

**BAILIWICK OF GUERNSEY**  
**2019 NATIONAL RISK ASSESSMENT**  
**REPORT ON MONEY LAUNDERING AND TERRORIST FINANCING**

**JANUARY 2020**

## FOREWORD

1. We are pleased to introduce the public report for the Bailiwick of Guernsey's "national" risk assessment in relation to money laundering and terrorist financing.
2. All jurisdictions are subject to money laundering and terrorist financing risks, and the now widespread concept of a national risk assessment has evolved to meet the international requirement for jurisdictions to identify, assess and understand the risks they face. In turn, this better equips governments, their civil servants and the relevant operational authorities to mitigate the risks, such as the risks of Guernsey businesses being used to facilitate terrorist financing and the laundering of proceeds-generating crimes like corruption (including illicit enrichment).
3. The national risk assessment of the Bailiwick is by no means the first assessment of risk which has been undertaken by the authorities but, it is by some way, the most comprehensive. Substantial work has been undertaken to build on the existing assessments. The reasons for this are clear. All involved have wanted this assessment to add tangible value and this has meant going the extra mile in reviewing substantial and complex information, including input from private sector participation and additional liaison with foreign authorities. This has allowed the pattern of information possessed by each of the authorities to be extended, mined and considered in the round in a more detailed way than previously and is leading to revised ways of thinking.
4. Added tangible value is key both for the authorities and for those businesses which are required to put in place measures such as customer due diligence. We hope this has been achieved by the level of detail in the report.
5. The political and operational authorities will continue to seek to add tangible value as we move forward in fighting criminality, in protecting our community and in emphasising the Bailiwick's role as a good international citizen. Our aim is to ensure the most hostile environment possible to use of the Bailiwick by criminals. In this regard, the risk assessment underlying this report will need to be kept up to date. In practice, identification and assessment of risk should be continuous, and the coming years will inevitably mean more focus on this so that all those engaged in fighting terrorist financing and money laundering (and proceeds-generating crime) can continue to target our work where it is most needed.

Policy & Resources Committee  
Committee *for* Home Affairs  
January 2020

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## EXECUTIVE SUMMARY

1. This document comprises a report on the findings of the Bailiwick of Guernsey's NRA,<sup>1</sup> that is, its assessment of the money laundering and terrorist financing risks presented by individual sectors and products within the jurisdiction. The NRA was based on a methodology developed by the IMF, supplemented by additional information.
2. The finding of the NRA with regard to money laundering risks is that as an IFC with a low domestic crime rate, Guernsey's greatest money laundering risks come from the laundering of the proceeds of foreign criminality. The underlying offences most likely to be involved are bribery and corruption and fraud (including tax evasion), followed by drug trafficking and insider dealing and other forms of market manipulation. The laundering of foreign criminal proceeds is likely to involve a chain of transactions across several jurisdictions, with Guernsey at or towards the end of the chain. The sectors most at risk of being used for these purposes are the private banking sector and the part of the TCSP sector dealing with legal persons and legal arrangements. The products most likely to be involved in laundering foreign proceeds are domestic legal persons or legal arrangements involved in certain types of cross-border business and foreign legal persons with a link to Guernsey. The money laundering risks from domestic criminality, while much lower, primarily arise from drug trafficking and fraud, and the laundering of the proceeds of these crimes is most likely to involve the retail banking sector and the use of cash.
3. The finding of the NRA with regard to terrorist financing risks is that the greatest risks come from its cross-border business being used to support foreign terrorism, by funds being passed through or administered from Guernsey. However, this risk is much lower than the money laundering risks from cross-border business. Terrorist financing from cross-border business is most likely to arise in the context of secondary terrorist financing, i.e. where criminal proceeds are used to fund terrorism. There is also a risk that funds raised in Guernsey for legitimate purposes may be diverted subsequently to support foreign terrorism. No particular sector or product stands out in relation to the terrorist financing risks relating to foreign terrorism but the risks of some sectors and products (eCasinos, the real estate sector, domestically focused legal persons and legal arrangements, registered NPOs,<sup>2</sup> emerging technologies, cash and trade) are lower than others. The risk of funds being raised in or sent into Guernsey to support domestic terrorist activity is extremely low for all sectors and products. This is on the basis that Guernsey's demographic, geographical, political and cultural profile make it very unlikely that domestic terrorist activity would occur.

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<sup>1</sup> See below with regard to the 3 separate island jurisdictions that comprise the Bailiwick of Guernsey - for ease of reference, the Bailiwick of Guernsey is described as Guernsey throughout this document unless the contrary is stated.

<sup>2</sup> Registered NPOs in this context means NPOs and charities that are recorded on a central register and are not administered by a TCSP.

4. The findings of the NRA with regard to the risk ratings for individual sectors and products are set out in the tables below. These ratings, which are based on a slightly expanded version of the rating scale in the IMF methodology, are relative as between different sectors and products in the jurisdiction rather than absolute. The ratings are for residual risks, i.e. the risks that remain when any mitigating factors applicable to a sector or product have been taken into account.

MONEY LAUNDERING RISKS	
RESIDUAL RISK RATING	SECTOR/PRODUCT
Very much higher	
Much higher	
Higher	Private banking sector
	TCSP sector (legal persons and legal arrangements)
	Foreign legal persons
	Domestic legal persons and legal arrangements (cross-border activity apart from retirement/pension solutions)
Medium Higher	Retail banking sector
	Investment sector (asset management etc.)
Medium	Investment sector (collective investment schemes)
	Legal sector
	Foreign legal arrangements
Medium Lower	Insurance sector (life insurance/pensions)
	TCSP sector (retirement/pension solutions)
	Non-core financial services businesses
	e-Casino sector
	Accountancy sector
	Manumitted NPOs <sup>3</sup>
	Domestic legal persons and legal arrangements (retirement/pension solutions)
	Emerging products and technologies
	Cash
	Trade
Lower	Insurance sector (captive/reinsurance/ILS)
	Real estate sector
	DPMS
	Domestic legal persons and legal arrangements (no cross-border activity – local businesses etc.)
	Registered NPOs
Much Lower	Insurance sector (general incl. kidnap and ransom)
Very much lower	OA&DC

<sup>3</sup> Manumitted NPOs in this context means NPOs and charities that are administered by a TCSP.

TERRORIST FINANCING RISKS	
RESIDUAL RISK RATING	SECTOR/PRODUCT
Very much higher	
Much higher	
Higher	
Medium Higher	
Medium	
Medium Lower	
Lower (financing foreign terrorist activity)	Private banking sector
	Retail banking sector
	Insurance sector (general incl. kidnap and ransom)
	Insurance sector (life insurance/pensions)
	Insurance sector (captive/reinsurance/ILS))
	Investment sector (collective investment schemes)
	Investment sector (asset management etc.)
	TCSP sector (legal persons and legal arrangements)
	TCSP sector (retirement/pension solutions)
	Non-core financial services businesses
	Legal sector
	Accountancy sector
	DPMS
	Foreign legal persons
	Foreign legal arrangements
	Domestic legal persons and legal arrangements (cross-border activity)
	Manumitted NPOs <sup>4</sup>
Much lower (financing foreign terrorist activity)	eCasino sector
	Real estate sector
	Domestic legal persons and legal arrangements (no cross-border activity – local businesses etc.)
	Registered NPOs <sup>5</sup>
	OA&DC
	Emerging products and technologies
	Cash
	Trade
Very much lower (financing domestic terrorist activity)	All sectors and products

<sup>4</sup> See footnote 2.

<sup>5</sup> See footnote 3.

## INTRODUCTION

6. Guernsey has been committed to the international fight against money laundering and terrorist financing for many years. In 2016 the jurisdiction determined to strengthen its AML/CFT regime in various ways so as to continue to meet international standards as they develop. This included carrying out the NRA, which was coordinated by Guernsey's AML/CFT Advisory Committee at the request of the States of Guernsey Policy & Resources Committee.<sup>6</sup> The NRA builds on previous risk assessment work carried out by the authorities over many years, including overall risk assessments in 2009 and 2014 and a specific terrorist financing risk assessment that was carried out in 2016 as a preliminary step in the NRA process. The findings of the 2016 terrorist financing risk assessment were provided to the FATF as part of a global information gathering exercise and were also circulated to industry.<sup>7</sup>
7. The NRA was based on a methodology developed by the IMF organised around the three components of risk, namely threat, vulnerability and consequence. Threat ratings reflect external issues, i.e. the extent to which people are likely to want to use the jurisdiction for specific money laundering or terrorist financing purposes. Vulnerability ratings reflect internal issues, i.e. the extent to which particular aspects of the jurisdiction make it vulnerable to being used for money laundering or terrorist financing purposes. This is determined by making an assessment of the inherent vulnerability of a sector or product by reference to its profile, and then adjusting it as necessary to produce a net vulnerability rating by taking account of the effect of any AML/CFT controls or other mitigating measures. Threat and vulnerability looked at together indicate the likelihood of money laundering or terrorist financing occurring. Consequence ratings apply to the various ways in which the occurrence of money laundering or terrorist financing may affect the jurisdiction, and the severity of those consequences.
8. The use of IMF methodology involved obtaining information from the AML/CFT authorities, the private sector and from the authorities in other jurisdictions via a number of surveys, which were followed up by workshops. The information from the surveys and workshops was supplemented by information from earlier risk assessments and from detailed analysis of qualitative and quantitative information on sectors, products and related issues from a wide range of additional sources. These sources included money laundering and terrorist financing indicators such as SARs and international requests for assistance, primarily MLA requests.<sup>8</sup> The statistics that were considered covered at least a four year period and in some cases the period was longer.

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<sup>6</sup> The Advisory Committee comprises senior representatives from government, the Attorney General's Chambers, Law Enforcement, the GFSC, the AGCC, the Guernsey Registry, the Alderney Registry, the Guernsey and Alderney Registrar of NPOs, the Sark Registrar of NPOs and the Revenue Service (i.e. the body which deals with tax and social insurance administration in Guernsey).

<sup>7</sup> The FATF is an international organisation with responsibility for addressing money laundering and terrorist financing, and it issues the leading international standards in this area, the FATF Recommendations.

<sup>8</sup> MLA is the process by which countries give one another assistance in the investigation and prosecution of crime and the recovery of criminal proceeds.



9. The IMF methodology envisages likelihood of money laundering or terrorist financing being assessed by using the following 7-point scale: Very Much Higher, Much Higher, Higher, Medium, Lower, Much Lower and Very Much Lower. During the NRA process the Guernsey authorities added two additional grades to the scale, Medium Higher and Medium Lower, so that the degrees of differentiation between particular sectors and products could be more fully reflected in the final risk ratings.
10. Once the level of likelihood of particular forms of money laundering and terrorist financing had been assessed, consideration was given to whether consequences of this were such that the residual level of risk should be reduced. Consequences were assessed by using a different IMF scale, but no reduction was in fact made because the probable consequences to the Bailiwick of money laundering and terrorist financing were assessed as being severe in all cases. Therefore the residual risk ratings detailed in this report take into account threat, vulnerability and consequence.
11. The NRA has three purposes. The first is to enable the authorities to identify, assess and understand the money laundering and terrorist financing risks faced by the jurisdiction and to apply a risk-based approach to preventative or mitigating measures. The second is to help reporting entities,<sup>9</sup> i.e. those businesses which are required under Guernsey legislation to put in place measures such as customer due diligence, when carrying out their own assessments of the particular money laundering and terrorist financing risks they face. These businesses are also required to have regard to the NRA in determining what constitutes a high or low risk, what their risk appetite is, and what constitutes appropriate measures to manage and mitigate risks. In this connection, this report constitutes the NRA for the purposes of Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended. The sections of the report which discuss the modalities of money laundering and terrorist financing, and the case studies in Appendix 2, are particularly relevant to how businesses manage and mitigate customer risks and product, service, transaction and delivery channel risks. There are no terrorist financing case studies in the report. This is because Guernsey has had no experience of terrorism or terrorist financing to date. However, some of the countries and patterns of behaviour involved in the money laundering case studies will be relevant to possible terrorist financing activity, especially in relation to secondary terrorist financing (see below). Therefore, businesses should ensure they study the cases relevant to the products and services they offer from the perspective of vulnerability to both money laundering and terrorist financing. The third purpose of the NRA is to enable information to be provided to the NPO sector, which is of particular relevance for NPOs in recognising and assessing vulnerability to terrorist financing abuse and in organising their governance and internal controls accordingly. The NRA should also be considered by other parties and third sector organisations whose activities may expose them to money laundering or terrorist financing.

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<sup>9</sup> As the term “reporting entities” is commonly used to describe financial services businesses (including trust and corporate services providers), lawyers, accountants, estate agents, eGambling businesses and dealers in precious metals and stones for the purposes of the FATF Recommendations, it is used to describe these businesses in this document for ease of reference.

12. When considering the residual risk ratings, it should be noted that they are relative rather than absolute. In other words, a higher rating for a particular sector or product does not mean that the sector or product is high risk compared with corresponding sectors or products in other jurisdictions.
13. An assessment of the risks of money laundering and terrorist financing at a jurisdictional level inevitably involves a consideration of some sensitive matters which it would not be appropriate to put in the public domain. Therefore, the focus of this document is on the key findings of the NRA that are considered by the Policy & Resources Committee and the Advisory Committee to be the areas of most value to the private sector.
14. All statistics used in this document are as at the final quarter of 2018 unless otherwise stated.
15. The NRA process is an iterative one, which will involve the exercise being repeated over time and the publication of updated findings.

## **1. PROFILE OF THE JURISDICTION**

- 1.1 The Bailiwick of Guernsey, which has within it the separate jurisdictions of Guernsey, Alderney and Sark, comprises a small number of closely-knit island communities. It has strong constitutional, geographic, social, cultural and historical ties to the UK and the rest of the British Isles. Most residents are British nationals and the population is ethnically homogenous.
- 1.2 Guernsey has stable and mature systems of law and government.<sup>10</sup> The legal system, like that in most of the British Isles, is primarily based on common law principles and is underpinned by a well-developed statutory framework. Although Guernsey does not operate an independent foreign policy (by longstanding constitutional convention, the UK acts for Guernsey in this area) the UN Charter extends to Guernsey. There have been legal mechanisms in place to give effect to UN sanctions measures in the jurisdiction since 1946. Although the Bailiwick is not an EU Member State, it has had legal mechanisms in place since 1994 to give effect in Guernsey on a voluntary basis to sanctions measures issued by the EU. Guernsey's policy and practice is to give immediate effect to all UN and EU sanctions measures, including targeted financial sanctions relating to terrorist financing and the financing of the proliferation of weapons of mass destruction.
- 1.3 There are high levels of transparency around decision-making and appointments in all areas of public life. Crime rates are very low and the most significant proceeds-generating crimes are drug trafficking and low level white collar crime. The Bailiwick has a very high level of financial inclusion and there are no hawala or other informal financial systems or products of any significance. The use of cash is limited and the shadow economy is negligible.
- 1.4 In the last 30 years financial services businesses have overtaken tourism, horticulture and the building trade as the mainstays of the local economy, and the jurisdiction is now a major financial centre with clients from all over the world. Its core financial services sectors are banking, insurance, investment, and the provision of trust and corporate services. There are 23 banks; 667 investment licensees; 807 regulated collective investment schemes; 369 insurers; 36 insurance intermediaries; 21 insurance managers; 150 full fiduciaries and 43 personal fiduciaries. Total deposits at banks are £97.4 billion and the net asset value of Guernsey investment schemes is £218.8 billion. There is also a small number of businesses providing other financial services to local residents, primarily lending and money transmission services.
- 1.5 In addition there is a significant eGambling sector in Alderney. This too has an international client base. There are 26 eCasinos, and 34 Category 2 eGambling licences, 2 Category 1 associate certificates and 12 Category 2 associate certificates issued.

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<sup>10</sup> See footnote 1.

- 1.6 Both legal persons and legal arrangements can be created in the jurisdiction, the most popular form of legal person being a company and the most popular form of legal arrangement being a trust. However, unlike some other IFCs Guernsey is not a major incorporation centre. There is a small NPO sector that primarily comprises NPOs that have been established for domestic purposes,<sup>11</sup> although a minority is active internationally, which includes some NPOs that are administered by TCSPs.<sup>12</sup> There is also a government-funded organisation that makes donations to NPOs that are active in the developing world.
- 1.7 The core financial services business and eGambling sectors are subject to mature prudential and AML/CFT frameworks. In the case of the TCSP sector, Guernsey was one of the first jurisdictions in the world to introduce a full licensing and supervisory regime. Compliance is overseen by the GFSC in the case of financial services businesses and by the AGCC in the case of the eGambling sector. The AML/CFT framework also applies to non-core financial services businesses and to the legal, accountancy and real estate sectors (as these types of non-financial businesses and professions have been identified as vulnerable to money laundering and terrorist financing by the FATF). Compliance with the AML/CFT framework by these businesses and professions is supervised by the GFSC.
- 1.8 Guernsey has its own stock exchange, known as TISE, which offers a listing and trading facility for a range of securities. TISE consists of two entities, namely The International Stock Exchange Group Limited and its 100% subsidiary, TISEAL. TISEAL is licensed by the GFSC and is subject to Guernsey's AML/CFT framework. TISEAL also holds its own regulatory role and responsibilities in relation to the conduct of its listing and trading members and the operation of the market place.
- 1.9 The AML/CFT supervisory regimes have been in place for many years and have been found to be effective by successive international evaluations. As a result, businesses have good internal AML/CFT risk management systems. In particular, they generally have excellent controls in place to identify and verify beneficial owners of legal persons and legal arrangements. This extends not only to individuals who own shares or rights in a legal person or arrangement, but also to individuals who exercise control through other means.
- 1.10 Successive international evaluation reports have also awarded Guernsey very high ratings for its compliance with all other aspects of the FATF Recommendations. The most recent of these reports was issued by Moneyval in 2016.<sup>13</sup> Since then, the jurisdiction has made a number of enhancements to its regime for addressing money laundering and terrorist financing, the most notable being the introduction of a register of beneficial ownership of legal persons and changes to the AML/CFT regulatory framework that were made in order to implement revisions to the FATF Recommendations.

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<sup>11</sup> See footnotes 2 and 3 – all references in this document to NPOs include charities.

<sup>12</sup> References in this document to TCSPs are to TCSPs licensed by the GFSC unless the contrary is stated.

<sup>13</sup> Moneyval is a permanent monitoring body of the Council of Europe that assesses compliance by its members with the FATF Recommendations. Guernsey became a member of Moneyval in 2012.

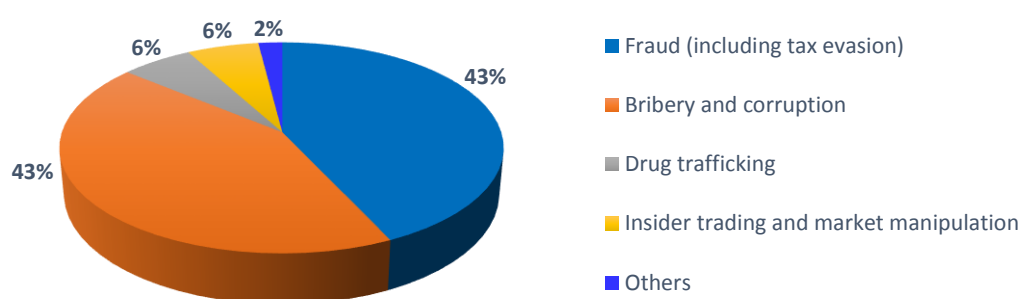
- 1.11 Details about the way in which the core AML/CFT authorities discharge their roles are set out in Appendix 1.

## 2. MONEY LAUNDERING - OVERVIEW

### Proceeds of foreign criminality

- 2.1 As would be expected for an IFC with a low domestic crime rate, Guernsey's primary money laundering threats arise from foreign criminality. This is most likely to involve bribery and corruption and fraud (including tax evasion), followed by drug trafficking and insider dealing and market manipulation. The authorities are monitoring emerging international threats from other offences such as human trafficking, modern day slavery and the illegal wildlife trade, but to date there are no indications that Guernsey is being used to launder the proceeds of these offences.

*Figure 1: Distribution of foreign proceeds of crime*



- 2.2 When considering the proceeds of tax evasion, it is important to be aware that this exposure is reduced by Guernsey's participation in many international initiatives in this area. The jurisdiction has been an active member of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, concluding its first TIEA with the United States in September 2002. Since then Guernsey has concluded 60 TIEAs with other jurisdictions and 13 comprehensive Double Taxation Agreements. It is also a participant in the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The result of these activities is that Guernsey has exchange of information relationships with over 120 jurisdictions, all of which enable the exchange of information in respect of both criminal and civil tax matters. In 2013 Guernsey signed intergovernmental agreements with both the USA and the UK which enabled the USA's FATCA to be implemented in the jurisdiction; shortly thereafter, in 2014, Guernsey became an "early adopter" of what was then the new standard in tax transparency, namely the Standard for Automatic Exchange of Financial Account Information in Tax Matters (often referred to as the CRS). This requires financial institutions in participating jurisdictions to provide information to their domestic tax authorities about any accounts they hold that are owned by a person who is tax resident in a foreign participating jurisdiction. The domestic tax authorities must then automatically pass on that information to the tax authorities in the foreign jurisdiction, again on an annual basis.

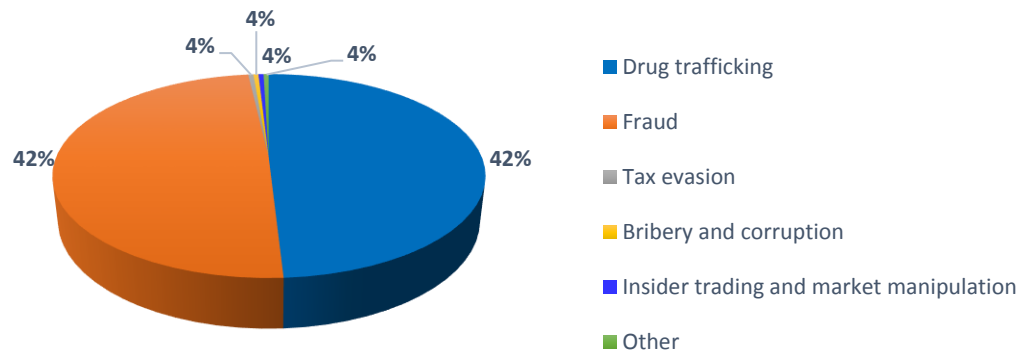
- 2.3 Based on the sources of Guernsey's cross-border business, criminal proceeds are most likely to be sent from or otherwise linked to the UK, followed by countries in the Euro area, the USA, the Russian Federation and, to a lesser extent, other countries such as South Africa, China, Nigeria, India and the UAE. Proceeds of foreign criminality are also likely to come via other IFCs that are used as entrepôts where the underlying criminality has taken place elsewhere. In some cases, particularly those involving the proceeds of drug trafficking, links to international organised criminal groups have been identified, but there is no evidence that these links exist to any significant extent.
- 2.4 The formal financial sector (i.e. not cash transactions) is most likely to be used in cases involving the proceeds of foreign criminality. This could take the form of sending assets into or through Guernsey, of using structures created in or administered from Guernsey to hold or manage assets within the jurisdiction or elsewhere, or a combination of both. This type of activity is most likely to involve the banking and TCSP sectors, and legal persons and legal arrangements that are established in connection with cross-border business. These sectors and products are therefore identified as presenting the jurisdiction's highest money laundering risks. In some cases there may be an overlap between money laundering and the underlying criminality itself. This would arise for example where a Guernsey bank account, or an entity created or administered in Guernsey with a bank account elsewhere, was used to receive assets that constituted bribes.
- 2.5 In practice, criminal proceeds are more likely to pass through Guernsey than to be located within the jurisdiction for any significant length of time. Where assets do remain in the jurisdiction this is most likely to involve funds in bank accounts or investments made with the proceeds of crime. The opportunities to acquire tangible high value assets such as real property within the jurisdiction itself are limited. Therefore, while title to or control of these types of assets may be linked to Guernsey, the assets themselves are likely to be located elsewhere (e.g. where a company incorporated in or administered from Guernsey owns real property in London).
- 2.6 The kind of cross-border money laundering activity that typically affects Guernsey generally involves chains of ownership structures and transactions, with Guernsey often being a long way down the chain. The fact that Guernsey is likely to be some way removed from the underlying criminality, coupled with the fact that many business relationships come via other IFCs, can make links between assets and the underlying criminality that generated them hard to detect.

### **Proceeds of domestic criminality**

- 2.7 The money laundering threats from domestic criminality principally relate to drug trafficking and fraud (including tax evasion), which are the most significant domestic proceeds-generating crimes. These offences usually involve small-scale activity that is carried out entirely within the jurisdiction and generates low levels of proceeds. However, there have been a small number of drug trafficking cases involving organised criminal groups and these cases typically generate higher levels of proceeds. There have also been actual or suspected cases of other proceeds-generating crimes that

tend to generate higher levels of proceeds, such as bribery and corruption and insider dealing and market manipulation, but again the number of such cases is very low. For other forms of proceeds-generating offences, there have either been no known instances to date, or they have occurred on a one-off basis.

*Figure 2: Distribution of domestic proceeds of crime*

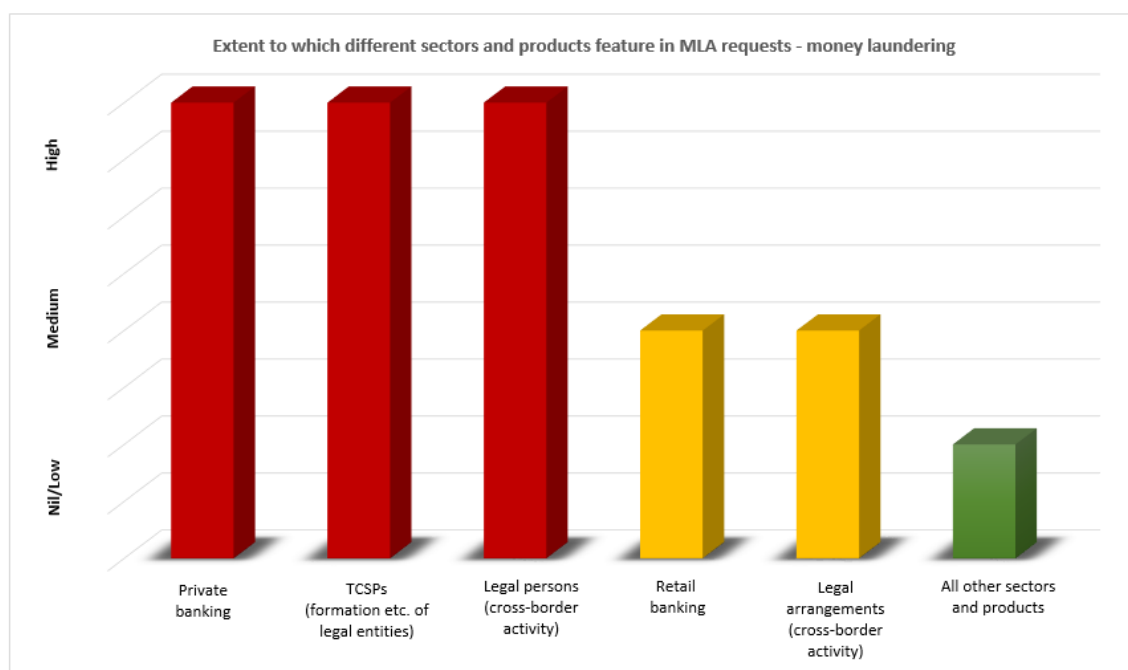


- 2.8 The proceeds of domestic criminality may be laundered using both cash and the formal financial sector, with the use of cash being particularly common in drug trafficking cases. Laundering is likely to take place within the jurisdiction, especially in the case of small-scale criminality where the proceeds may be fairly low. This often involves “smurfing”, i.e. making several small cash payments into a bank account in order to avoid arousing suspicion, and this is sometimes done through the bank account of a friend or family member. However, other jurisdictions may also be involved in laundering the proceeds of more sophisticated or large-scale offences. This is most likely to affect countries with established links to the jurisdiction, which are primarily the UK, the Euro area or other IFCs. However, laundering may also occur in jurisdictions further afield that are popular holiday destinations for local residents.
- 2.9 The consequences of money laundering are likely to be felt by individuals in the jurisdiction where this leads to an increased exposure to drug trafficking and fraud. At a jurisdictional level, the consequences of money laundering are most likely to be damage to the jurisdiction’s international reputation and the loss of public confidence or application of punitive measures that may result from this. There may also be indirect consequences in other jurisdictions. Each of these consequences is assessed as severe.
- 2.10 Further details about money laundering patterns are set out in the section below on the modalities of money laundering. In addition, case studies illustrating various forms of money laundering activity are set out in Appendix 2.



### 3. MONEY LAUNDERING RISKS - SPECIFIC SECTORS AND PRODUCTS

- 3.1 The money laundering risks posed by individual sectors and products are identified below. This has been based on factors such as the extent to which a sector has high risk customers (e.g. PEPs or customers connected with higher risk countries or industries), the levels of transparency or complexity involved in particular products, services or transactions, and the extent to which a sector or product features in money laundering indicators such as SARs and international requests for assistance.
- 3.2 When considering money laundering indicators, most weight has been given to MLA requests.<sup>14</sup> This is because MLA requests are only made in cases where another jurisdiction is satisfied that it has sufficient grounds (whether from SARs, intelligence or other sources) to justify the initiation of a criminal investigation, prosecution or criminal asset recovery proceedings. For this reason, while it is recognised that the number of MLA requests received and the inferences that may be drawn from them is dependent on the effectiveness of criminal justice systems in other countries, an MLA request is generally a more developed and reliable indicator of possible criminality than a SAR or a request for intelligence-based information.



- 3.3 An overarching finding of the NRA is that while some businesses have significant inherent vulnerabilities to the threats facing Guernsey, this is mitigated by the robust AML governance, policies, procedures and controls they put in place, in particular for the identification and verification of beneficial owners of legal persons and legal arrangements; enhanced CDD for high risk customers; and the monitoring of transactions and activity for all customers such as sanctions and adverse media screening. Business is usually declined from jurisdictions that are identified by the

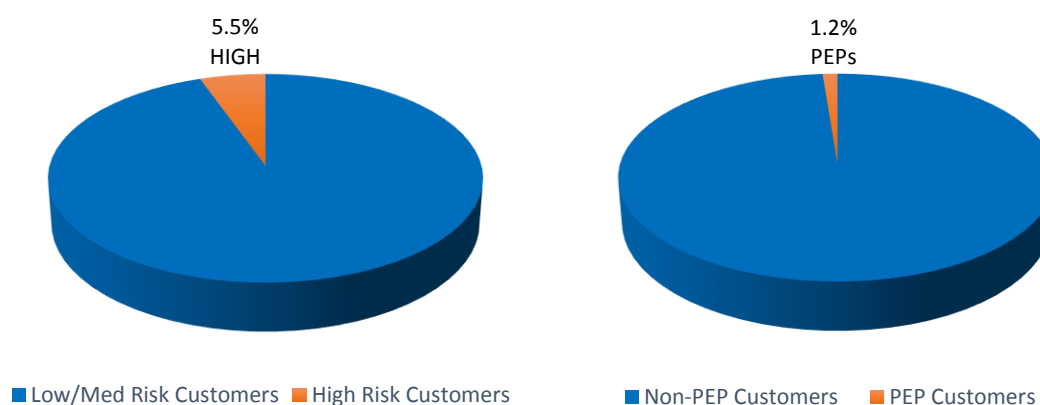
<sup>14</sup> See footnote 8.

FATF as having no, or inadequate, AML/CFT controls (the supervisors routinely notify the entities they supervise of all relevant information issued by the FATF). There is also an effective system for regulation and supervision in place for financial services businesses and other reporting entities. Further details of this system are set out in Appendix 1.

## Banking

- 3.4 The banking sector offers private and retail banking services. No Guernsey banks provide foreign correspondent banking services and none are domestically owned. All Guernsey banks are subsidiaries or branches of international banking groups that are established in a range of jurisdictions with equivalent AML/CFT regimes. There is a concentration of banks with head offices in the UK and Switzerland, with other banks from Bermuda, Canada, France, Germany, South Africa and the USA. Total bank deposits are approximately £97.4 billion.

*Figure 3: Banking: proportion of high risk customers overall and high risk customers that are PEPs*



- 3.5 There are 23 licensed banks, the majority of which offer private banking services. Their deposits come predominantly from non-resident high net worth individuals, either directly or from TCSPs that administer structures on behalf of these individuals, although some deposits also come from fund administration companies. There is a small number of banks whose primary role is to hold interbank deposits from other group entities. Private banks are also separately licensed for investment business in order to undertake discretionary investment management, investment advisory and execution-only trading services (i.e. services that are restricted to the execution of trade and do not involve the provision of investment advice) for both domestic and international customers.

- 3.6 18% of the private banking sector's client base comprises high risk customers, including 4% of customers who are PEPs. Exposure to criminality comes from the speed of transactions across a multitude of financial markets; the high number of non-face-to-face international transactions; and the number of high risk customers and international PEPs within its client base.
- 3.7 The inherent vulnerability of the private banking sector is assessed as Much Higher. Taking account of mitigating measures, the residual money laundering risk of the private banking sector is assessed as **Higher**.
- 3.8 There are five banks that predominantly offer retail banking services in Guernsey, all of which are subsidiaries or branches of UK banking groups. The retail banking sector also provides services to TCSPs acting on behalf of non-resident high net worth individuals. However, overall the retail banking sector has a much lower proportion of high risk customers and PEPs among its client base and it predominantly provides banking facilities to local residents and businesses, although there is also a small number of relationships with individuals in the UK. Exposure to criminality comes from the universal nature of retail banking transactions, as well as the frequency and speed with which they are conducted.
- 3.9 The inherent vulnerability of the retail banking sector is assessed as Higher. Taking account of mitigating measures, the residual money laundering risk of the retail banking sector is assessed as **Medium Higher**.

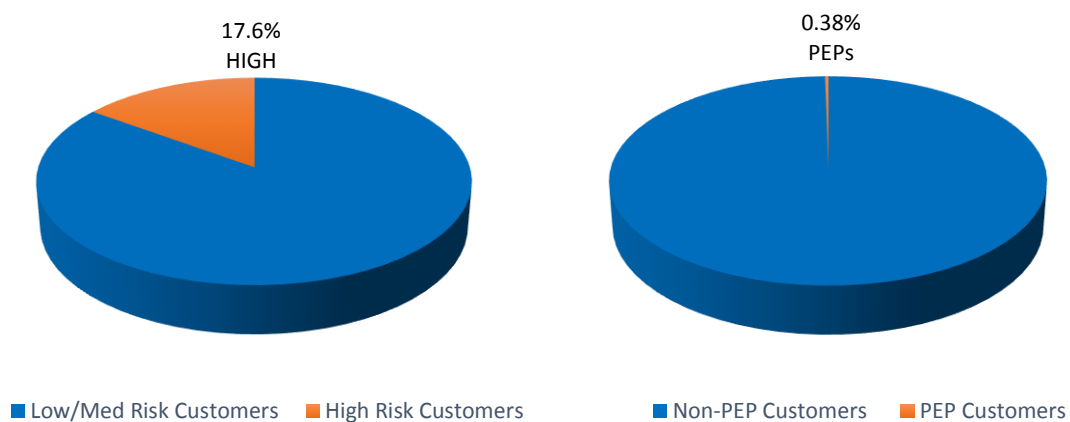
## Insurance

- 3.10 The insurance sector comprises international and domestic insurers, which respectively underwrite non-local risks and wholly or primarily local risks. The majority of the international insurers licensed in Guernsey are administered by licensed insurance managers who act as general representative to and manage the day-to-day operations of these licensed insurers. The sector also comprises intermediaries that are licensed for the purposes of both investment and insurance business. They advise on investment and insurance products and savings and retirement products, and have proportionally a larger number of Bailiwick resident customers than other sectors.
- 3.11 The majority of the international insurance companies in Guernsey have been established by UK based groups but 153 have been established by non-UK based groups or individuals from a wide range of jurisdictions. Annually, international insurance companies write premiums of approximately £5.5bn. There is also a number of small commercial insurers writing niche general insurance products for the international market (predominantly the UK). There are 369 licensed international insurers, most of which are managed by specialist insurance management companies. The sector provides general insurance, captive insurance, reinsurance, ILS and life insurance and pensions. Generally speaking the products offered by these sub-sectors are not sufficiently flexible to be the first vehicle of choice for money launderers, and the client base includes a very low volume of high risk customers or PEPs.

- 3.12 General insurance is not seen internationally as having any significant vulnerability to money laundering, and is not therefore covered by the preventive measures in the FATF Recommendations. (Kidnap and ransom insurance is however recognised internationally as vulnerable to terrorist financing; this vulnerability is therefore assessed below in the terrorist financing section.) Captive insurance companies are typically subsidiaries of large multi-national companies, many of whom use the services of a fronting insurer, i.e. a licensed insurer (usually based in the UK) who issues an insurance policy on the company's behalf with the risk of loss being retained by the company through an indemnity or reinsurance agreement. While Guernsey has a very large captive insurance sector, it principally writes general insurance only. The principal exposure to abuse for both general insurance and captive insurance is fraudulent claims. Given the source of most business, these are likely to be domestic in the case of general insurance and to come from the UK, the Euro area and the USA in the case of captive insurance.
- 3.13 A small part of the insurance sector deals with commercial reinsurance, i.e. acceptance of risk from other insurers or reinsurers, who themselves are regulated entities in the territories in which they are based. Reinsurers do not deal with the general public and their products do not offer obvious scope to be used for money laundering. Guernsey reinsurers cover mainly catastrophe risks such as windstorm, wildfire and earthquake risks. The nature of these events is that they will be widely publicised and detailed information is freely available.
- 3.14 There are currently 6 companies licensed to conduct ILS business. ILS provide a mechanism for investors to participate in insurance risk in order to diversify their portfolios. They can be structured as financial instruments which are sold to investors, such as catastrophe bonds and other forms of risk-linked securitisation. As securities, ILS can be and are traded among investors and on the secondary-market and are therefore vulnerable to money laundering. However, the ILS market in Guernsey is limited and there is no secondary market for the type of transactions that are underwritten by Guernsey entities. Therefore, the principal exposure to abuse for ILS is not money laundering but fraudulent claims.
- 3.15 The inherent vulnerability of the captive, reinsurance and ILS sub-sectors of the insurance sector is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of these parts of the insurance sector is assessed as **Lower**. The inherent vulnerability of general insurance is assessed as Lower. Taking account of mitigating measures, the residual money laundering risk of the general insurance sector is assessed as **Much Lower**.
- 3.16 The main life insurance and pension products offered in the jurisdiction are pensions, group life and other group employee benefit plans for companies and single premium and other portfolio bonds. There are 63 life and employee benefits insurers. The life insurance sector broadly divides between companies that provide insurance to protect mobile employees of large international companies and those that provide wealth and saving products through insurance linked investments. One major life insurance company whose headquarters are in the jurisdiction accounts for

approximately a third of the life insurance policies written. These provide insurance for non-residents such as expatriate workers in overseas territories. Therefore, country risk plays a large part in the number of high risk relationships in this sector. Wealth and savings products are usually insurance wrapped investments that are normally long term with early cancellation penalties. Employee benefit policies are usually arranged as a group policy by the employer and individuals only receive the benefits in the event of a death or a critical illness, both of which must be supported by third party documentation. For these reasons there is considered to be no significant prospect of these policies being used for money laundering purposes.

*Figure 4: Life insurance and pensions: proportion of high risk customers overall and high risk customers that are PEPs*

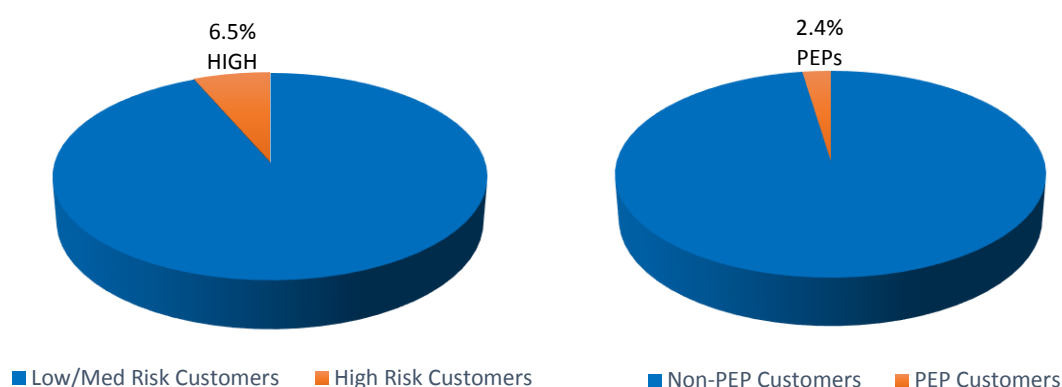


- 3.17 The long-term nature of life insurance and pensions and the significant financial disadvantages for early cancellation make these products unattractive for most money laundering purposes, but they may be purchased with the proceeds of crime. The inherent vulnerability of this part of the sector is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of these parts of the insurance sector is assessed as **Medium Lower**.

## Investment

- 3.18 The investment sector comprises the administration, investment management and custody of collective investment schemes and the provision of discretionary management and advisory services, execution only services and associated custody services. Very large asset values are involved, the sector has a cross-border customer base and the geographic reach of its products and services is broad.

*Figure 5: Investment: proportion of high risk customers overall and high risk customers that are PEPs*



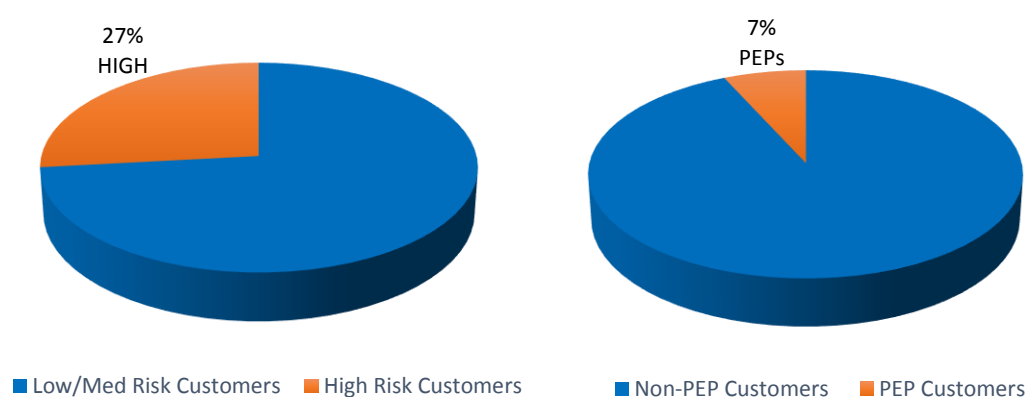
- 3.19 Shares, units or partnership interests in collective investment schemes (described here collectively as shares for ease of reference) may be open to general subscription or may be established for an exclusive group of investors. Collective investment schemes may be open-ended i.e. they have shares that can be redeemed at a price referable to their net asset value, or closed-ended i.e. they have a fixed number of shares that are generally not redeemable.
- 3.20 The exposure of collective investment schemes to criminality may arise from the activities of the schemes themselves (e.g. where they make investments in high risk countries, especially those with a high bribery and corruption risk), from the possibility that they may be controlled by parties who wish to use the scheme for criminal purposes (e.g. market abuse or fraud), or from investors who may look for products such as these in which to invest their proceeds of crime so as to generate investment returns.
- 3.21 Open-ended schemes are vulnerable to money laundering as shares can be bought and sold on demand, although many contain notice periods for redemptions. However, this vulnerability is mitigated by the fact that schemes do not accept cash or cash equivalents and do not pay out in cash or cash equivalents to investors. Moreover, reporting entities will typically only receive monies for an investment from a bank account in the name of the registered investor and pay monies back to an account in the name of the registered investor and typically the same account as the monies originated from. Should the source bank account for monies be from a higher risk jurisdiction, this would usually prompt further investigation by the reporting entity. Closed-ended schemes are considered to be less appealing products for money launderers as they are unable freely to access their capital.
- 3.22 Over 80% of Guernsey collective investment schemes are closed-ended. The net asset value of Guernsey schemes is approximately £218.8 billion across circa 800 schemes, with the average investment holding per account for closed-ended schemes being particularly large.

- 3.23 The majority of schemes are invested in European assets. Many open-ended schemes and some closed-ended schemes invest in government issued securities, or in exchange-traded securities that have passed the listing requirements of the relevant stock exchange. In addition, some schemes in their own right are listed or traded on a recognised stock exchange. All schemes are required to appoint a nominated firm (i.e. a firm that is licensed in Guernsey for controlled investment business) to be responsible for the application of CDD measures to all investors in the scheme, and also to appoint a locally licensed fund administrator who tends to act as the nominated firm. Open-ended schemes are also required to appoint a locally licensed Designated Trustee or Custodian who exercises control over the assets and oversight of the fund administrator or manager.
- 3.24 The vast majority of schemes are targeted at institutional investors such as pension funds and to a lesser extent sovereign wealth funds. The risk exposure of sovereign wealth funds to criminality principally arises from the proceeds of corruption and fraud, primarily from countries which have created such funds to invest the surplus revenues of their petroleum sectors in real and financial assets with the purpose of benefitting a country's economy. Sovereign wealth funds are established from a range of jurisdictions, with varying risk profiles. Many are members of the International Forum of Sovereign Wealth Funds, which promotes transparency, good governance, accountability and prudent investment practices.
- 3.25 The inherent vulnerability of collective investment schemes is assessed as Medium Higher. Taking account of mitigating measures, the residual money laundering risk of this part of the investment sector is assessed as **Medium**.
- 3.26 Assets involved in discretionary management, advisory and execution only services are approximately £63 billion so this is a significant sub-sector. In a discretionary management relationship the possibility of insider dealing or other forms of market abuse is low because the investor has no control over the investments. This possibility is higher in advisory or execution only relationships, because in the former the investor is free to deviate from the recommendations of an investment advisor and in the latter transactions are carried out solely on the instructions of an investor. In addition, all three forms of relationship are exposed to the possibility that the investments in question have been made with the proceeds of crime.
- 3.27 The inherent vulnerability of discretionary management, advisory and execution only services is assessed as Higher. Taking account of mitigating measures, the residual money laundering risk of this part of the investment sector is assessed as **Medium Higher**.

## Trust and corporate services

- 3.28 The TCSP sector provides services relating to the formation, management and administration of legal persons and legal arrangements to an international client base (including the provision of officials and, to a much lesser degree, the provision of executorship services). It also provides retirement and pension solutions for both corporate and private clients. The sector is a key driver of business flows into Guernsey and is significant in terms of assets under administration, in respect of both the range and values of assets involved. Whilst the number of trust and corporate appointments held by the sector as a whole has decreased over the last 10 years, the sector's turnover has increased, indicating a move toward higher value, lower volume business.
- 3.29 The customer base of the TCSP sector has a very broad geographic reach and some of the sector's business relationships involve very significant asset values.

*Figure 6: Trust and corporate services: proportion of high risk customers overall and high risk customers that are PEPs*



- 3.30 The sector's principal exposure to criminality is its involvement in the formation, management and administration of both domestic and foreign legal persons and legal arrangements. This is due to the extremely broad geographic reach of the sector's customer base; the fact that legal persons and legal arrangements may be used to conceal the source of assets and the identity of beneficial owners; the availability of non-face-to-face transactions; the use of professional advisors or referrers of business; the extremely high value of some of the structures involved; and the fact that the client base of the TCSP sector includes a significant volume of high risk customers and, within that, some foreign PEPs.
- 3.31 The various types of structures created or administered by the sector and their individual money laundering risks are set out in the sections below on legal persons and legal arrangements. In practice, the most common form of business relationship in this area of work involves the establishment of a Guernsey law discretionary trust with underlying companies to hold assets, predominantly investment portfolios or



property for residential or investment purposes. These relationships are relatively straightforward in terms of transparency of ownership and control, as most TCSPs look to provide the full suite of trust and corporate services within a business relationship to ensure that they are in control over the management and distribution of assets.

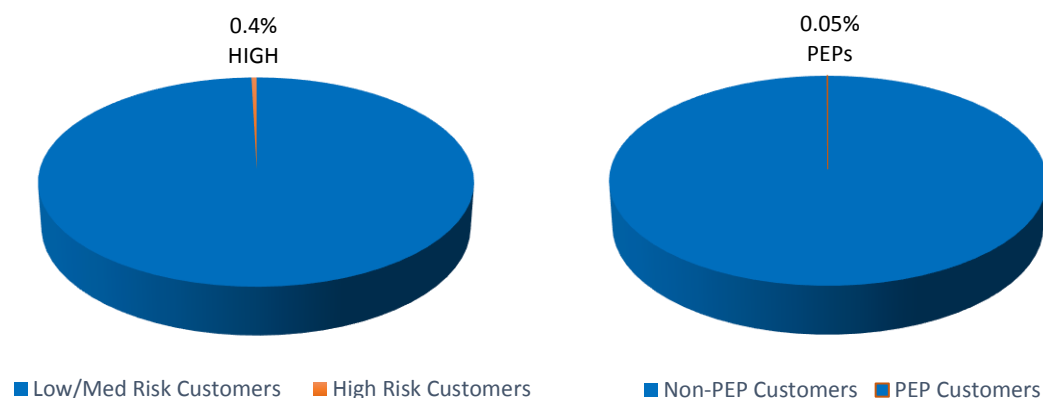
- 3.32 TCSPs also manage structures that are set up to address the financial and personal needs of wealthy families. The provision of services to very high net worth individuals and their families is vulnerable to money laundering because of the diversity of the assets involved and the fact that they are usually of significant value. A small number of TCSPs specialise in providing trust and corporate services to structures established to invest in a joint venture, where multiple vulnerability factors can be present. These structures, which are established in Guernsey because of its tax neutrality,<sup>15</sup> have more complex beneficial ownership arrangements and sometimes also involve multiple corporate layers which adds to their complexity. In addition, the underlying investment may be in an industry or country which is more susceptible to the risk of bribery and corruption.
- 3.33 The inherent vulnerability of this part of the sector is assessed as Much Higher. Taking account of mitigating measures, the residual money laundering risk of this part of the TCSP sector is assessed as **Higher**.
- 3.34 The TCSP sector is also involved in the provision of services related to retirement and pensions. These services are provided by approximately 50% of TCSPs (including joint licensees). The typical arrangements involved are trust-based, and include services for international employer schemes, international personal schemes, Guernsey-based employer schemes and schemes for Guernsey resident individuals. Therefore, the customer base for these services includes a large number of domestic clients. Exposure to criminality arises from the fact that although the long term nature of retirement and pension products makes them unattractive for most money laundering purposes, they may be purchased with the proceeds of crime.
- 3.35 The inherent vulnerability of this part of the TCSP sector is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of this part of the TCSP sector is assessed as **Medium Lower**.

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<sup>15</sup> An example of Guernsey's tax neutral model is that companies resident in Guernsey are, generally, charged at the company standard rate of 0% (unless the company receives income from regulated business activities or the exploitation of land/property situated in Guernsey). However, this does not affect the tax liabilities of individual beneficial members/investors in their jurisdiction of tax residence and this is supported by Guernsey's adoption of international standards in respect of tax transparency, under which, for example, relevant information concerning beneficial members/investors may be shared, automatically or on request, with the tax authorities of their jurisdiction of tax residence.

## Non-core financial services businesses

Figure 7: Non-core FSBs: proportion of high risk customers overall and high risk customers that are PEPs



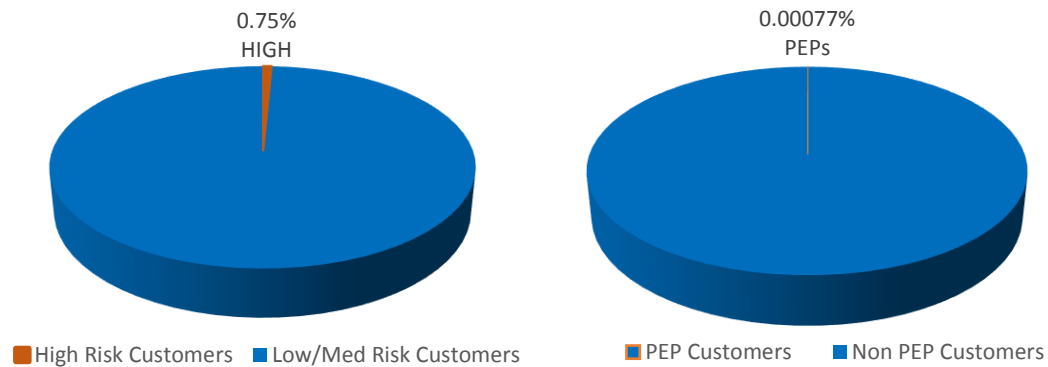
- 3.36 The non-core financial services businesses sector is very small and principally involves non-bank lending and money services.
- 3.37 The type of laundering internationally associated with lending (i.e. taking out loans for the sole purpose of swiftly repaying them using the proceeds of crime) is unlikely to occur with Guernsey non-bank lenders as their services are predominantly offered to local residents for lifestyle lending (home improvements etc.) on a face-to-face basis, save for a small degree of business with the UK domestic market. There is slightly more likelihood of non-bank money service provision being used in connection with criminality, due to the opportunities it offers to move assets extremely quickly. However, the level of this provision is low and is mainly offered by a single government-owned bureau de change and wire transfer provider. Most transactions involve outward low-value transmissions by foreign workers in the hospitality and building sectors to send a proportion of their earnings back home.
- 3.38 The inherent vulnerability of the sector as a whole is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of the non-core financial services businesses sector is assessed as **Medium Lower**.

## eCasinos

- 3.39 Alderney eCasinos are the only casinos which can be established in the Bailiwick of Guernsey. The eCasino sector has a large client base, with high volumes of cross-border business. This is mainly from within the British Isles and, to a lesser extent, elsewhere within Europe. There is very little business with jurisdictions that are internationally regarded as high risk, for two reasons. First, experience to date is that eCasinos in Alderney are generally risk averse. Second, in some countries that are seen internationally as having poor AML/CFT controls it is not lawful for residents to gamble, and eCasinos are legally prohibited from allowing eGambling where this

would constitute criminal activity by the customer. Therefore, the proportion of high risk customers is very low and the proportion of PEPs within that is even lower.

*Figure 8: eCasinos: proportion of high risk customers overall and high risk customers that are PEPs*



- 3.40 There are international concerns about the use of eCasinos for money laundering in two respects. The first is where an eCasino is owned or controlled by parties wishing to launder the proceeds of crime through it. The second relates to illicit activity by clients, primarily the use of stolen or cloned credit cards, use of rented identities and match fixing. These threats may be compounded by insufficient payment controls or the acceptance of players from jurisdictions with inadequate identity checks or audit trails.
- 3.41 There are strict controls in place for Alderney eCasinos to mitigate the above concerns. With regard to ownership and control, this is subject to very stringent licensing processes where the Licensing Directorate of the AGCC carries out a full investigation into the ultimate beneficial owners and senior managers of the applicant for an eCasino licence. With regard to customers of eCasinos, all must be registered, identified and verified in advance and no occasional transactions are possible, meaning that simplified due diligence is not permitted. The acceptance of cash from customers is not permitted and all payments to and from a customer's account must be from an account with a regulated financial institution.
- 3.42 As indicated above, the sector is generally risk averse so will typically decline business from jurisdictions that are seen as having poor AML/CFT controls. In addition, technological solutions are used to reduce the risk of illicit activity (e.g. by preventing the manipulation of event-based wagering).
- 3.43 The inherent vulnerability of the sector is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of the eCasino sector is assessed as **Medium Lower**.

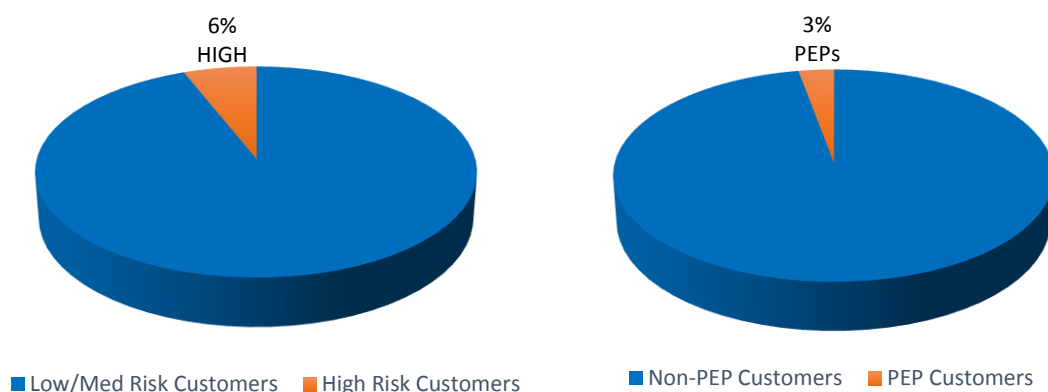
## Lawyers

- 3.44 The legal sector in Guernsey offers a variety of services for both a domestic and an international client base. This includes, but is not limited to, civil and criminal litigation and commercial, trust, corporate, banking, insurance, matrimonial and family, estate planning, probate, real estate and conveyancing law. Some law firms have associated entities within their groups that are licensed to offer trust and company services, and the risks of this offering are assessed separately in the section above on the TCSP sector. A number also have associated entities that are licensed to offer investment services.
- 3.45 There are 19 legal professional firms registered by the GFSC to carry out transactional legal services and therefore subject to its supervision for AML/CFT purposes.<sup>16</sup> In addition, all lawyers are subject to the oversight of their professional regulatory bodies. In the case of locally qualified lawyers this is the Guernsey Bar. While a significant proportion of legal firms focus on domestic work, there are also larger multi-jurisdictional legal firms that focus on an international client base and domestic IFC work.
- 3.46 As a matter of course, legal firms do not hold or manage client money. This may happen where they undertake conveyancing work for local real estate transactions on escrow, where they undertake probate work and are appointed to administer a deceased client's estate in order to manage the assets of the estate pending distribution, or in the context of mergers and acquisitions of Guernsey companies where money is held to facilitate completion and then distributed to the buyer. All of these services comprise transactional services and are therefore regulated for AML/CFT purposes.
- 3.47 The larger multi-jurisdictional legal firms operating in Guernsey are part of wider groups that operate in other IFCs. These larger multi-jurisdictional legal firms have business relationships with major London-headquartered and international law firms, from where much of Guernsey's financial services business is referred. This is especially the case in relation to the investment sector, where larger multi-jurisdictional legal firms play a pivotal role in the provision of legal advice for non-resident clients seeking to establish structures with locally based financial services businesses.
- 3.48 The underlying client base of larger multi-jurisdictional legal firms operating in Guernsey mainly comprises institutional investors who are listed and/or regulated in the UK or elsewhere. This reduces exposure to the threat of money laundering.

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<sup>16</sup> These are services that are required to be AML/CFT regulated by the FATF Recommendations and include the purchase and sale of real estate, the management of client monies or other assets, and the organisation of contributions for the creation, operation, management or administration of legal entities.

Figure 9: Legal sector: proportion of high risk customers overall and high risk customers that are PEPs

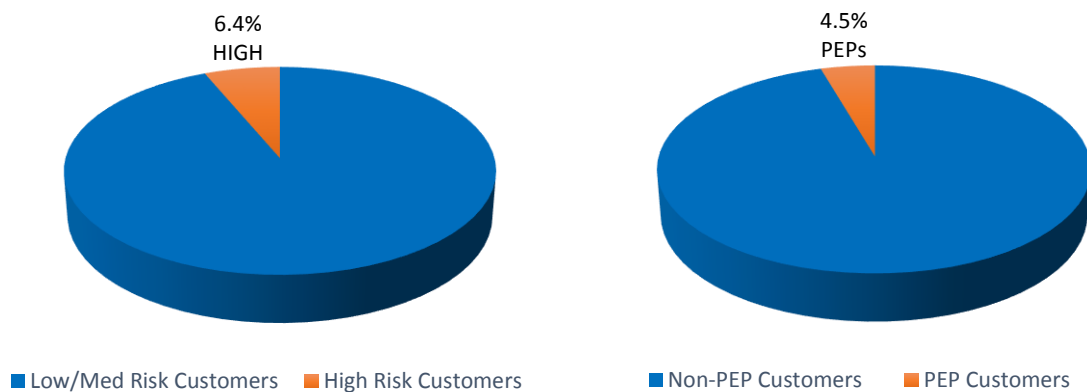


- 3.49 Internationally it is recognised that the legal sector in most countries is considered attractive to criminals because of the credibility and respectability it can convey, which may help to create distance between funds and their illicit source and to integrate those funds into the legitimate economy. From a Guernsey perspective, the exposure of the legal sector to criminality arises from its role in introducing foreign business to the domestic financial services sector, which means that it is exposed to criminality in the same way as those sectors.
- 3.50 The inherent vulnerability of the legal sector is assessed as Medium Higher. Taking account of mitigating measures, the residual money laundering risk of the legal sector is assessed as **Medium**.

## Accountants

- 3.51 Accountants, auditors, tax advisors and insolvency practitioners (collectively described here as accountancy firms for ease of reference) perform a number of functions in helping their customers organise and manage their financial affairs. There are 54 practitioners registered by the GFSC for these purposes. Typically they only hold or manage client funds when appointed as insolvency/liquidation practitioners. Where accountancy firms also offer trust and company services they require a fiduciary licence, and therefore the risks relating to this activity are set out in the section above on the TCSP sector. The accountancy firms operating in the jurisdiction range from those firms representing the Big 4 (PricewaterhouseCoopers, EY, Deloitte and KPMG) and larger, internationally connected firms to a wide range of the other firms, some with an international network and others who only operate locally in Guernsey and are owned and controlled locally.

*Figure 10: Accounting sector: proportion of high risk customers overall and high risk customers that are PEPs*

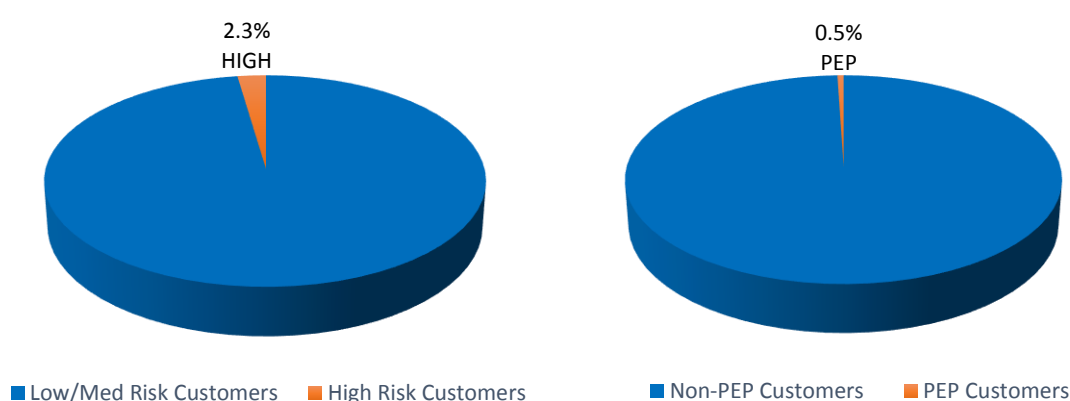


- 3.52 The locally owned and controlled smaller accountancy firms generally focus on providing audit and accounting services to domestic customers, as well as tax advice and assistance to ensure that these customers comply with domestic tax obligations. The bulk of the accountancy, audit and tax services provided to the financial services sector, the public sector and the larger parts of the local commercial sector are provided by the Big 4 and larger, internationally connected firms. Typically, they provide tax advice in respect of both the Bailiwick and the UK tax regimes and most often in respect of property and corporate structuring.
- 3.53 Accountants are seen internationally as attractive to criminals due to the credibility and respectability they can convey, which may help to create distance between funds and their illicit source and to integrate those funds into the legitimate economy. The sector's exposure to criminality primarily comes from foreign white collar criminals requesting tax advice in relation to their ownership, or involvement in legal persons and legal arrangements and regulated investment schemes. However, this exposure is reduced by the fact that the sector's clients are frequently financial services businesses or entities administered by other reporting entities, and also by Guernsey's adoption of international standards in respect of tax transparency. A further exposure may arise from accounts that have been falsified to disguise criminality and are unwittingly approved by accountants, particularly when auditing and signing off accounts for collective investment schemes with intricate structures and complex trading strategies. However, this exposure is reduced by the fact that accountancy firms are subject to audit regulations and in addition, the accounts of collective investment schemes are usually prepared by the licensed fund administrator.
- 3.54 The inherent vulnerability of the sector is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of the accountancy sector is assessed as **Medium Lower**.

## Estate agents

- 3.55 There are 21 real estate agents in the jurisdiction, 19 of whom are in Guernsey, 1 is in Alderney and 1 is in Sark. All of these firms are owner-directed with the exception of one, which is owned by a global real estate agent provider listed on the London Stock Exchange. The availability of property in all three islands is very limited due to their small size, particularly in the case of Alderney and Sark. All transfers of property must be approved by the court in Guernsey and Sark, and by the Land Registrar or a practising solicitor or Notary Public in Alderney. The housing market in Guernsey and Sark is divided into two categories: Open Market and Local Market. Local Market houses are available for purchase by anyone but can only be occupied by people who meet a local residence test based on birth and parentage, or by people who hold an appropriate licence from the government (usually employment-related). Open Market houses are available for purchase and occupation by anyone with the right of abode in the UK or EU.
- 3.56 95% of business undertaken by the real estate sector involves the purchase of residential property by local residents in face-to-face transactions, although there has been a recent increase in the sale of property to persons looking to move to the jurisdiction. This is attributable to an initiative to promote and support the relocation of individuals and businesses to Guernsey, which has increased the demand for open-market housing. In 2018 there were 14 relocations from the UK, one from Canada, one from Switzerland, three from China, three from Hong Kong, one from Thailand and one from Singapore. However, it is important to be aware that this is a relocation service, not a residency or citizenship programme. Very few transactions involve legal persons or legal arrangements.

*Figure 11: Real estate agents: proportion of high risk customers overall and high risk customers that are PEPs*



- 3.57 Although real estate agents accept deposits and the acquisition of real estate is recognised internationally as a method of money laundering, the opportunity for this in Guernsey is restricted because the small physical size of the jurisdiction means that the availability of real estate is limited and the controls on the occupation of property by persons outside the jurisdiction outlined above limit the attractiveness of the sector for laundering foreign proceeds of crime. The attractiveness of using real property in the jurisdiction for money laundering purposes is further limited by the fact that all property transfers must be approved by the court, by an official or by a legal practitioner as the case may be.
- 3.58 In the rental market, the majority of property leases are for a period of one year or longer, exceptions being short term holiday or winter lets. Landlords do not allow properties to be sublet without their agreement. The main exposure to criminality comes from the landlord rather than the tenant, as criminals owning property could use rental income to legitimise illicit funds. However, this is reduced by the fact that in most cases estate agents (who must apply AML/CFT controls) market rental properties, vet potential tenants, hold rental deposits, collect rental payments and manage property maintenance issues.
- 3.59 The inherent vulnerability of the sector is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of the estate agency sector is assessed as **Lower**.

#### **Dealers in precious metals and stones**

- 3.60 Guernsey's DPMS sector is small, and is principally comprised of jewellery retailers who carry out face-to-face transactions with domestic and international customers. There are currently 18 such businesses in the jurisdiction. There are also three businesses that deal in bullion or postage stamps. 90% of their customer base is split broadly evenly between Guernsey and the UK. Of the remaining 10%, just under half comes from the BVI, with the rest coming from business relationships with a wide range of different countries on a one-off basis.
- 3.61 It is a criminal offence to accept cash payments for precious metals, precious stones or jewellery in excess of £10,000 or its equivalent in another currency. These obligations are underpinned by restrictions on the amount of precious metal that can be posted from the jurisdiction without the completion of a specific customs form, and postal exports of bullion other than gold are sent by the Guernsey Post Office, which collects VAT for and on behalf of the UK authorities. In addition to these controls, the three businesses that deal in bullion or postage stamps are subject to the AML/CFT framework and the supervision of the GFSC for these purposes.
- 3.62 The inherent vulnerability of the sector is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of the DPMS sector is assessed as **Lower**.



## Legal persons

- 3.63 References to Guernsey in this section mean the island of Guernsey. The legal persons that can be formed in the jurisdiction are Guernsey companies, Alderney companies, Guernsey limited partnerships with legal personality, Guernsey limited liability partnerships and Guernsey foundations.
- 3.64 The Bailiwick has a longstanding public commitment to promoting transparency of legal persons and has had measures to achieve this for many years. TCSPs have been subject to a prudential licensing and supervisory regime for almost 20 years, and are the only parties who may apply to incorporate Guernsey companies, Alderney companies, limited liability partnerships and foundations. All legal persons incorporated in the Bailiwick are obliged to maintain basic ownership information and information about their purpose, which must be provided to a central register. There are also longstanding obligations on legal persons to appoint either a locally resident official or a TCSP as a resident agent with responsibility for maintaining a record of the beneficial ownership of the legal person and for providing it to the authorities. This was supplemented by the introduction of a central register of beneficial ownership in 2017.
- 3.65 There are fewer than 20,000 domestic legal persons. The vast majority of these (just over 18,000) are Guernsey companies. This number is low compared with that in many similar jurisdictions. In addition, it is common for more than one company to be incorporated within the context of a single business relationship (e.g. where different types of assets belonging to the same person are held in separate companies), which means that the number of people using Guernsey for company formation purposes is lower than might be suggested by the total number of companies. The only other domestic legal persons established in any significant number are limited partnerships with legal personality, of which there are 542. The figure for the other forms of domestic legal person is 350 in the case of Alderney companies, 99 for limited liability partnerships and 86 for foundations.
- 3.66 Most legal persons incorporated in the jurisdiction are created for the purposes of cross-border business. In the case of companies, this is primarily as entities to hold assets or as vehicles for joint ventures linked to the investment sector. In the case of limited partnerships with legal personality and limited liability partnerships, virtually all are established as or in connection with collective investment schemes. The majority of foundations are established for asset protection and inheritance planning purposes, with the remainder comprising NPOs or otherwise being linked to philanthropic activity. Legal persons in this category are invariably linked to a TCSP or other party subject to the AML/CFT framework. There is a small number of domestic legal persons established in connection with cross-border activity that fall outside these categories. Most are engaged in activities such as employment services, the rental of real property and NPO activity involving recreation or the provision of social care, but a small proportion are linked to overseas trading (including mining in one case). However, the numbers involved are so low that it would be misleading to try to draw conclusions about the likely underlying offences or countries involved. There are

also foreign legal persons with a nexus to the jurisdiction, either because they are administered in Guernsey or have a business relationship with another financial services business, or both. These foreign legal persons are typically used for the same kind of activity as domestic legal persons used for cross-border business. It is also common for cross-border business relationships using domestic or foreign legal persons also to involve legal arrangements, usually trusts.

- 3.67 Domestic and foreign legal persons involved in cross-border business are subject to the same money laundering threats and vulnerabilities as those outlined above in relation to the relevant business sectors (i.e. TCSPs and the investment sector). The residual money laundering risk of legal persons involved in cross-border business (other than for the purposes of retirement or pension solutions) is assessed as **Higher**.
- 3.68 Legal persons that are established for the purposes of retirement or pension solutions are subject to the same money laundering threats and vulnerabilities as those outlined above in relation to the provision of these services by the TCSP sector. The residual money laundering risk of legal persons that are used for this form of business is assessed as **Medium Lower**.
- 3.69 The remaining legal persons are those without a cross-border link and which are typically established to run local businesses of all kinds or NPOs (domestic charities, sports clubs etc.), or to hold assets belonging to persons within the jurisdiction. The inherent vulnerability of these legal persons is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of legal persons not involved in cross-border business or retirement and pension solutions is assessed as **Lower**.

### Legal arrangements

- 3.70 Under the law of Guernsey, three types of legal arrangement can be formed. These are trusts, limited partnerships without legal personality and general partnerships. All three are subject to dedicated commercial legislation that deals with ownership and related issues such as legal rights and liabilities. Trusts are the most common type of legal arrangement established in Guernsey. There is currently no generally applicable legislation permitting the formation of legal arrangements in Alderney or Sark.<sup>17</sup>
- 3.71 The well-established prudential and AML/CFT regimes outlined above in the context of legal persons apply to legal arrangements in the same way. In other words, a person who is remunerated for establishing or administering a domestic or foreign legal arrangement, or for acting as an official of a legal arrangement (e.g. a trustee or a partner), must both be licensed and supervised by the GFSC and comply with the AML/CFT framework. The application of the legal framework to both domestic and foreign legal arrangements in the same way reflects the fact that in practice, the

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<sup>17</sup>Historically a very small number of individual trusts has been created by statute in Alderney and Sark for charitable or other public purposes (e.g. running a parish hall). They are typically under the control of public officials and are not considered to present any money laundering risks.

precise law which is applicable to a legal arrangement makes little difference to that legal arrangement's vulnerability to money laundering, and the key factor for these purposes is the jurisdiction where it is administered or controlled.

- 3.72 Most Guernsey trusts and limited partnerships without legal personality are created for the purposes of cross-border business. In the case of trusts, this business primarily relates to asset holding, wealth management and inheritance planning, although some trusts are also used in relation to pension schemes, employee benefit schemes and collective investment schemes. Typically a discretionary trust is used as part of a wider business relationship involving domestic or foreign legal persons, primarily companies. Virtually all limited partnerships without legal personality are collective investment schemes. As with legal persons, legal arrangements that are involved in cross-border activity are nearly always linked to a TCSP or other party subject to the AML/CFT framework. There are also foreign legal arrangements with a nexus to the jurisdiction in the same circumstances as foreign legal persons (i.e. because they are administered in Guernsey, have a business relationship with another financial services business, or both) but in much lower numbers.
- 3.73 Domestic legal arrangements involved in cross-border business are subject to the same money laundering threats and vulnerabilities as those outlined above in relation to the relevant business sectors (i.e. TCSPs and the investment sector). The residual money laundering risk of domestic legal arrangements involved in cross-border business (other than those involved in pension schemes – see below) is assessed as **Higher**. Although these same threats and vulnerabilities apply to foreign legal arrangements with a Guernsey nexus, the number of such legal arrangements is low. Therefore, the residual money laundering risk of foreign legal arrangements is assessed as **Medium**.
- 3.74 Trusts are used in connection with pension schemes, or as NPOs. Trusts established in connection with pension schemes are subject to the same money laundering threats and vulnerabilities as those outlined above in relation to the provision of these services by the TCSP sector. The residual money laundering risk of these trusts is assessed as **Medium Lower**. Trusts established as NPOs are subject to the same money laundering threats and vulnerabilities as those outlined below in relation to the NPO sector. The residual money laundering risk of these trusts is assessed as **Medium Lower** for manumitted NPOs and **Lower** for registered NPOs.
- 3.75 General partnerships are typically established as trading vehicles for local businesses. The inherent vulnerability of these legal persons is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of domestic general partnerships is assessed as **Lower**.

## NPOs

- 3.76 International concern about NPOs primarily relates to terrorist financing, but concern has also been expressed about the creation of sham NPOs in some countries to perpetrate tax frauds or the abuse of legitimate NPOs for fraudulent purposes such as by presenting false receipts. These forms of activity could also involve money laundering.
- 3.77 References to Guernsey in this section mean the island of Guernsey. The jurisdiction's NPO sector comprises manumitted NPOs and registered NPOs. Manumitted NPOs are those administered by TCSPs and they are therefore subject to the AML/CFT framework. Registered NPOs are those with income or assets above a certain threshold that are not administered by TCSPs and instead are required to be registered (although manumitted NPOs may also choose to register voluntarily).
- 3.78 There are 86 manumitted NPOs administered by 35 TCSPs, all based in Guernsey. They comprise 63 trusts, 10 foundations, 4 companies limited by shares and 9 companies limited by guarantee. Manumitted NPOs typically make donations to organisations involved in cross-border business and often very large asset values are involved. However, they do not make cash distributions or disbursements and the vast majority of payments are made by wire transfer so are subject to disclosure requirements about the payer and payee. The inherent vulnerability of manumitted NPOs is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of manumitted NPOs is assessed as **Medium Lower**.
- 3.79 There are 628 registered NPOs based in Guernsey, 55 based in Alderney and 28 based in Sark. Most registered NPOs are established to carry out philanthropic, cultural or recreational activity within the local community, although a small proportion are active internationally, primarily in the UK. As with manumitted NPOs, the majority of payments from registered NPOs are made by wire transfer. However, the assets of registered NPOs are typically much lower than those held by manumitted NPOs. The inherent vulnerability of registered NPOs is assessed as Medium Lower. Taking account of mitigating measures, the residual money laundering risk of registered NPOs is assessed as **Lower**.
- 3.80 Guernsey also has an OA&DC that awards funds to NPOs registered in the UK or the Channel Islands, or to international organisations such as UNICEF. The OA&DC only receives funds from the government and its payments are subject to rigorous controls. The inherent vulnerability of the OA&DC is assessed as Lower. Taking account of mitigating measures, the residual money laundering risk of the OA&DC is assessed as **Much Lower**.

## Emerging products and technologies

- 3.81 The authorities have identified the following products and technologies as those which are currently considered most vulnerable to money laundering, and the way in which those vulnerabilities extend to Guernsey:

- transaction and exchange of virtual assets;<sup>18</sup>
- initial coin offerings;
- e-money.<sup>19</sup>

However, none of these are currently widely used in the jurisdiction.

- 3.82 Like most jurisdictions, Guernsey does not recognise virtual assets as legal tender and does not regulate their use. No factors specific to Guernsey have been identified that suggest it is more vulnerable to the use of virtual assets for money laundering purposes than any other jurisdiction. In addition, there are two factors that reduce the likelihood of the use of virtual assets within the jurisdiction. First, Guernsey has a free economy, so the desire to circumvent currency controls or obtain refuge from a high inflation rate that often drives the use of virtual assets internationally does not arise. Second, it has no virtual assets exchanges (i.e. online platforms where virtual currency can be exchanged for another form of virtual asset or for fiat currency). Under existing financial services legislation these exchanges could not be established in Guernsey without being registered or licensed by the GFSC, which is cautious about approving applications for the establishment of a virtual currency exchange and has made public statements to this effect.
- 3.83 However, a degree of vulnerability to money laundering through virtual assets nonetheless exists. While virtual assets are considered highly speculative investments involving wide fluctuations in price and the possibility of significant monetary losses as a result, they are still attractive to criminals because they are generally characterised by non-face-to-face customer relationships that offer a higher degree of anonymity than traditional non-cash payment methods. Some also permit transfers that are anonymous or pseudo-anonymous (i.e. linked to a public virtual asset address, but not an actual name or home address) in cases where the sender and recipient are not adequately identified.
- 3.84 Initial coin offerings are digital fundraising mechanisms in which an entity offers participants a unique digital token in exchange for payment in a virtual asset or a fiat currency using DLT.<sup>20</sup> Where an initial coin offering accepts virtual assets as payment in exchange for a token, this is subject to the same risks of anonymity, and therefore the same vulnerability to money laundering, as virtual assets. Under existing financial services legislation, initial coin offerings that are structured by way of a collective investment scheme, that relate to a Guernsey legal person or legal arrangement or

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<sup>18</sup> A virtual asset for these purposes has the meaning given by the FATF, i.e. a digital representation of value that does not have legal tender status but can be digitally traded and functions as a medium of exchange, a unit of account or a store of value. Virtual assets are used under bilateral arrangements between service vendors and users for bartering specific goods or services.

<sup>19</sup> Electronic money (e-money) is broadly defined by the European Central Bank as an electronic store of monetary value on a technical device that may be widely used for making payments to entities other than the e-money issuer. The device acts as a prepaid bearer instrument which does not necessarily involve bank accounts in transactions.

<sup>20</sup> An initial coin offering is somewhat similar to an Initial Public Offering in which investors purchase shares of a company. However, there is an on-going international regulatory discussion as to whether tokens should be classed as securities, commodities or currencies, or a combination of all three.

that involve participation in securities issues would need to be registered or authorised by the GFSC, depending on the precise structure used. To date no authorisation or registration applications have been made and, as with virtual assets, nothing has been identified to suggest that Guernsey has a particular vulnerability in this respect. The GFSC is cautious about approving applications for the establishment of an initial coin offering which could then be traded on a secondary market, and has made public statements to this effect. However, there is evidence of a growing appetite to establish initial coin offerings, which indicates that this is an emerging vulnerability.

- 3.85 The nature of the services and products the e-money sector provides can make it attractive to criminals seeking to convert criminal proceeds into other payment methods or stores of value and transfer that value to other persons. Guernsey only has one reporting entity who offers open loop pre-paid currency cards (i.e. cards that are not subject to restrictions on how they can be used) in EUR, USD and GBP. The cards can be topped up face-to-face in the branch with cash or by direct debit card payment. These factors increase the money laundering vulnerability. However, the reporting entity mitigates this by collecting CDD for the cardholder irrespective of the amount of currency loaded onto the card. Notwithstanding, domestic criminals may utilise open loop pre-paid cards that are freely available from overseas providers on the Internet and which may not apply such stringent CDD measures. These pre-paid cards can be remotely loaded and emptied.
- 3.86 The inherent vulnerability of emerging products and technologies is assessed as Medium. Taking account of mitigating measures, their residual money laundering risk assessed as **Medium Lower**.

## Cash

- 3.87 Guernsey's economy is not cash-based to any significant extent, and the use of cash even for very small transactions is increasingly being replaced by contactless card payments. Reporting entities do not usually accept cash or make payments in cash, e-casinos and eGambling are not permitted by regulation to accept cash, and banks have policies, procedures and controls in place that restrict the extent to which cash can be deposited into or withdrawn from bank accounts. Deposit machines are not widely used and are subject to a deposit restriction of 200 notes (i.e. a maximum of £10,000), as well as to the normal sign-offs and documentation requirements for crediting any account, individual or connected account.
- 3.88 Cash nonetheless remains attractive to criminals because it is untraceable, readily exchangeable and anonymous. It has been used by drug traffickers for "smurfing" and there have also been a small number of instances of cross-border cash smuggling, some involving organised criminal groups. The annual value of cross-border cash seizures in Guernsey or linked to Guernsey is in the region of £300,000. Cash may be also be used to facilitate money laundering by the use of high denomination notes to conceal or disguise the origins of funds or to smuggle cash out of Guernsey (although experience to date is that the majority of cash smuggling involves a mixture of £10 and

£20 notes). In addition, cash-rich businesses may be used to conceal or disguise the origins of funds and to place large sums of criminal cash into the banking system. There have been a number of cases where cash was used to facilitate tax evasion or in the perpetration of frauds.

- 3.89 The inherent vulnerability of cash is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of cash is assessed as **Medium Lower**.

## Trade

- 3.90 International trade, and the processes and systems that support it, are vulnerable to abuse for the purposes of money laundering, as the illegal movement of funds may be obscured by misrepresenting the price, quality or quantity of goods. These techniques generally rely upon collusion between the seller and buyer, since the intended outcome from such arrangements is the obtaining of a benefit in excess of what would be expected from an arm's length transaction.
- 3.91 Industries such as manufacturing and other forms of trade that have been identified as money laundering risks internationally do not exist within the jurisdiction to any significant extent, primarily because of its small physical size. The limited range of goods that are produced locally for export are sent to the UK and, to a lesser extent, to France. The shipment of goods into the jurisdiction is largely confined to items such as foodstuffs that are sent from the UK for use by the local population.
- 3.92 As an IFC there is the possibility of Guernsey being used to finance trade in other jurisdictions such as by managing payments for open account trading, or issuing letters of credit, standby letters of credit and guarantees. However, the appetite of Guernsey banks to provide trade finance to non-local businesses, either directly or via a TCSP, is extremely limited. The four UK-based clearing banks will offer trade finance to domestic trading businesses with locally based management and operations. Given the jurisdiction's very low crime rate and the fact that such domestic proceeds of crime as there are very often involve cash, it is unlikely that any trade finance offered within the jurisdiction itself would be used for money laundering purposes.
- 3.93 Foreign trade links may also arise from the activities of entities formed, managed or administered by TCSPs. Approximately a third of total assets administered by TCSPs are invested in private company shares and other trading assets such as merchant shipping stock, aircraft and hotels. While TCSPs typically administer the ultimate holding company of trading companies, there is very little direct administration of underlying trading companies, and therefore TCSPs generally are not involved directly in the import and export of goods so may not always be in a position to identify criminal activity arising from this activity.
- 3.94 The inherent vulnerability of trade is assessed as Medium. Taking account of mitigating measures, the residual money laundering risk of trade is assessed as **Medium Lower**.

#### **4. MONEY LAUNDERING – MOST LIKELY MODALITIES**

- 4.1 International definitions of money laundering typically refer to three distinct modalities. The first is converting or transferring criminal proceeds in order to disguise their illicit origin. The second is concealing or disguising the true nature, source, location, disposition or movement of criminal proceeds. The third is acquiring, possessing or using criminal proceeds.
- 4.2 The most likely modalities of laundering domestic and foreign criminal proceeds in Guernsey have been assessed by looking at patterns in domestic investigations and prosecutions and in other indicators such as SARs and international requests for assistance. This has involved analysis of the specific conduct involved in the alleged criminal activity, money flows, the type of activity taking place in Guernsey, the type of information sought by requesting jurisdictions where applicable and the nature of the nexus between that conduct, the principal actors and their links to Guernsey.
- 4.3 In addition to considering these indicators as a generality, targeted assessments have been made of the likely modalities of money laundering in three areas. The first two relate to the proceeds of foreign bribery and corruption (which for these purposes includes illicit enrichment) and tax evasion respectively. This is on the basis that these crimes have been identified as presenting a significant money laundering threat to Guernsey and, therefore, patterns relating to these offences are likely to be highly informative about the likely modalities of money laundering involving Guernsey.<sup>21</sup> The third is the use of Guernsey by organised criminal groups, in recognition of increasing international concern about organised crime.
- 4.4 Case studies demonstrating methods of laundering in relation to domestic and foreign proceeds of crime are set out in Appendix 2.

##### **Domestic proceeds of crime**

- 4.5 Where laundering is carried out entirely within the jurisdiction it is likely to be fairly unsophisticated. A typical pattern involves the making of deposits into an account with a retail bank, often by “smurfing”, i.e. making several separate low value cash payments in order to avoid arousing suspicion. This is particularly common in drug trafficking cases. The money in the account is then used to fund legitimate expenditure. In some cases, funds may be passed through the bank accounts of family members or associates.
- 4.6 The pattern when the laundering of domestic proceeds takes place wholly or partly outside the jurisdiction is similar in that it will primarily involve transfers via the retail banking sector, but cross-border cash movements may also be involved.

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<sup>21</sup> This is subject however to the positive effects of combatting tax evasion as a result of Guernsey’s adoption of the international standards in respect of tax transparency – see footnote 12.



## Foreign proceeds of crime

- 4.7 The likelihood of Guernsey being used as the point at which foreign proceeds first enter the formal financial system is low. As with any jurisdiction, this is only likely to occur in respect of proceeds brought into the jurisdiction in the form of cash or other portable assets. However, the extent to which such assets are brought into Guernsey in practice is very limited and generally has only arisen in a small number of drugs-related cases. As would be expected in an IFC, when foreign criminal proceeds enter Guernsey this is, in virtually all cases, via the formal financial system from another jurisdiction. This other jurisdiction may or may not be the jurisdiction where the criminality occurred.
- 4.8 The use of Guernsey in this way may take the form of sending the proceeds of crime from a foreign bank account into or through bank accounts in Guernsey (either directly or by the use of onshore jurisdictions or other IFCs as entrepôts), of using companies or other structures established or administered in Guernsey to conceal or control assets held elsewhere, or a combination of the two. In practice, as explained in the overview of money laundering it is far more common for assets to have passed through or to be administered from Guernsey than for them to remain within the jurisdiction for any significant period, although the possibility of the use of illicit assets while within the jurisdiction (e.g. to fund the purchase of a boat) cannot be ruled out. Internationally, it is recognised that money laundering often involves using the financial systems of a number of jurisdictions. Therefore, analysis has been carried out of money laundering indicators involving suspected foreign criminality over a four year period (primarily mutual legal assistance requests and SARs) to assess the way in which Guernsey typically fits into this pattern. Guernsey's involvement in the suspected criminal enterprises in question has been rated as central, close, distant or peripheral. Respectively, this means being the hub of the enterprise, at or near the top of a chain of jurisdictions used for the enterprise, in the middle of a chain of jurisdictions used for the enterprise, and at or near the end of a chain of jurisdictions used for the enterprise. The findings from this analysis are that in the majority of cases Guernsey's involvement is distant or peripheral. This indicates in turn that in most cases involving foreign proceeds, Guernsey is likely to be some way removed from the criminality itself and to come a considerable distance down the chain of laundering activity.
- 4.9 The direct use of foreign proceeds in legitimate transactions within Guernsey itself is only possible to any significant extent through opening a bank account for the purposes of legitimate transactions or through the acquisition of assets such as investments. This is because the availability in the jurisdiction of tangible forms of high value property is very limited (and in the case of real estate is subject to a tightly controlled housing market). In practice, Guernsey is more likely to be indirectly involved in legitimate transactions using foreign proceeds of crime via the acquisition of property in other jurisdictions where the transaction in question involves legal entities established or administered in Guernsey, or is funded by assets transferred from Guernsey. Since this happens as the final stage in the laundering scheme, Guernsey involvement at this point is inevitably some way from the underlying criminality, and the degree of distance will be even greater where several jurisdictions

have been involved. This is likely to apply in most cases given the analysis on the degree of Guernsey involvement in foreign criminality immediately above.

## **Bribery and corruption**

- 4.10 Targeted analysis has revealed the following patterns.
- 4.11 The use of Guernsey to launder the proceeds of corruption is most likely to arise from business relationships that are linked to sensitive industries (e.g. pharmaceuticals or mining), or to countries with poor economic situations where there is a lack of opportunity to earn money legitimately and an absence of effective anti-corruption mechanisms. Even where such countries have established anti-corruption bodies, these bodies are themselves often affected by corruption.
- 4.12 Case experience to date is that corruption cases usually involve foreign PEPs. This does not only arise from business relationships with PEPs, as a business relationship may be with an individual or a business that has received profits from contracts obtained through bribing a foreign official. However, the most likely modality of laundering the proceeds of foreign corruption involves the holding or management of assets that result from or are otherwise linked to illicit enrichment by PEPs.<sup>22</sup> The asset values are often very significant and it is common for the assets in question to be held in the name of a close relative. The underlying criminal activity in these cases takes a number of forms. Some cases involve kleptocracy, i.e. the outright theft of state assets by heads of state or by the senior executives of state-owned enterprises. Others involve the manipulation of the procurement process by PEPs to favour individuals or entities with which the PEP is connected. There are also cases involving bribery of PEPs in respect of infrastructure projects including utilities and public service procurement, or the sale of state owned assets and infrastructure (including mining licences). These bribes may be received to secure preferential treatment for the payer (e.g. in a tender process), to obtain for the payer an inflated price for goods or services supplied to the government, or to enable the payer to purchase government property below its market value. In addition, there are cases involving the assets of professional enablers of PEPs or others involved in corruption that comprise the benefits they have received from the corrupt activities of those parties.
- 4.13 In many illicit enrichment cases, complex ownership structures are involved. The Guernsey nexus usually arises where the assets are outside the jurisdiction (e.g. real estate in the UK) but are linked to an entity established or administered in Guernsey but which may not have a bank account in the jurisdiction and/or to an entity or individual with a bank account in Guernsey through which monies may have passed. In some cases the use of a Guernsey bank account through which to transfer assets is the only link to the jurisdiction. The number of cases involving assets deposited or invested in Guernsey itself is much lower. Where this does occur, it typically involves

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<sup>22</sup> Illicit enrichment is used here in the same way as in the United Nations Convention against Corruption, i.e. to mean the significant increase in the assets of a public official that cannot be reasonably explained in relation to the person's lawful income.

the use of Guernsey entities (usually trusts or companies) or foreign entities administered in Guernsey and there is often a chain of ownership involving other jurisdictions.

- 4.14 Analysis shows that assets within the jurisdiction that are linked to corruption are all linked to kleptocracy or other forms of political corruption, and all relate to activity that pre-dates the introduction of regulatory changes by Guernsey in 2007. The same is true of the financial transactions and creation of structures relating to these assets. This suggests that changes within the regulatory environment have reduced Guernsey's exposure to being used as a repository of the proceeds of corruption.
- 4.15 However, this is subject to the caveat that when looking at MLA requests, which are a key indicator in this context, there is often a significant lapse of time (usually between 5 to 10 years) between the request and the underlying criminal activity or the establishment of the relevant business relationship. Furthermore, although there are a small number of cases where there is an overlap of a year or two from the date of the regulatory change, the extent to which the changes in the regime had had time to bed in properly or to change behaviour by then is difficult to determine. These factors reduce the extent to which firm conclusions can be drawn about the impact that changes in the regulatory environment have had or for showing contemporaneous patterns as to how the jurisdiction may be used in corruption cases.
- 4.16 Guernsey may also be used for the purposes of the underlying criminality itself, through involvement with entities that are created to facilitate the payment or receiving of bribes through sham agreements as part of a wider multi-jurisdictional procurement exercise. This is particularly likely to arise with procurement relating to military equipment and infrastructure, often involving intermediaries. The entities involved may be Guernsey entities administered in Guernsey, Guernsey entities administered elsewhere, or foreign entities administered in Guernsey.

#### **Tax evasion**

- 4.17 As indicated in the overview of money laundering, exposure to the proceeds of tax evasion has been mitigated in recent years by participation in a number of international initiatives. Subject to that, targeted analysis (predominantly based on MLA requests) has revealed the following patterns.
- 4.18 Unlike bribery and corruption, PEPs do not typically feature in tax evasion cases. Guernsey may be used for foreign tax evasion in two situations. The first is where parties wish to move some of their assets out of their legal ownership or out of their home jurisdiction in order to mislead the tax authorities in that jurisdiction about the extent of their tax liabilities, i.e. as a step in the tax evasion scheme itself. A common method recognised internationally is the creation of structures to facilitate sham loans. The second is where parties who have committed tax evasion in their home jurisdiction use Guernsey to hold or administer property that comprises or represents the additional tax that would have been paid if tax evasion had not occurred. In

practice, it is not always possible fully to distinguish between these two activities as there is sometimes a considerable degree of overlap between them.

- 4.19 The type of tax most likely to be involved is direct tax payable by individuals or entities, i.e. income tax or corporation tax (save for one isolated case involving evasion of value-added tax). In corporation tax cases, the companies in question are often involved in the extractive industries or in the financial services sector. Based on the MLA requests, the jurisdiction of tax residence is usually the UK and elsewhere in Europe, followed by the USA.
- 4.20 There are three principal modalities for using Guernsey to facilitate tax evasion or to launder its proceeds. The first is where the jurisdiction is simply used as the repository for assets, i.e. where there is no link other than the fact that the party concerned has property in Guernsey. The second is where assets are held in the jurisdiction in the name of a legal person or legal arrangement with a Guernsey connection. This connection may be that the legal person or legal arrangement has been established in the jurisdiction, or, more likely, that it has been established in another jurisdiction but is administered from Guernsey. The third is where the relevant assets are located elsewhere but are in the name of a legal person or as the property of a legal arrangement administered by a TCSP.
- 4.21 Where property is held in Guernsey, it usually takes the form of funds in a bank account, but cases involving other property such as investments and real property are not unknown.

### **Organised criminal groups**

- 4.22 There is some evidence that organised criminal groups are using Guernsey for money laundering purposes. Whilst the extent to which this is happening appears limited, particularly in the case of international groups, three ways in which organised criminal groups may use Guernsey have been identified.
- 4.23 First, there are instances of domestic organised criminal groups operating in the jurisdiction, i.e. groups whose benefits are derived from domestic criminal conduct or activity. This primarily involves drug trafficking, arising from the fact that Guernsey's geographical location requires the purchase, transportation and onward supply of narcotics to be planned and coordinated. This is often a self-perpetuating cycle, as participants need to identify and implement methods and techniques to move the illicit proceeds to other jurisdictions, to assist in the trafficking activities of the group and to facilitate the purchase of further narcotics. The parties involved in these types of organised criminal groups are usually associates but in some cases will be members of the same family. In addition to drug related cases, there have been two cases involving domestic organised criminal groups that are engaged in fraud, involving sums of £210,000 and £542,000 respectively.

- 4.24 Second, there has been a small number of cases of international organised criminal groups utilising Guernsey to circumvent UK or EU border controls for financial gain or for criminal activity. This is most likely to involve drugs being brought into or through Guernsey, or laundering criminal proceeds (again, usually drug-related) by using Guernsey as a transit jurisdiction for the movement of cash. Drugs or cash brought into Guernsey for these purposes may be transported on the person, by car (on a car ferry) or in a private boat. The organised criminal groups involved in this form of activity are likely to be based in the UK. (See the section above on cash for details about two specific cases.) In addition, there has been one instance of an Eastern European organised criminal group attempting to exploit Guernsey's geographical location for human trafficking purposes, by using pleasure craft to facilitate the transportation of illegal immigrants to the UK from the French peninsula via Guernsey. However, this case did not involve money laundering or any other financial activity within the jurisdiction.
- 4.25 Third, international organised criminal groups may utilise Guernsey's systems or products to launder the proceeds of crime generated elsewhere. There are very few indicators of this happening, but such cases as there have been suggest that organised criminal groups involved in these types of cases are likely to be based in the UK or France, although there have been isolated instances of indicators suggesting the involvement of other countries such as Belgium, the Netherlands and Kazakhstan. The predicate offence most likely to be involved in drug trafficking.
- 4.26 Whilst there is limited case experience to draw on, such data as exists points to some possible overall patterns. Organised criminal groups in all three categories appear to launder their own proceeds rather than use third parties such as other networks or individuals, and there are no indications of organised criminal groups using lawyers, accountants or other professionals within the jurisdiction. The most common types of assets involved in laundering the proceeds of organised crime would seem to be cash or bank deposits, with the most frequently identified laundering method being layering funds utilising banks. Domestic organised criminal groups launder proceeds through their own bank accounts, and where they transfer proceeds outside the jurisdiction, this is primarily to the UK or elsewhere in Europe (typically France, Holland or Latvia). In cases involving an international organised criminal group, that group usually has an existing link to Guernsey, such as an associate, a company or bank account located in the jurisdiction.

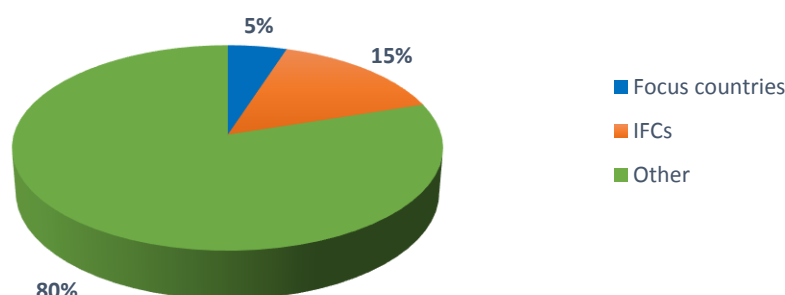
## **5. TERRORIST FINANCING – OVERVIEW**

- 5.1 There have been no indications to date of any forms of terrorist financing occurring in the jurisdiction.
- 5.2 Guernsey's demographic, political, geographical and cultural profile means that domestic terrorist activity of any sort is very unlikely to take place. While the prospect of this is higher with regard to politically motivated terrorism such as far-right extremism or animal rights activism than with terrorism motivated by religious extremism, this is in relative terms only; it does not affect the overall assessment of the threat of domestic terrorist activity, which is very low. Consequently, the likelihood of funds being raised or sent into the jurisdiction in order to support domestic terrorist activity is also very low.
- 5.3 The jurisdiction's profile also means that there is not considered to be any significant prospect of funds being intentionally raised in or sent from the jurisdiction to support terrorist activity elsewhere. It is however possible that funds raised in or sent from the jurisdiction in good faith could be used to support terrorism elsewhere. To date there have been no known cases of this happening but three situations have been identified where it could potentially arise, as follows:
- donations to internationally active NPOs are subsequently diverted to or appropriated by terrorists;
  - Guernsey residents provide funds for campaigning etc. purposes via online fundraising platforms that are in fact fronts for terrorist groups;
  - Guernsey impact investment schemes that are invested in war-torn countries generate benefits for terrorist groups there.
- 5.4 However, the likelihood of this occurring is considered low. Very few internationally active NPOs in the jurisdiction are operating in areas with a terrorism or terrorism financing risk and they do not typically make payments in ways that lend themselves to diversion or misappropriation. The use of online fundraising platforms is not yet widespread within the jurisdiction. With regard to impact investment schemes, their use is in its infancy within the jurisdiction, so their possible abuse by terrorists is considered less likely to occur than the other two forms of inadvertent terrorist financing. The payment channel most likely to be used for inadvertent terrorist financing is the formal financial sector, with only some 5% or so involving cash or physical assets. This is on the basis that while it is estimated that approximately 50% of payments to NPOs are likely to involve cash, in most cases this is transferred into the formal financial system before leaving the jurisdiction.

- 5.5 Guernsey's position as an IFC means that its cross-border business exposes it to the threat of being used in the movement of funds linked to foreign terrorist activity. This is unlikely to arise in respect of lone actors, who typically require small amounts of money to fund their activities and who would have no need or wish to incur the cost of using the formal financial system in another jurisdiction. There is more prospect of this arising from well-organised terrorist groups that are known to operate like businesses with sophisticated financial arrangements.
- 5.6 It is acknowledged globally that it is extremely difficult to identify funds that are destined for use in terrorism. In addition, little is still known internationally about the extent to which the formal financial system and the creation of legal entities are being used for terrorist financing purposes. However, it is recognised that Guernsey could be used as a transit jurisdiction for the movement of funds that have been raised in one country to finance terrorism in another country. There is also the possibility that administration or other TCSP services are provided to parties outside the jurisdiction that have links to terrorism or terrorist financing. This includes both the administration of assets and the creation or administration of structures that conceal the identity of beneficial owners with links to terrorism or terrorist financing. In addition, terrorist financing may arise as a secondary activity to money laundering i.e. where the proceeds of crime (especially funds raised by organised criminal groups from offences such as drug trafficking, corruption and kidnapping) are used to fund terrorism. Consequently some cases involving possible money laundering may also in fact involve terrorist financing, even though this is not immediately apparent.
- 5.7 Guernsey's potential exposure to terrorist financing in these ways has been considered by looking at business links with focus countries, i.e. countries that present particular risks of terrorism or terrorist financing. It is not possible to provide a definitive list of focus countries as this would be overly prescriptive but more importantly, would not reflect the rapidly changing nature of international events that may affect any given country's exposure to terrorism and terrorist financing. However, what can be said is that focus countries fall into one or more of the following categories:
- countries that present active terrorism or terrorist financing threats, either because there are areas of conflict within their borders or because sections of the population are actively targeted by terrorist organisations for support and cover;
  - countries that have strong geographical or other links to countries that have an active terrorism or terrorist financing threat;
  - countries with a secondary terrorism or terrorist financing threat, i.e. where there may not be an active terrorism or terrorist financing threat but where there is a heightened threat of crimes whose proceeds are typically used by organised criminal groups to fund terrorism (i.e. corruption, drug trafficking, hijacking or kidnapping, benefit fraud, environmental crimes such as illegal logging and ivory dealing, human trafficking and modern slavery).

- 5.8 Flow data on banking deposits or withdrawals demonstrates that the vast majority of financial flows to or from Guernsey are with the UK, followed by other IFCs. The same applies to flow data on funds under management. The proportion of flows involving focus countries is extremely low, subject to the caveat that where flows are to or from another IFC, there may be underlying focus country involvement in some cases that is not apparent from the data. For this reason, an approximate percentage of IFC involvement in flow data overall is given separately from that for other non-focus countries. However, there are no indications to date from evaluation reports, NRAs or other sources such as the Panama Papers that the IFCs most commonly involved in flows to or from Guernsey are being used for terrorist financing purposes. The identified cases of other IFCs being used for terrorist financing involves small-scale activity to fund the immediate needs of individuals resident in or otherwise linked to the IFC itself, rather than the type of activity that is usually involved in business relationships with Guernsey. For example, the terrorist financing activity described in the most recent FATF report on the UK is UK-based and low level (involving self-funded attackers, individuals providing small amounts to foreign terrorist fighters or individuals financing their own travel plans), rather than the establishment of the kind of sophisticated cross-border financial arrangements that would be likely to involve another IFC.

*Figure 12: Involvement of focus countries and IFCs in financial flows to or from Guernsey*

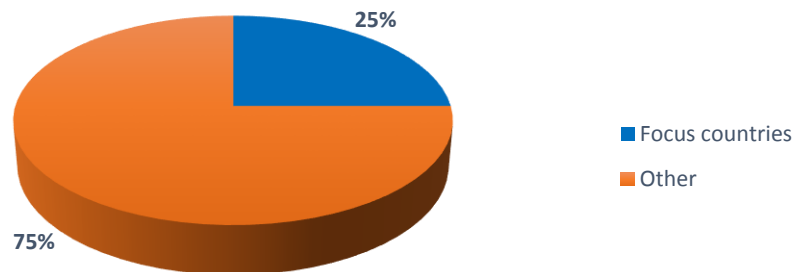


- 5.9 As would be expected, there is a greater degree of focus country involvement in the kidnap and ransom insurance sector and also in the TCSP sector, due to the diverse nature of its client base and the services it offers. Data on the top ten countries with which the TCSP sector has business relationships by reference to annual turnover demonstrates that there is a reasonably sizeable degree of business between the sector and persons in focus countries. Approximate percentages have also been assigned for the volume of business that Guernsey's trust and corporate services sector has with focus countries and others. The reference to other countries primarily relates to the UK. The UK is not separately recorded for these purposes because its national risk assessment does not identify any terrorist financing threat from the type of services typically provided by the trust and corporate services sector. Similarly, no separate estimate is given for IFCs. This is because unlike data on flows, which is based on the countries involved (so could include IFCs acting as entrepôts), the focus of data on TCSP relationships is on the underlying customer, whose home jurisdiction will



therefore be apparent, whether or not there is any IFC involvement in the dealings between the TCSP and the customer.

*Figure 13: Involvement of focus countries in business relationships with the TCSP sector based on turnover*



- 5.10 Where Guernsey business has links to focus countries, these links generally involve countries where the terrorist financing risk is secondary to money laundering risks. However, the extent of this has to be seen in context. While a number of different forms of crime have been linked internationally to secondary terrorist financing, the only ones that are assessed as presenting money laundering risks to Guernsey are drug trafficking, corruption and, to a much lesser extent, low level fraud, and the specific forms these offences take in the context of Guernsey do not fit the internationally recognised patterns of secondary terrorist financing.
- 5.11 The consequences of terrorist financing are likely to be felt by individuals in the jurisdiction in the form of an increased exposure to terrorist acts when they or their friends and family members are travelling or working abroad. At a jurisdictional level, the consequences of terrorist financing, as with money laundering, are most likely to be damage to the jurisdiction's international reputation and the loss of public confidence or application of punitive measures that may result from this. There may also be indirect consequences in other jurisdictions. Each of these consequences is assessed as severe.
- 5.12 Further details about possible terrorist financing patterns are set out in the section below on the modalities of terrorist financing. There are no case studies involving terrorist financing, as the jurisdiction has no experience of this to date.

## **6. TERRORIST FINANCING RISKS - SPECIFIC SECTORS AND PRODUCTS**

- 6.1 Information about the profile of specific sectors and products set out above in the context of money laundering risks is also relevant to terrorist financing risks. Therefore, the assessment of the inherent vulnerabilities of particular sectors and products is not repeated here.
- 6.2 The same indicators that were looked at from the perspective of money laundering (e.g. SARs and international requests for assistance) have been looked at from the perspective of terrorist financing. Terrorist financing features to a negligible extent in SARs and it does not feature at all in the other indicators. This includes MLA requests, which for the reasons explained above in the context of money laundering, are considered to be a particularly significant indicator.
- 6.3 All sectors and products are assessed as very much lower risk in respect of terrorist financing for the purposes of domestic terrorist activity, on the basis that the threat of this activity is extremely low.
- 6.4 With regard to terrorist financing for the purposes of foreign terrorist activity, the risk rating for all sectors and products is either lower or much lower, depending on the overall profile of the sector or product involved and the level of business with focus countries. Where a sector or product has been assigned the higher of the two ratings, this is in recognition of the fact that although there is no evidence of the sector or product in question being used in Guernsey for terrorist financing purposes, there are examples of this happening internationally. This is subject to three exceptions. The first applies to physical items such as cash that are used for terrorist financing internationally but which require a person's physical presence in the jurisdiction; for these products the rating is much lower on the basis that the presence in Guernsey of parties involved in foreign terrorism is extremely unlikely, given the jurisdiction's geographical location and demographic profile. The second is sectors or products that in an international context are seen as presenting a terrorist financing risk but in a Guernsey context have a domestic focus, such as legal persons or legal arrangements with no cross-border links, and registered NPOs. The third is sectors or products such as emerging technologies or trade that are used for terrorist financing internationally but are either not present in the jurisdiction or are only present to a negligible extent.
- 6.5 The threats faced by particular sectors or products to money laundering are relevant to terrorist financing where they involve underlying offences that are likely to be used for secondary terrorist financing, i.e. where criminal proceeds are generated and laundered before being used to finance terrorism. This is subject to the caveat that where those money laundering vulnerabilities relate to the final stage of the money laundering cycle, i.e. the purchase of products or services for the enjoyment or personal benefit of criminals rather than to raise further assets or to protect existing assets, this vulnerability is unlikely to apply to terrorist financing given that the ultimate aim of terrorist financing is to make funds available for terrorist purposes.

- 6.6 As with money laundering, an overarching finding of the NRA is that businesses have robust CFT governance, policies, procedures and controls they put in place, in particular for the identification and verification of beneficial owners of legal persons and legal arrangements; enhanced CDD for high risk customers; and the monitoring of transactions and activity for all customers such as sanctions and adverse media screening. Business is usually declined from jurisdictions that are identified by the FATF as having no, or inadequate, AML/CFT controls (the supervisors routinely notify the entities they supervise of all relevant information issued by the FATF). There is also an effective system for regulation and supervision in place for financial services businesses and other reporting entities. Further details of this system are set out in Appendix 1.

## **Banking**

- 6.7 There are instances internationally of the use of banking facilities by terrorist groups or individual terrorists, particularly transmission services and the use of bank cards. Banks are also vulnerable to being used to make payments to fundraising platforms. A common feature of terrorist financing involving the retail-banking sector in particular is the use of several linked low value transactions to avoid arousing suspicion. There have also been instances internationally of terrorist groups transferring funds via the bank accounts of middle men, who are paid a commission for allowing their accounts to be used in this way.
- 6.8 However, there has been nothing to suggest that terrorist financing is occurring within the Guernsey banking sector to date, and the low level of financial flows between Guernsey and focus countries means that this is unlikely to occur. In particular, surveys targeted at the use of the banking sector most commonly associated with terrorist funding, i.e. cash withdrawals from ATMs and wire transfers of funds, have shown that the level of ATM withdrawals in focus countries from Guernsey bank accounts or wire transfers to focus countries from Guernsey banks is very low in absolute terms, and statistically insignificant as a proportion of transactions of this kind overall. State sponsored terrorism is also highly unlikely to arise. Only 4% of the private banking sector's client base and 1.2% of the retail banking sector's client base are PEPs, and within that the vast majority of these PEP relationships involve the UK. The percentage of PEPs from or linked to focus countries is very small.
- 6.9 While the UK's national risk assessment identifies a terrorist financing threat from domestic terrorists using its retail banking sector, and that sector has close ties to the retail banking sector in Guernsey, this threat is considered unlikely to affect Guernsey. The cost of using Guernsey's banking sector and its physical remoteness from the UK means that UK residents who have business relationships with Guernsey banks are typically wealthy individuals who do not fit the profile of those likely to use the retail banking sector for terrorist financing purposes as identified in the UK's national risk assessment.

- 6.10 The residual terrorist financing risk of the banking sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the banking sector with regard to domestic terrorism is assessed as **Very Much Lower**.

## Insurance

- 6.11 The principal area of exposure to terrorist financing for the sector is kidnap and ransom insurance. Kidnapping as a means of fundraising by terrorists is an issue of concern to the international community, and although as with any insurance contract, kidnap and ransom insurers pay only the insured, there is clearly a possibility of payments then being passed on to terrorists. There are three companies offering kidnap and ransom cover in Guernsey, as well as a number of smaller firms that offer coverage through protected cell companies. Their business model is to offer kidnap and ransom insurance to companies which are not typically headquartered in focus countries but which operate in jurisdictions where kidnapping risk is high. Guernsey has a sizeable share of the global market for kidnap and ransom insurance, although somewhat less than that of London, to which the Guernsey kidnap and ransom insurance sector is closely tied. Guernsey's providers of kidnap and ransom insurance are subject to prudential and conduct supervision and outreach on terrorist financing by the GFSC, as well as to targeted government and law enforcement outreach and oversight on terrorist financing. The sector has very high levels of awareness of terrorist financing threats and robust internal risk management systems. There has been nothing to suggest that any payments made in respect of kidnap and ransom insurance in Guernsey has had any link to terrorism.
- 6.12 The same is true with regard to the activities of the rest of the insurance sector, and it is considered unlikely that this would arise given that there is no significant level of business relationships with focus countries (and within that, the level of relationships with PEPs is negligible, so there is no realistic prospect of the sector being used for state sponsored terrorism). Furthermore, the same factors that make the sector unattractive for money laundering purposes as outlined above (lack of flexibility, no secondary market for ILS etc.) make it unlikely that the sector would be used for terrorist financing purposes. This is consistent with the fact that typologies, case studies, guidance and other outreach from international bodies indicate that the use of the insurance sector for terrorist financing purposes is extremely limited.
- 6.13 The residual terrorist financing risk of the insurance sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the insurance sector with regard to domestic terrorism is assessed as **Very Much Lower**.

## Investment

- 6.14 The only exposure within the investment sector to terrorist financing that has been identified internationally relates to impact investment schemes. It is possible that these schemes could generate benefits for terrorists at the point of delivery of activity related to the scheme, particularly if the scheme relates to activity in an area that is subject to an active terrorist or terrorist financing threat. This threat is not confined

to conflict zones but also applies to areas where a section of the population is targeted for support and cover by terrorist organisations. However, the use of impact investment schemes is still an emerging area of activity that comprises an extremely small part of Guernsey's investment sector, and there have been no indications that it is involved in terrorist financing to date.

- 6.15 With regard to the rest of the investment sector, there has been nothing to suggest that terrorist financing is occurring, and this is considered unlikely to happen. The level of business relationships with focus countries is not significant (and within that, the level of PEP involvement is negligible so there is no realistic prospect of state sponsored terrorism. Furthermore, the inability to access assets quickly for the vast majority of Guernsey investment schemes, as outlined above in the context of money laundering, also makes the sector unlikely to be attractive for terrorist financing purposes, and the client profile for schemes where the underlying investors are more likely to be in a position to exercise control over the scheme (i.e. schemes that are designated for a very limited number of high-net-worth individuals or family offices) does not correspond to the profile for terrorist organisations or individual terrorists. The same is true of asset management and brokerage. In addition, typologies, case studies, guidance and other outreach from international bodies do not identify the investment sector as particularly vulnerable to terrorist financing.
- 6.16 The residual terrorist financing risk of the investment sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the investment sector with regard to domestic terrorism is assessed as **Very Much Lower**.

### **Trust and corporate services**

- 6.17 There are indications globally that some terrorist organisations are operating like businesses by using sophisticated corporate structures to manage their assets, and in those circumstances some of the types of services offered by the TCSP sector are likely to be involved. There is a reasonably sizeable volume of business links between Guernsey's TCSP sector and focus countries. However, there has been nothing to suggest that terrorist financing is occurring in connection with any parties linked to the TCSP sector, and this is consistent with the sector's profile.
- 6.18 The most common form of business relationship with focus countries is where a TCSP is providing services to form, manage and administer legal persons and legal arrangements. Typically these business relationships involve creating or administering a series of linked entities for asset holding purposes that has a discretionary trust at the top. Relationships of this kind do not fit the pattern of the way in which terrorist groups appear to organise their affairs, because while as indicated there are known instances internationally of the use of corporate structures, there are not believed to be any internationally identified cases to date of terrorist groups using trusts.

- 6.19 An additional factor is that the sector's services in this area are principally provided to address the financial, personal and business needs of wealthy individuals who are seeking to maximise and protect their assets or those of their families. Such individuals do not fit the typical profile of parties in focus countries that support terrorism and therefore, while the possibility of them using the TCSP sector to further terrorist aims cannot be ruled out, it is considered unlikely. Only 7% of the sector's client base are PEPs and within that, only a very small percentage are from focus countries, so there is no realistic prospect of the sector being used for state sponsored terrorism.
- 6.20 With regard to the other services provided by the TCSP sector, i.e. those related to retirement and pension solutions, the factors that make these products unattractive for money laundering as outlined above apply equally to terrorist financing. Specifically, this is a lack of flexibility and the fact that in many cases payments are only made following specific events such as retirement.
- 6.21 The TCSP sector also administers manumitted NPOs (see below), and NPOs are recognised internationally as vulnerable to being abused for terrorist financing purposes. However, this is considered unlikely to apply to the manumitted NPO sector given its profile and the strength of the controls applied to it, as described below.
- 6.22 The residual terrorist financing risk of the TCSP sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the TCSP sector with regard to domestic terrorism is assessed as **Very Much Lower**.

#### **Non-core financial services businesses**

- 6.23 There is experience internationally of the use of money service providers to transmit funds for the purposes of acts of terrorism. While Guernsey has a small non-bank money services provider sector, there are no indications of any terrorist financing activity, and the sector's profile makes it unlikely that this would occur. Outward-bound non-bank transmissions from Guernsey are typically made by itinerant workers to their home countries, which are not focus jurisdictions. This has been confirmed by a survey which looked at non-bank transmissions generally, where the finding was that transmissions to focus countries from Guernsey money services providers was very low in absolute terms and statistically insignificant as a proportion of transactions of this kind overall.
- 6.24 With regard to lending (i.e. the other principal form of non-core financial services business available in the jurisdiction) there have been no indications of terrorist financing in this sub-sector to date, and this is considered unlikely to occur given that this form of business is predominantly Guernsey-focused and carried out on a face-to-face basis so would require a person involved in terrorist activity to be physically present in the jurisdiction. In addition, there are no instances internationally of the use by terrorist groups or individual terrorists of this type of business.

- 6.25 With regard to state sponsored terrorism, there is no realistic prospect of this given that only 0.05 % of the client base of non-core financial services businesses involves PEPs and within that, only a very small percentage are from focus countries, so there is no realistic prospect of the sector being used for state sponsored terrorism.
- 6.26 The residual terrorist financing risk of the non-core financial service businesses sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the non-core financial service businesses sector with regard to domestic terrorism is assessed as **Very Much Lower**.

### eCasinos

- 6.27 The eCasino sector's level of business relationships with focus countries is negligible, as is the level of PEPs within that, so there is no realistic prospect of state sponsored terrorism. The eCasino sector is risk averse and would decline business from jurisdictions that are high risk with regard to terrorist financing. Furthermore, in many such jurisdictions it is not lawful for persons to gamble, and eCasinos are prohibited from allowing eGambling where it would constitute an offence to do so. In addition, the risk of loss makes the sector unattractive as a way to raise funds for terrorist purposes. This is consistent with the fact that typologies, case studies, guidance and other outreach from international bodies do not identify the eCasino sector as vulnerable to terrorist financing.
- 6.28 The residual terrorist financing risk of the eCasino sector with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of the eCasino sector with regard to domestic terrorism is assessed as **Very Much Lower**.

### Lawyers

- 6.29 Typologies, case studies, guidance and other outreach from international bodies do not identify the legal sector as vulnerable to terrorist financing in its own right. However, the role of lawyers in introducing business to a jurisdiction is recognised internationally as a vulnerability in respect of economic crime. Where this relates to business that is vulnerable to terrorist financing that vulnerability inevitably extends to the lawyers who have acted as introducers in respect of the business.
- 6.30 The larger multi-jurisdictional legal firms operating in Guernsey play a key part in bringing cross-border business to the jurisdiction, primarily originating from London, although some business originates from places further afield such as the Middle East and Russia. This typically involves business carried out by the investment, insurance and TCSP sectors. These sectors are assessed as lower risk for terrorist financing and there has been nothing to suggest any terrorist financing links with cross-border business introduced by the Guernsey legal sector to date. Only 3% of the sector's client base are PEPs, and within that, only a very small percentage are from focus countries, so there is no realistic prospect of the sector being used for state sponsored terrorism.

- 6.31 Outside the context of introduced cross-border business and the provision of legal services to the international clients of domestic financial services businesses, the legal sector is not considered likely to have any exposure to terrorist financing. This is for two reasons. First, most of the work done by the sector is domestically focused. Second, services provided by the legal sector are typically offered on a one-off transactional basis rather than in the context of an established business relationship. This reduces the prospect of the legal sector having business relationships with persons from focus countries, and therefore reduces the extent to which such business relationships can be exploited to facilitate terrorist financing.
- 6.32 The residual terrorist financing risk of the legal sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the legal sector with regard to foreign terrorism is assessed as **Very Much Lower**.

### Accountants

- 6.33 The position of the accountancy sector with regard to terrorist financing is similar to that of the legal sector in that it is not identified as vulnerable to terrorist financing in its own right in typologies, case studies, guidance and other outreach from international bodies, and instead its vulnerability in this respect extends from the businesses in other sectors with which it is involved.
- 6.34 For Guernsey accountancy firms that have links with cross-border business, this primarily involves business that originates in the British Isles and involves the investment and TCSP sectors, which are assessed as lower risk for terrorist financing. In addition, some of the bigger accountancy firms are part of an international network with established business relationships around the globe. However, there has been nothing to suggest any terrorist financing links with the accountancy sector to date. Only 4.5% of the sector's client base are PEPs, and within that, only a very small percentage are from focus countries, so there is no realistic prospect of the sector being used for state sponsored terrorism. For those Guernsey accountancy firms that are entirely domestically focused, there is not considered likely to be any vulnerability to terrorist financing given the profile of the jurisdiction.
- 6.35 The residual terrorist financing risk of the accountancy sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the accountancy sector with regard to domestic terrorism is assessed as **Very Much Lower**.

### Estate agents

- 6.36 The level of business relationships that the estate agency sector has with focus countries is negligible, and there has been nothing to suggest that terrorist financing is occurring within the sector to date. Only 0.5 % of the sector's client base are PEPs, and within that, only a very small percentage are from focus countries, so there is no realistic prospect of the sector being used for state sponsored terrorism.



- 6.37 In addition, typologies, case studies, guidance and other outreach from international bodies do not identify the estate agency sector as particularly vulnerable to terrorist financing. Where real estate is mentioned internationally in the context of terrorist financing, this typically concerns the use of premises as a meeting point or organisational base, rather than as an investment through which to raise funds to support terrorist activity. Added to this, the restricted nature of Guernsey's housing market and the need for all transfers of real property to be concluded before the court means that the Guernsey real estate sector is particularly unlikely to be attractive as a means of raising funds for terrorist purposes.
- 6.38 The residual terrorist financing risk of the estate agency sector with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of the estate agency sector with regard to domestic terrorism is assessed as **Very Much Lower**.

#### **Dealers in precious metals and stones**

- 6.39 There are instances internationally of terrorists raising funds through dealing in high value commodities. In particular, concerns have been raised about Islamic terrorist groups raising funds by dealing in diamonds and precious metals such as gold, silver and copper.
- 6.40 There has been one case involving Guernsey's DPMS sector where the possibility of a link to extremism was considered, but no such link in fact transpired. The case involved an individual from the UK with possible extremist links who travelled to Guernsey to purchase 24 kilos of silver bullion from a DPMS. However, the FIU disseminated intelligence about this to the UK authorities and there was no intelligence or evidence that the purchase was linked to any form of extremist activity. (There were, however, suspicions of money laundering – further details are set out in Case Study 27 in Appendix 2). Apart from this isolated incident, there have been no suspected cases of terrorist financing involving DPMS to date and no other indications of any terrorist financing activity within the sector.
- 6.41 This is consistent with the sector's profile. Although the client base of Guernsey's jewellery retailers includes a significant proportion of international visitors, these visitors do not typically have links with focus countries. With regard to bullion and postage stamp dealers, 90% of their customer base is from within the UK and the number of business relationships with focus countries is negligible. In addition, much DPMS business is carried out face-to-face.
- 6.42 The residual terrorist financing risk of the DPMS sector with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of the DPMS sector with regard to domestic terrorism is assessed as **Very Much Lower**.

## Legal persons

- 6.43 As indicated above, the use of legal persons for terrorist financing purposes is recognised internationally, particularly in respect of well-organised terrorist groups that operate like businesses and carry out trade via legal persons. It is therefore possible that the business relationships that exist between TCSPs and focus countries could lead to domestic legal persons created for cross border business or foreign legal persons with a link to Guernsey being used for terrorist financing purposes. However, the international instances of legal persons being used for terrorist financing purposes do not fit the profile of the business relationships that exist between the TCSP sector and focus countries as outlined above. Legal persons that are not used for cross border business are not considered to have any material exposure to terrorist financing.
- 6.44 The residual terrorist financing risk of legal persons used for cross border business and of foreign legal persons with a link to Guernsey with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of legal persons not used for cross border business with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of all legal persons with regard to domestic terrorism is assessed as **Very Much Lower**.

## Legal arrangements

- 6.45 The same factors that make it unlikely that legal persons or foreign legal persons with a link to the jurisdiction would be used for terrorist financing purposes apply in the case of legal arrangements. As with legal persons, there is little focus country involvement (whether through owners, officers or otherwise) in domestic legal arrangements, and the number of foreign legal arrangements that are administered in or otherwise linked to the jurisdiction is low. In addition, while the use of legal persons, primarily companies, is something with which persons of most nationalities are likely to be familiar, the same is not true of legal arrangements, especially not trusts. There is likely to be a lack of knowledge or understanding about trusts in most focus countries as the concept of a trust does not exist under their legal systems, especially focus countries in the Middle East and North Africa.
- 6.46 This is consistent with the fact that there appears to be no evidence in the public domain, including in the AML/CFT evaluation reports of IFCs and common law jurisdictions, of the use of trusts for terrorist financing purposes. The Guernsey authorities have liaised with the UK, Jersey, the Isle of Man and other IFCs, and have used international and bilateral meetings (including with representatives of jurisdictions which have been subject to terrorism) on terrorist financing to explore whether trusts have in practice been used to finance terrorism. No such evidence has been provided to the authorities and there is no intelligence held by the local authorities that suggests use of trusts for these purposes.

- 6.47 The residual terrorist financing risk of legal arrangements used for cross border business and of foreign legal arrangements with a link to Guernsey with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of legal arrangements not used for cross border business with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of all legal arrangements with regard to domestic terrorism is assessed as **Very Much Lower**.

## NPOs

- 6.48 Internationally, the diversion of the legitimate assets of NPOs during their operational or financial processes in order to fund terrorism (which includes terrorist acts, recruitment or training) is a particularly significant concern, as is the abuse of NPO programmes at the point of delivery. This diversion or abuse may be organised by supporters of terrorism within an NPO itself, or by third parties such as foreign partners or external fundraisers, and is most likely to arise where an NPO is operating in close proximity to an active terrorist or terrorist financing threat. This threat is not confined to conflict zones but may also arise if an NPO is situated or working in a country where a section of the population is targeted for support and cover by terrorist organisations.
- 6.49 In addition, NPOs are vulnerable to being used for terrorist financing purposes through affiliation. This may arise either because an NPO is affiliated to an organisation that is situated or working in an area with an active terrorist or terrorist financing threat, or, less commonly, because an NPO is (knowingly or unknowingly) affiliated with a terrorist organisation. NPOs in this second situation may be abused for multiple purposes, including the provision of general logistical support to the terrorist organisation. The use of NPOs for terrorist financing sometimes also occurs through deception, i.e. where individual terrorists or terrorist organisations deceive well-meaning parties into giving them financial support, either by creating sham NPOs or by portraying themselves as being involved in philanthropic activity. This can be particularly difficult to detect. These various forms of abuse of the NPO sector principally involve distributions or disbursements, i.e. the destination of an NPO's assets rather than the origin of those assets. The origin of an NPO's assets is also relevant, in particular to determine the likelihood that the NPO has been created as a front for terrorist fund raising. The form and value of the assets themselves is also relevant to the ease with which they can be misappropriated and the likely scale of this.
- 6.50 While a small number of manumitted NPOs raise funds within the jurisdiction, for the vast majority both in terms of number and asset volume their funds come from extremely wealthy individual non-resident donors. These individuals are well known to the TCSPs that administer the manumitted NPO in question, and the number of them that have links to focus countries is negligible. Most manumitted NPOs fund charities that support their objects, rather than engage in charitable activities themselves. A very small number of manumitted NPOs directly fund overseas charitable activities but the number active in focus countries is negligible. Disbursements by manumitted NPOs are typically made within Europe or the USA and

the vast majority are made by way of wire transfer and, to a much lesser extent, by way of cheques. Disbursements made by less traceable means such as cash are either extremely rare or non-existent.

- 6.51 The overwhelming majority of registered NPOs have an exclusively domestic focus, in terms of both the raising and the distribution of funds. The small proportion with an international focus are primarily linked to activity in the UK or in Africa, and within this the number with links to focus countries is negligible. As with manumitted NPOs, the vast majority of disbursements are made by way of wire transfer and, to a much lesser extent, by way of cheques, with the use of cash being confined to small payments to cover day-to-day expenses or occasional extraordinary expenditure (e.g. a payment of \$50 USD for emergency medical care). Guernsey's OA&DC is linked to the NPO sector as it provides financial support for development projects and humanitarian relief in other countries, primarily in the developing world. In the last four years, the vast majority of awards have been made in support of projects in Africa, none of which involved focus countries.
- 6.52 The OA&DC does not make any cash payments, and disbursements are subject to a £50,000 threshold. Applications for funding are only considered from NPOs that are registered with oversight bodies in the Channel Islands or in the UK or from approved humanitarian agencies such as UNICEF. The OA&DC applies CDD measures and other strict control mechanisms to both an applicant NPO and any partner organisations that will be responsible for the day-to-day delivery of the project in the country in question.
- 6.53 The residual terrorist financing risk of manumitted NPOs with regard to foreign terrorism is assessed as **Lower**. The residual terrorist financing risk of registered NPOs and the OA&DC with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of all NPOs and the OA&DC with regard to domestic terrorism is assessed as **Very Much Lower**.

### Emerging products and technologies

- 6.54 Concern has been expressed internationally about the use of digital currencies and e-money by terrorists, but this is primarily based on the potential for this to occur rather than on any significant evidence that it is currently taking place. This is consistent with the fact that there is at present limited acceptance of these products in regions such as the Middle East and North Africa where many terrorist groups are most active.
- 6.55 In addition, there is nothing to suggest that any activity of this kind is taking place within Guernsey. Emerging products and technologies are not currently widely used in the jurisdiction. Only one business offers open loop pre-paid currency cards (i.e. cards that are not subject to restrictions on how they can be used) and that business carries out CDD on all cardholders irrespective of the amount of currency loaded onto the card. In addition, top-up payments on a card can only be made in person by using cash or a direct debit card, and the prospect of any person involved in terrorism being physically present in the jurisdiction is remote. For the same reason it is unlikely that

pre-paid cards from a foreign provider would be used in Guernsey for terrorist purposes or that terrorist couriers carrying pre-paid cards would travel via Guernsey.

- 6.56 Similarly, it is considered unlikely that anybody in Guernsey would use virtual assets for the purposes of terrorism or the financing of terrorism. As Guernsey does not have any virtual asset exchanges it does not provide any means for persons outside the jurisdiction to use virtual assets for terrorist financing purposes. The same applies to initial coin offerings, as none are currently licensed or registered in the jurisdiction.
- 6.57 The residual terrorist financing risk of emerging products and technologies with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of emerging products and technologies with regard to domestic terrorism is assessed as **Very Much Lower**.

## Cash

- 6.58 The use of cash, often linked to use of money service providers, has been identified internationally as a key method by which acts of terrorism are financed. This is because of the untraceable and highly portable nature of cash, combined with the fact that many terrorist acts require very low levels of funding.
- 6.59 However, there has been nothing to suggest any link between Guernsey and the use of cash for terrorist purposes. Guernsey's economy is not cash based to any significant extent. More importantly, the use of cash in or from Guernsey for terrorist purposes would require a person linked to terrorist activity to be physically present in the jurisdiction, either to withdraw cash from a local bank or to transport it cross-border. The possibility of this happening is considered remote. The same applies to the possibility of a terrorist cash courier travelling via Guernsey. With regard to money service providers, as indicated above the level of transmissions from Guernsey to focus countries is extremely low. This makes it unlikely that anybody in Guernsey is using cash to send payments outside the jurisdiction for terrorist purposes.
- 6.60 The residual terrorist financing risk of cash with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of cash with regard to domestic terrorism is assessed as **Very Much Lower**.

## Trade

- 6.61 There is experience internationally of terrorist groups being involved in trade, but this has usually occurred within a territory that is under the control of a terrorist organisation so is obviously unlikely to arise in relation to Guernsey. In addition, what little manufacturing or other industrial activity there is does not involve the type of commodities typically involved in terrorist financing and no exports are made to focus countries.

- 6.62 The extremely limited appetite of banks for providing trade finance to non-local businesses means that the prospect of obtaining trade finance in order to fund terrorism is remote. In addition, there are no findings internationally that terrorists are making use of trade finance in this way.
- 6.63 It is possible that entities administered by TCSPs could be involved in trade-based terrorist financing activity outside the jurisdiction, but this does not fit with the pattern of TCSP relationships with focus countries, as these are generally used for asset holding purposes rather than to administer businesses. Where TCSPs are involved with trading businesses, typically they administer the ultimate holding companies and are generally not involved in the import and export of goods.
- 6.64 The residual terrorist financing risk of trade with regard to foreign terrorism is assessed as **Much Lower**. The residual terrorist financing risk of trade with regard to domestic terrorism is assessed as **Very Much Lower**.

## **7. TERRORIST FINANCING – MOST LIKELY MODALITIES**

- 7.1 Internationally, terrorist financing is identified as having three distinct stages. These are raising funds for the purpose of terrorist activity, moving those funds in some way and then using them for terrorist aims e.g. to pay for training or travel costs or to purchase materials for a terrorist attack.<sup>23</sup>
- 7.2 As explained in previous sections, there is not considered to be any material risk of terrorist activity in Guernsey itself. Therefore, it would be overly speculative to identify possible modalities for this.
- 7.3 With regard to the risk that Guernsey may be used to finance foreign terrorist activity, in the absence of any indicators or case experience, the particular way in which this is most likely to happen can be hypothetical only, based on international experience and other indicators. Apart from inadvertent fundraising in Guernsey (i.e. where funds raised in good faith are diverted after leaving the jurisdiction), there is not considered to be any real possibility of Guernsey being involved in the first of the three stages mentioned above.
- 7.4 There is a possibility of Guernsey being used in the third stage, if assets administered from Guernsey or the proceeds of kidnap and ransom insurance provided from Guernsey are used to fund terrorism. However, it is considered more likely that Guernsey would be used in the second stage, either as a transit jurisdiction for funds or as a jurisdiction from which the movement of funds elsewhere is controlled.

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<sup>23</sup> See for example the UN Convention for the Suppression of the Financing of Terrorism.

- 7.5 As explained in previous sections, this involvement in the movement of funds is more likely to arise from secondary terrorist financing, i.e. where the proceeds of crime are used to fund terrorism. Consequently some indicators of money laundering may also in fact be terrorist financing indicators, even though they are not identified or categorised as such because the link to terrorist financing is not apparent to the person making the suspicious activity report, international request for assistance etc. as the case may be.
- 7.6 However, the likely extent of this has to be seen in context. A range of underlying offences is internationally linked to secondary terrorist financing (i.e. drug trafficking, human trafficking and modern slavery, low level benefit etc. fraud, corruption, hijacking and kidnapping). There is no evidence that Guernsey is being used to launder the proceeds of some of these offences, but as indicated in the money laundering threat section Guernsey is exposed to laundering in connection with foreign drug trafficking, corruption and, to a much lesser extent, low level fraud. However, the specific types of these offences that affect Guernsey do not fit the internationally recognised patterns of secondary terrorist financing.
- 7.7 These international patterns of secondary terrorist financing typically involve organised criminal groups whose members are likely to be motivated by ideological objectives rather than a desire for individual financial gain. Although as demonstrated in the section on the modalities of money laundering there has been some experience of organised criminal groups seeking to use Guernsey to launder the proceeds of drug trafficking, the number of cases is extremely low and there is no evidence of any terrorist links or sympathies on the part of the persons involved.
- 7.8 Furthermore, the section on the modalities of money laundering demonstrates that with regard to the proceeds of foreign bribery and corruption, a Guernsey nexus is most likely to arise where the jurisdiction is used by PEPs and other individuals whose motives are to acquire personal wealth for themselves, their families and associates. On that basis, it is unlikely that the proceeds of their offences would be diverted for terrorist purposes. A possible exception to this would be where a PEP is involved in state-sponsored terrorism. However, there have been no indications to date that this is happening with any PEPs that have a connection with Guernsey, whether linked to corruption or not. In addition, detailed strategic analysis of SARs and other financial intelligence by the FIU has not identified any terrorist financing links from business relationships with countries that are seen internationally as high risk for bribery and corruption, whether or not those relationships involve PEPs.
- 7.9 On that basis, the assessment that secondary terrorist financing is the most likely form of terrorist financing to affect the jurisdiction is only in relative terms; it does not affect the overall assessment of the likelihood of terrorist financing taking place, which remains low.

## **GLOSSARY**

AGCC	Alderney Gambling Control Commission
AML	Anti-Money Laundering
ATM	Automated Teller Machine
AEOI	Automatic Exchange of Information
BVI	British Virgin Islands
CDD	Customer Due Diligence
CFT	Countering the Financing of Terrorism
CRS	Common Reporting Standard
DLT	Distributed Ledger Technology
DPMS	Dealers in Precious Metals and Stones
EOIR	Exchange of Information on Request
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSB	Financial Services Business
FSRB	FATF-Style Regional Body
GFSC	Guernsey Financial Services Commission
IFC	International Financial Centre
IMF	International Monetary Fund
ILS	Insurance Linked Securities
MLA	Mutual Legal Assistance
MLRO	Money Laundering Reporting Officer
NPO	Non-Profit Organisation
NRA	National Risk Assessment
OA&DC	Overseas Aid & Development Commission
OECD	Organisation for Economic Co-operation and Development
SAR	Suspicious Activity Report
TIEA	Tax Information Exchange Agreement



TISE	The International Stock Exchange
TISEAL	The International Stock Exchange Authority Limited
TCSP	Trust & Corporate Service Provider
UN	United Nations
UNICEF	United Nations Children's Fund
VAT	Value Added Tax

## **APPENDIX 1 – ROLE OF THE CORE AML/CFT AUTHORITIES**

1. A key element of assessing residual risk is the effectiveness of mitigating measures that are in place to prevent a jurisdiction from being abused for money laundering or terrorist financing purposes. This requires in turn an assessment of the effectiveness of a jurisdiction's systems for supervising and enforcing the implementation of such measures. Therefore, the NRA process involved examining the approaches to supervision and enforcement taken by the GFSC and the AGCC.
2. Another key element of assessing residual risk is the effectiveness with which money laundering and terrorist financing are detected, investigated and prosecuted, and a jurisdiction's ability to seize and confiscate the proceeds of crime and funds intended for use in terrorism. Therefore the NRA process also involved examining the structures and systems in place under the criminal justice framework.
3. There are other measures relevant to dealing with money laundering and terrorist financing that have a bearing on assessing residual risks in these areas. These are the systems in place to implement international sanctions relating to money laundering and terrorist financing, systems to deal with tax issues and the controls put in place by stock exchanges for listing and trading members and the operation of the market place. Therefore the NRA also considered the way in which these measures are dealt with in Guernsey.
4. The information that was considered in the NRA process in these various areas is set out below.

### **Oversight and enforcement by supervisors**

5. Both the GFSC and the AGCC have a key role in creating a hostile environment for criminal money by ensuring that the reporting entities they supervise for AML/CFT purposes have adequate safeguards to prevent themselves from being used for financial crime, as well as from being the victims of financial crime. Details of the approaches to supervision and oversight of the two supervisory bodies, illustrated by a graphic overview, are set out below. While the approach of the two supervisory bodies is closely aligned in many respects, there are some differences between them that reflect differences in the sectors that they supervise.

### **The GFSC**

6. The GFSC is the designated prudential, conduct and AML/CFT supervisor for all financial services businesses (including TCSPs) and AML/CFT supervisor for the professional services sector (lawyers, accountants and estate agents) with both general and AML/CFT-specific statutory powers of supervision and sanctioning. The GFSC is an independent public body that is funded entirely by the licensees that it regulates by charging them fees. The GFSC is accountable to the States of Guernsey which is responsible for the Bailiwick's financial services industry and for establishing the regulatory regime.

7. The GFSC comprises three main Supervisory Divisions, each headed by a Director, namely the Investment, Fiduciary and Pensions Division, the Banking and Insurance Division and the Financial Crime Division. While the Financial Crime Division is responsible for AML/CFT supervision, it works closely with the two prudential and conduct divisions and will often undertake joint on-site inspections. This ensures that AML/CFT risks are also considered by the prudential supervisors.
8. Guernsey has a mature financial services sector. The banking, investment and insurance sectors have been supervised for just over thirty years and the TCSP sector has been supervised for almost twenty years. Most reporting entities recognise the importance of strong AML/CFT controls. However, there are exceptions as shown by the GFSC's use of its enforcement powers.
9. The GFSC applies fit and proper measures both at the time of licensing and on an ongoing basis to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest, or from holding a management function in a reporting entity. This function is performed by the GFSC's Authorisations and Innovations Division, which not only undertakes due diligence, but also carefully considers applicants' business models and governance structures. Reporting entities are subject to risk based onsite and offsite supervision. The frequency and intensity of the GFSC's AML/CFT on-site and off-site supervision of reporting entities and groups is determined on the basis of:
  - the financial crime risks and policies, internal controls and procedures associated with the firm or group, as identified by the GFSC's assessment of the reporting entity or group's risk profile;
  - the inherent money laundering and terrorist financing risks present in the Bailiwick; and
  - the inherent money laundering and terrorist financing risks of the reporting entity and groups, in particular the diversity and number of reporting entities in that industry sector.
10. The GFSC's AML/CFT methodology is weighted towards focusing more supervisory effort on TCSPs and private banking. All reporting entities supervised for AML/CFT purposes are monitored and risk assessed by the GFSC through an annual financial crime risk return which all reporting entities are required to complete. Each reporting entity has been given an inherent financial crime risk rating of high, medium high, medium low or low based on the data in the financial crime risk return and prudential returns, supplemented with information and intelligence from other sources such as the FIU and law enforcement. This drives the GFSC's minimum engagement with reporting entities. However, the on-site inspection programme is kept sufficiently flexible to undertake event driven visits, e.g. if the GFSC is made aware of specific intelligence from the FIU or if a whistle-blower has made a disclosure to the GFSC's intelligence team. Additionally, the GFSC undertakes thematic work to determine whether overall standards in an industry are at or near the level where it would expect them to be or whether there appears to be an industry wide issue which may require

policy changes, widespread “moral suasion” or an intense enforcement action to secure appropriate change.

11. The GFSC also undertakes regular outreach to industry to ensure that reporting entities are aware of their AML/CFT obligations and money laundering and terrorist financing risks. This comprises issuing rules and guidance; hosting an annual industry seminar; hosting ad-hoc regulatory self-assurance events; taking part in seminars arranged by industry; answering ad-hoc enquiries; and providing a supervisory update in the GFSC’s annual report.
12. The GFSC’s supervisory regime has been in place for many years and has been found to be effective by successive international evaluations. As a result, all core financial services sectors have good internal AML/CFT risk management systems. In particular, financial services businesses generally have excellent controls in place to correctly to identify and verify beneficial owners of legal persons and legal arrangements. This extends not only to individuals who own shares or rights in a legal person or arrangement, but also to individuals who exercise control through other means. The GFSC also recognises the steps taken by reporting entities to identify and manage ML and TF risks relevant to their business.
13. Inevitably with a focus on reporting entities which present higher inherent money laundering and terrorist financing risks there have been a small cohort of financial services firms where the GFSC identified wider and systemic deficiencies in their governance, risk and compliance frameworks; their business risk assessments and customer risk assessments; their monitoring of transactions and activity; and the extent to which they take reasonable measures to establish source of fund and source of wealth in respect of high risk customers. Where appropriate, the GFSC will address contraventions or misconduct by agreement with the reporting entity or individual(s) concerned and will endeavour to agree the implementation of a remedial plan to restore compliance on a timely basis. However, that approach is not always appropriate and on occasion the GFSC has had to take enforcement action against reporting entities and individuals for serious AML/CFT deficiencies.

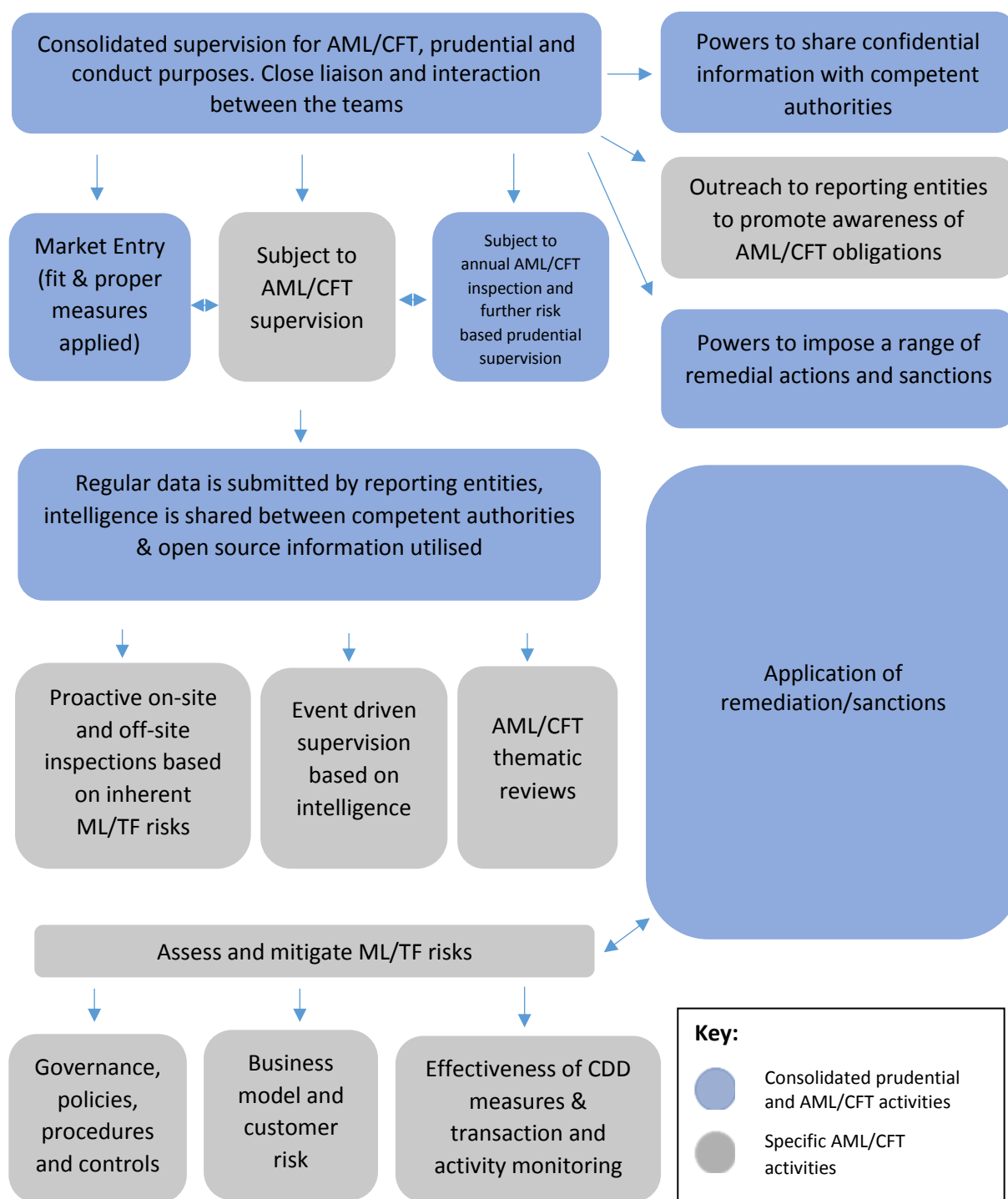
## **The AGCC**

14. The AGCC consists of a Chairman and three to five other members (currently three) who are appointed by the Policy and Finance Committee of the States of Alderney for a period of up to five years in any one term. The objectives of the AGCC include:
  - protecting and enhancing the reputation of Alderney as a well regulated eGambling centre;
  - ensuring that eGambling is conducted honestly and fairly and in compliance with good governance;
  - preventing eGambling from being a source of crime, being associated with crime, or being used to support crime, including preventing the funding, management and operation of eGambling from being under criminal influence.

15. The AGCC has the power to delegate its powers under the eGambling legislation to the Executive Director, Director of Licensing and Director of Operations (the Executive Committee) to ensure the smooth running of the operations of the AGCC. In respect of licensing applications, the Director of Licensing ensures all information and due diligence is conducted into beneficial owners of applicant companies and compiles a report for consideration by Executive Committee and the Commission. The Director of Operations heads the compliance team and is responsible for the monitoring process of all licensees and certificate holders as set out below.
16. It is the view of the AGCC that supervision ensures that those wishing to gamble can do so with reputable, honest and trustworthy eCasinos. This in turn ensures that customers of eCasinos are not funding criminality, they can gamble on honest platforms and games are fair thus ensuring the certainty of a pay-out of winnings. These reassurances are not guaranteed within the illegal or unregulated gambling sphere.
17. Like the GFSC, the AGCC considers that most reporting entities it supervises recognise the importance of strong AML/CFT controls. The AGCC applies fit and proper measures both at the time of licensing and on an ongoing basis to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in an eCasino. eCasinos are subject to risk based onsite and offsite supervision. The AGCC undertakes, as a minimum, an annual on-site AML/CFT inspection of all eCasinos. Additional on-site inspections may take place on a risk based approach.
18. All eCasinos are supervised for AML/CFT purposes and are monitored and risk assessed by the AGCC through the use of an AML/CFT questionnaire of the eCasino's Internal Control System which all firms are required to complete and which must be approved by the AGCC before operations can commence. Each eCasino is given an inherent financial crime risk rating of standard risk or higher risk based on the information identified during the application and investigation process allied to the Internal Control System approval process. This includes information and intelligence from other sources such as the FIU and law enforcement and it drives the AGCC's minimum engagement with firms. However, the on-site inspection plan is kept sufficiently flexible to undertake event-driven inspections, e.g. if the AGCC is made aware of specific intelligence from the FIU or other regulators. Additionally, the AGCC undertakes thematic work to determine whether overall standards in an industry are at or near the level where it would expect them to be or whether there appears to be an industry wide issue which may require policy changes, widespread "moral suasion" or an intense enforcement action to secure appropriate change. The regular risk reviews undertaken by the AGCC seek to identify the greatest money laundering and terrorist financing risks in the eGambling sector and these are notified to the sector to allow them to direct their resources to those areas where they will have greatest impact.

19. The AGCC also undertakes the following regular outreach to the industry to ensure that reporting entities are aware of their AML/CFT obligations and ML/TF risks. This comprises issuing guidance; hosting an annual AML/CFT event in conjunction with the FIU; taking part in seminars arranged by industry; answering ad-hoc enquiries; and providing a supervisory update in the AGCC's annual report.
20. In 2018, as a result of the monitoring process, including the completion of the AML/CFT questionnaire referred to above, the AGCC identified the following areas requiring remedial measures by eCasinos; business risk assessments and their updating; issues with regards to the processes for identification and verification;) issues in the appointment of MLROs and Nominated Officers; and inadequate training.
21. Where appropriate, the AGCC will address such issues by agreement with the reporting entity concerned and will endeavour to agree the implementation of remediation measures to restore compliance on a timely basis. However, that approach is not always appropriate and on occasion the AGCC has had to take enforcement action against reporting entities and individuals for deficiencies including AML/CFT deficiencies. However, these have not included deficiencies in information about beneficial ownership. The sector has very few customers who are not individuals and in the limited number of cases where entities are involved, the experience of the AGCC, like that of the GFSC, is that firms have excellent controls in place to correctly to identify and verify beneficial owners of legal persons and legal arrangements or exercise control through other means. This is coupled with a good understanding of the money laundering and terrorist financing risks to their business and the industry as a whole. Furthermore, whilst the above vulnerabilities have been identified, the AGCC recognises the steps taken by the industry to manage risk as positive and improving.

Figure 14: Graphic overview of AML/CFT supervision and enforcement by the GFSC and AGCC



## **Enforcement of the criminal justice framework**

### **Law enforcement – FIU**

22. Guernsey's FIU is the Financial Intelligence Service; this is a law enforcement FIU embedded within Bailiwick Law Enforcement. It is operationally independent and therefore has the ability to act autonomously in line with international standards, including principles of operational independence required by the EGMONT Group (an international forum of FIUs, set up to improve cooperation in the fight against money laundering and terrorist financing).
23. In addition to its role as the competent authority for the receipt and analysis of SARs, the FIU disseminates financial intelligence to combat money laundering and countering financing of terrorism. It is also responsible for the development of financial crime intelligence with an emphasis on identifying money laundering cases and the prevention and disruption of the financing of terrorism. In addition, it undertakes strategic and tactical analysis to identify the threat and exposure of the jurisdiction to bribery, corruption, money laundering and terrorist financing. The FIU work in close partnership with the Guernsey Police Special Branch Division in the development of financial intelligence received by the FIU in respect of the financing of terrorism. The FIU in collaboration with the Special Branch Division will develop the intelligence in conjunction with other law enforcement agencies, primarily the UK National Terrorism Financial Investigation Unit.
24. The FIU works in close partnership with law enforcement and external agencies such as the GFSC, the AGCC, the Law Officers and the Revenue Service. It also works closely with local financial services businesses.
25. The FIU is also responsible for responding to international requests for assistance, including providing accurate and timely beneficial ownership information for disclosure to appropriate authorities both domestically and internationally. In discharging this role the FIU works closely with other UK and international law enforcement partners, including EGMONT member countries.

### **Law enforcement – Economic Crime Division**

26. The Economic Crime Division of Bailiwick Law Enforcement is responsible for the investigation of money laundering, fraud, bribery and corruption and terrorist financing within the jurisdiction. The division is also responsible for parallel financial investigations, confiscation investigations, restraint proceedings, non-conviction based forfeiture proceedings and servicing MLA requests on behalf of the Law Officers. These functions are discharged by two teams, namely the financial crime team and the International Co-operation and Asset Recovery team.



27. The Financial Criminal Team is responsible for investigating and compiling prosecution files to support the prosecution of money laundering, terrorist financing, serious complex fraud and other forms of economic crime. In any case relating to terrorist financing the financial crime team would also work in close partnership with the Guernsey Police Special Branch Division. The financial crime team is also responsible for investigations involving the restraint and confiscation of assets and it works closely with the criminal teams within law enforcement to ensure that parallel financial investigations are undertaken in respect of serious organised crime cases, including drug trafficking investigations.
28. The International Co-operation and Asset Recovery Team is responsible for investigations into non-conviction based freezing or seizure and forfeiture of assets (cash and funds in bank accounts). The team also assists the Law Officers in the discharge of some MLA requests to the jurisdiction. This work involves the obtaining and service of coercive orders, provision of evidence and witness statements. It also includes the restraint of assets held within the jurisdiction and the assessment of all MLA requests for domestic criminality or offences.

### **The Law Officers**

29. The two Law Officers, the Attorney General and the Solicitor General, are non-political officers of the Royal Court of Guernsey appointed by the Crown. The Law Officers are assisted by a team of professional lawyers and have three core AML/CFT roles, namely prosecuting money laundering and terrorist financing offences (and related asset recovery proceedings), making court applications in respect of non-conviction based asset recovery and making or responding to MLA requests. In the discharge of these functions the Law Officers work closely with Bailiwick Law Enforcement.
30. The Law Officers take a proactive approach to their responsibilities in this area.
31. Decisions to prosecute are made on in accordance with a publicly available Code of Guidance, which specifies that a prosecution will be brought if the prosecutor considers that two tests are satisfied. These are that there is sufficient evidence to provide a realistic prospect of conviction and that prosecution is required in the public interest.
32. The Law Officers adopt a similar approach to their other core AML/CFT functions. Their policy and practice is to provide MLA wherever possible in accordance with the law, subject to the caveat that MLA will not be provided where a request is believed to be politically motivated or is made in connection with an offence that is subject to the death penalty (unless an undertaking is received from the requesting country that such a sentence will not be imposed).
33. In addition to their core AML/CFT roles, the Law Officers regularly provide legal advice on AML/CFT issues to Bailiwick Law Enforcement, the GFSC and the AGCC, as well as to other authorities with an AML/CFT role. This includes the States of Guernsey Policy & Resources Committee in its capacity as competent authority for sanctions, the Revenue Service, the Registrars of NPOs and of Beneficial Ownership, and the States

of Guernsey Committee for Home Affairs as the political committee with responsibility for criminal justice legislation.

## **Other authorities**

### **Policy & Resources Committee**

34. The Policy & Resources Committee, a government committee, is the competent authority for the implementation of sanctions in the jurisdiction, including UN Security Council Resolutions relating to terrorist financing. It is responsible for making decisions about applications to conduct transactions that involve a sanctioned party (e.g. access to frozen funds), for publishing updates to listings, for making other information and guidance about sanctions measures publicly available, and for conducting outreach to industry and third sector organisations.
35. In discharging its function to make decisions about particular transactions, the Policy and Resources Committee takes a cautious approach. In addition to considering any relevant information provided by other AML/CFT authorities, it liaises very closely with the authorities in the UK in order to ensure that any information obtained by the UK's intelligence services is also taken into account.
36. The Policy & Resources Committee immediately communicates any changes to sanctions listings by the UN or the EU to reporting entities by issuing a Sanctions Notice, which is transmitted directly to all MLROs via the FIU's secure online communication system. These changes are also posted on the government website. The Policy & Resources Committee also provides detailed information on the government website about the implementation of UN measures related to terrorism and terrorist financing, including an Advisory Memorandum which is regularly updated.
37. The Policy & Resources Committee also regularly organises seminars and other outreach events for industry and the third sector about targeted financial sanctions. These events usually involve presentations by international experts in this area. In addition, the Policy & Resources Committee liaises with individual businesses or other organisations on a case by case basis about specific issues relating to the products or services that they provide.

### **The Revenue Service**

38. The Revenue Service have responsibility for overseeing the administration of Guernsey's income tax legislation and relevant parts of legislation relating to social insurance contributions.
39. The Revenue Service support the work of the GFSC, AGCC, and Law Enforcement, from a tax focussed perspective. The Revenue Service has had, since 2007, an extremely broad ability to exchange relevant information with the GFSC and Law Enforcement for the purposes of carrying on their respective functions. The legal exchange of

information gateway was reciprocal with Law Enforcement since 2007 and has, more recently, been extended to become reciprocal with the GFSC. It therefore enables the GFSC to exchange information to the Revenue Services for the purpose of carrying on their functions.

40. The ability to exchange information between the GFSC, Law Enforcement and the Revenue Service, therefore, has no limitations and encompasses both the work that the Revenue Service does in respect of compliance with the “domestic income tax requirements” (i.e. ensuring all taxpayers pay the appropriate amount of tax based on the statutory provisions) and the work carried on under the various international tax agreements, to the extent that the information being exchanged is relevant to the functions of the GFSC and/or Law Enforcement.
41. In practice this means that the Revenue Service does not breach the confidentiality provisions that are contained in the majority of the international tax agreements (such provisions including, for example, merely disclosing the existence of a request for the exchange of tax information), as the information required to be exchanged with the GFSC and/or Law Enforcement does not need to cite the reason why the Revenue Service believes there to be a risk of compliance with the AML/CFT framework that the GFSC supervise and Law Enforcement police.
42. There are three core elements where the Revenue Service may complement the work of the GFSC and Law Enforcement, namely:
  - (a) In respect of the administration of the domestic income tax legislation, the Revenue Service will investigate cases of potential tax evasion (being Guernsey taxpayers intentionally seeking to evade paying the correct amount of income tax, by failing to make a full and complete declaration of income on their tax returns). In any case of serious fraud, the Revenue Service will refer the matter to Law Enforcement to determine whether a joint investigation should be carried out (and if so, whether the potential tax evasion would form the predicate offence for consideration of money laundering);
  - (b) In respect of EOIR, the Revenue Service are the recipients of requests for the exchange of information that is foreseeably relevant for a tax investigation/enquiries in the taxpayer’s jurisdiction of tax residence. During the period of Guernsey’s last Peer Review by the OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes, Guernsey received 136 requests, of which 65 cases required details of beneficial ownership. In all cases where a valid request was received for beneficial ownership information the Revenue Service was able to obtain the information from the relevant Guernsey information holder, supporting the view that the AML/CFT framework within Guernsey is adhered to and ensures that information concerning beneficial ownership of legal persons and arrangements is adequate, accurately and timely.

Whilst the Revenue Service have not experienced an EOIR case where beneficial ownership information was unable to be obtained, if there were ever such a case

then the Revenue Service already have in place the necessary disclosure gateway to be able to enter into dialogue with the GFSC to ensure any potential failure of the AML/CFT regime can be considered by both the Tax Administration and AML/CFT Supervisory Authority in order to determine where appropriate enforcement action should be carried out.

- (c) With the introduction of the newer tax transparency standard (the AEOI) comes a further requirement for the Revenue Service, as the competent authority, to ensure financial institutions in Guernsey are complying with the requirements of the CRS.. A major part of the CRS is the requirement for Financial Institutions to identify Account Holders (including the Controlling Persons) for accounts held by Entities. The due diligence requirements under the CRS are underpinned by the KYC framework and beneficial ownership definitions contained in the 2012 FATF Recommendations.
43. The implementation of this compliance programme, by the Revenue Service, will therefore further extend the authorities that are reviewing compliance with the AML/CFT framework and, owing to the legal gateways, will further enable the Revenue Service and the GFSC to enter into dialogue relating to any persons for which they have concerns, then enabling both authorities to consider what sanctions or other enforcement action should be carried out.

#### **TISEAL**

44. In the exercise of its regulatory role and responsibilities in relation to the conduct of its listing and trading members and the operation of the market place, TISEAL undertakes the following functions:
- (1) The admission of issuers to the Official List by reference to the Listing Rules and TISEAL's policy on issuer suitability.
  - (2) The admission of members of TISE by reference to the Membership Rules and TISEAL's policy on member suitability.
  - (3) The suspension or cancellation of an issuer from the Official List in accordance with the Listing Rules.
  - (4) The re-admission to the Official List in accordance with the Listing Rules following suspension save where suspension was at the request of the issuer and TISEAL concludes that the criteria for re-admission are not met.
  - (5) The suspension or cancellation of membership of TISE in accordance with the Membership Rules.
  - (6) The re-admission to membership of TISE in accordance with the Membership Rules following suspension save where suspension was at the request of the member and TISEAL concludes that the criteria for re-admission are not met.

- (7) The enforcement against members of the Membership Rules and/or Listing Rules in accordance with the Discipline Chapters of those Rules.
- (8) Liaising with the GFSC and other regulatory authorities and organisations as applicable on all matters relating to the operation of the Official List and the membership of TISE.
- (9) The taking of positive steps to undertake market surveillance which obligations include:
  - (a) weekly monitoring of trading activity;
  - (b) daily review of movements in prices and transactions;
  - (c) news alert monitoring;
  - (d) the reporting to the GFSC within one trading day of:
    - (i) price movements in excess of 30% of the starting price at opening;  
and
    - (ii) transactions where market abuse, as defined in s41A of the POI Law, is capable of being reasonably suspected.
- (10) The taking of positive steps to monitor ongoing issuer compliance with the Listing Rules.
- (11) The taking of positive steps to monitor ongoing membership compliance with the Listing Rules and Membership Rules.

## **APPENDIX 2 – CASE STUDIES**

### **PART I – CRIMINAL JUSTICE CASE STUDIES**

The case studies below are examples of ways in which criminals have used or attempted to use Guernsey for the purposes of money laundering. The cases have been chosen to illustrate each of the different aspects of the criminal justice system involved in tackling money laundering, namely domestic money laundering investigations and prosecutions, the activities of the FIU in receiving and analysing reports of suspicion and disseminating intelligence reports to other authorities, and the provision of information to other jurisdictions in evidential form under the mutual legal assistance process. A case involving a joint investigation with other jurisdictions has also been included.

There is a degree of overlap between the different categories of cases, as an investigation or MLA request often follows a dissemination of intelligence from the FIU. In addition, a small number of cases involve activity by other authorities, namely the Revenue Service in some tax evasion cases and the Policy & Resources Committee in one case involving a sanctions breach.

For ease of reference, each case study has been given a heading which sets out the specific domestic sectors or products involved and the underlying offence (including whether it is domestic or foreign). To be clear, where there is a reference in the heading to a legal person or legal arrangement, this means a legal person or legal arrangement established in the Bailiwick, and references to a TCSP mean a Guernsey – licensed TCSP.

In line with the findings about money laundering threat set out at section 3, a large number of the case studies involve corruption or fraud. It is important to be aware that while corruption cases typically relate to illicit enrichment through activities such as outright theft of state assets or the awarding of contracts to family members or associates, some cases also involve bribery. To make this distinction clear, where a corruption case involves bribery this is specifically referred to in the heading. Similarly, in fraud cases where the fraud in question is tax evasion, this has been specifically identified as the underlying offence in the heading.

No case studies on terrorist financing are included, as the jurisdiction has no experience of being used for these purposes to date.

## Investigations and prosecutions

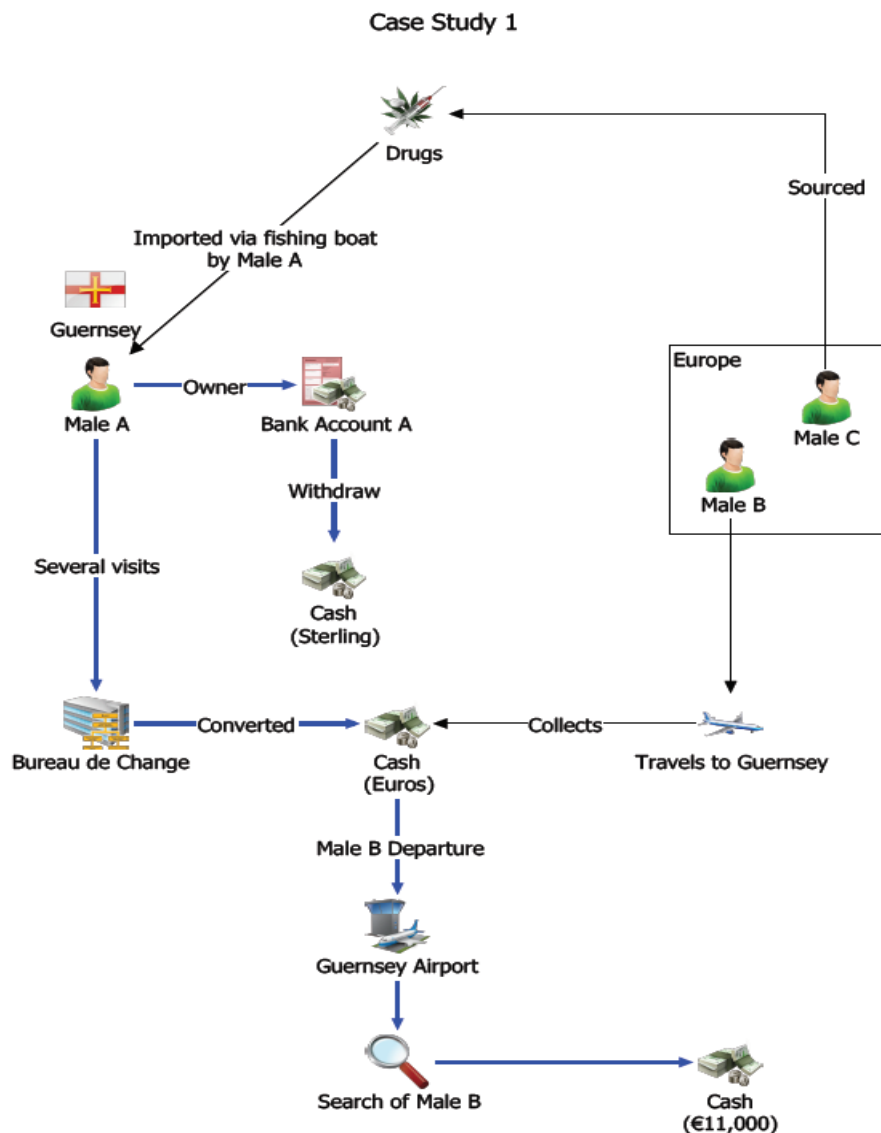
### CASE STUDY 1

**Sector/product: banking sector/MSP sector/cash**

**Underlying offence: domestic drug trafficking**

A Guernsey- based drug trafficker (Male A) was involved in the importation of drugs from Europe under the cover of his professional activities as a fisherman. He was then laundering the proceeds by depositing funds into his Guernsey bank account (bank account A) and also by "smurfing", using a local bureau de change to convert small amounts of sterling into euros.

An associate of Male A (Male B) travelled to Guernsey from Europe via Jersey to meet Male A. Male B was searched on leaving Guernsey and €11,000 was found to be concealed on his person. An investigation established that the drugs being brought into Guernsey by Male A came from Male C, the brother of Male B. Male A and Male B were subsequently prosecuted for money laundering offences and both received custodial sentences.



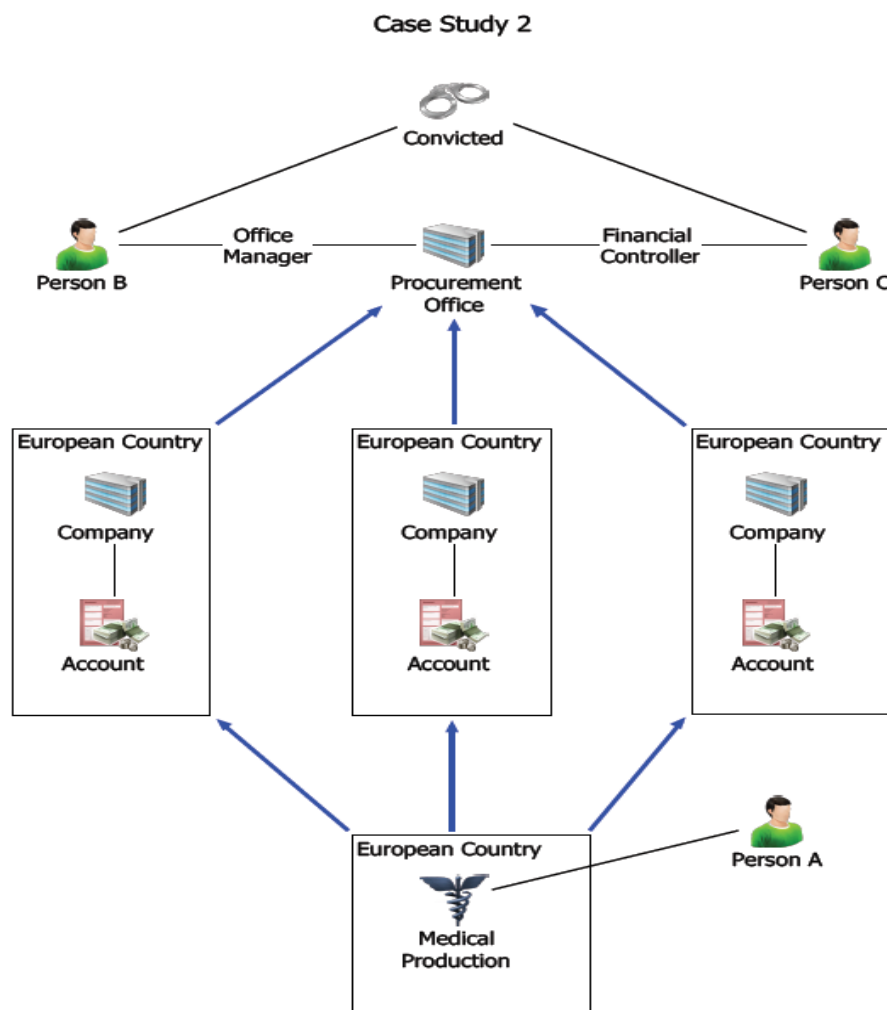
## CASE STUDY 2

**Sector/product: foreign legal persons**

**Underlying offence: domestic and foreign sale of unlicensed medical products**

A locally based businessman (Person A) had for many years been attempting to market and sell a new medicinal product said to cure a number of life threatening diseases. As a result of intervention by the medicines regulators in Guernsey and a European country, and also the Guernsey regulator, Person A's operations in Guernsey were closed down. He was subsequently convicted in the UK of manufacturing and distributing an unlicensed product together with money laundering over a four year period.

The Guernsey investigation and prosecution concentrated on a subsequent period where the operation had gone underground using a myriad of companies and bank accounts located in three different European countries, with production moved to a rural site in a fourth European country. Two individuals in Guernsey (Persons B and C) had been involved in the operation as office manager and financial controller respectively. They had put their names to foreign based companies designed to conceal the identity of the ultimate beneficiary and core business. After numerous legal challenges, both were convicted of facilitating money laundering, using evidence obtained under the MLA process from 5 different jurisdictions.





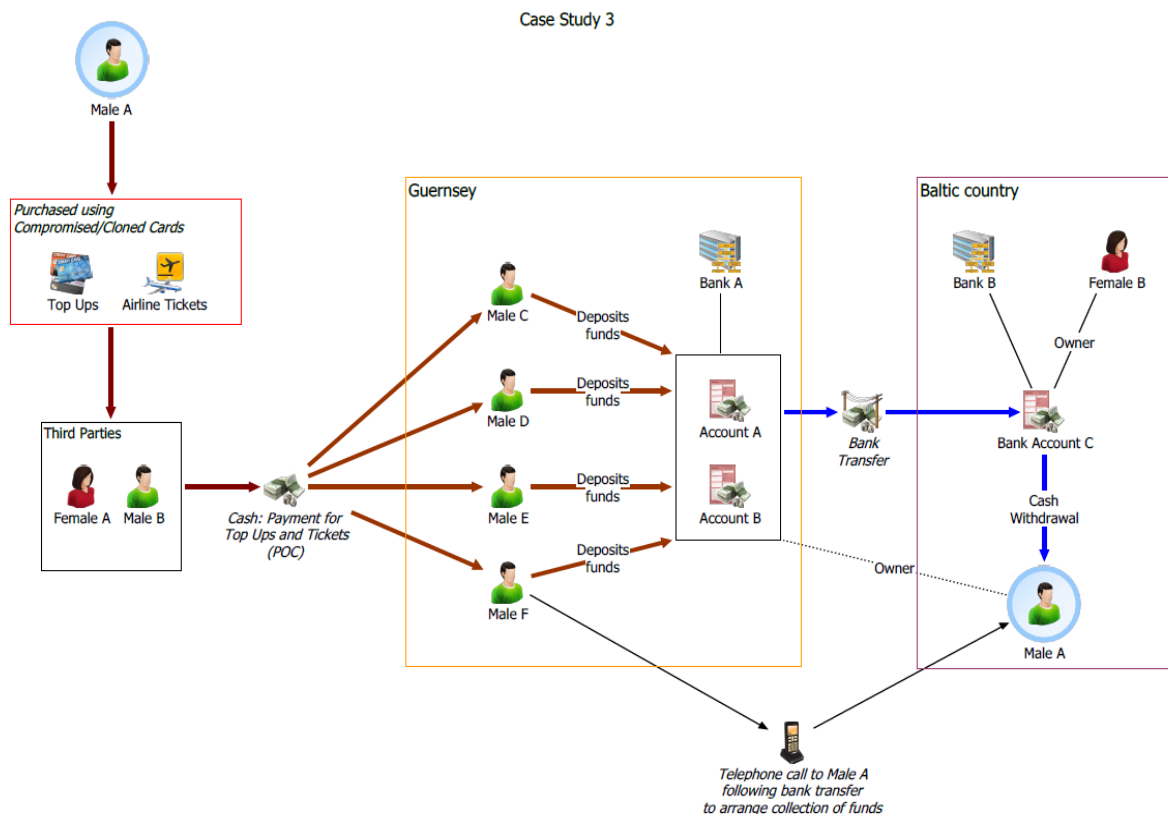
### CASE STUDY 3

**Sector/product: banking sector/cash**

**Underlying offence: foreign fraud**

An organised criminal group operating in Guernsey and in a Baltic country used the Guernsey retail banking sector to launder the proceeds of credit card fraud. The ringleader (Male A) was facilitating the crime from the foreign country and was using straw men based in the Channel Islands to launder the proceeds. Male A would, on request from multiple third parties (*depicted for ease of reference in the diagram below as Female A and Male B*), purchase airline tickets and mobile phone 'top-up' credits using compromised or cloned credit cards. Female A or Male B would pay a fixed sum, in cash, to straw men in the Channel Islands (Males C, D, E and F). The straw men would then deposit the cash into Guernsey retail bank accounts A and B, which were controlled by Male A. Male A would then transfer the funds from bank accounts A and B to bank account C, which was an account at bank B in the Baltic country operated and controlled by Male A's partner Female B. The funds would be withdrawn in cash from bank account C by Male A. When Male A returned to Guernsey from the Baltic country he was prosecuted for money laundering and fraud offences, for which he received a custodial sentence. Males C, D and E were arrested in Guernsey and charged with money laundering offences. The three subsequently absconded and remain wanted by the Guernsey authorities.

Male F was prosecuted for fraud offences in Jersey, for which he received a custodial sentence.



## CASE STUDY 4

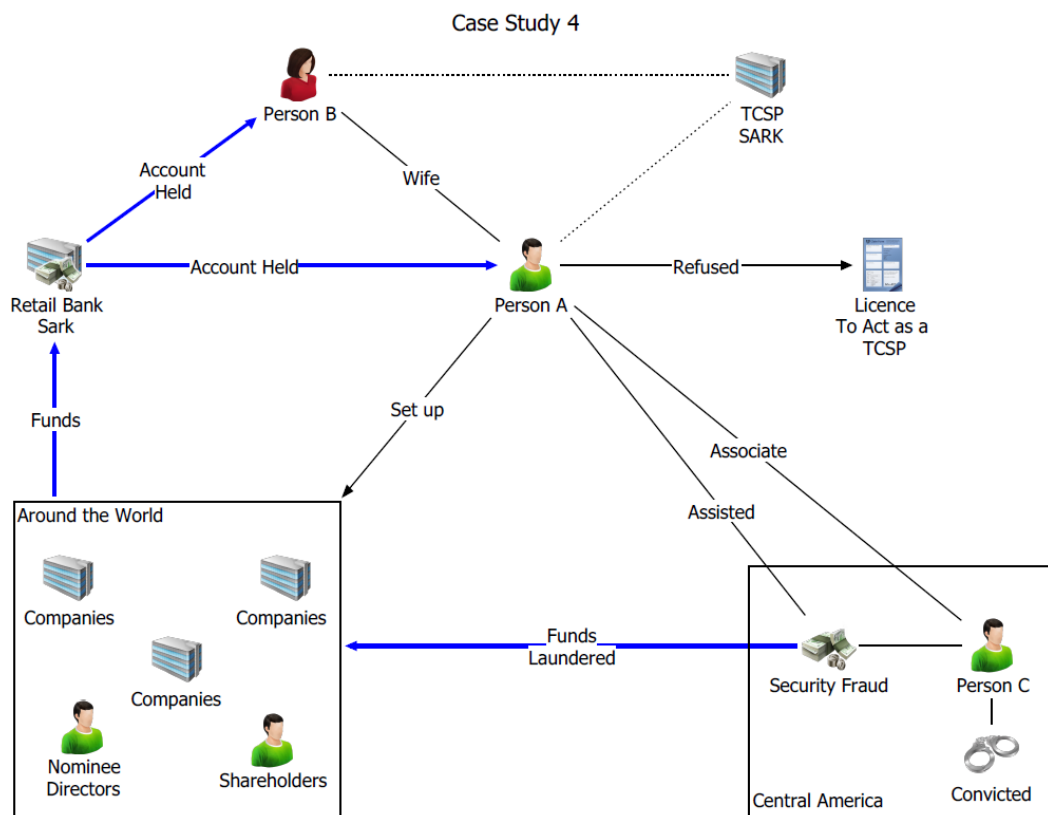
**Sector/product: TCSP sector (unlicensed)/banking sector**

**Underlying offence: foreign fraud**

An individual resident in Sark (person A) was refused a licence from the GFSC to act as a TCSP. He and his wife (person B) then purported to operate a TCSP business from another jurisdiction but in reality were continuing to operate the business from Sark. A friend of person A based in Central America (person C) was involved in a USD \$90m securities fraud by manipulating the price of commodities on the stock market in a North American country. Person A assisted in the fraud by setting up companies around the world with nominee directors and shareholders, which were used to disguise the true beneficial ownership of bank accounts connected to brokerage accounts for stock. In addition, person A laundered some of person C's proceeds through a series of companies and bank accounts in other jurisdictions.

Person C was convicted of fraud in the North American country and received a custodial sentence. Following the arrest of person C in that country, persons A and B liquidated the remaining stock held by two of the companies which person A had set up and transferred the proceeds to a retail bank in Sark.

Persons A and B were prosecuted in Guernsey for money laundering (and other offences) on the basis of evidence obtained from 6 different jurisdictions. Both received custodial sentences.



## CASE STUDY 5

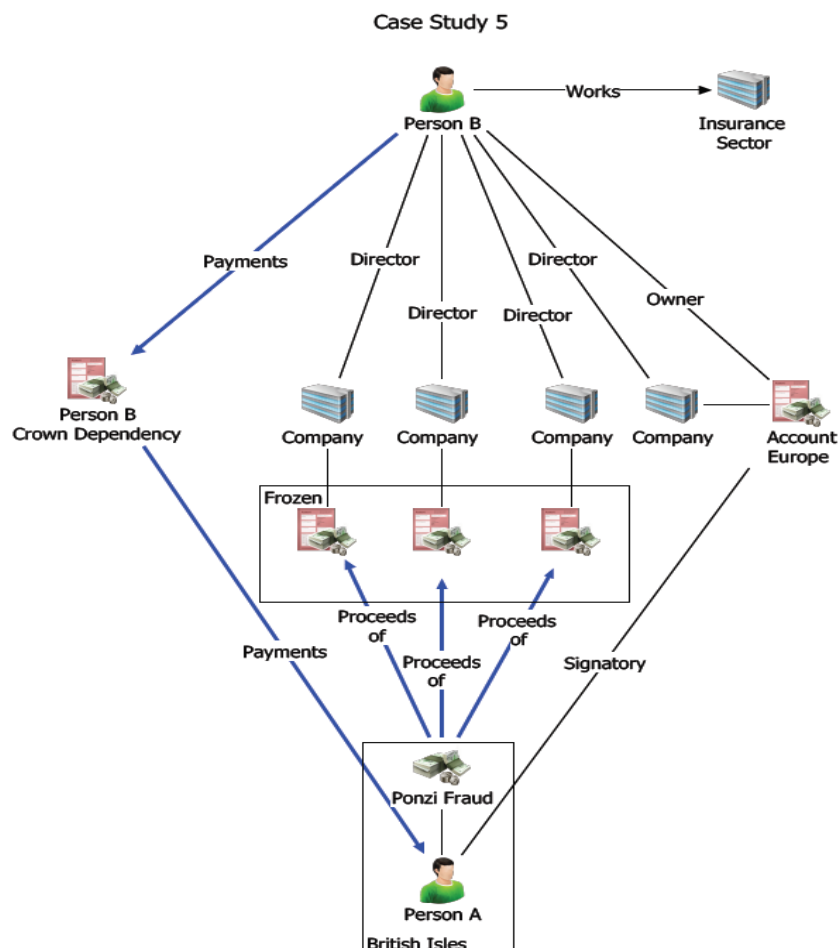
**Sector/product: banking sector**

**Underlying offence: foreign fraud**

A foreign national (person A) was involved in a series of Ponzi frauds involving over USD \$12m that were perpetrated against persons in the UK and in North America. An individual working in the insurance sector in Guernsey was the director of a number of Guernsey companies that had bank accounts in the jurisdiction. Some of the proceeds of person A's frauds were channelled through those accounts. When this came to light the accounts were frozen and person B was questioned. He denied any knowledge of fraud and claimed to believe that the funds were commission payments relating to property deals. Person B was warned not to have any further dealings in respect of funds from person A.

Person B then opened a bank account in a European country for one of his companies with person A as a signatory. He made a payment to himself from an account which he had opened in another Crown Dependency when his Guernsey accounts were frozen, followed by a series of payments to person A from the same account. He also made payments to person A from the account of one of his Guernsey companies and attempted to obtain the unfreezing of another Guernsey account to enable person A to make payments from it.

Person A was convicted of fraud in the UK and received a custodial sentence. Subsequently person B was prosecuted for money laundering in Guernsey. He was convicted and received a custodial sentence.



## CASE STUDY 6

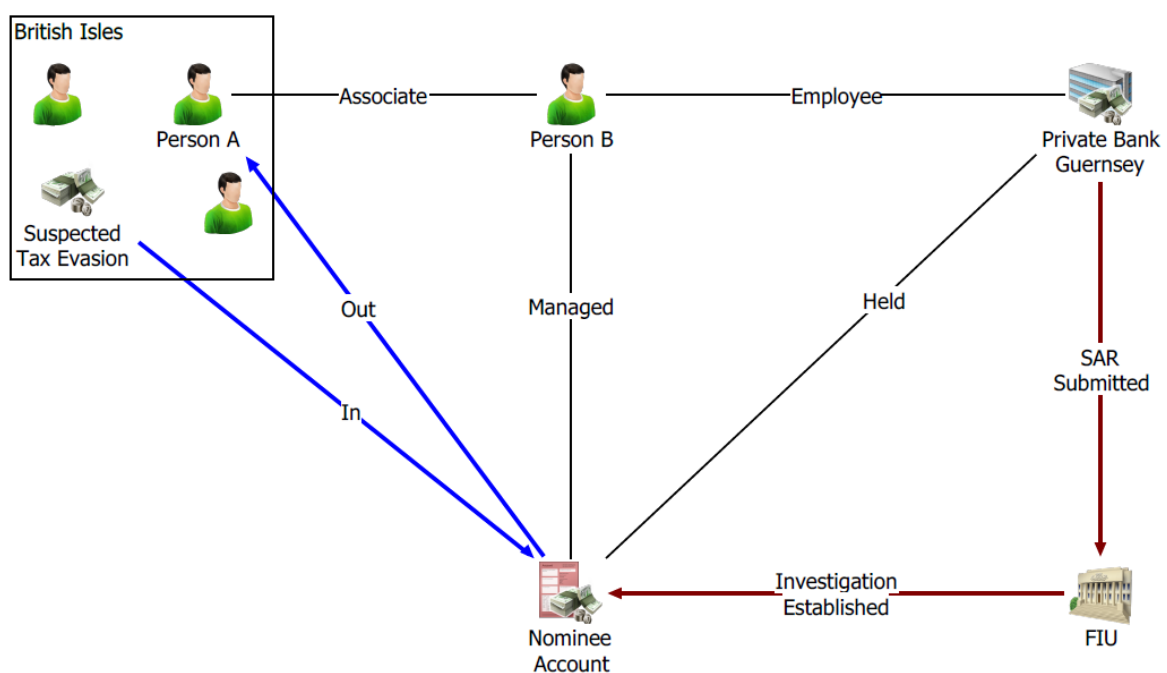
**Sector/product: banking sector/cash**

**Underlying offence: foreign tax evasion**

A number of individuals in the UK were engaged in tax evasion, including one (person A) who had a connection with an employee of a private bank in Guernsey (person B). Pursuant to an agreement between persons A and B, person B managed a bank nominee account so as to permit cash comprising the proceeds of the group's tax evasion to enter the banking system without arousing suspicion. Person B then created a false audit trail which enabled him to deliver cash back to person A for his use or that of other group members.

When person B's activities came to the attention of the bank it made a SAR. The subsequent investigation established that none of the parties involved had been convicted of tax evasion in their home jurisdiction. Person B was therefore prosecuted for money laundering on the basis that underlying tax evasion offences could be inferred. This was accepted by the court. Person B was convicted of money laundering and received a custodial sentence.

Case Study 6



## CASE STUDY 7

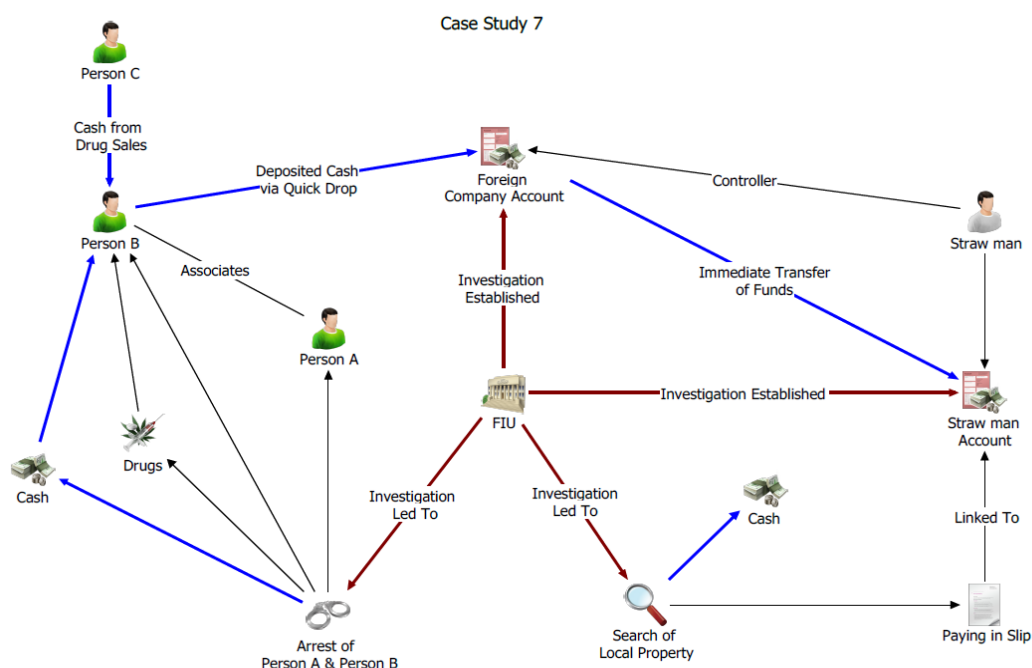
**Sector/product: banking sector**

**Underlying offence: foreign drug trafficking**

An organised crime group operating in Guernsey and a foreign jurisdiction were involved in the commercial importation of controlled drugs into Guernsey. The main actor in the UK, Person A, utilised a pleasure craft to import a quantity of drugs into Guernsey from that jurisdiction. Person A and an associate, Person B, subsequently supplied the drugs to the main actor in Guernsey, Person C. The proceeds from selling the drugs in Guernsey were controlled by Person C until sufficient funds had been received to pay Person A and Person B.

The FIU identified that known associates of Person A were frequenting a number of Guernsey retail banks and it was suspected that this was in order to use the banking system to transfer the proceeds of drug trafficking to the foreign jurisdiction. The FIU established that Persons A and B were using a 'straw man' based in the foreign jurisdiction to facilitate the transfer of money from Guernsey. A financial investigation further established that Person B had deposited £3,000 using a 'quick drop' facility at the retail bank into an account in the name of a company in the foreign jurisdiction controlled by the straw man, and the funds were then immediately transferred to another account controlled by the straw man. Person B subsequently deposited further sums of £2,650 and £1,900 into another account attributed to the 'straw man'. The financial investigation identified the 'straw man' depositing cash (circa £1,000) at the retail bank. The straw man, Person A and Person B were subsequently arrested and cash (£1,100) and a small amount of controlled drugs were found on Person B. A subsequent search of a local property identified a further sum of approximately £12,000, and a bank paying-in slip attributed to the 'straw man' was also found in the property.

The investigation could not identify sufficient evidence to charge Person A, Person B or the straw man with money laundering, but the cash seized during the investigation was identified as the proceeds of Person B's unlawful conduct and was forfeited using civil asset recovery powers.



## CASE STUDY 8

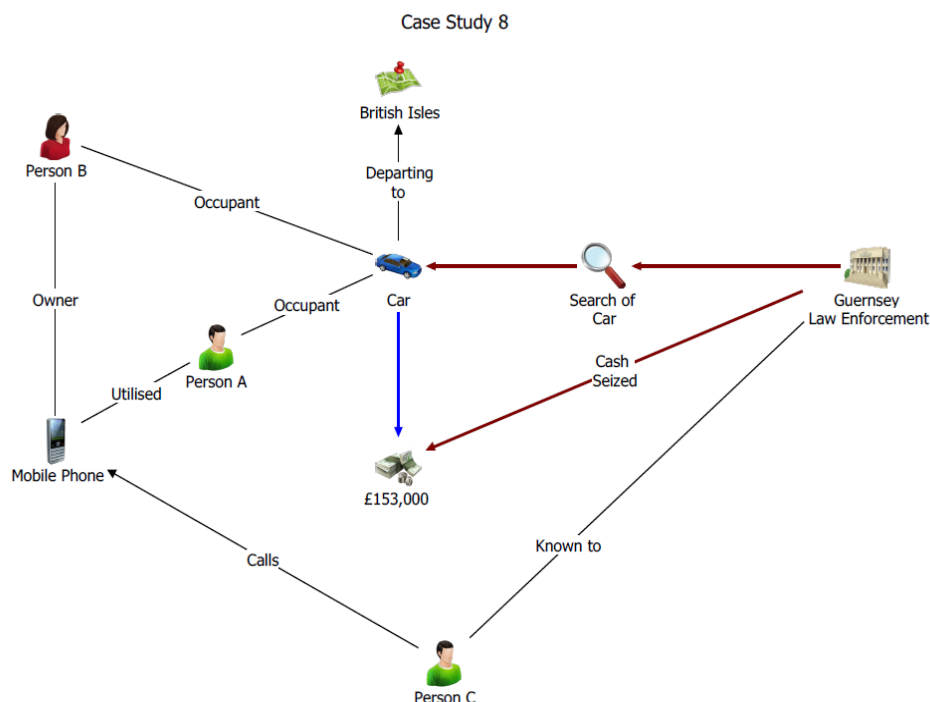
**Sector/product:** cash

**Underlying offence:** unspecified

Law Enforcement officers were undertaking overt checks of vehicles departing Guernsey for a ferry port in the UK utilising a cash detector dog, when they stopped a vehicle for further examination. The occupants were a father (Person A), daughter (Person B) and granddaughter, all of whom were residents of the UK and who when questioned denied that they were carrying any large amounts of cash. Following a positive indication from the cash detector dog, the vehicle was searched and cash totalling £153,000 was discovered. £83,980 of this was in Channel Island notes.

Person A claimed that he had brought £90,000 to Guernsey and the remaining £63,000 he claimed to have won in a card game whilst in Guernsey. A subsequent check of a gambling company's records in the UK showed that he had either broken even or lost money over the past two years. Person B claimed that Person A had said he was taking her away for a surprise weekend. Person A had utilised Person B's mobile phone whilst in Guernsey and an examination of the phone identified repeated contact with a mobile phone that was located in the area of the ferry terminal to which Person A and B were due to travel. The same mobile phone had been used repeatedly to contact Person B's mobile telephone during the time that Person A and B were in police custody. The mobile phone also received several incoming calls from a person (Person C) who was known to law enforcement.

Person A could not provide evidence as to the provenance of the funds in his possession and he was subsequently convicted of acquiring, using or possessing money which he knew represented the proceeds of another's person's criminal conduct. The case is particularly noteworthy because no specific underlying offence could be identified as the source of the proceeds, and the court inferred that the cash was the proceeds of crime based on circumstantial evidence. This was the first time such an approach had been successfully utilised in the jurisdiction.



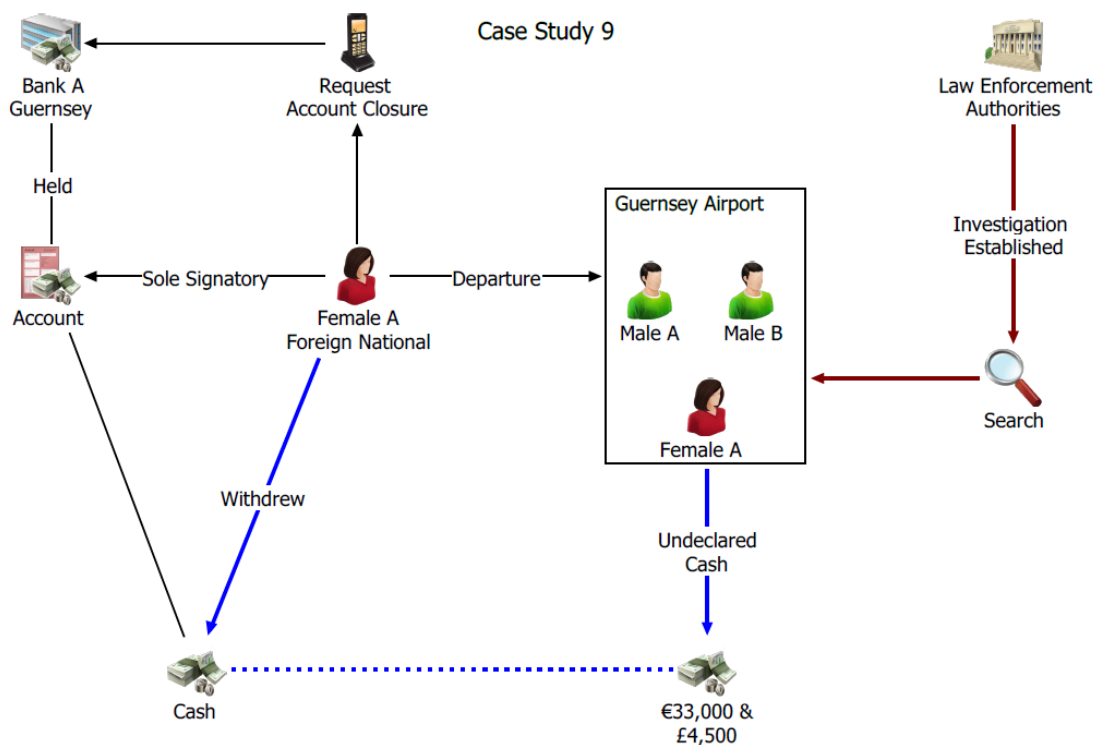
## CASE STUDY 9

**Sector/product: cash**

**Underlying offence: foreign tax evasion**

A foreign national (Female A) was the sole signatory on an account (account 1) with a Guernsey retail bank (bank A). Female A contacted bank A to request that the account be closed and the balance of the account, circa £40,000, made available in cash, which she would travel to Guernsey to collect in the company of some colleagues. Female A collected the cash and, accompanied by Male A and Male B, attempted to depart from Guernsey Airport without making a cash declaration, despite having been advised by bank A that the cash would need to be declared to the Guernsey authorities as it exceeded €10,000. A search of Male A, Male B and Female A identified a total of €33,000 and £4,500 undeclared cash which was linked to possible tax evasion in Female A's home jurisdiction.

Male A, Male B and Female A were prosecuted for breach of cash controls and each received a fine. Intelligence about their activities was forwarded to the tax authorities in the home country of Female A.



## FIU activity

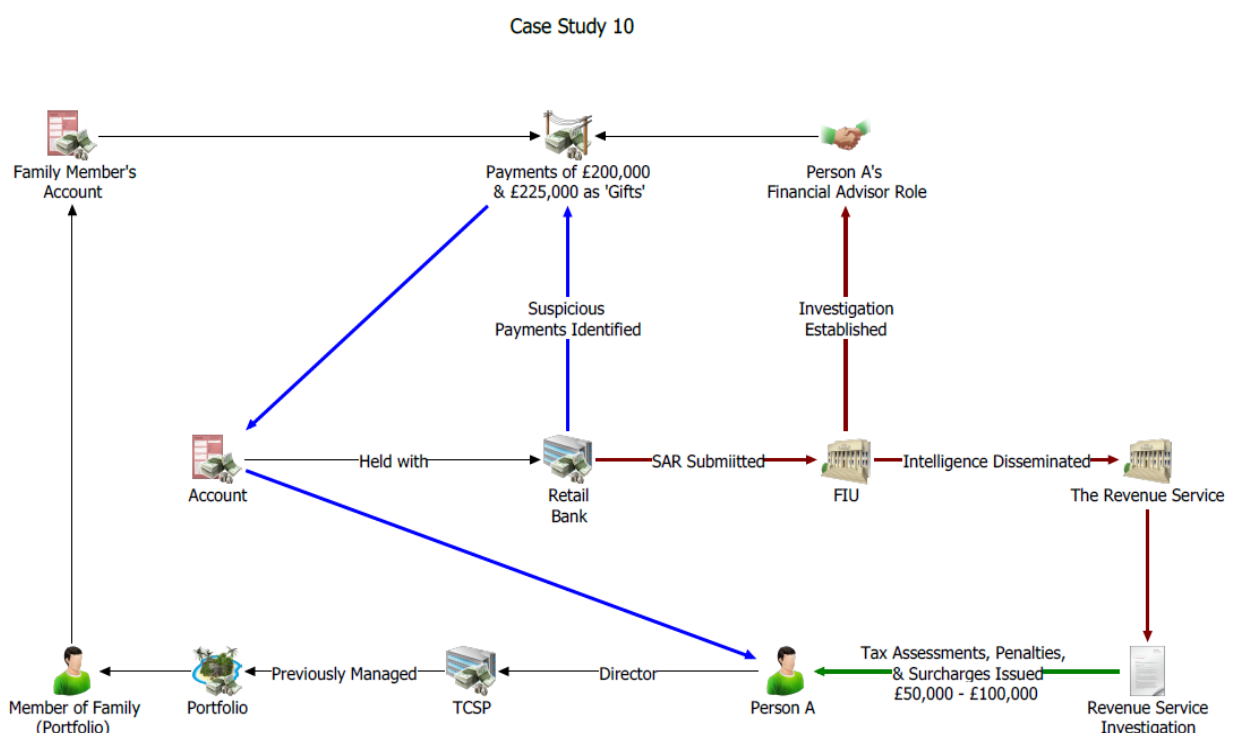
### CASE STUDY 10

**Sector/product: banking sector**

**Underlying offence: domestic tax evasion**

Person A was a director of a TCSP that managed a portfolio for a wealthy family resident in a foreign country, and had received regular salary payments from the TCSP until ceasing to work for it. Person A had an account with a retail bank, which identified that Person A was receiving payments from a third party totalling approximately £200,000. Person A informed the bank that a further sum of £225,000 would be arriving from the third party in respect of a gift. The bank suspected that the monies could be undeclared taxable income and made a SAR to the FIU. The FIU established that third party payments originated from a member of the family whose portfolio Person A had managed while working for the TCSP. The FIU further established that this portfolio had moved to a TCSP in another jurisdiction. The FIU disseminated the information to the Revenue Service. An investigation by the Revenue Service established that after ceasing to work for the TCSP, Person A had commenced employment as a financial advisor to the same wealthy family, and the third party payments which Person A had claimed were gifts were in fact payments made in return for the provision of financial services that Person A was providing to the family. The investigation also uncovered further undeclared income which Person A had attempted to evade paying tax on.

The Revenue Service raised additional assessments to collect the unpaid tax and applied late payment surcharges and civil fiscal penalties, with a total settlement figure falling within the £50,000 to £100,000 bracket.





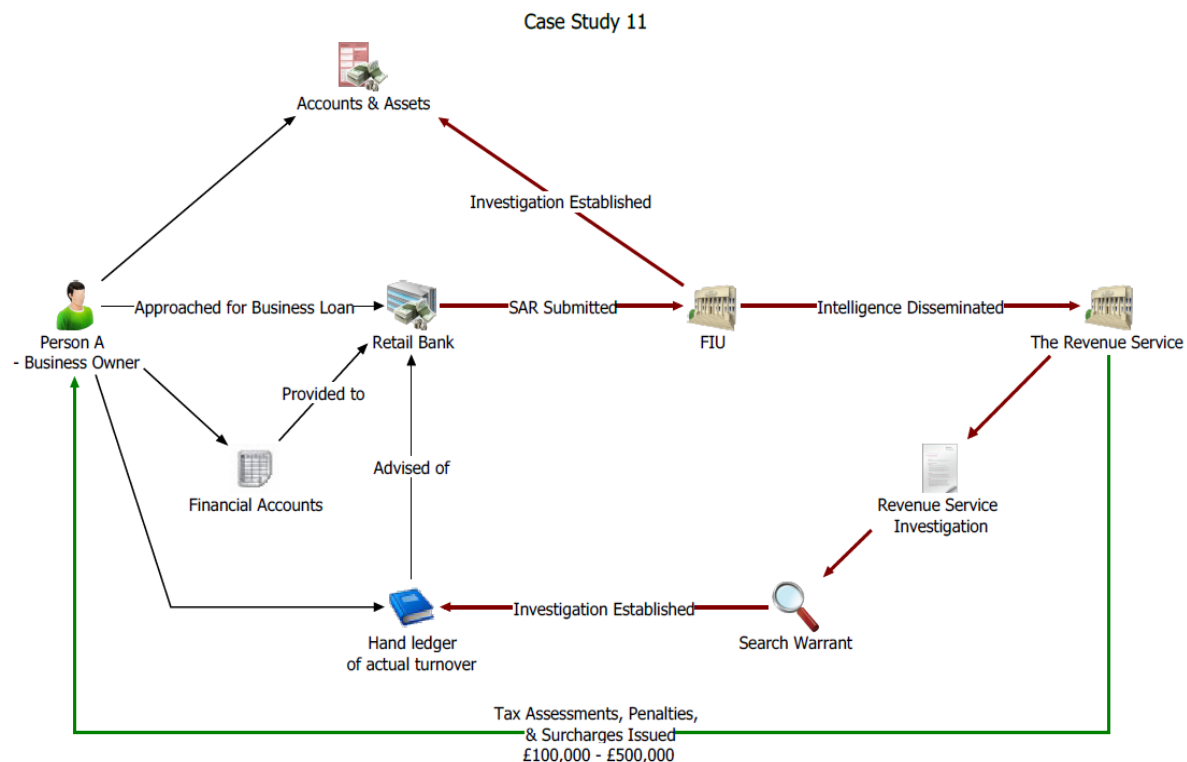
## CASE STUDY 11

**Sector/product:** accountancy sector/banking sector

**Underlying offence:** domestic tax evasion

Person A was the owner of a number of local businesses that primarily received payments in cash. Person A approached a retail bank to obtain a loan to improve the premises of one of the businesses. Person A provided the bank with a set of detailed financial accounts, and informed the bank that there was also a handwritten ledger which gave more information on the actual turnover of the business, which was considerably more than the financial accounts listed. The bank suspected that Person A might not be declaring all earnings from the business to the Revenue Service, and made a SAR to the FIU. The FIU subsequently identified further accounts and assets attributed to Person A and a detailed report was provided to the Revenue Service.

Based on the information provided, the Revenue Service suspected that Person A was evading income tax in Guernsey and there was a significant risk that records could be destroyed. It therefore used its investigatory powers to obtain a search warrant. Working with the FIU, the Revenue Service established that Person A was running two financial ledgers, one detailing the actual income of the businesses and one which was provided to an accountant and grossly understated of the income from those businesses. The accountant had produced the annual accounts and tax computations in good faith based on the false information supplied, which had enabled Person A to evade liability for income tax. The Revenue Service raised additional assessments to collect the unpaid tax and applied late payment surcharges and civil fiscal penalties, with a total settlement figure within the £100,000 to £500,000 bracket.



## CASE STUDY 12

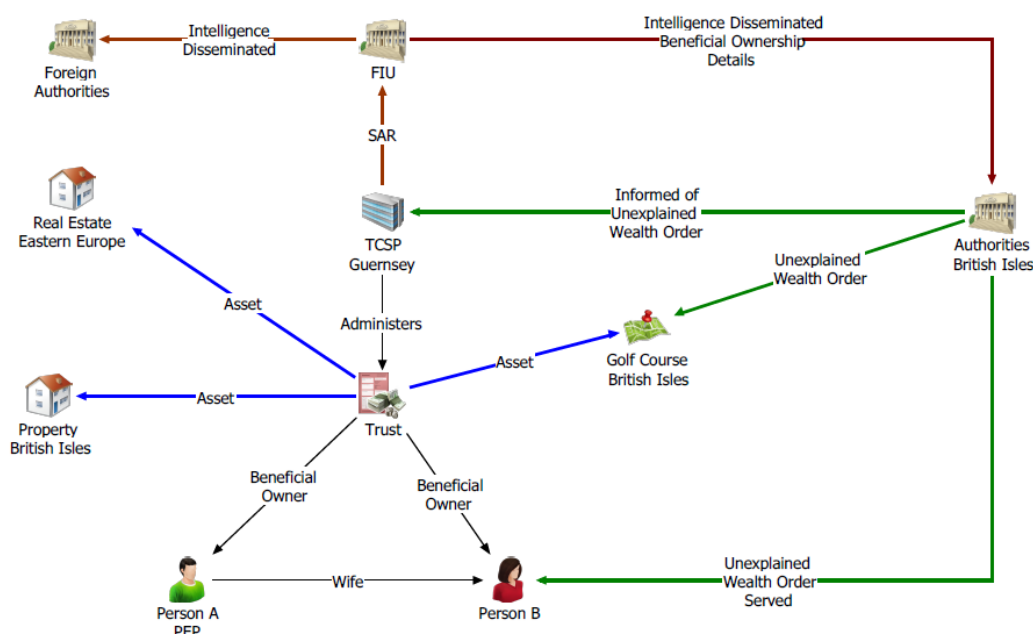
**Sector/product:** TCSP sector/legal arrangement

**Underlying offence:** foreign corruption

A TCSP administered a trust structure for a foreign PEP (person A) who was the chairman of a major state-owned international bank. The trust assets included properties in the British Isles and Europe, a golf club in the British Isles and commercial real estate in Eastern Europe. The beneficiaries of the trust were person A and his wife (person B). Person B resided in the British Isles. The TCSP established that following person A's resignation from the bank, the trust structure experienced liquidity issues. Person A's advisors stated that person A's income had reduced and person A was looking at restructuring the trust and nominee arrangements. The TCSP then conducted checks on person A and identified open source information in relation to possible involvement in corruption and defrauding the state-owned bank, including the fact that person A had been arrested in the foreign country in 2015. The TCSP submitted a SAR and the FIU disseminated intelligence in relation to persons A and B to the country of residence of person B and to the foreign country. The administration of the trust was then transferred from Guernsey to another jurisdiction in 2017 (the relevant authorities were duly informed of the transfer).

Subsequently the FIU in the country of residence of person B obtained beneficial ownership information from the FIU in relation to Person A and the trust administered by the TCSP. The authorities in the country of residence of person B then served an Unexplained Wealth Order (UWO) application on person B, and obtained information from the TCSP about a property in the UK which it had administered on behalf of person A. The investigation in Person B's country of residence established that she had used fraudulently obtained funds from person A to purchase assets and property but no legitimate source for the funds from person A could be determined. Consequently an UWO was made against Person B requiring her to establish the source of the funds that she had acquired. The case is ongoing.

Case Study 12



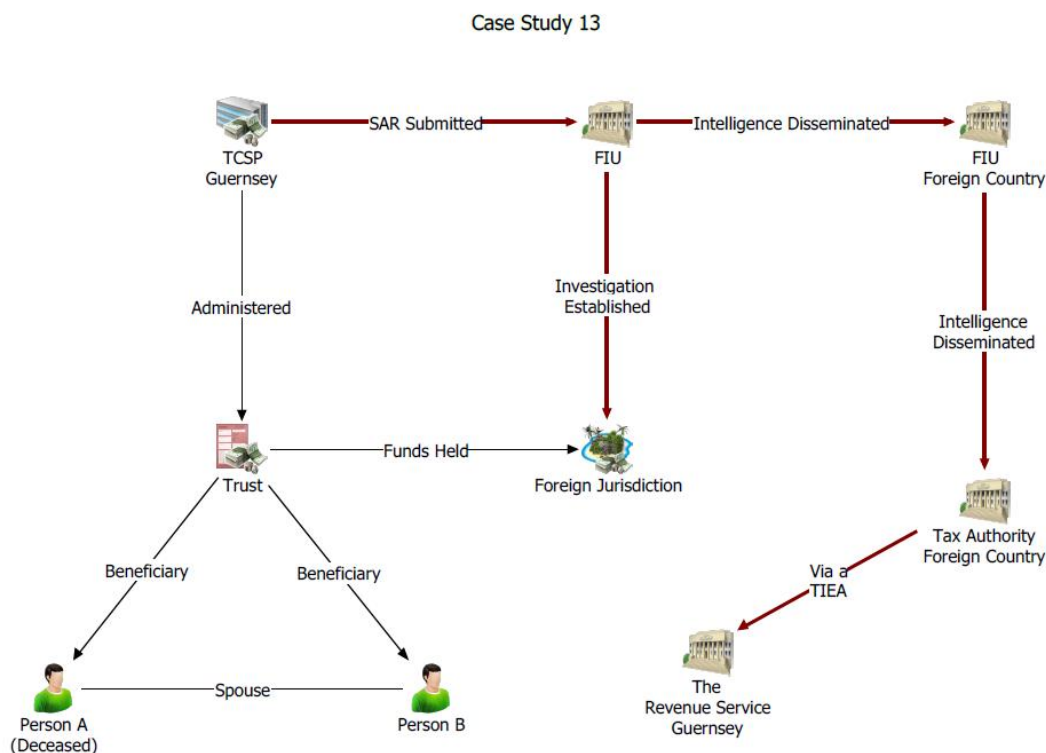
## CASE STUDY 13

**Sector/product:** TCSP sector

**Underlying offence:** foreign tax evasion

A TCSP administered a trust with a settlor resident in a foreign jurisdiction. The primary beneficiary of the trust (Person A) had died 5 years previously and the beneficiary was now Person A's spouse (Person B). The funds for the trust were held in a bank account in another jurisdiction. The TCSP could not establish the source of the trust funds and suspected that the trust had been established to circumvent tax or foreign exchange regulations. It therefore made a SAR to the FIU.

The FIU disseminated intelligence from the SAR to the FIU in Person B's country of residence and subsequently received a request from that FIU to disseminate the intelligence to their tax authority, which was granted. The foreign tax authority then commenced an investigation and obtained information from the Revenue Service via a TIEA.



## CASE STUDY 14

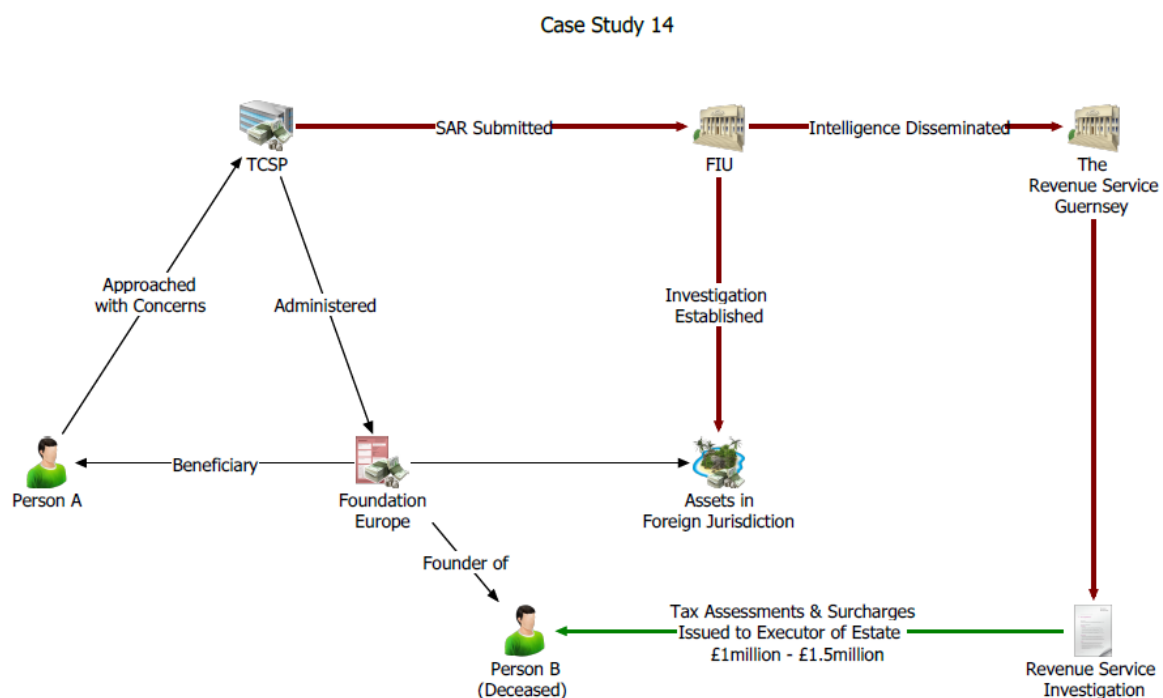
**Sector/product:** TCSP sector/foreign legal person

**Underlying offence:** domestic tax evasion

A TCSP received an application for a new business relationship with a client from another jurisdiction within the British Isles (Person A). Person A was a beneficiary of a foundation established in an IFC in Europe which was administered in a different IFC (also in Europe) on behalf of a deceased Guernsey resident (Person B). Person A raised concern with the TCSP that Person B had not declared the foundation assets to the Revenue Service while resident in Guernsey. The TCSP therefore made a SAR to the FIU.

The FIU established that the foundation assets, which totalled more than £8.5 million, were invested in a foreign jurisdiction. The Revenue Service commenced an investigation, which established that Person B was the founder of the foundation and should have declared the income generated from the assets of the foundation to the Revenue Service.

The Revenue Service raised additional assessments upon the executor of the estate to collect the unpaid tax and applied late payment surcharges, with a total settlement figure falling in the £1m to £1.5m bracket. (It was not possible to impose civil fiscal penalties, as Person B was deceased).



## CASE STUDY 15

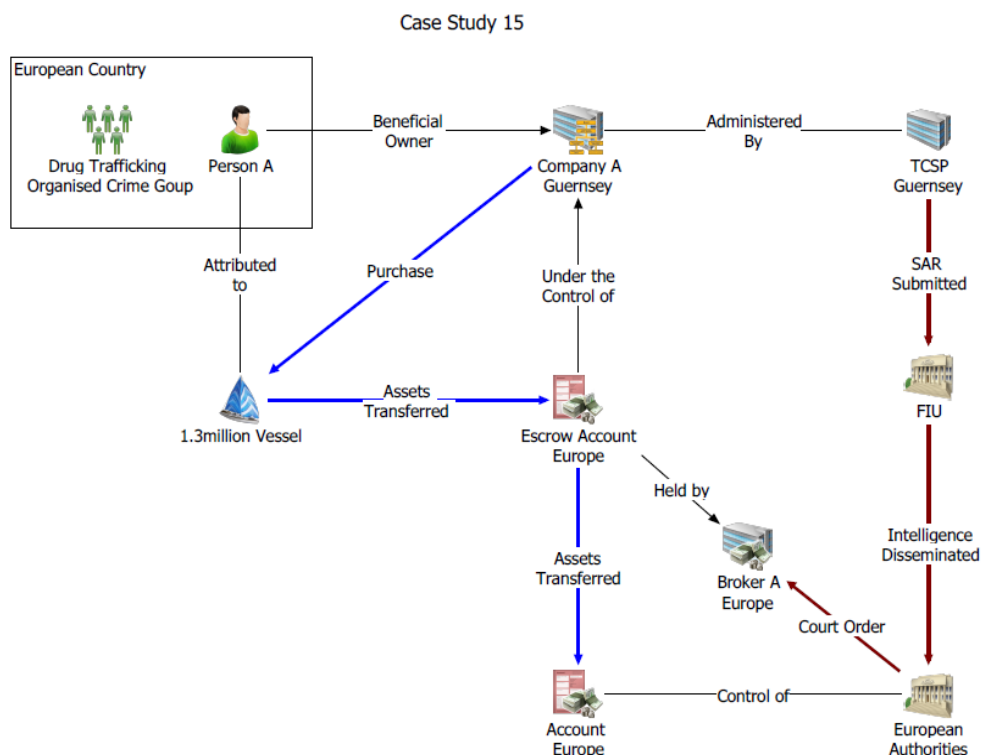
**Sector/product: TCSP sector/legal person**

**Underlying offence: foreign drug trafficking**

A national of a European country, person A, was in custody in that country pending trial for drug trafficking, money laundering and participation in an organised crime group following the seizure by the authorities of 1.2 tonnes of cocaine. Person A was the ultimate beneficial owner of a Guernsey company (company A), which was administered by a TCSP and which had purchased a vessel (vessel A) for €1.3 million.

The TCSP filed a SAR and as the value of vessel A was dissipating, sought consent from the FIU to sell it and transfer the assets to a bank account under the control of company A, which was granted. A yacht broker (Broker A) sold vessel A, and the TCSP attempted to open a bank account in Guernsey for company A in which to deposit the funds from Broker A. The bank refused the business as its CDD identified that the funds were attributed to person A and therefore suspected to represent the proceeds of crime. The funds were therefore transferred to an escrow account in person A's home country held by Broker A and remained under the control of company A.

The FIU disseminated the intelligence analysed from the SAR to the FIU in person A's home country and continued to liaise closely with the authorities there. In October 2017 a court in that country ordered Broker A to transfer the money attributed to person A to a bank account under the court's control. This was done with the consent of the Guernsey FIU. Person A was subsequently convicted of drug trafficking in his home country and received a substantial prison sentence and fine.



## CASE STUDY 16

***Sector/product: TCSP sector/legal arrangement***

***Underlying offence: foreign sanctions breach***

The FIU received a SAR from a TCSP administering a Guernsey pension scheme about a possible sanctions breach by a UK national who had invested in the scheme (person A).

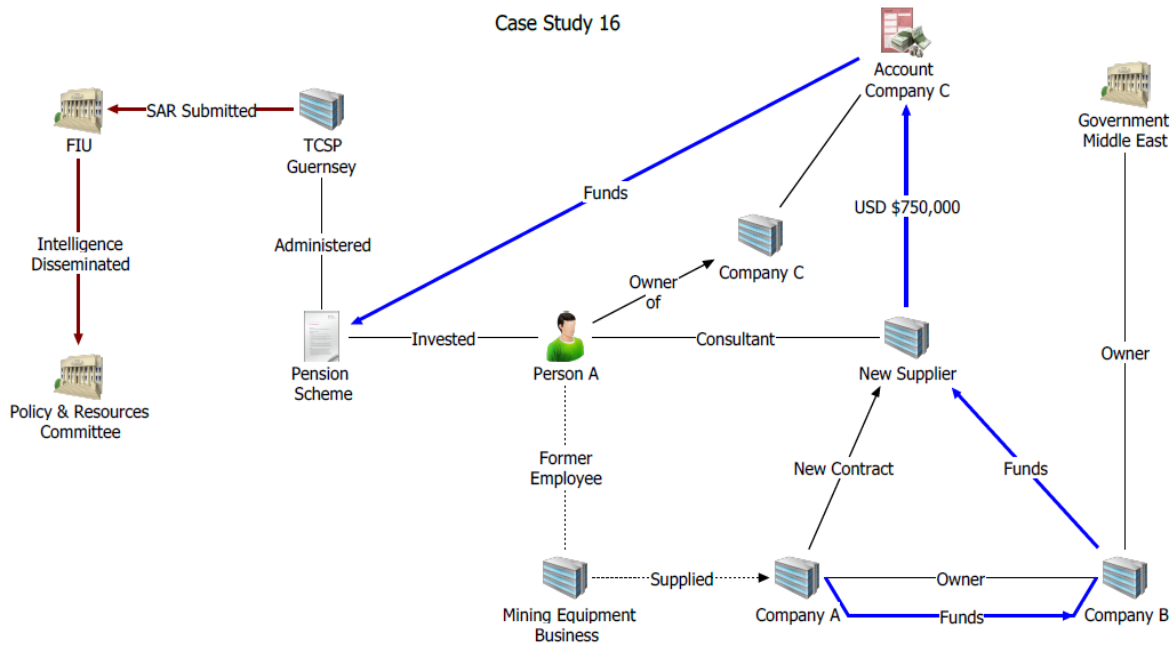
Person A was a former employee of a business that supplied mining equipment to a company (company A) that was a wholly owned subsidiary of another company (company B), which in turn was wholly owned by the government of a country in the Middle East. Person A's employers had ceased to contract with company A following the designation of company B under international sanctions imposed on the country. Company A therefore contracted with a new supplier for the purchase of pump trains to remove waste from a mine it owned and controlled. Person A was engaged by the new supplier as a consultant providing technical services to ensure that the pumps it obtained were in line with the specification in the contract.

Person A was remunerated for his services by a payment of approximately USD \$750,000 which the new supplier made to a bank account in another Middle Eastern country in the name of a company in that country owned and controlled by person A (company C). The payment was made from funds the new supplier had received from company B and therefore, indirectly, from company A.

Person A's investment in the Guernsey pension scheme was made from funds in company C's bank account, which included the payment he had received in connection with the mining operation. On receiving the SAR from the TCSP administering the pension scheme, the FIU liaised with the Policy & Resources Committee (Guernsey's competent authority for sanctions). It was established that although Person A's actions were potentially prohibited under sanctions legislation that had been implemented in Guernsey, there was no breach of Guernsey's sanctions framework because there was no Guernsey nexus to the relevant activity at the time when it took place. However, as a national of a country elsewhere in the British Isles, person A was subject to the sanctions regime of that country at the relevant time and therefore the FIU disseminated intelligence about the case to the authorities in that country.

The authorities in Person A's home country established that person A had failed to obtain the necessary prior authorisation from them for the indirect transfer of funds from Company A. They classified this as a technical breach which would not normally result in enforcement action, other than contacting the party concerned to remind them of their obligations under sanctions legislation. Consideration was given to confiscating the relevant part of the money in the pension scheme using civil recovery powers, on the grounds that it was the proceeds of unlawful conduct. In the event the authorities in Person A's home country decided not to proceed on that basis and the case was closed.

# Case Study 16



## Mutual legal assistance

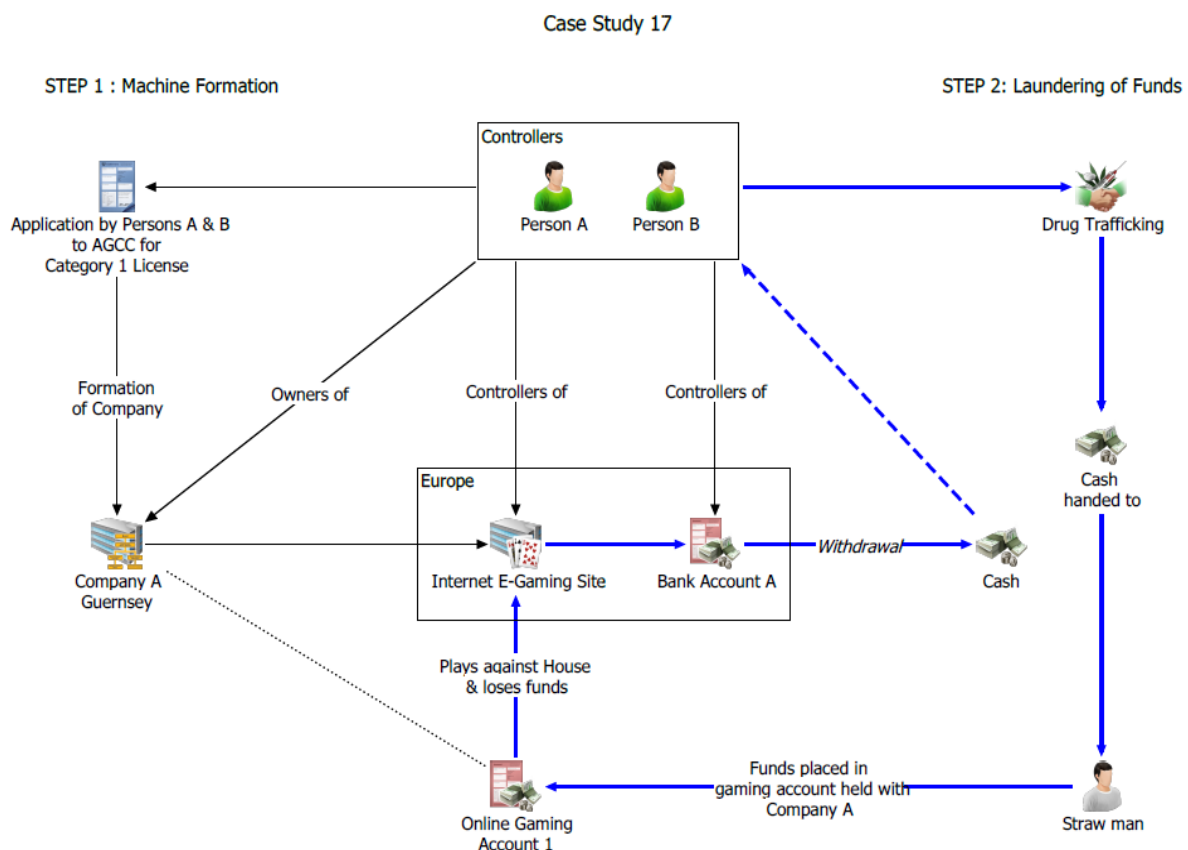
### CASE STUDY 17

**Sector/product:** eCasino sector/TCSP sector/legal person

**Underlying offence:** foreign drug trafficking

An organised criminal group based in a European country was using an internet based e-gaming casino to launder the proceeds of drug trafficking. Two foreign nationals (Person A and Person B) applied for a licence from the AGCC and formed a Guernsey company (Company A) to set-up the internet e-gaming platform. Persons A and B controlled the e-gaming site and a bank account (bank account A), both of which were based in their home country in Europe. The proceeds of drug trafficking by Person A and B were given to straw men who then set up accounts with the internet casino and subsequently deposited the cash into those accounts. The straw men would then lose the funds which were transferred to bank Account A and then transferred or withdrawn by persons A and B.

Information about the details supplied in support of the licensing application to the AGCC was provided to the authorities in the European country under the mutual legal assistance process. In addition, the AGCC undertook a special investigation and revoked the licence.





## CASE STUDY 18

***Sector/product: banking sector/TCSP sector/legal person***

***Underlying offence: foreign bribery and corruption***

A request for mutual legal assistance was received from a former Soviet bloc country in connection with a criminal investigation into the activities of person A, the beneficial owner of a TCSP – administered company in another jurisdiction (company A). The case concerned a contract between company A and the Ministry of Defence in the requesting jurisdiction (MOD). Under the contract, company A was to provide the MOD with training for the country's armed forces in return for payment of €5,685,000.00. No training had ever been provided but the MOD had made a payment of €5,060,000 into a bank account in the name of Company A at a Guernsey private bank. The payment was believed to have been made at the instruction of the country's Minister of Defence (person B), who had been charged with aggravated embezzlement and abuse of official authority.

In support of the request the Guernsey bank was approached and it confirmed that it held an account in the name of Company A which was controlled and administered by a TCSP. The TCSP and bank informed the authorities that four transfer of funds had been made from Guernsey to an account in the name of Company B at a bank in the Middle East. Information was obtained from the bank and the TCSP in evidential form and was then provided to the requesting country.

The discovery of the link to the Middle Eastern country in the information provided by Guernsey led the authorities in the requesting country to make a request for mutual assistance to the Middle Eastern country. This in turn resulted in the authorities in the Middle Eastern country making a request for mutual assistance to the Guernsey authorities in support of its own related investigation into the activities of seven individuals and a company concerning suspected offences of fraud, money laundering, foreign bribery and tax offences.

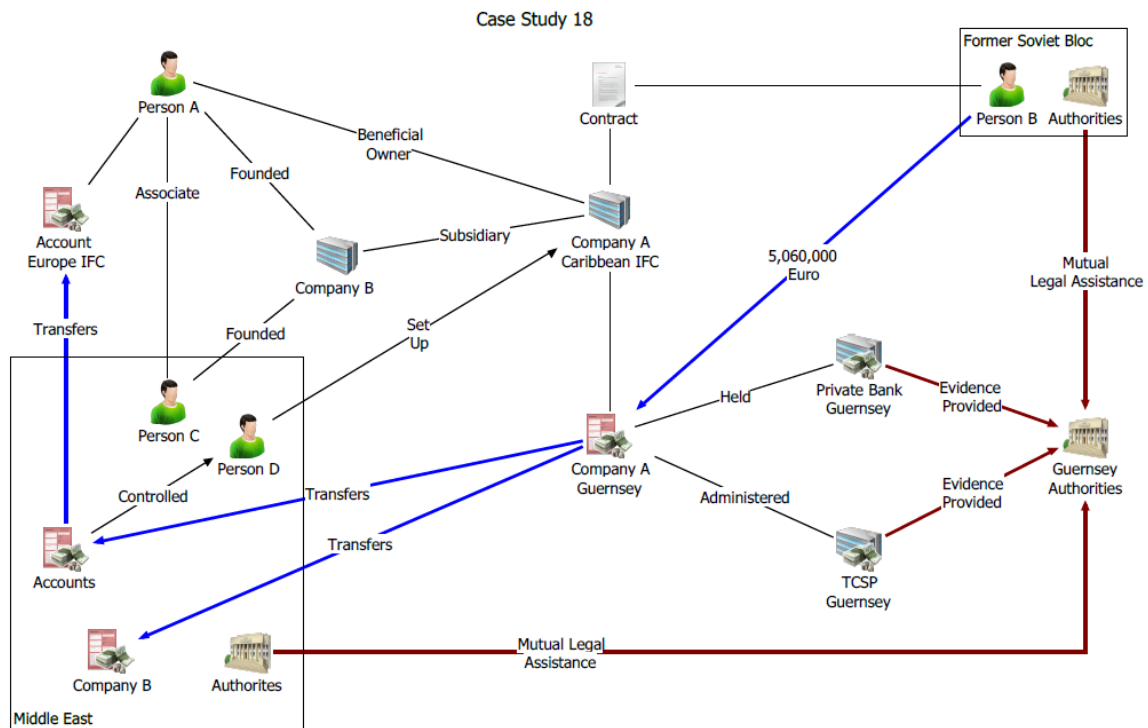
The main subject of the Middle Eastern investigation was a former senior Israeli army officer (person C) who, together with person A and his father, founded a business entity in the Middle Eastern country (company B) which was involved in providing military equipment and training outside that country. Person A and an attorney in the Middle Eastern country (person D) founded company A as a subsidiary of company B.

The Middle Eastern investigation focused on the contract that company A had signed with the MOD in the former Soviet bloc country and the resulting payments made into a Guernsey bank account detailed above. On the basis of information provided by Guernsey the investigation established that Person D had set up company A and the Guernsey bank account with persons A and C to facilitate the movement of funds for criminal purposes.

The Middle Eastern investigation also identified the fact that persons A and D had provided false and misleading information to the Guernsey bank and TCSP in relation to the transfer of funds between the MOD in the former Soviet bloc country and Company A, claiming that two of the payments were made in error and that a third related to the purchase of a property. The investigation further established that transfers amounting to circa €1 million were made from company A's bank account to bank accounts controlled by person D in the Middle

Eastern country and from there, circa €990,000 was transferred to an account held by person A in an IFC in Europe.

In addition, two other persons associated to company B had received payments suspected to be the proceeds of corruption arising from the MOD contract with the former Soviet bloc country. Persons A and D had a close relationship with person B, who was a citizen of the Middle Eastern country but resident in the former Soviet bloc country.



## CASE STUDY 19

**Sector/product: TCSP sector/legal person**

**Underlying offence: foreign corruption**

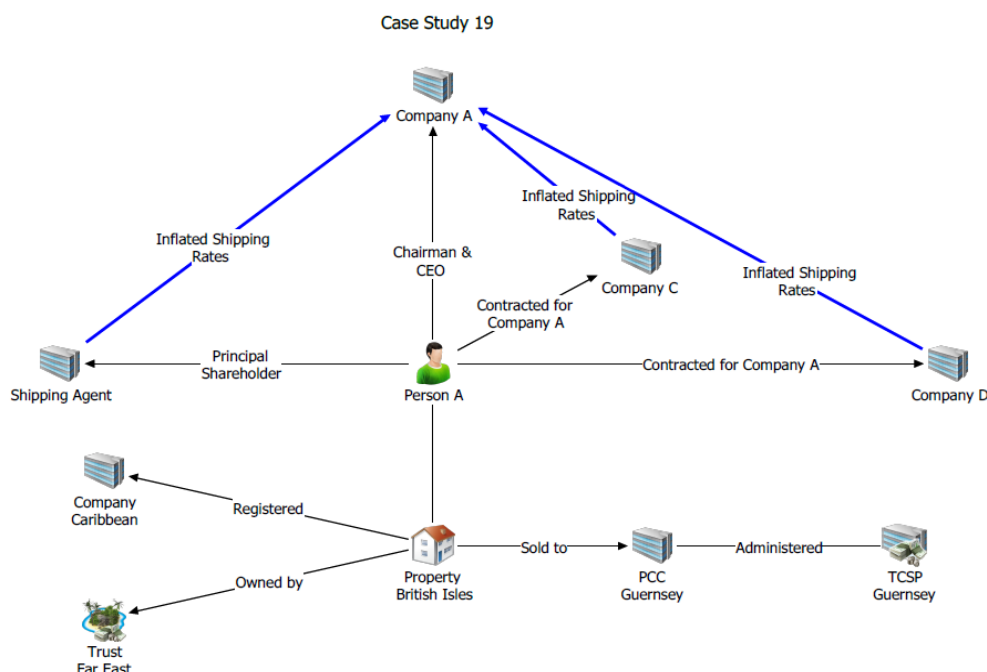
The Guernsey authorities received a request for mutual legal assistance from a Middle Eastern country in relation to a criminal investigation being conducted by the authorities into the activities of one of their nationals (person A).

Person A was the Chairman and Chief Executive Officer (CEO) of a publicly owned company (company A). Person A abused his position in the company by changing the dealing mechanism of the company in respect of shipping contracts.

Prior to Person A assuming management of company A, the shipping contracts were administered and controlled through a company owned by company A and another company (company B). Once in control, Person A replaced company B with two other companies (companies C and D) which were both registered outside the Middle Eastern country. Companies C and D charged company A higher shipping rates than they themselves were paying for the same services, leading to increased profits from Company A.

Person A also entered into a contract with an unspecified shipping agent, of which he was the principal shareholder, under which he ordered two long-term shipping contracts for company A. The shipping agent had no experience or competence in the maritime services or in the field of chartering vessels and charged company A inflated shipping rates, causing loss to company A estimated at in excess of US\$50 million.

The investigation identified that person A was linked to a property in the British Isles registered by a Caribbean IFC owned by a trust in an IFC in the Far East. The investigation further established that in 2009 the property had been sold to a Guernsey protected cell company (PCC) administered by a TCSP. The authorities in the Middle Eastern country suspected that the initial property purchase had been funded with the monies misappropriated from company A. The Guernsey authorities obtained information about the property from the TCSP and provided it to the authorities in the Middle Eastern country in evidential form.



## CASE STUDY 20

**Sector/product: banking sector**

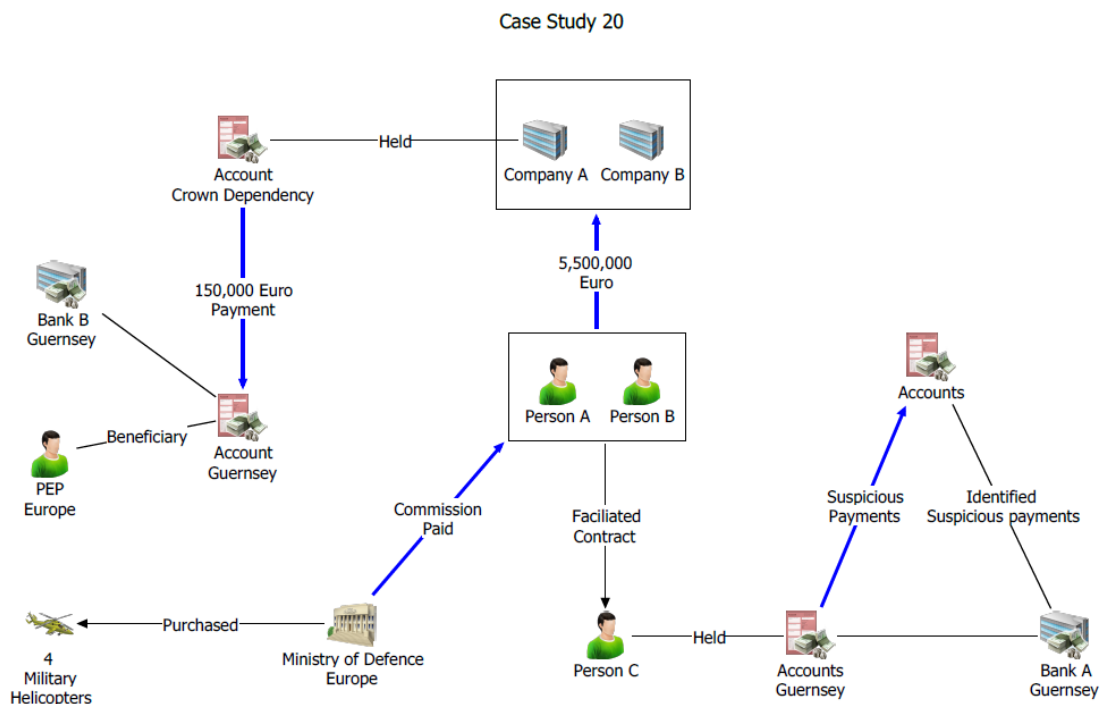
**Underlying offence: foreign bribery and corruption**

The authorities in a European country requested assistance in relation to a criminal investigation involving corruption by a number of their nationals. The investigation related to the purchase of four military helicopters by the Ministry of Defence from a company in another European country.

Two companies (companies A and B) had received payments totally €5,500,000.00 as commission paid to persons A and B, the directors of the two companies, for arranging the purchase contract. However, these payments were not detailed on the government contract. The investigation established that persons A and B had interacted with person C, an ex-member of the armed forces in the requesting country, to facilitate the contract. Person C maintained bank accounts at bank A in Guernsey. Bank A subsequently identified a number of suspicious payments from Person C to other accounts.

It was further established that company A had a bank account in another Crown Dependency and that a payment of €150,000 was made from Company A to a bank account at bank B in Guernsey. The beneficiary of the bank account at Bank B was a politician in the requesting country i.e. a PEP.

Information was obtained from bank A and bank B in evidential form and provided to the requesting country.



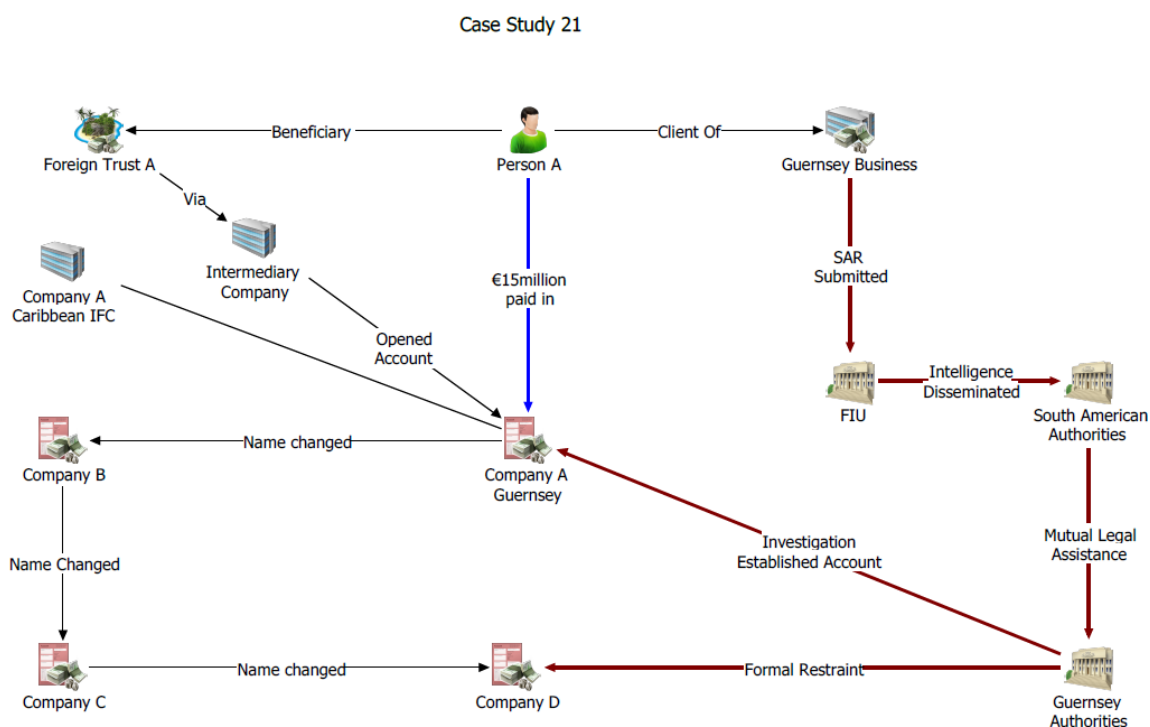
## CASE STUDY 21

**Sector/product: banking sector/TCSP sector/legal person/foreign legal person**

**Underlying offence: foreign money laundering and racketeering**

The FIU made a dissemination to the authorities in a South American country of financial intelligence which resulted from a SAR concerning an individual (person A) who had invested approximately \$16 million in a Guernsey company administered by a TCSP. The authorities in the South American country then sought evidence to support charges of money laundering and racketeering that were pending against person A, and also requested that any funds under the control of person A be formally restrained by the Guernsey Court. The Guernsey authorities made enquiries which revealed that person A was introduced to a private bank in Guernsey by a subsidiary bank in another jurisdiction. Person A established a foreign trust (trust A) of which he was the ultimate beneficiary together with his wife and children. Trust A, via an intermediary company, opened an account at the Guernsey bank in the name of a company registered in another jurisdiction (company A). The account received funds from Person A amounting to approximately €15 million. Trust A, via the intermediary, changed the names of the accounts on three separate occasions to company B, company C and company D.

The Guernsey court formally restrained the bank account of company D. Information in evidential form was obtained from the bank and the TCSP and provided to the authorities in the South American country.



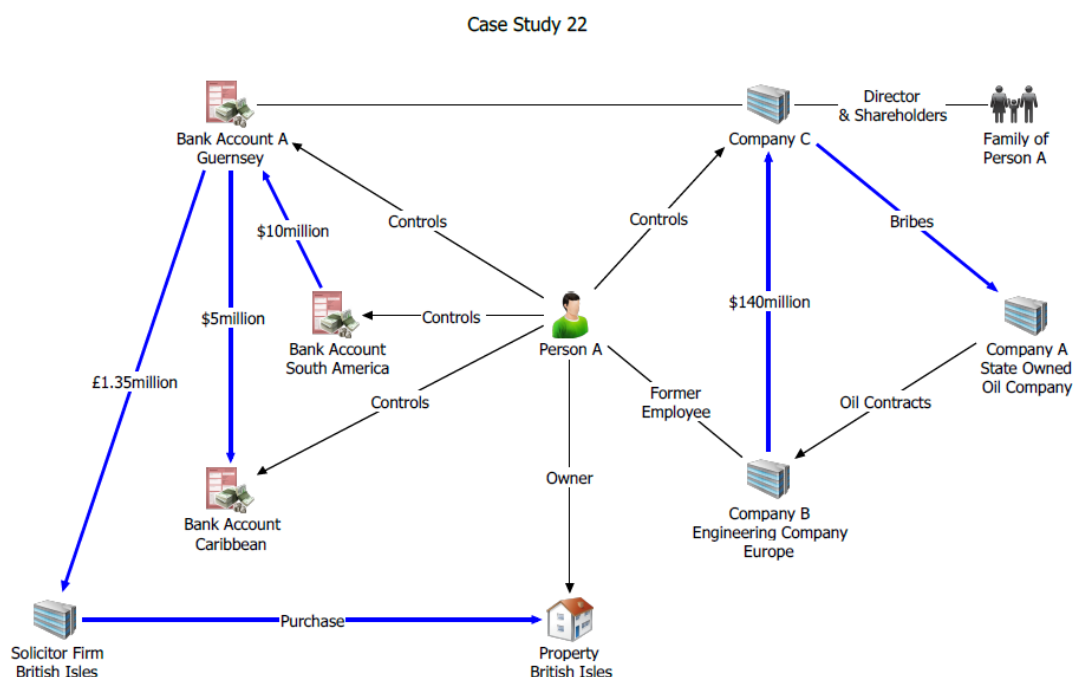
## CASE STUDY 22

**Sector/product: banking sector**

**Underlying offence: foreign bribery and corruption**

A South American national (person A) had an account with a Guernsey retail bank (bank account A). Bank account A was also linked to a company attributed to person A (company C). The bank made a SAR based on open source information indicating that person A was under investigation in his home country for bribery and corruption, which the FIU disseminated to that country. The authorities there then made a mutual legal assistance request for the information in evidential form in support of their investigation into a state-owned oil company (company A) and an engineering group based in Europe (company B). Person A was a former employee of company B and had used company C to facilitate the payment of bribes to company A in order to secure contracts to supply specialist water floating oil rigs for company B. Approximately USD \$140 million was paid to from company B to companies attributed to person A, including company C and a company located in South America. The directors and shareholders of company C were all family members of person A. Bank account A had received approximately USD\$10 million in 2013 and 2014 from two bank accounts controlled by person A in South America, which were then transferred to a bank account controlled by person A in another IFC and to a firm of solicitors based in the British Isles. The requested information was obtained in evidential form and provided to the requesting country.

Subsequently the FIU received a request for intelligence from an FIU in the British Isles in relation to person A, who was under investigation there for bribery and corruption and associated money laundering offences. The FIU provided the requesting FIU with the intelligence it held on Person A. The authorities in the requesting country then made a mutual legal assistance request for the information in evidential form in support of an investigation into the provenance of funds used to acquire a property there. The property had been purchased by a firm of solicitors on behalf of person A, and a total of £1.35 million used to fund the purchase originated from bank account A. The requested information was obtained in evidential form and provided to the requesting country.



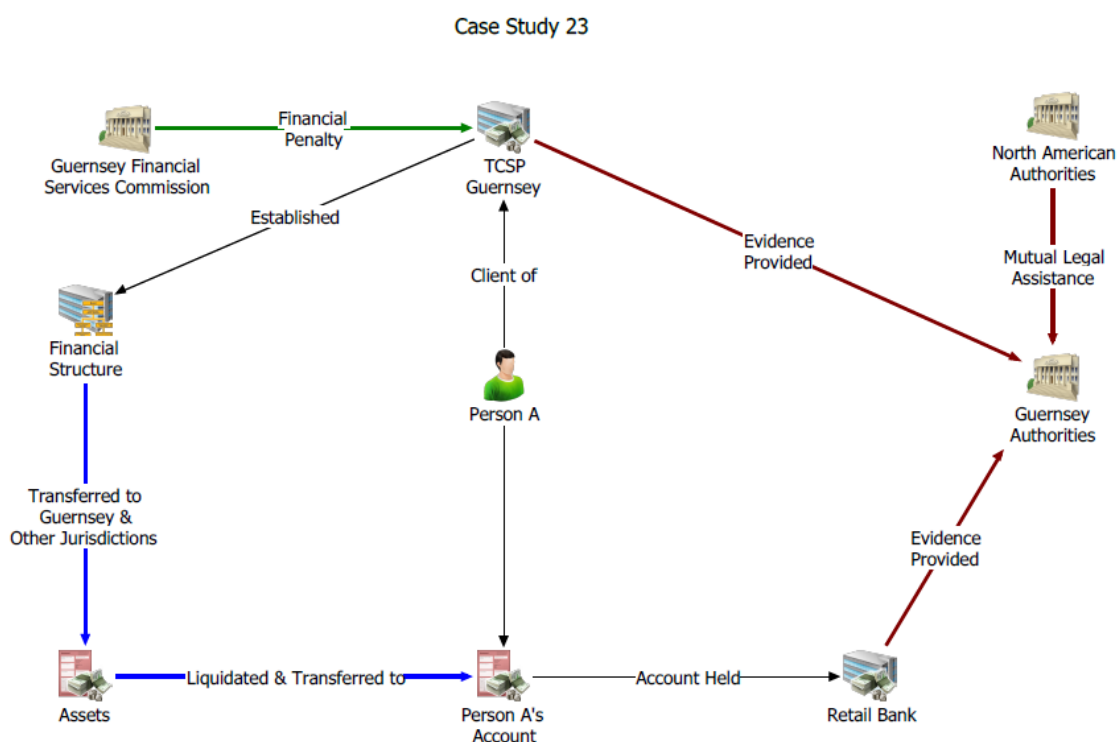
## CASE STUDY 23

**Sector/product:** TCSP sector/banking sector/ legal arrangement

**Underlying offence:** foreign tax evasion

The authorities in a North American country requested assistance in relation to a criminal investigation into tax evasion offences by one of their nationals (Person A). The investigation related to the failure to disclose financial interests in foreign-held bank accounts and entities to the tax authorities over a 5 year period. The investigation established that a Guernsey TCSP had established a financial structure for Person A through which to transfer assets to entities in Guernsey and other jurisdictions. This included one bank account in Guernsey. The entities liquidated the assets and then transferred a portion back to Person A. Person A did not disclose any financial interest in the Guernsey entities or their accounts to the tax authorities in the requesting country, despite benefiting from their assets.

Information was obtained from Guernsey in evidential form from the TCSP and the bank, and was provided to the requesting country. The investigation into Person A in that country is ongoing. The TCSP was subject to a financial penalty imposed by the GFSC for a number of regulatory offences related to this case. (This is Case 1 on the TCSP sector in the supervisory case studies below).



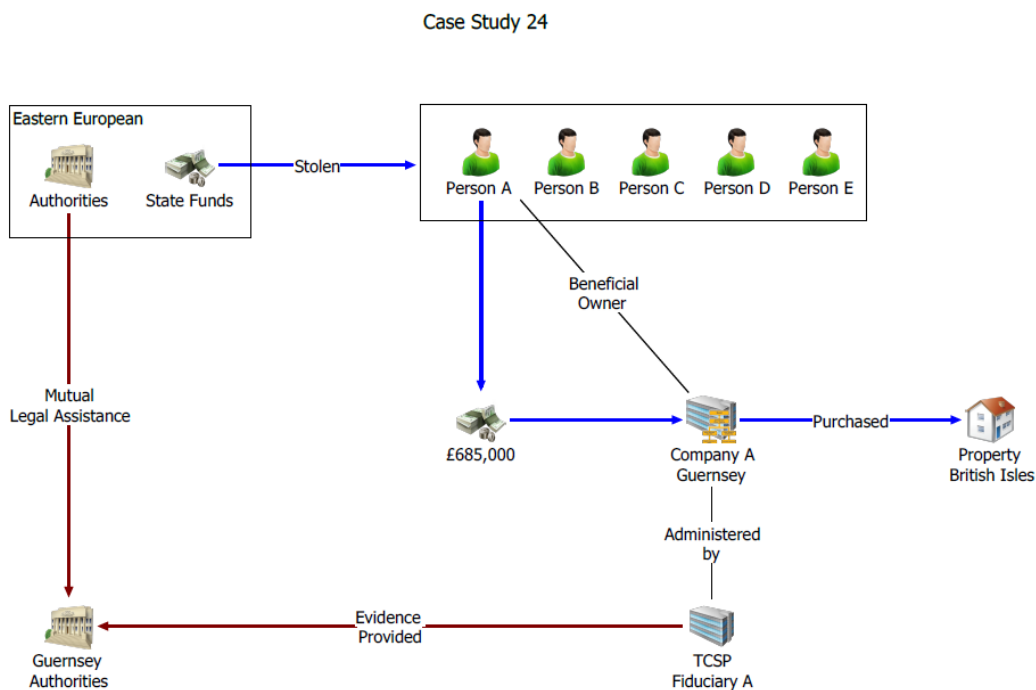
## CASE STUDY 24

**Sector/product:** TCSP sector/legal person

**Underlying offence:** foreign embezzlement

An eastern European country requested assistance in relation to a case concerning the embezzlement of state funds by five individuals. The authorities had identified that one of the individuals involved (person A) had transferred £685,000 of stolen funds to a Guernsey company (company A) administered by a TCSP (Fiduciary A).

The Guernsey authorities approached Fiduciary A, who confirmed that person A was the ultimate beneficial owner of company A and that company A had received approximately £685,000 from Person A. Company A utilised the funds to purchase a property in the United Kingdom on behalf of Person A. This information was provided to the authorities in the requesting state in evidential form.





## CASE STUDY 25

**Sector/product:** TCSP sector/legal person

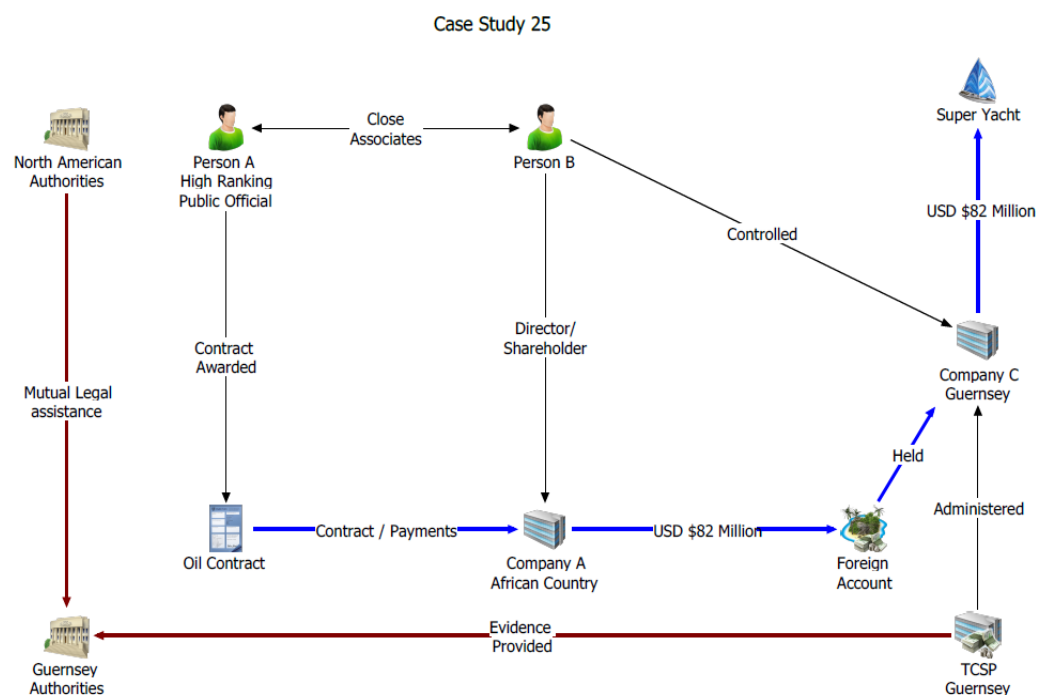
**Underlying offence:** foreign corruption

The authorities in a North American country requested assistance in relation to a criminal investigation being conducted into the activities of a public official from an African country (person A) involving embezzlement, theft, misappropriation of public funds and money laundering.

The investigation in the requesting country had identified that person A was a high ranking public official in his home country with close links to petroleum resources. The investigation established that person A directed that lucrative contracts relating to the production, marketing and importation of oil and petroleum be awarded to companies owned and controlled by person A and a close associate (person B). The investigation established that person B was a director and shareholder of a company in person A's home country (company A). It was further established that persons A and B laundered the proceeds of person A's criminality through North America and elsewhere. This included the purchase of a luxury super yacht for approximately USD \$82 million by Person B.

The investigation also identified that a TCSP formed a company (company C) on behalf of person B to broker the purchase of the luxury super yacht. In July 2013 two payments amounting to a total of USD \$82 million were made into company C's bank account (which was not in Guernsey). The investigation also established that the funds used to purchase the yacht originated from company A and related to the lifting and selling of oil from the African country under the corrupt contracts awarded by Person A.

Material relating to the yacht purchase was obtained from the TCSP in evidential form and provided to the authorities in the requesting country, who subsequently brought a USD \$144 million civil complaint against Person A.



## Joint working & investigation

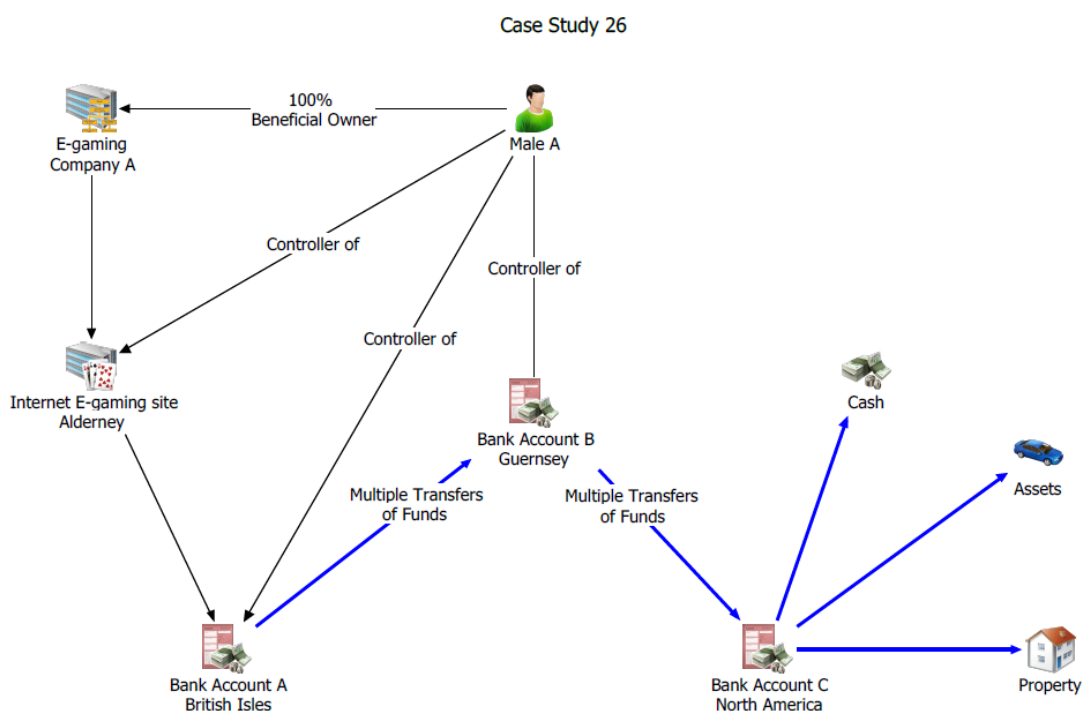
### CASE STUDY 26

**Sector/product:** banking sector/eCasino sector/TCSP sector/legal person

**Underlying offence:** foreign embezzlement

Male A, a North American national, was the 100% beneficial owner of an e-gaming company (company A) that owned an e-gaming platform based in Alderney. Male A, assisted by other associates, controlled the company and e-gaming platform from offices in a jurisdiction elsewhere within the British Isles. Male A also controlled a bank account in that country (bank account A) and had accounts in a number of other jurisdictions, including an account with a Guernsey private bank (bank account B) and an account in North America (bank account C). Male A and his associates then made multiple transfers of funds from the British Isles jurisdiction to other jurisdictions, including Guernsey, without the knowledge of the e-gaming company clients. Male A subsequently transferred funds from Guernsey to bank account C used the funds to purchase high value goods and properties in North America and elsewhere.

The Guernsey authorities assisted the authorities in the North American country in seizing USD \$18.5 million and £5.3 million from bank account B. Male A was subsequently prosecuted for fraud in the North American country and as part of a plea bargain agreed to forfeit USD \$40 million from 18 different bank accounts including bank account B. By agreement with the North American country the Guernsey investigation did not proceed and instead the sums in bank account B were taken by the Guernsey authorities through the enforcement of an *in rem* order under civil asset recovery legislation.



## CASE STUDY 27

**Sector/product:** DPMS sector

**Underlying offence:** tax evasion

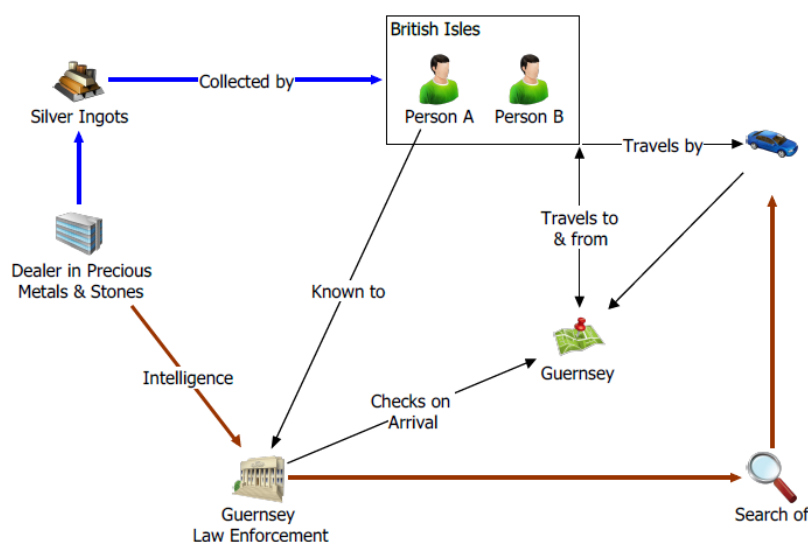
The Guernsey Border Agency in conjunction with the Guernsey Police Special Branch Division intercepted two individuals (Person A and Person B) on their arrival into the jurisdiction on a day trip from another jurisdiction within the British Isles. Both were subjected to law enforcement checks. Person A was identified as having served a custodial sentence in his home jurisdiction. Intelligence checks suggested that Person A was also known for having been radicalised by an extremist organisation within the British Isles. Collaborative working between the different law enforcement authorities could not identify links to any criminal offences but based on the information provided, there were suspicions as to the purpose of the visit to the jurisdiction by persons A and B.

Persons A and B subsequently returned to their original destination, no further information as to their activity in the jurisdiction having been identified. Law Enforcement checks subsequently identified Person A and B re-entering the jurisdiction in a vehicle from another location within the British Isles. After a further law enforcement search which identified no criminal offences persons A and B were allowed to proceed.

The FIU were requested to undertake checks to establish any suspicious activity by persons A and B whilst in the jurisdiction. The FIU subsequently received information from a DPMS that persons A and B had collected a quantity of silver bullion, collection having been arranged during their previous visit. The DPMS had undertaken compliance checks in respect of Person A and B and the payment method for the purchase of the bullion that did not generate any grounds for suspicion. The DPMS also advised Person A and B that they had an obligation to declare the bullion to the British Isles tax authorities (as silver is not value added tax free) on entering the British Isles from the Bailiwick.

The Guernsey law enforcement authorities suspected that persons A and B had entered the jurisdiction to commit money laundering offences linked tax evasions. The FIU therefore disseminated intelligence about the activities of persons A and B to the relevant authorities in the other jurisdiction.

Case Study 27



## **PART II – SUPERVISORY CASE STUDIES**

The case studies below demonstrate various aspects of supervisory and enforcement action taken by the GFSC and the AGCC. The cases have been chosen to illustrate action to prevent people who do not meet fitness and propriety standards from taking part in regulated business, to oversee and enforce compliance with AML/CFT and governance requirements, and to support foreign regulatory investigations.

### **Banking sector**

#### **CASE STUDY 1**

The GFSC conducted an AML/CFT onsite inspection of the Guernsey subsidiary of a private banking group. As part of the review the GFSC identified that the bank placed reliance on external Group Client Relationship Officers to ascertain clients' source of funds and source of wealth information, particularly in relation to high risk clients. The GFSC did not consider this information was sufficiently corroborated by the bank. In addition, whilst the bank had in place transaction monitoring controls, it was not evident that the bank was undertaking an overall assessment of activity that took into account all money laundering and terrorist financing risks. Also, it was not always evident that there was sufficient challenge by the bank as to why a customer structure had been established in Guernsey. The bank agreed to appoint a competent third party to conduct a review of the effectiveness of its AML/ CFT policies and procedures and a sample review of its client accounts. The result of this third party review was the implementation of an extensive remediation project. Furthermore, the GFSC engaged extensively with senior management in the wider group and also the group's home supervisor regarding the AML/CFT vulnerabilities at the bank and the wider group.

#### **CASE STUDY 2**

The GFSC conducted AML/CFT onsite inspections of the Guernsey branch of a private banking group (Bank A), which was administered by Bank B in Guernsey. The GFSC found that:

- inadequate CDD was being conducted on customers as a result of reliance on CDD and risk assessments conducted by the parent bank without verifying that these had been undertaken in compliance with Guernsey AML/CFT requirements;
- Bank A had failed to ensure that adequate customer risk assessments were undertaken, as a result of which reliable risk profiles could not be formed, expected transaction activity gauged and the purpose and intended nature of the relationship understood with sufficient detail;
- Bank A had failed to satisfy itself that CDD held was appropriate to the assessed risk of each business relationship; and
- Bank A had failed to ensure that ongoing and sufficiently effective enhanced monitoring was undertaken, particularly in the case of international PEPs.

The GFSC imposed a financial penalty of £70,000 on Bank A and issued a public statement.

## **TCSP sector**

### **CASE STUDY 3**

The GFSC conducted an onsite inspection of a TCSP and identified serious and systemic AML/CFT failings. In particular, the TCSP did not properly identify either its underlying customers or identify the risk they posed; it did not adequately monitor the business it ran on behalf of its customers (including a lack of regular periodic reviews) and it missed obvious “red flags” which should have raised suspicions, particularly in relation to CDD issues. In mitigation, the TCSP accepted that there had been historical deficiencies in the processes, policies and procedures that had been in place and it implemented an extensive remediation programme. It also terminated relationships with approximately 60% of its client base, either for commercial reasons or because of a reduced risk appetite. Following an investigation, the GFSC imposed a financial penalty of £70,000 on the TCSP and made a public statement. (See case study 23 in the criminal justice case studies above).

### **CASE STUDY 4**

The GFSC conducted an onsite inspection of a TCSP and identified significant AML/CFT failings. In particular, the TCSP did not always undertake and regularly review relationship risk assessments, it did not always take reasonable measures to identify and verify customers, beneficial owners and underlying principals, it did not always undertake enhanced CDD on customers assessed as high risk, it did not always perform ongoing and effective monitoring of its existing business relationships and it did not have appropriate and effective procedures and controls to ensure compliance with requirements to make SARs. Following an investigation, a public statement was made by the GFSC and it imposed separate financial penalties of £50,000 on four directors and £10,000 on one director. It also made orders prohibiting three of those directors from performing the functions of director, controller, partner and money laundering reporting officer in relation to business carried on by a licensed financial services business for a period of 5 years from the date of the public statement.

### **CASE STUDY 5**

The GFSC conducted an onsite inspection of a TCSP and identified governance and operational failings and systemic AML/CFT failings. In particular, the TCSP did not always properly verify its underlying customers or identify the risks they posed (especially regarding high-risk customers, operating high-risk businesses in high-risk countries), did not always properly verify the source of wealth or funds of its high-risk customers, did not always adequately monitor customer relationships (and, on occasion, failed to address in a timely manner serious issues that arose during periodic relationship risk reviews), and it did not maintain adequate records of all its customers. In mitigation, the TCSP accepted that there had been historical deficiencies in the processes, policies, procedures and governance structure that had been in place and it had implemented an extensive remediation programme (which included a review of its client files). In particular, the TCSP significantly strengthened its compliance function, and expanded its compliance team by over a third. Following an investigation, the GFSC imposed a financial penalty of £45,500 and made a public statement.

## **Insurance sector**

### **CASE STUDY 6**

Following an onsite inspection of a life insurer, the GFSC undertook an extensive examination of the life insurer's systems and controls. It was concluded that the insurer failed to comply with certain requirements relating to customer risk assessments and failed to notify its staff in a timely manner of a change in its money laundering reporting officer. The insurer also did not comply with certain reporting requirements relating to its regulatory margin of solvency and on the adequate definition of an investment strategy. This meant that some corporate governance details that it had submitted to the GFSC were inaccurate. The GFSC imposed a financial penalty of £150,000 and issued a public statement.

## **eCasino sector**

### **CASE STUDY 7**

The AGCC conducted an on-site inspection of an eCasino and identified AML/CFT failings in relation to their customer verification and identification processes. Specifically, the eCasino failed to register customers correctly, failed to maintain customer accounts in a proper manner when a customer did not comply with due diligence measures and failed to review customer relationships regularly. The inspection found that the licensee was using a verification service provider and this resulted in these failures. The AGCC issued a Rectification Proposal and Notice directing the licensee to take adequate measures to address these failings. As a result of the Notice, the licensee notified the AGCC that it had made urgent improvements to their systems, particularly in relation to the verification service provider. Subsequent inspections established that the necessary improvements had been made and that the licensee was now compliant with the AML/CFT controls.

### **CASE STUDY 8**

An application was received for an eCasino licence and Category 2 licence. The applicant ran a large sports book land based service in an eastern European country perceived as high risk, and wanted to diversify into the online sector. Due to the applicant's connection with the high risk country, enhanced due diligence was conducted on the ultimate beneficial owners and their associates and family members. It was established that the father of one of the beneficial owners was a member of an organized criminal group. Once this information was notified to the applicant, the application was not pursued. The applicant made a subsequent application and informed the AGCC that the association with the beneficial owner in question had been terminated. The information supplied to and found by the AGCC led to a suspicion that the person concerned was still influential in the running of the applicant company. The applicant was further questioned on this point but was not willing to answer the questions posed by AGCC or provide further information. As a result, the application was withdrawn.

## **CASE STUDY 9**

In 2016, an application was received for an eCasino licence and Category 2 licence. An investigation took place and, through open sources, it was discovered that the beneficial owner of the applicant company had a former business associate who had been convicted of drug trafficking, fraud and money laundering in a European country. The associate had been part of a global narcotics ring whilst running land-based casinos in South America and the Middle East. During this time the beneficial owner of the applicant company had been in partnership with this associate, which raised concerns about the source of the beneficial owner's funds. The beneficial owner was questioned on this and asked to provide documentary proof of his source of funds. Over a period of time he was unable to provide this information and the application was withdrawn.

### **International assistance**

## **CASE STUDY 10**

The financial services regulator in a foreign jurisdiction carried out an investigation into the activities of the manager of a large hedge fund based in that jurisdiction. The investigation found that the fund used intermediaries, agents, and business partners to pay bribes to high-level government officials in Africa. This included a payment made to a Guernsey-based entity which claimed to have consultancy expertise in a particular African country, although it had no interactions in that country. The GFSC assisted the foreign regulator with its enquiries. The case resulted in the hedge fund manager agreeing to pay nearly \$200 million to the foreign regulator to settle civil charges of violating corruption legislation.

## **CASE STUDY 11**

An eCasino notified the AGCC that it has been taken over by a new beneficial owner. The AGCC investigated the fitness and propriety of that beneficial owner, and during the investigation, information was obtained that led the AGCC to be suspicious of the source of funds of the beneficial owner. As a result, a SAR was made by the AGCC to the FIU. This led to a multi-agency operation involving other jurisdictions, resulting in the beneficial owner being arrested in a foreign jurisdiction on suspicion of tax fraud and money laundering. The licence was immediately suspended and a date was set for a revocation hearing. In the event no hearing was necessary as the licence was surrendered.