

# Recent changes to Jersey's AML/CFT regime – a user-friendly summary and FAQs

Service area / [Regulatory](#)

Legal jurisdiction / [Jersey](#)

Date / [April 2023](#)

## Overview

Recent changes have been made to the scope of Jersey's proceeds of crime and anti-money laundering (AML/CFT) legislation in order to align Jersey's regime more closely with Financial Action Task Force Recommendations.

Carrying on one or more of a range of specified financial services activities in Jersey may bring an entity in scope of the new requirements. Further, some entities which were previously able to rely on exemptions from registration under Jersey's AML/CFT regime will no longer be exempt.

In-scope entities and individuals will need to register with the Jersey Financial Services Commission (JFSC) and will be required to adopt AML/CFT policies and procedures, although in many instances a Jersey service provider can be appointed to fulfil these new obligations.

Existing entities which were previously out of scope have until 30 June 2023 to comply with the new regime. New entities must comply immediately.

Carey Olsen has been directly involved in the introduction of these changes and has produced a useful [online tool](#) to allow clients to assess at a high level if their entities are now in scope. Please note that this guide is designed to assist with analysis for legal persons – natural persons are more likely to be out of scope generally unless they hold themselves out as carrying on a specified activity as a business and/or have multiple customers. We understand the JFSC is to issue more guidance in this regard and we will produce a separate briefing at that point focusing on individuals.

## FAQ 1: Are SPV trustees in scope?

In most instances, any Jersey entity acting as a trustee is likely to be affected – this is one of the most significant changes. If the trustee does not hold itself out as providing trustee services generally and does not make a profit from its activities, then registration may not be necessary so long as some specific AML/KYC process requirements are met.

Otherwise, registration will be necessary, although if the trustee/trust is currently administered by a regulated Jersey trust or fund services business, the consequences will mainly take the form of administrative compliance that replicates work already done.

## FAQ 2: What about SPVs that aren't trustees? Do you need to have a "customer" or "third party" to be in scope?

For non-trustees, the changes will generally only affect those entities which are carrying out activities or providing services to or on behalf of customers or third parties.

Importantly, where an SPV entity has been established for a specific purpose and only provides services to group or connected (e.g. joint venture) entities, those entities are unlikely to constitute "customers" and so the structure is unlikely to be in scope.

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Although “customer” and “third party” are broad concepts they do, however, imply an element of “doing business”. Accordingly, a person conducting a relevant activity on their own account, or an employer setting up a scheme for employees, would not be doing so for a customer. Further, if two entities together form a business, they are unlikely to be regarded as carrying on a separate business with the other as a customer; rather the business that they carry on together would be the one which might have customers.

Conversely, in the case of an entity which is a fund or issuing quasi-equity securities to unconnected investors (i.e. by way of an offer document), those investors are likely to be regarded as “customers” and therefore the new regime is likely to apply to that entity.

### FAQ 3: I do have “customers” or “third parties”. What activities and services are potentially in scope that weren’t before?

Our analysis indicates that the most common entities that were previously exempt but will now be in-scope are:

- Jersey Private Fund structures and their functionaries (e.g. trustee, general partner, manager or investment adviser);
- SPV trustees;
- SPV general partners to structures with third party investors;
- managers and investment advisers to structures with third party investors;
- certain securities issuance vehicles; and
- vehicles lending monies to third parties.

The chart below sets out a full list of potentially in-scope activities.

It is important to note that (with the exception of trustees – see above) the relevant activities will only fall within the scope of the new regime if they are being conducted “as a business”.

Indicators that a person is conducting relevant activities as a business include:

- Holding out or publicly offering to conduct the activities or services for other persons
- Conducting the activities for commercial purposes with the intention of earning a profit
- Receipt of significant financial compensation.

On the other hand, if the person does not make a profit or conducts the activity in an honorary, recreational or charitable capacity, they are unlikely to be in scope.

### FAQ 4: What if I’m already regulated in Jersey for an activity?

If you are an existing Jersey entity regulated as a bank, financial services business or fund (other than a private fund) then you are already in scope and your existing regulation will mean that you don’t have to register separately for AML purposes. The JFSC will be sending you a Notification Workbook to identify in-scope entities and Carey Olsen would be happy to help you fill it in – please contact us for more information.

### FAQ 5: What are the consequences of being in scope?

You will be required to register with the JFSC using their online portal. When registering, you will be required to specify all of the relevant activities for which you are in scope.

If you already hold a registration certificate under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, the JFSC will be sending you a Registration Workbook. If your existing certificate covers all of the relevant activities that you are carrying out, you will not need to complete this workbook and can simply submit a nil return by email. If, however, you are conducting any relevant activities which are not covered

Financial Institutions		Designated Non-Financial Businesses and Professions	Trust Company Services and Trustees
<ul style="list-style-type: none"> <li>• Deposit Taking</li> <li>• Financial Leasing</li> <li>• Money Transfer Services and Provision of Means of Payment</li> <li>• Lending</li> <li>• Trading</li> <li>• Portfolio Management</li> <li>• Funds and Fund Services</li> <li>• Securities issuers and servicers</li> </ul>	<ul style="list-style-type: none"> <li>• Financial Guarantees and Commitments</li> <li>• Advice on Capital Structure or Industrial Strategy</li> <li>• Cash/Liquid Securities Safe Keeping and Administration</li> <li>• Safe Custody Services</li> <li>• Investing, administering or managing funds or money</li> <li>• Underwriting and placement of life assurance and insurance</li> <li>• Money Broking and Currency Changing</li> </ul>	<ul style="list-style-type: none"> <li>• High Value Dealers</li> <li>• Casinos</li> <li>• Estate agents</li> <li>• Lawyers</li> <li>• Accountants</li> <li>• Virtual Asset Service Providers <ul style="list-style-type: none"> <li>- Exchanges</li> <li>- Custody</li> <li>- Administration</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Acting as trustee of an express trust</li> <li>• Acting as formation agent</li> <li>• Acting as or arranging for another to act as a director, secretary or partner of a partnership</li> <li>• Provision of a registered office or a business, accommodation, correspondence or administrative address</li> <li>• Acting as or arranging for another to act as a nominee shareholder</li> </ul>

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by your existing certificate, you will need to complete the Registration Workbook.

If you were previously out of scope for registration and compliance purposes but are now in scope, you will need to complete the relevant application form or appoint an AML Service Provider (see below) to do this for you.

You will be subject to Jersey's AML/CFT regime, including the requirement to adopt AML/CFT policies and procedures, appoint a money laundering reporting officer (MLRO) and money laundering compliance officer (MLCO) and undertake customer due diligence measures. Lighter touch requirements apply for non-professional trustees. If you are currently administered by a regulated Jersey trust or fund services business, the consequences will mainly take the form of administrative compliance that replicates work already done and you are likely to be able to appoint them as your AML Services Provider.

### FAQ 6: What can an AML Service Provider do for me?

The concept of an AML Service Provider (AMLSP) has been introduced as a mechanism to support those now required to register under the new regime, particularly where they are already administered by a regulated Jersey trust or fund services business.

AMLSPs can apply for registration on behalf of their customers and employees of the AMLSP can be appointed to act as MLRO and MLCO for registrable entities.

An entity is eligible to appoint an AMLSP if:

- it is not itself a regulated person carrying on a regulated business; and
- it has no established place of business in Jersey (other than through a regulated Jersey trust or fund services provider).

An entity is eligible to act as an AMLSP if:

- it is registered to conduct the relevant classes of trust company business (i.e. G, H, L, OA and OB) and/or fund services business (i.e. U, V, ZG, ZH, ZI and ZJ); and
- it is not a managed entity, a managed trust company or a natural person.

### Further information

To help you determine if your entities are in scope for the purposes of the new regime, our tool is available [here](#).

For further information or advice on any specific circumstances, please get in touch with one of the key contacts listed overleaf.

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## Key contacts

For further information or professional advice please contact our lawyers below:



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