



**Jersey Financial
Services Commission**

Consultation on Schedule 2: proposed amendments to the Article 36 guidelines

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1 Executive summary

1.1 Overview

- 1.1.1 We are consulting on proposed amendments to the guidelines on interpretation (the **Guidelines**) issued under Article 36(2) of the Proceeds of Crime (Jersey) Law 1999 (**POCL**). These changes are designed to strengthen Jersey's anti-money laundering, countering the financing of terrorism, and countering proliferation financing (**AML/CFT/CPF**) regime, while supporting industry with clearer and more practical guidance.
- 1.1.2 Industry feedback indicates that certain aspects of the current Guidelines – in particular, the 'as a business' test – are challenging to apply and have generated significant queries in relation to the scope and application of Schedule 2 of POCL (**Schedule 2**). These proposals respond to that feedback by offering clearer criteria and examples, aiming to reduce uncertainty and support a consistent approach across sectors.

1.2 What is proposed and why?

- 1.2.1 The revised Guidelines aim to improve clarity and usability by:
- › introducing structured 'Schedule 2 gateways' – a three-part test (focussing on activity, 'as a business', and Jersey nexus) to determine whether registration is required
 - › providing targeted guidance on complex areas to reduce ambiguity and promote consistency
 - › revising interpretative guidance for specific Schedule 2 activities (notably fund and security services activities, including to future-proof the Guidelines in light of planned changes to the Control of Borrowing regime)
 - › including existing guidance on the meaning of 'in or from within Jersey' as an annex in response to industry feedback
- 1.2.2 In addition, we are seeking views on the benefits of publishing basic information (such as name and activity) for all persons registered to carry on Schedule 2 business (as defined under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (**SBL**)) on our website to promote transparency.
- 1.2.3 The revised Guidelines are included at Appendix A of this consultation paper.

1.3 Who could be affected?

- 1.3.1 The proposals primarily affect:
- › persons currently registered with us for conducting Schedule 2 business
 - › persons assessing whether they are required to register with us
 - › industry bodies and professional advisers who support compliance with Jersey's AML/CFT/CPF obligations

1.4 Invitation to comment

- 1.4.1 We welcome views from all stakeholders on the proposed changes, including:
- › the clarity and practicality of the revised Guidelines
 - › any areas where further interpretative support would be helpful
 - › the benefits of publishing basic information for persons registered to conduct Schedule 2 business
- 1.4.2 [Submit your response](#) by **17:00** on **30 January 2026**.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The JFSC is a statutory body corporate established under the Financial Services Commission (Jersey) Law 1998 (the **Commission Law**). We are responsible for the supervision and development of financial services provided in or from within Jersey.
- 2.1.2 We have issued this consultation paper in accordance with Article 8(3) of the Commission Law, as amended, under which the JFSC ‘may, in connection with the carrying out of its functions ... consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate’.

2.1 Have your say

- 2.1.1 We invite your feedback on this consultation paper by **17:00 on 30 January 2026**.
- 2.1.2 [Submit your feedback through our online form](#).
- 2.1.3 Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.1.4 Any queries should be directed to policy@jerseyfsc.org.
- 2.1.5 All responses will be considered non-confidential (unless specifically requested otherwise by the respondent).
- 2.1.6 Alternatively, Sally Edwards at Jersey Finance Limited (**JFL**) is coordinating an industry response that will incorporate any matters raised with them. Comments should be submitted to JFL by **30 January 2026**, using the following details:
- › Contact: Sally Edwards
 - › Telephone: +44 (0) 1534 836028
 - › Email: sally.edwards@jerseyfinance.com
- 2.1.7 It is the policy of JFL (unless otherwise requested or agreed) to collate all responses and share them verbatim with the JFSC on an anonymised basis (with reference made only to the type of respondent, for example individual, law firm, trust company). This collated, anonymised response will, typically, be placed in JFL’s permanent electronic archive which is currently open to all their members.

2.2 What next?

- 2.2.1 We plan to publish feedback to this consultation paper by 1 April 2026. This will include detail on the final revised Guidelines and the planned rollout.

3 Proposals

3.1 The Guidelines: section 1

- 3.1.1 Section 1 of the revised Guidelines expands on the introductory material in the current Guidelines, providing clearer context on the purpose and legal basis of the document. It also explicitly clarifies the separation between AML/CFT/CPF obligations and conduct and prudential regulation, addressing an area of previous ambiguity, and sets out the effective date of the Guidelines.
- 3.1.2 A key enhancement is the introduction of the Schedule 2 gateways, a structured test for determining whether registration is required (namely the Activity Gateway, the ‘As a

Business' Gateway and the Jersey Nexus Gateway). It also provides expanded targeted guidance on areas such as non-professional trustees and regulated businesses.

Question 1:

Does Section 1 provide the intended clarity on the purpose and legal basis of the Guidelines, the separation between the AML/CFT/CPF regime from conduct and prudential regulation and a clear introduction to the Schedule 2 gateways?

Question 2:

Do you have any comments on how the guidance in Section 1 could be improved?

Question 3:

Do you have any comments regarding the proposed effective date of 30 April 2026 for the revised Guidelines?

3.2 The Guidelines: section 2

- 3.2.1 Section 2 provides a breakdown of each of the Schedule 2 gateways, offering further information and guidance on how to assess whether the requirements are met in respect of each. We also remind users that the purpose of POCL is to forestall, prevent and detect money laundering and terrorist financing, and this should be considered when using the Guidelines.
- 3.2.2 Our overarching intention in organising our guidance around these gateways is to make the Guidelines easier to navigate for users and deliver a more structured, user-friendly document.

Question 4:

Do you have any comments on Section 2.1?

The Activity Gateway

- 3.2.3 This subsection outlines the first step in determining whether a person conducts 'financial services business', assessing whether their activities or operations fall within Schedule 2.
- 3.2.4 It provides clear, practical guidance by outlining overarching principles to help you assess whether you conduct a Schedule 2 activity or operation.

Question 5:

Does Section 2.2 sufficiently explain how to assess whether an activity or operation falls within Schedule 2?

Question 6:

Do you have any comments or suggestions on how the guidance in Section 2.2 could be improved?

The 'As a Business' Gateway

- 3.2.5 Determining whether an activity is 'conducted as a business' has been raised by industry as the most challenging aspect of the scope test to date, generating the majority of Schedule 2 queries. As such, we have significantly revised this section, introducing a clearer framework based on a holistic assessment of a person's activities and operations considered against two cumulative criteria:
- › whether a person is acting on a **business, professional, or commercial basis**
 - › the **presence of a customer**
- 3.2.6 We recognise that there will always be borderline cases, however these changes are intended to minimise these situations through clear articulation of the key factors we expect to be considered in deciding if an activity is conducted as a business or not. Our aim is to reduce uncertainty and promote a consistent approach across industry, by providing a framework that is accessible and straightforward.

Question 7:

Does Section 2.3 sufficiently explain the criteria for determining whether an activity is ‘conducted as a business’?

Question 8:

Do you find the inclusion of the ‘business, professional, or commercial basis’ criterion helpful in assessing whether a person is acting ‘as a business’?

Question 9:

Do you find the alignment of the meaning of ‘customer’ with the Money Laundering (Jersey) Order 2008 and the AML/CFT/CPF Handbook helpful?

Question 10:

Do you have any comments or suggestions on how the guidance in Section 2.3 could be improved or clarified?

The Jersey Nexus Gateway

- 3.2.7 Section 2.4 elaborates on the ‘Jersey Nexus Gateway’, which is the need for a sufficient connection to Jersey before the requirement to register with us applies.
- 3.2.8 Our extant guidance on the meaning of ‘in or from within Jersey’ for the purposes of SBL (the **‘In or from within’ Guidance**¹) has been included as Annex 1 of the revised Guidelines at the request of industry stakeholders.
- 3.2.9 A minor amendment is also proposed to clarify that the ‘In or from within’ Guidance also applies to the same phrase as used in the Money Laundering (Jersey) Order 2008 (**MLO**), ensuring consistency across Jersey’s AML/CFT/CPF regime.

Question 11:

Do you agree with the proposed inclusion of the ‘In or from within’ Guidance in an Annex to the revised Guidelines?

Question 12:

Do you have any comments or suggestions on how the guidance in Section 2.4 could be improved or clarified?

¹ [guidance-on-interpretation-of-in-or-from-within-jersey-for-the-purposes-of-proceeds-of-crime-supervisory-bodies-jersey-law-2008-301123.pdf](#)

3.3 The Guidelines: section 3

- 3.3.1 Section 3 is divided into two parts.
- 3.3.2 Part A covers general interpretive guidance applicable across all sectors.
- 3.3.3 Part B provides guidance on certain Schedule 2 activities where further clarification is considered necessary. This part aims to further support a consistent understanding and application of the Schedule 2 activities and operations, including how the two ‘as a business’ criteria (see paragraph 3.2.5 above) may apply to such activities and operations in practice.
- 3.3.4 Not every activity specified in Schedule 2 is covered. Where no additional guidance is provided, we consider the activity clear enough without the need for further interpretation.
- 3.3.5 While the Guidelines cannot cover every scenario, we want to identify any gaps in this section and welcome feedback from users if further support is needed for a specific activity or operation.
- 3.3.6 Most activities covered are an evolution on the current Guidelines, however an area requiring greater change is the activity of ‘Fund and security service activities’ in paragraph 3.9 of the revised Guidelines. The guidance on this activity was most recently revised in October 2024 to clarify that, subject to certain criteria, issuers of debt securities are not in scope. These changes contained significant reference to consents issued under the Control of Borrowing (Jersey) Order 1958 (**COBO**). In addition to a general review of this activity in connection with these proposals, as separate work is underway to repeal the Control of Borrowing regime (including COBO), we considered it prudent to future-proof this section of the revised Guidelines. We welcome any comments on the draft text at paragraph 3.9 through this consultation process.

Question 13:

Do you think that Section 3 of the revised Guidelines provides a clear and structured approach to interpreting the specific Schedule 2 activities and operations?

Question 14:

Please provide further detail on which activities and operations require further support, and in what manner.

Question 15:

Do you have any comments on the draft text at paragraph 3.9 of the revised Guidelines?

Question 16:

Do you have any examples which would help define the corporate trustee space (in particular, of corporate trustee scenarios which are believed to not pass the revised ‘As a Business’ Gateway)?

Question 17:

Do you have any general comments or suggestions on how the guidance in Section 3 could be improved or clarified?

3.4 Miscellaneous

- 3.4.1 In accordance with the SBL, we can publish information on persons registered for Schedule 2 business. To date, we have only published information in respect of virtual asset service providers (**VASPs**). This information was published specifically to enable VASPs in other jurisdictions to easily identify Jersey VASPs, which are required to share prescribed sender and recipient information under the Travel Rule.
- 3.4.2 We have previously² stated that ‘there is no intention to widen the scope of this public listing to other Schedule 2 businesses.’ However, we are regularly asked about this position. Consequently, we are reconsidering publication of information relating to persons registered for conducting Schedule 2 business.

Question 18:

Would publishing basic information (e.g. name and activity) in respect of all persons holding a registration to carry on Schedule 2 business be beneficial?

² May 2024

4 Summary of questions

Page	Question
5	Does Section 1 provide the intended clarity on the purpose and legal basis of the Guidelines, the separation between the AML/CFT/CPF regime from conduct and prudential regulation and a clear introduction to the Schedule 2 gateways?
5	Do you have any comments on how the guidance in Section 1 could be improved?
5	Do you have any comments regarding the proposed effective date of 30 April 2026 for the revised Guidelines?
6	Do you have any comments on Section 2.1?
6	Does Section 2.2 sufficiently explain how to assess whether an activity or operation falls within Schedule 2?
6	Do you have any comments or suggestions on how the guidance in Section 2.2 could be improved?
7	Does Section 2.3 sufficiently explain the criteria for determining whether an activity is 'conducted as a business'?
7	Do you find the inclusion of the 'business, professional, or commercial basis' criterion helpful in assessing whether a person is acting 'as a business'?
7	Do you find the alignment of the meaning of 'customer' with the Money Laundering (Jersey) Order 2008 and the AML/CFT/CPF Handbook helpful?
7	Do you have any comments or suggestions on how the guidance in Section 2.3 could be improved or clarified?
7	Do you agree with the proposed inclusion of the 'In or from within' Guidance in an Annex to the revised Guidelines?
7	Do you have any comments or suggestions on how the guidance in Section 2.4 could be improved or clarified?
8	Do you think that Section 3 of the revised Guidelines provides a clear and structured approach to interpreting the specific Schedule 2 activities and operations?
8	Please provide further detail on which activities and operations require further support, and in what manner.
8	Do you have any comments on the draft text at paragraph 3.9 of the revised Guidelines?
8	Do you have any examples which would help define the corporate trustee space (in particular, of corporate trustee scenarios which are believed to not pass the revised 'As a Business' Gateway)?

Page	Question
8	Do you have any general comments or suggestions on how the guidance in Section 3 could be improved or clarified?
9	Would publishing basic information (e.g. name and activity) in respect of all persons holding a registration to carry on Schedule 2 business be beneficial?

Appendix A – the revised Guidelines

The revised Guidelines

Glossary

Defined terms are indicated throughout this document as follows:

AML/CFT/CPF	anti-money laundering, countering the financing of terrorism, and countering proliferation financing
COBO	Control of Borrowing (Jersey) Order 1958, as amended from time to time
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended from time to time
Guidelines	guidelines on interpretation issued by the JFSC pursuant to Article 36(2) of POCL
'In or from within' Guidance	guidance on interpretation of 'in or from within Jersey' for the purposes of Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 issued by the JFSC on 18 September 2023
JFL	Jersey Finance Limited
JFSC	Jersey Financial Services Commission
MLO	Money Laundering (Jersey) Order 2008, as amended from time to time
POCL	Proceeds of Crime (Jersey) Law 1999, as amended from time to time
SBL	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended from time to time
Schedule 2	Schedule 2 of POCL, as amended from time to time
Schedule 2 business	has the same meaning as defined in the SBL
VASPs	Virtual Asset Service Providers
we, us, our	the JFSC