



Jersey Financial Services Commission

Mr R Kirkby
Technical Director
Jersey Finance Limited
27 Hill Street
St Helier
Jersey
JE2 4UA

Your Ref.:

Our Ref.:

P23-006

11 December 2007

Dear Rob

Revision to the Money Laundering (Jersey) Order 1999 and Second Schedule to the Proceeds of Crime (Jersey) Law 1999

I am writing to provide you with an update on the Commission's revision to the Money Laundering (Jersey) Order 1999, including implementation of the final draft of the Handbook that is published on the Commission's website¹, and on proposals to amend the definition of "financial services business" - a term that is defined in the Second Schedule to the Proceeds of Crime (Jersey) Law 1999 ("**Second Schedule**").

Money Laundering Order

A draft of the Money Laundering (Jersey) Order 200- ("**revised Order**") was last consulted on in 2006, and is currently being updated:

- to reflect comments made during the consultation;
- to more closely follow the approach taken in the European Union's ("**EU**") Third Money Laundering Directive, and, in particular, the United Kingdom's ("**UK**") Money Laundering Regulations 2007;
- to reflect recent advice on what procedures may be covered under the existing scope of Article 37 of the Proceeds of Crime (Jersey) Law 1999²; and

¹ See http://www.jerseyfsc.org/the_commission/anti-money_laundering/aml_cft_handbook.asp.

² The scope of Article 37 is to be extended by the Proceeds of Crime (Amendment) (Jersey) Law 200-, approved by the States of Jersey on 7 November 2007.

L:\Divisions\Infl & Policy\P23 - Local Organisations\P23-006 JFL\Ltr 2007.12.10 R Kirkby MLO (AleB).doc



PO Box 267 14-18 Castle Street St Helier Jersey JE4 8TP
T: +44 (0)1534 822000 F: +44 (0)1534 822001 E: enquiries@jerseyfsc.org W: www.jerseyfsc.org



INVESTOR IN PEOPLE



Mr R Kirkby – Jersey Finance Limited

11 December 2007

- the introduction of a “key persons” regime into regulatory legislation, that will require that the appointment of a money laundering reporting officer and money laundering compliance officer is notified in advance to the Commission (which may then object to the proposed appointment).

The revised Order will also deal with transitional provisions for existing customers, in line with the approach adopted in the European Union, including the UK. The intention is that the customer due diligence requirements that are set out in the revised Order will apply to existing customers at appropriate times on a risk sensitive basis. The Commission’s AML/CFT Steering Group (the “**Steering Group**”) has already discussed the approach that the Commission intends should be followed by financial services businesses, and this will be published as an additional section to the Handbook.

Whilst it is likely that some of the requirements that are currently set at regulatory level will become legal requirements in the revised Order, the Commission does not anticipate any changes to the substance of the requirements that were published in the Handbook for the Prevention and Detection of Money Laundering and Terrorist Financing (“**Handbook**”) on 2 July 2007.

As the revised Order has yet to be discussed with the Steering Group, the Commission will not request the Minister for Treasury & Resources to bring the revised Order into force until 1 February 2008, leaving the month of January in which to finalise and agree its content. It follows that implementation of the Handbook will also be delayed by one month.

Funds sector specific section

The Commission has now drafted a section for the Handbook that deals with the Handbook’s application to funds and also fund services businesses. Some initial feedback on this draft section has already been received and will be incorporated into an updated section that will then be discussed with a sub-group of the Steering Group. In this respect, the Jersey Funds Association has been requested to nominate individuals to sit on the sub-group.

It is the Commission’s intention that this section be available at the time that the Handbook comes into force.



Mr R Kirkby – Jersey Finance Limited

11 December 2007

Amendment to Schedule 2 to the Proceeds of Crime (Jersey) Law 1999

It is intended that the Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200- will be debated by the States on 12 February 2008, and, if approved, will come into force on 19 February 2008 – on which date the following types of business activity will be subject to the revised Order **but not before**:

- The business of providing services by independent legal professionals.
- The business of providing external accountancy services, advice about the tax affairs of another person, audit services, and insolvency services.
- Estate agency services.
- Services provided by high value dealers.
- The business of forming or administering legal persons or arrangements (to the extent that such business is not covered by the provision of trust company business).

As the application of the Handbook is limited to regulated financial services businesses, i.e. those that are prudentially supervised by the Commission, it follows that it will be necessary for guidance to be issued on how the Money Laundering Order (and other relevant obligations) should be applied by businesses conducting these new activities. The Commission is currently working on the preparation of such guidance for:

- the sectors that it has been agreed that it will have oversight responsibility; and
- lawyers and accountants, where it is expected that the Minister for Economic Development will designate the Commission as having oversight responsibility, at least for a period of 18 months following designation by the Minister.

In due course, it is expected that the legislation that is to provide for the oversight of these new business activities (for compliance with legislation to counter money laundering and terrorist financing) will also provide designated bodies with rule-making powers.

Note that it is also intended to lodge an amendment to the Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200- that will:



Mr R Kirkby - Jersey Finance Limited

11 December 2007

- Add the business of operating a casino³ to the definition of financial services business. In particular, this may be relevant to trust company businesses that administer companies that are in the business of operating a casino.
- Add a definition for "cash" into the definition of services provided by high value dealers.
- Exclude private trust company business from the definition of "financial services business".
- Make changes that are consequential to the transfer of the regulation of fund services businesses to the Financial Services (Jersey) Law 1998, so that holders of certificates under the Collective Investment Funds (Jersey) Law 1988 will continue to be subject to the revised Order.

I should be grateful if you would arrange for this letter to be copied to members of Jersey Finance Limited. A copy will also be placed on the Commission's website.

Yours sincerely

Andrew Le Brun
Director, International & Policy

Tel: +44 (0) 1534 822065
Fax: +44 (0) 1534 822001
Email: a.lebrun@jerseyfsc.org

³ For the purpose of the Second Schedule to the Proceeds of Crime (Jersey) Law 1999, a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games.