (0) 1534 870537

Attorney General

Her Majesty's Attorney General
Law Officers' Department
Morier House
St Helier
Jersey
JE1 1DD

Telephone: +44 (0) 1534 441200
Facsimile: +44 (0) 1534 441299
Email: law.officers@gov.je

To assist overseas investigatory authorities, the Attorney General has published a document entitled "Mutual Legal Assistance Guidelines". A copy of this document can be obtained directly from the Law Officers' Department or downloaded from its website (see www.gov.je/LawOfficers/).

TYPE OF ASSISTANCE	AGENCY TO CONTACT	RELEVANT LEGISLATION
Intelligence relating to suspected money laundering (including drug money laundering) or the financing of terrorism	Joint Financial Crimes Unit	<ul style="list-style-type: none"> • Article 31 of the Proceeds of Crime (Jersey) Law 1999 • Article 40D of the Drug Trafficking Offences (Jersey) Law 1988 • Article 24C of the Terrorism (Jersey) Law 2002
Production order (a judge's order for a person to provide information for the purposes of an investigation relating to the proceeds of criminal conduct)	Joint Financial Crimes Unit	<ul style="list-style-type: none"> • Article 40 of the Proceeds of Crime (Jersey) Law 1999 • Article 42 of the Drug Trafficking Offences (Jersey) Law 1988 • Article 31 of the Terrorism (Jersey) Law 2002
Court order to obtain customer information	Joint Financial Crimes Unit	<ul style="list-style-type: none"> • Article 41A(1) of the Proceeds of Crime (Jersey) Law 1999 • Article 44A(1) of the Drug Trafficking Offences (Jersey) Law 1988 • Article 32 of the Terrorism (Jersey) Law 2002
Court order to monitor customer account	Joint Financial Crimes Unit	<ul style="list-style-type: none"> • Article 41A(2) of the Proceeds of Crime (Jersey) Law 1999 • Article 44A(2) of the Drug Trafficking Offences (Jersey) Law 1988 • Article 33 of the Terrorism (Jersey) Law 2002
Requests for documentary evidence	Attorney General	<ul style="list-style-type: none"> • Articles 5, 5B and 6 of the Criminal Justice (International Co-operation) (Jersey) Law 2001 • Article 2 of the Investigation of Fraud (Jersey) Law 1991 • Article 3 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Requests for witness statements	Attorney General	<ul style="list-style-type: none"> • Evidence (Proceedings in Other Jurisdictions) (Jersey) Order 1983 • Article 3 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Requests for investigative interviews (serious or complex fraud)	Attorney General	<ul style="list-style-type: none"> • Article 2 of the Investigation of Fraud (Jersey) Law 1991

TYPE OF ASSISTANCE	AGENCY TO CONTACT	RELEVANT LEGISLATION
Requests for oral evidence on oath (in Jersey)	Attorney General	<ul style="list-style-type: none"> • Articles 5 and 5A of the Criminal Justice (International Co-operation) (Jersey) Law 2001 • Article 3 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Requests for oral evidence on oath (in your jurisdiction) [i.e. service of overseas process in Jersey]	Attorney General	<ul style="list-style-type: none"> • Article 2 of the Criminal Justice (International Co-operation) (Jersey) Law 2001 • Article 2 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Requests for <i>Saisies judiciaires</i> (property restraint or freezing order)	Attorney General	<ul style="list-style-type: none"> • Articles 15 and 16 of the Proceeds of Crime (Jersey) Law 1999 (as amended and applied by the Proceeds of Crime (Enforcement of Confiscation Orders) (Jersey) Regulations 2008) • Articles 15 and 16 of the Drug Trafficking (Jersey) Law 1988 (as amended and applied by the Drug Trafficking Offences (Enforcement of Confiscation Orders) (Jersey) Regulations 2008) • Article 6 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Requests for registration of external confiscation orders	Attorney General	<ul style="list-style-type: none"> • Article 39 of the Proceeds of Crime (Jersey) Law 1999 • Article 39 of the Drug Trafficking (Jersey) Law 1988 (as amended and applied by the Drug Trafficking Offences (Enforcement of Confiscation Orders) (Jersey) Regulations 2008). • Article 9 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007
Rendition of suspects - requests from the United Kingdom	Attorney General	<ul style="list-style-type: none"> • Section 13 of the Indictable Offences Act 1848 and Orders in Council in respect of Scotland and Northern Ireland
Rendition of suspects – requests for extradition from non-United Kingdom jurisdictions	Attorney General	<ul style="list-style-type: none"> • Extradition (Jersey) Law 2004