



Jersey

MONEY LAUNDERING (JERSEY) ORDER 200-

Explanatory Note

This Order replaces the Money Laundering (Jersey) Order 1999.

The principal changes are as follows –

- (a) The previous Order required financial services businesses to maintain systems and training to forestall and prevent money laundering in respect of their operations in Jersey.

The new Order also requires a financial services business that is incorporated in Jersey or is registered here as a limited liability partnership to take these measures wherever it carries on its business - i.e., whether in the island or overseas.

It also requires any person carrying on financial services business in Jersey to implement those measures in any branch that it maintains overseas.

The Order does not apply to overseas activities to the extent that the law of the place concerned prohibits or prevents compliance. However, in that event the Jersey-based business must inform the Jersey Financial Services Commission of the circumstances. If the law of the other place will allow it to do so, it must also take other reasonable steps to deal with the risk of money laundering.

- (b) Under the previous Order, the duty to maintain such measures was expressed in respect of the commencement of business relationships and the carrying out of “one-off” (i.e. one time only) transactions. The new Order is expressed instead so as to impose a continuing duty, on persons carrying on financial services business as such, to maintain such arrangements.

- (c) A financial services business that is required to maintain systems and training to forestall money laundering must appoint an individual as a compliance officer and an individual as a reporting officer. One individual may be appointed as both.

The person carrying on the business must notify the Commission when a person becomes or ceases to be a compliance officer or a reporting officer. However, the Commission may grant exemptions from this requirement.

The compliance officer is responsible for monitoring compliance by the business with Jersey's laws relating to money laundering.

The reporting officer is the person within the business to whom suspected money laundering is ultimately to be reported. The business may also designate other persons to whom staff may report in the first instance – and a designated person need not pass a report on to the reporting officer if the former concludes that it does not give rise to a suspicion of money laundering.

A sole trader (an individual conducting a financial services business without partners or staff) will be the compliance officer for that business. The requirements for internal reporting do not apply to sole traders.

- (d) Previously, reports under the Order to the authorities could be made to any police officer or customs officer. They must now be made in writing to designated officers of the States of Jersey Police Force or to designated officers of the Impôts.

For that purpose, the Chief Officer of the States of Jersey Police Force may designate police officers, and the Agent of the Impôts may designate customs officers. The Chief Officer and the Agent will themselves be the designated officers, if they have not for the time being designated other officers.

- (e) A financial services business, in maintaining systems to forestall money laundering, must include procedures for monitoring and testing the efficacy of the systems (including the effectiveness of staff training).
- (f) Satisfactory identification of a person will as a matter of law now involve 2 elements – evidence by way of direct information as to who the person is said to be, and evidence verifying that information.
- (g) Identification procedures must require that any person who must be identified is named (in other words, is not permitted to remain anonymous, so far as the person who is required to obtain identification is concerned). The name obtained must be a true name, not a fictitious name.
- (h) New provisions are introduced for the identification of individuals who are the ultimate beneficial owners or controllers of persons that themselves must be identified but are not individuals – for example, where the applicant for business or a third party for which it is acting is a company.

Beneficial ownership and control are defined by reference to the individuals with whom they ultimately lie. There is an exception for individuals who are beneficial owners or controllers of bodies corporate whose stock or shares are traded on a regulated market.

- (i) The Order varies the circumstances in which a financial services business may rely on an applicant for business that is itself a regulated business, for evidence of the identity of a third party for whom the applicant is acting. It also allows a financial services business to rely on evidence from an applicant for business that is itself a regulated business, as to the identity of individuals who are its ultimate beneficial owners or controllers.

- (j) New provisions allow a financial services business that is required to maintain identification procedures to use, in certain circumstances, evidence of identity provided by a person who introduces an applicant for business.
- (k) The Order also requires the identification of individuals who are authorized to act on behalf of an applicant for business – e.g. under powers of attorney or as authorized signatories.
- (l) If a financial services business that has in fact already obtained information about a person's identity comes to know or suspect during the course of an ongoing business relationship or a one-off transaction that he or she is involved in money laundering, the business must take steps to establish or to re-establish the person's identity.

The obligation applies in respect of the following persons –

- (i) a customer;
- (ii) an individual who beneficially owns or controls a customer that is not itself an individual;
- (iii) a third party for whom a customer is or appears to be acting;
- (iv) if the third party is not an individual itself, an individual who beneficially owns or controls it; and
- (v) an authorized agent of a customer.

The obligation applies whether or not –

- (i) the financial services business was previously bound to obtain information about the person's identity;
 - (ii) the business knows or suspects that the information that it does have is unsatisfactory; or
 - (iii) the business would be bound to establish his or her identity if entering into a new relationship or transaction.
- (m) If a financial services business which has in fact already obtained and verified information about a person's identity comes to know or suspect during the course of an ongoing business relationship or a one-off transaction that evidence of his or her identity is unsatisfactory, the business must establish or to re-establish the person's identity.

This obligation applies whether or not the financial services business was previously bound to obtain satisfactory evidence of the person's identity. However, it only applies if the business would have been bound to establish the person's identity if entering into a new relationship or transaction with the person.

The obligation applies in respect of the persons mentioned in paragraph (l) (above).

- (n) Two new categories of exemption are introduced from the requirement for identification procedures. The first is of persons who are public authorities and are acting in their capacity as such. The other is where the business relationship or transaction is in respect of a pension or similar scheme that provides retirement benefits for employees, and contributions

are by way of deduction from wages and the member's interest cannot be assigned.

- (o) In maintaining internal reporting procedures, a financial services business must give special attention to applications for business that are unusual and lack any apparent economic purpose or visible lawful purpose.
- (p) Persons providing reports under Article 8(5) of the Financial Services (Jersey) Law 1998 (relating to the consideration of applications for registration under that Law) are added to the list of persons who must report suspicions of money laundering.

The new provisions, other than those relating to overseas operations, will come into force on . Those relating to overseas operations will come into force on .

Although the new Order will not have retrospective effect, the following points should be noted –

- (a) The requirements for record-keeping procedures will apply not only in respect of new applications for business but also in cases in which, in respect of existing customers, there is a duty to re-establish satisfactory evidence of identity.
- (b) The requirements for internal reporting procedures and other procedures for internal control and communication will apply in respect of existing, continuing business relationships and one-off transactions as well as to new ones.



Jersey

MONEY LAUNDERING (JERSEY) ORDER 200-

Arrangement

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Jersey

MONEY LAUNDERING (JERSEY) ORDER 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE MINISTER FOR TREASURY AND RESOURCES, in pursuance of Articles 37 and 43 of the Proceeds of Crime (Jersey) Law 1999, and having consulted the Jersey Financial Services Commission, orders as follows –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

(1) In this Order, unless the context otherwise requires –

“applicant for business” means –

- (a) a person who is seeking to form a business relationship with another person, the latter being a person who is carrying on any financial services business; or
- (b) a person who is seeking to carry out a one-off transaction with another person, the latter being a person who is carrying on any financial services business;

“branch”, in respect of a financial services business in Jersey, means a branch that is subordinate to that business (whether or not the business in Jersey is itself a branch of any other business);

“business relationship” means any arrangement the purpose of which is to facilitate the carrying out of transactions on a frequent, habitual or regular basis, where the total amount of any payment to be made by any person to any other person in the course of that arrangement is not known or is not capable of being ascertained at the time when the arrangement is made;

“Case A”, “Case B”, “Case C”, “Case D” and “Case E” have the meanings in Article 21;

“Case 1”, “Case 2”, “Case 3” and “Case 4” have the meanings in Article 14;

“compliance officer” means –

- (a) in the case of a financial services business that is carried on by a sole trader, that sole trader; and
- (b) in the case of any other financial services business, the individual who is appointed as a compliance officer under Article 6(1) for that business;

“designated customs officer” means an officer of the Impôts who is designated under Article 5(2) or, if no one is for the time being designated, the Agent of the Impôts;

“designated person” means an individual who is designated under Article 8;

“designated police officer” means a police officer who is designated under Article 5(1) or, if no one is for the time being designated, the Chief Officer of the States of Jersey Police Force;

“Financial Action Task Force Recommendations” means the Forty Recommendations (as revised and expanded in 2003) of the international body known as the Financial Action Task Force on Money Laundering;

“individual” means a natural person;

“insurance business” means any insurance business to which Article 5 of the Insurance Business (Jersey) Law 1996 applies;

“Jersey body corporate” means a body that is incorporated in Jersey;

“Jersey limited liability partnership” means a limited liability partnership that is registered under the Limited Liability Partnerships (Jersey) Law 1997;

“one-off transaction” means a transaction that is not carried out in the course of a business relationship;

“overseas regulatory authority”, in respect of a country or territory outside Jersey, means an authority discharging in that country or territory supervisory functions that correspond substantially to those of the Commission in respect of the forestalling and prevention of money laundering;

“public authority” means a person holding a public office in Jersey;

“public notice” means a notice published in the Jersey Gazette, or a notice whose contents are brought to the attention of the public by the taking of other reasonable steps for that purpose;

“reporting officer”, in respect of a financial services business, means an individual who is appointed as a reporting officer under Article 9(1) for that business;

“secondary recipient” means any person to whom information has been passed by the Commission;

“sole trader” means an individual carrying on a financial services business, who does not in the course of doing so –

- (a) employ any other person; or
 - (b) act in association with any other person.
- (2) In this Order –
- (a) “financial services business” means a business described in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999; and
 - (b) unless the context otherwise requires other expressions used in this Order that are also used in that Law but are not defined in paragraph (1) of this Order have the same respective meanings as in that Law.
- (3) In this Order –
- (a) a reference to a document, information or record, or to anything else in writing, includes a reference to a document, information, record or writing in electronic form; and
 - (b) a reference to any amount that is expressed in sterling includes a reference to an equivalent amount in any other currency.

2 Beneficial ownership and control

- (1) For the purposes of this Order, each of the following individuals is a beneficial owner or controller of a person that is not an individual –
- (a) an individual who is an ultimate beneficial owner of that other person (whether or not the individual is its only ultimate beneficial owner);
 - (b) an individual who ultimately controls it (whether the individual does so alone or with any other person or persons); and
 - (c) an individual for whom, ultimately, it is acting (whether or not the individual is the only person or person, ultimately, for whom it is acting).
- (2) For the purposes of paragraph (1) –
- (a) it is immaterial whether an individual’s ultimate beneficial ownership or control is direct or indirect; and
 - (b) it is immaterial whether the person acting for the individual is doing so directly or indirectly.
- (3) However, no individual is to be treated by reason of this Article as a beneficial owner or controller of a person that is a body corporate the stock or shares of which are admitted to trading on a regulated market.
- (4) Subject to paragraphs (2) and (3), in determining whether an individual is a beneficial owner or controller of another person, regard must be had to all the circumstances of the case.

3 Evidence of identity

- (1) In this Order, “evidence” (when used with reference to a person’s identity) means evidence that consists of –
 - (a) information as to who that person is; and
 - (b) verification of that information.
- (2) However –
 - (a) the requirement in any of Articles 15(2), 16(2) and 20(2) to obtain evidence is, so far as it relates to verification, a requirement to take reasonable measures to do so; and
 - (b) in determining what measures are reasonable, regard must be had to all the circumstances of the case.
- (3) Evidence of identity is satisfactory if –
 - (a) it is reasonably capable of establishing that the person to be identified is who the person is said to be; and
 - (b) the person who is required to obtain the evidence is satisfied, in accordance with the identification procedures established under Part 2 in respect of the business concerned, that it does establish that fact.
- (4) Assurance is adequate for the purposes of Articles 17(4) and 19(4) if –
 - (a) it is reasonably capable of being regarded as reliable; and
 - (b) the person who relies on it is satisfied that it is reliable.

4 Equivalent business

For the purposes of this Order, other business is equivalent business in relation to any particular category of financial services business in Jersey if –

- (a) the other business is carried on in a country or territory other than Jersey;
- (b) if carried on in Jersey, it would be financial services business of that category (whether or not it is called by the same name in Jersey);
- (c) in that other country or territory, the business may only be carried on by a person registered for that purpose under the law of that country or territory;
- (d) the conduct of the business is subject to requirements to forestall and prevent money laundering that are consistent with those in the Financial Action Task Force Recommendations in respect of that business; and
- (e) the conduct of the business is supervised, for compliance with the requirements to which paragraph (d) refers, by an overseas regulatory authority.

5 Designated police and customs officers

- (1) The Chief Officer of the States of Jersey Police Force may by public notice designate one or more police officers, being members of that Force, for the purposes of this Order.
- (2) The Agent of the Impôts may by public notice designate one or more officers of the Impôts for the purposes of this Order.

6 Compliance officer

- (1) A person (other than a sole trader) who is bound by Article 10 must appoint an individual as the compliance officer in respect of the financial services business.
- (2) A sole trader is the compliance officer in respect of his or her financial services business.
- (3) The compliance officer of a financial services business is responsible for monitoring whether the enactments in Jersey relating to money laundering are being complied with in the conduct of that business.
- (4) Where the person who is bound by Article 10 is not a sole trader, the compliance officer is responsible to the person who is so bound.
- (5) The person who is bound by Article 10 must give the Commission written notice within 21 days –
 - (a) when a person becomes the compliance officer; or
 - (b) when a person ceases to be the compliance officer.
- (6) The notice is to specify the name of that compliance officer, and the date on which he or she becomes or ceases to be the compliance officer.
- (7) A compliance officer may also be appointed as a reporting officer.

7 Reporting officer

- (1) A person (other than a sole trader) who is bound by Article 10 must appoint an individual as the reporting officer in respect of the financial services business.
- (2) The person who is bound by Article 10 must give the Commission written notice, within 21 days –
 - (a) when a person is appointed as the reporting officer; or
 - (b) when a person ceases to be the reporting officer.
- (3) The notice is to specify the name of that reporting officer, and the date on which he or she is appointed as or ceases to be the reporting officer.
- (4) A reporting officer may also be appointed as a compliance officer.

8 Designated persons

A person who is bound by Article 10 may designate one or more individuals (other than the reporting officer) to whom reports may be made in the first instance, for onward transmission (where required under this Order) to the reporting officer.

9 Exemptions from Articles 6 and 7

- (1) The Commission may by public notice exempt any class of financial services business from the obligation in Article 6(5) or from the obligation in Article 7(2).
- (2) The Commission may by public notice revoke any such exemption from a date specified in the notice.
- (3) The date to be specified must allow a reasonable period of time for compliance with the obligation to which the exemption relates.

PART 2

PREVENTION OF MONEY LAUNDERING

10 Systems and training to forestall and prevent money laundering

- (1) A person carrying on a financial services business must comply with paragraphs (4), (5), (6), (7), (8) and (9).
- (2) A person carrying on a financial services business in or from within Jersey must comply with paragraphs (4), (5), (6), (7), (8) and (9) in each branch of that business outside Jersey in which the person also carries on that business.
- (3) A Jersey body corporate or Jersey limited liability partnership carrying on a financial services business outside Jersey must comply with paragraphs (4), (5), (6), (7), (8) and (9).
- (4) The person carrying on the financial services business must maintain the following procedures in respect of that business –
 - (a) identification procedures that are in accordance with Part 3;
 - (b) record-keeping procedures that are in accordance with Part 4;
 - (c) internal reporting procedures that are in accordance with Part 5; and
 - (d) such other procedures of internal control and communication as may be appropriate for the purposes of forestalling and preventing money laundering.
- (5) The procedures to which sub-paragraphs (a) and (d) of paragraph (4) refer –
 - (a) must provide for the assessment by the person carrying on the financial services business of the risk that any business relationship or one-off transaction will involve money laundering; and

- (b) must be appropriate to the circumstances, having regard to the degree of risk so assessed.
- (6) The procedures to which paragraph (4)(d) refers must be appropriate in particular for the forestalling and prevention of money laundering by persons who –
 - (a) are customers; and
 - (b) were also customers before the commencement of this Article,but this paragraph does not limit the generality of that paragraph.
- (7) The person carrying on the financial services business must also take appropriate measures from time to time for the purposes of making employees whose duties relate to the provision of financial services aware of the following things –
 - (a) the procedures under paragraph (4) that are maintained by that person and relate to the business; and
 - (b) the enactments in Jersey relating to money laundering.
- (8) The person carrying on the financial services business must also provide those employees from time to time with training in the recognition and handling of –
 - (a) transactions carried out by or on behalf of any person who is or appears to be engaged in money laundering; and
 - (b) other conduct that indicates that a person is or appears to be engaged in money laundering.
- (9) The person carrying on the financial services business must also maintain procedures that themselves monitor and test the effectiveness of the following things –
 - (a) the procedures maintained under paragraph (4);
 - (b) the measures taken under paragraph (7); and
 - (c) the training provided under paragraph (8).

11 Exceptions from Article 10

- (1) A sole trader need not maintain internal reporting procedures in accordance with Article 25.
- (2) To the extent that the law of a country or territory in which a business is carried on has the effect of prohibiting or preventing compliance with Article 10, paragraphs (2) and (3) of that Article do not apply.
- (3) If by reason of paragraph (2) of this Article either of paragraphs (2) and (3) of Article 10 does not apply, the person carrying on the business must inform the Commission in writing as soon as is reasonably practicable, giving details of the circumstances.
- (4) If by reason of paragraph (2) of this Article either of paragraphs (2) and (3) of Article 6 does not apply, the person carrying on the business must comply with the requirement in paragraph (5) of this Article.

- (5) The requirement to which this paragraph refers is that to the extent that –
 - (a) the law of the country or territory concerned has the effect of prohibiting or preventing the person carrying on the business from complying with Article 10; and
 - (b) that law does not have the effect of prohibiting or preventing the person from taking other reasonable steps instead to effectively deal with the risk of money laundering,the person shall instead take those other steps.

PART 3

IDENTIFICATION PROCEDURES

12 General considerations

- (1) Identification procedures are in accordance with this Part if they comply with –
 - (a) paragraphs (2), (3), (4) and (5) of this Article; and
 - (b) the other provisions of this Part that are applicable to the circumstances of the case.
- (2) The procedures must require –
 - (a) that any person who is to be identified is a named person, and not an anonymous person;
 - (b) that the person's name is disclosed to the person who is bound by Article 10; and
 - (c) that the name so disclosed is a true name of the person, and not a fictitious name.
- (3) The procedures must require a determination whether an applicant for business, or any other person who is to be identified, is acting on behalf of a third party.
- (4) The procedures must take into account the greater risk, if the person who is to be identified is not physically present when evidence is produced to verify that person's identity, that money laundering by that person will not be forestalled and prevented.
- (5) The procedures must require, in any case in which satisfactory evidence of identity is required under this Part –
 - (a) that such evidence is obtained as soon as reasonably practicable after the requirement to obtain it arises; and
 - (b) that if such evidence is not obtained within that time, the business relationship or one-off transaction in respect of which it must be obtained does not proceed any further until it is obtained.

13 Time for obtaining evidence of identity

- (1) In determining, for the purposes of this Part, the time in which satisfactory evidence of a person's identity is to be obtained in respect of any particular business relationship or one-off transaction, all of the circumstances must be taken into account.
- (2) In respect of Case 3 or Case 4, they are to include in particular the earliest stage at which there are reasonable grounds for believing that the total amount payable by an applicant for business is not less than £10,000.

14 Identification procedures for business relationships and one-off transactions

- (1) Identification procedures are in accordance with this Article if in Cases 1 to 4 they comply with paragraph (2).
- (2) The procedures must require that, after contact is first made between the person who is bound by Article 10 and an applicant for business concerning a business relationship or one-off transaction between those persons, the person who is so bound obtains satisfactory evidence of the identity of the applicant for business, but this paragraph is subject to paragraph (7).
- (3) Case 1 is any case where the parties form or resolve to form a business relationship between them.
- (4) Case 2 is any case where, in respect of any business relationship or one-off transaction, any person handling the relationship or transaction on behalf of the person who is required to maintain the procedures –
 - (a) knows or suspects that the applicant for business is engaged in money laundering; or
 - (b) knows or suspects that the relationship or transaction is carried out on behalf of any other person engaged in money laundering.
- (5) Case 3 is any case where, in respect of any one-off transaction, payment is to be made by or to the applicant for business of not less than £10,000.
- (6) Case 4 is any case where, in respect of 2 or more one-off transactions –
 - (a) it appears at the outset to any person handling any of the transactions that the transactions are linked, and that the total amount in respect of all of the transactions that is payable by or to the applicant for business is not less than £10,000; or
 - (b) at any later stage, it comes to the attention of any person handling any of the transactions that sub-paragraph (a) is satisfied.
- (7) If a report has been or is to be made in circumstances falling within Case 2 either in accordance with Article 25 or directly to a designated police officer or designated customs officer, the procedures to which paragraph (1) refers must also –
 - (a) provide for steps to be taken in respect of the business relationship or one-off transaction in question; or

- (b) provide for steps not to be taken in respect of that relationship or transaction,

as the case may require, in accordance with any directions that may be given by a designated police officer or designated customs officer.

15 Applicants for business that are not individuals

- (1) This Article applies in addition to Article 14, where in relation to a person who is bound by Article 10 an applicant for business is or appears to be a person that is not an individual.
- (2) Identification procedures are in accordance with this Article if they comply with paragraphs (3) and (4).
- (3) The procedures must require that, after contact is first made between the person who is bound by Article 10 and the applicant for business concerning the business relationship or one-off transaction, the person who is so bound obtains satisfactory evidence of the identity of each individual who is or appears to be a beneficial owner or controller of the applicant.
- (4) The procedures must require that if, while the business relationship or one-off transaction continues, any other individual is or appears to be a beneficial owner or controller of the applicant for business, the person who is so bound obtains satisfactory evidence of the identity of that other individual.

16 Applicants acting for third parties

- (1) This Article applies in addition to Article 14 where, in relation to a person who is bound by Article 10, an applicant for business is or appears to be acting on behalf of a third party.
- (2) Identification procedures are in accordance with this Article if they comply with paragraphs (3), (4), (5), (6) and (7).
- (3) The procedures must require that, after contact is first made between the person who is bound by Article 10 and the applicant for business concerning the business relationship or one-off transaction, the person who is bound by Article 10 obtains satisfactory evidence of the identity of the third party.
- (4) The procedures must require that, where that third party is or appears to be a person that is not an individual, the person who is so bound also obtains satisfactory evidence of the identity of each individual who is or appears to be a beneficial owner or controller of that third party.
- (5) The procedures must require that where, while the business relationship or one-off transaction continues, any other individual is or appears to be a beneficial owner or controller of the third party to which paragraph (4) refers, the person who is so bound also obtains satisfactory evidence of the identity of that other individual.
- (6) The procedures must require that where, while the business relationship or one-off transaction continues, the applicant for business appears to be

acting for any other third party in respect of that business, the person who is so bound obtains satisfactory evidence of the identity of that other third party.

- (7) The procedures must require that where the third party to whom paragraph (6) refers is or appears to be a person that is not an individual, the person who is so bound also obtains satisfactory evidence of the identity of each individual who is or appears to be a beneficial owner or controller of that other third party.

17 Reliance on other financial services businesses

- (1) Where the conditions in paragraphs (2) and (3) are fulfilled in relation to an applicant for business who is or appears to be acting on behalf of a third party, a person who is bound by Article 10 satisfies Article 16(2) if that person obtains from the applicant for business confirmation in accordance with paragraph (4) of this Article.
- (2) The condition to which this paragraph refers is that, in respect of the business relationship or transaction in question, there are reasonable grounds for believing that the applicant for business is –
 - (a) a financial services business in respect of which the Commission discharges supervisory functions; or
 - (b) a person who carries on equivalent business in relation to that category of business.
- (3) The condition to which this paragraph refers is that –
 - (a) the person who is bound by Article 10 is satisfied that the procedures that are maintained by the applicant for business enable the applicant for business to comply with Recommendations 5 – 16 (inclusive) and 21 and 22 of the Financial Action Task Force Recommendations; and
 - (b) the person who is bound by Article 10 does not know or suspect that the applicant for business, any third party on whose behalf the applicant is acting or (where that third party is not an individual) any individual who is a beneficial owner or controller of the third party is engaged in money laundering.
- (4) Confirmation is in accordance with this paragraph if –
 - (a) it is in writing (whether or not comprising only one document);
 - (b) it contains adequate assurance that the applicant for business has obtained satisfactory evidence of identity of the third party and of each individual who is a beneficial owner or controller of the third party, and it also contains sufficient information for the purposes of this Order about each person to whom the evidence relates;
 - (c) it contains adequate assurance that the applicant is required to keep and does keep the evidence of the identity of the third party and of each of those individuals; and
 - (d) it contains adequate assurance that the applicant will provide the information in that record or satisfactory evidence of identity of

each of those individuals, without delay, to the person who is bound by Article 10, at the latter's request.

- (5) This Article does not limit the ways in which a person who is bound by Article 10 may satisfy Article 16(2).

18 Reliance on particular types of financial services businesses

Where in respect of a business relationship or transaction, there are reasonable grounds for believing that the applicant for business is –

- (a) a financial services business that is described in any of paragraphs 1, 2, 3 and 4 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, being a financial institution in respect of which the Commission discharges supervisory functions; or
- (b) a person who carries on equivalent business in relation to that category of business,

a person who is bound by Article 10 satisfies Article 16 (2) if the condition in Article 17(3) is fulfilled.

19 Identification of applicant by introducer

- (1) If –
- (a) an applicant for business is introduced by another person to a person who is bound by Article 10; and
- (b) the conditions in paragraphs (2) and (3) are fulfilled,
- the person who is bound by Article 10 may for the purposes of any of Articles 14(1), 15(2) and 16(2) obtain from the introducer confirmation in accordance with paragraph (4) of this Article.
- (2) The condition to which this paragraph refers is that, in relation to the business relationship or transaction in question, there are reasonable grounds for believing that the introducer is –
- (a) a financial services business in respect of which the Commission discharges supervisory functions; or
- (b) a person who carries on equivalent business in relation to that category of business.
- (3) The condition to which this paragraph refers is that, in relation to the business relationship or transaction in question –
- (a) the person who is bound by Article 10 has obtained confirmation that the applicant for business is an established customer of the introducer;
- (b) the person who is bound by Article 10 is satisfied that the procedures that are maintained by the applicant for business enable the applicant for business to comply with Recommendations 5 and 10 of the Financial Action Task Force Recommendations; and
- (c) the person who is bound by Article 10 does not know or suspect that the applicant for business, any third party on whose behalf the applicant is acting or (where that third party is not an individual)

any individual who is a beneficial owner or controller of either the applicant for business or the third party is engaged in money laundering.

- (4) Confirmation is in accordance with this paragraph if –
 - (a) it is in writing (whether or not comprising only one document);
 - (b) it contains adequate assurance that the introducer has obtained satisfactory evidence of identity of each person specified in paragraph (3)(c), and it also contains sufficient information for the purposes of this Order about each person to whom the evidence relates;
 - (c) it contains adequate assurance that the introducer is required to keep and does keep a record of the evidence of identity of each of those persons; and
 - (d) it contains adequate assurance that the introducer will provide the information in that record or satisfactory evidence of identity of each of those persons, without delay, to the person who is bound by Article 10, at the latter's request.
- (5) Confirmation obtained from an introducer in accordance with this Article does not excuse a person who is bound by Article 10 from liability for any consequence that arises if assurance obtained under this Article is not reliable.

20 Authorized agents of applicants for business

- (1) This Article applies, in addition to Article 15, in respect of each person (if any) who is authorized to act on behalf of an applicant for business in the applicant's dealings with the person who is bound by Article 10.
- (2) Identification procedures are in accordance with this Article if they comply with paragraphs (3) and (4).
- (3) The procedures must require that, after contact is first made between the person who is bound by Article 10 and the applicant for business concerning the business relationship or one-off transaction, the person who is bound by Article 10 obtains satisfactory evidence of the identity of each person to whom paragraph (1) refers.
- (4) The procedures must require that if, while the business relationship or one-off transaction continues, any other person is authorized to act on behalf of the applicant for business in the applicant's dealings with the person who is bound by Article 10, the person who is so bound obtains satisfactory evidence of the identity of that other person.

21 Exceptions from identification procedures

- (1) Identification procedures under this Part do not require any steps to be taken to verify evidence of any person's identity in any of Cases A to E.
- (2) Case A is where the person whose identity is to be verified is a public authority, and is acting in that capacity.

- (3) Case B is where the business relationship or one-off transaction relates to a pension scheme or superannuation scheme, or to a similar scheme that provides retirement benefits to an employee, the contributions to the scheme are made by way of deductions from wages and the rules of the scheme do not permit the assignment of an interest of a member of the scheme under the scheme.
- (4) Case C is where, in the case of insurance business consisting of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation –
 - (a) the policy contains no surrender clause; and
 - (b) it may not be used as collateral security for a loan.
- (5) Case D is where, in respect of insurance business, a premium is payable in one instalment of an amount not exceeding £1,750.
- (6) Case E is where, in respect of insurance business, a periodic premium is payable and the total amount payable in respect of any calendar year does not exceed £750.
- (7) Identification procedures under this Part do not require any steps to be taken to obtain any evidence of the identity of an applicant for business, that is –
 - (a) a financial services business in respect of which the Commission discharges supervisory functions; or
 - (b) a person who carries on equivalent business in relation to that category of business,or of any individual who is a beneficial owner or controller of the applicant for business.
- (8) Identification procedures under Article 20 do not require any steps to be taken to obtain any evidence of the identity of any person, in respect of an applicant for business that is –
 - (a) a financial services business in respect of which the Commission discharges supervisory functions; or
 - (b) a person who carries on equivalent business in relation to that category of business.
- (9) Identification procedures under Article 20 do not require any steps to be taken to obtain any evidence of the identity of a person who is authorized to act on behalf of an applicant for business, where –
 - (a) the applicant for business is not a person who is bound by Article 10;
 - (b) the person who is so authorized acts on behalf of the applicant for business in the course of employment by a financial services business; and
 - (c) the financial services business is either a financial services business in respect of which the Commission discharges supervisory functions or a person who carries on equivalent business in relation to that category of business.
- (10) Nothing in this Article shall apply in circumstances falling within Case 2.

22 Review of evidence of identity

- (1) In this Article, “the person bound” means a person who is bound by Article 10.
- (2) In this Article, “the relevant person” means any of the following persons –
 - (a) a person with whom the person bound has any continuing business relationship or one-off transaction;
 - (b) where a person with whom the person bound has any continuing business relationship or one-off transaction is not an individual, an individual who is a beneficial owner or controller of the first person;
 - (c) where a person with whom the person bound has any continuing business relationship or one-off transaction is or appears to be acting on behalf of a third party, that third party;
 - (d) where a person with whom the person bound has any continuing business relationship or one-off transaction is or appears to be acting on behalf of a third party that is not an individual, an individual who is a beneficial owner or controller of that third party; and
 - (e) a person who is authorized to act on behalf of a person with whom the person bound has any continuing business relationship or one-off transaction.
- (3) This Article applies whenever the person bound, having already obtained information about the relevant person’s identity, knows or suspects that the relevant person is engaged in money laundering. It does so whether or not it also applies because of paragraph (4).
- (4) This Article also applies if the person bound, having already obtained evidence about the relevant person’s identity, knows or suspects that the evidence is not satisfactory.
- (5) It is immaterial whether the person bound was required under any enactment to obtain the information or evidence that the person bound had in fact already obtained.
- (6) However, this Article only applies by reason of paragraph (4) where, if the person bound were entering anew into a business relationship or one-off transaction with a person, the person bound would be required under this Part to obtain satisfactory evidence of the relevant person’s identity.
- (7) Identification procedures are in accordance with this Article if they require that steps are taken –
 - (a) to confirm that the evidence of the relevant person’s identity that the person bound has already obtained is satisfactory; or
 - (b) to obtain satisfactory evidence of the relevant person’s identity, but this paragraph is subject to paragraph (8).
- (8) If this Article applies by reason of paragraph (3), and a report has been or is to be made either in accordance with Article 25 or directly to a

designated police officer or designated customs officer, the procedures to which paragraph (7) refers must also –

- (a) provide for steps to be taken in respect of the business relationship or one-off transaction in question; or
- (b) provide for steps not to be taken in respect of that relationship or transaction,

as the case may require, in accordance with any directions that may be given by a designated police officer or designated customs officer.

PART 4

RECORD-KEEPING PROCEDURES

23 Records to be kept

- (1) Record-keeping procedures maintained by a person are in accordance with this Article if they require the keeping, for the appropriate period specified in Article 24, of the records specified in paragraphs (2) and (3).
- (2) The record to which this paragraph refers is one that indicates the nature of the evidence of each person's identity that is obtained under procedures maintained in accordance with Part 2, and –
 - (a) comprises a copy of that evidence;
 - (b) provides information that enables a copy of the evidence to be obtained; or
 - (c) if it is not reasonably practicable to comply with sub-paragraph (a) or sub-paragraph (b), provides sufficient information to enable the details as to a person's identity contained in the relevant evidence to be re-obtained.
- (3) The record to which this paragraph refers is one that contains details relating to all transactions carried out, by the person who is bound by Article 10, in the course of the financial services business.
- (4) The record to which paragraph (3) refers must include in respect of each transaction the following information –
 - (a) the name and address of the customer of the person who is bound by Article 10;
 - (b) if it is a monetary transaction, the kind of currency and the amount involved;
 - (c) if the transaction involves an account, the number, name or other means by which the person who is bound by Article 10 can identify the account, and the fact that it is an account of that customer; and
 - (d) the date of the transaction.
- (5) The record to which paragraph (3) refers must in any event include sufficient information to enable the reconstruction of individual transactions.

24 Periods for which records must be kept

- (1) The period in respect of which a record specified in Article 23(2) must be kept is the period of 5 years commencing with the date on which the relevant business was completed.
- (2) For the purposes of paragraph (1), the date on which relevant business is completed is –
 - (a) in circumstances falling within Case 1, the date of the ending of the business relationship in respect of whose formation the record is compiled;
 - (b) in circumstances falling within Case 2, in the case of the business relationship in respect of whose formation the record is compiled, the date of the ending of the business relationship;
 - (c) in circumstances falling within Case 2, in the case of the one-off transaction in respect of which the record is compiled, the date of the completion of all activities taking place in the course of the one-off transaction;
 - (d) in circumstances falling within Case 3, the date of the completion of all activities taking place in the course of the one-off transaction in respect of which the record is compiled; and
 - (e) in circumstances falling within Case 4, the date of the completion of all activities taking place in the course of the last one-off transaction in respect of which the record is compiled.
- (3) The period in respect of which a record specified in Article 23(3) must be kept is the period of 5 years commencing with the date on which all activities taking place in the course of the transaction in question were completed.

PART 5

INTERNAL REPORTING PROCEDURES

25 Requirements for internal reporting procedures

Internal reporting procedures maintained by a person are in accordance with this Article if they comply with the following requirements –

- (a) they must provide for the identifying of the reporting officer for persons who must or may wish to make reports to that officer;
- (b) if any individual is designated under Article 10, the procedures must provide for the identifying of that individual for other persons who must or may wish to make reports to that individual;
- (c) the procedures must provide that if any application for business is unusual, and does not have an apparent economic purpose or visibly lawful purpose, a report about the circumstances must be made to the reporting officer or to a designated person;

- (d) they must provide that a report must be made to the reporting officer, or to a designated person, of any information or other matter that comes to the attention of any person handling financial services in the business and, in the opinion of the person handling those services, gives rise to knowledge or reasonable grounds for suspicion that another person is engaged in money laundering;
- (e) the procedures must provide that if a report is made to a designated person, it must be considered by that person, in the light of all other relevant information, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such knowledge or reasonable grounds for suspicion that another person is engaged in money laundering;
- (f) they must provide that if a report is made to a designated person, the report must (subject to Article 26) be forwarded by the designated person to the reporting officer;
- (g) the procedures must provide that if a report is made or forwarded to the reporting officer, it must be considered by the reporting officer, in the light of all other relevant information, for the purpose of determining whether or not the information or other matter contained in the report does give rise to knowledge or reasonable grounds for suspicion that another person is engaged in money laundering;
- (h) they must provide for the reporting officer, and any designated person through whom the report is made, to have access to all other relevant information that may be of assistance to the reporting officer or that designated person; and
- (i) the procedures must provide for securing that the information or other matter contained in a report is disclosed, by the person considering the report under sub-paragraph (e) or sub-paragraph (g), to a designated police officer or designated customs officer as soon as is reasonably practicable, in writing, where the person considering the report knows or has reasonable grounds for suspecting that another person is engaged in money laundering.

26 Reports that need not be forwarded

- (1) If a designated person, on considering a report under Article 25, concludes that it does not give rise to knowledge or reasonable grounds for suspicion that another person is engaged in money laundering, the designated person need not forward it to the reporting officer.
- (2) If a designated person, on considering a report under Article 25, has concluded that it does give rise to knowledge or reasonable grounds for suspicion that another person is engaged in money laundering, the reporting officer need not consider whether that other person is engaged in money laundering.

PART 6

OTHER PROVISIONS

27 Duty not to proceed if evidence of identity not satisfactory

- (1) A person who is bound by Article 10 must not proceed any further with a business relationship or one-off transaction in contravention of a requirement, in an identification procedure, to which Article 10(4) refers.
- (2) Paragraph (1) does not apply to the extent that the person who is bound by Article 10 is acting with the consent of a designated police officer or designated customs officer.

28 Duty to report evidence of money laundering

- (1) If the Commission –
 - (a) obtains any information; and
 - (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

the Commission shall disclose that information to a designated police officer or designated customs officer as soon as is reasonably practicable.

- (2) If a person is a secondary recipient of information obtained by the Commission, and forms such an opinion as is described in paragraph (1)(b), the person may disclose the information to a designated police officer or designated customs officer.

- (3) If any person specified in paragraph (4) –
 - (a) obtains any information while acting in the course of any investigation, or discharging any functions, to which the person's authorization or appointment relates; and
 - (b) is of the opinion that the information indicates that any other person has or may have been engaged in money laundering,

the first person shall as soon as is reasonably practicable disclose that information to the persons specified in paragraph (5).

- (4) The persons to whom this paragraph refers are –
 - (a) a person authorized by the Commission under Article 26 of the Banking Business (Jersey) Law 1991 to require a person to provide information or produce documents;
 - (b) a person appointed by the Commission under Article 28 of the Banking Business (Jersey) Law 1991 to investigate and report to the Commission on a person or business;
 - (c) a person authorized by the Commission under Article 9 of the Collective Investment Funds (Jersey) Law 1988 to require a person to furnish information or produce books or papers;
 - (d) an inspector appointed by the Commission under Article 22 of the Collective Investment Funds (Jersey) Law 1988;

- (e) an inspector appointed by the Minister for Economic Development or the Commission under Article 15 of the Company Securities (Insider Dealing) (Jersey) Law 1988;
 - (f) an inspector appointed by the Minister for Economic Development or the Commission under Article 128 of the Companies (Jersey) Law 1991 to investigate and report on the affairs of a company;
 - (g) a person authorized by the Court under Article 208 of the Companies (Jersey) Law 1991 to inspect records of or under the control of a company;
 - (h) a person authorized by the Commission under Article 10 of the Insurance Business (Jersey) Law 1996 to require a person to produce information or documents;
 - (i) a person appointed by the Commission under Article 11 of the Insurance Business (Jersey) Law 1996 to investigate and report to the Commission on a person or business;
 - (j) an inspector appointed by the Minister for Economic Development or the Commission under Article 31M of the Limited Liability Partnerships (Jersey) Law 1997 (as that Article applies to insolvent limited liability partnerships by virtue of Regulation 2 of the Limited Liability Partnerships (Insolvent Partnerships) (Jersey) Regulations 1998);
 - (k) a person providing a report under Article 8(5) of the Financial Services (Jersey) Law 1998;
 - (l) a person authorized by the Commission under Article 32 of the Financial Services (Jersey) Law 1998 to require a person to provide information or documents or to answer questions; and
 - (m) a person appointed by the Commission under Article 33 of the Financial Services (Jersey) Law 1998 to investigate and report under that Article to the Commission.
- (5) The persons to whom this paragraph refers are –
- (a) a designated police officer or designated customs officer; and
 - (b) the person or body by whom the person to whom paragraph (4) refers was authorized or appointed or to whom he or she is to report under that authorization or appointment.
- (6) Nothing in paragraph (3) requires or authorizes a person to disclose any information to any person other than a designated police officer or designated customs officer, the Court, the Minister for Economic Development or the Commission.
- (7) Disclosure under this Article shall be made in writing.

29 Revocation

The Money Laundering (Jersey) Order 1999 is revoked.

30 Citation and commencement

- (1) This Order may be cited as the Money Laundering (Jersey) Order 200-.

- (2) This Order (except for paragraphs (2) and (3) of Article 6), and Article 30) comes into force on 200-.

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