



Jersey

# **MONEY LAUNDERING (JERSEY) ORDER 2008**

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# MONEY LAUNDERING (JERSEY) ORDER 2008

## Contents

### Article

<b>PART 1</b>	<b>5</b>
INTRODUCTORY PROVISIONS	5
1 Interpretation .....	5
2 Beneficial ownership and control .....	8
3 Meaning of “customer due diligence measures” .....	9
4 Meaning of “one-off transaction” .....	11
5 Equivalent business.....	12
6 Designated police and customs officers .....	12
7 Compliance officer .....	12
8 Reporting officer .....	14
9 Designated persons.....	15
10 Exemptions from Articles 7 and 8.....	15
10A Financial services business carried on outside Jersey .....	15
<b>PART 2</b>	<b>16</b>
PREVENTION AND DETECTION OF MONEY LAUNDERING	16
11 Policies, procedures and training to prevent and detect money laundering	16
11A Additional requirements for financial groups .....	20
12 Exception from Article 11 .....	20
<b>PART 3</b>	<b>20</b>
CUSTOMER DUE DILIGENCE MEASURES	20
13 Application and timing of customer due diligence measures .....	20
14 Termination where customer due diligence measures are not completed .	24
15 Circumstances for applying enhanced customer due diligence measures ..	25
15A Enhanced customer due diligence measures in relation to politically exposed persons .....	26
15B Enhanced customer due diligence measures in relation to banking relationships outside Jersey.....	29
16 Reliance on relevant person or person carrying on equivalent business.....	29
16A Reliance on persons in same financial group as relevant person .....	32

<b>PART 3A</b>	<b>34</b>
EXEMPTIONS FROM CUSTOMER DUE DILIGENCE REQUIREMENTS	34
17 Interpretation of Part 3A .....	34
17A Circumstances in which exemptions under this Part do not apply .....	35
17B Exemption from applying third party identification requirements in relation to relevant customers acting in certain regulated, investment or fund services business.....	35
17C Exemption from applying third party identification requirements in relation to certain relevant customers involved in unregulated or non-public funds, trust company business or the legal profession.....	36
17D Obligations of relevant person who is exempt from applying third party identification requirements.....	37
18 Further exemptions from applying identification requirements .....	38
<b>PART 4</b>	<b>40</b>
RECORD-KEEPING REQUIREMENTS	40
A19 Interpretation of Part 4 .....	40
19 Records to be kept.....	40
20 Periods for which records must be kept.....	41
<b>PART 5</b>	<b>41</b>
REPORTING AND DISCLOSURE	41
21 Reporting procedures and related disclosure requirements .....	41
22 Reports that need not be forwarded .....	43
22A Disclosure within the relevant person's organization .....	43
23 Duty to report evidence of money laundering .....	43
<b>PART 5A</b>	<b>46</b>
OTHER MEASURES	46
23A Shell banks .....	46
23B Anonymous accounts .....	47
23C .....	47
<b>PART 6</b>	<b>47</b>
MISCELLANEOUS AND CLOSING	47
24 Citation and commencement .....	47
24A Application to certain businesses .....	47
<b>SCHEDULE</b>	<b>48</b>
<b>ENDNOTES</b>	<b>49</b>
Table of Legislation History .....	49
Table of Renumbered Provisions .....	50
Table of Endnote References .....	50



Jersey

## MONEY LAUNDERING (JERSEY) ORDER 2008

**THE MINISTER FOR TREASURY AND RESOURCES**, in pursuance of Articles 37 and 43 of the Proceeds of Crime (Jersey) Law 1999<sup>1</sup>, and having consulted the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

### PART 1

#### INTRODUCTORY PROVISIONS

#### 1 Interpretation

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

“branch” in respect of a relevant person, means a branch that is under the control of that relevant person;

“business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;

“compliance officer” means –

- (a) an individual appointed under paragraph (1) or (4) of Article 7; or
- (b) an individual described in Article 7(2);

“customer” means a person;

“customer due diligence measures” means the measures described in Article 3(1);

“designated customs officer” means an officer of the Impôts who is designated under Article 6(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 9;

“designated police officer” means a police officer who is designated under Article 6(1) or, if no one is for the time being designated, the Chief Officer of the States of Jersey Police Force;

“designated supervisory body” means a supervisory body designated under Article 6 of the Proceeds of Crime (Supervisory Bodies) Law;

“enhanced customer due diligence measures” means customer due diligence measures that involve specific and adequate measures to compensate for the higher risk of money laundering;

“equivalent business” has the meaning in Article 5;

“FATF” means the international body known as the Financial Action Task Force;

“FATF recommendations” means the FATF Recommendations adopted on 16th February 2012 and as amended up to the date of the making of this Order;

“Financial Intelligence Unit” has the meaning given by the Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015<sup>2</sup>;

“identification measures” means those measures described in Article 3(2);

“insurance business” means any long term-business, within the meaning given to that term in Article 1(1) of the Insurance Business (Jersey) Law 1996<sup>3</sup> but does not include –

- (a) any insurance business described in Article 5(5)(a) of that Law; or
- (b) any insurance business described in Article 1 of the Insurance Business (General Provisions) (Jersey) Order 1996<sup>4</sup>;

“IOSCO-compliant market” means a market which, in line with standards set by the international body known as the International Organisation of Securities Commissions, requires that –

- (a) for traded securities there must be full, accurate and timely disclosure of financial results, risk and other information which is material to investors’ decisions; and
- (b) holders of traded securities should be treated in a fair and equitable manner;

“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 2017<sup>5</sup>;

“Law” means the Proceeds of Crime (Jersey) Law 1999<sup>6</sup>;

“obliged person” means a person who the relevant person knows or has reasonable grounds for believing is –

- (a) a relevant person in respect of whose financial services business the Commission discharges supervisory functions; or
- (b) a person carrying on equivalent business;

“one-off transaction” has the meaning in Article 4;

“on-going monitoring” has the meaning in Article 3(3);

“overseas regulatory authority”, in respect of a country or territory outside Jersey, means an authority discharging in that country or territory a function that is the same or similar to a function of the Commission in respect of the prevention and detection of money laundering;

“politically exposed person” means any of the following as defined in Article 15A –

- (a) a domestic politically exposed person;
- (b) a foreign politically exposed person;
- (c) a prominent person;

“Proceeds of Crime (Supervisory Bodies) Law” means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008<sup>7</sup>;

“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;

“regulated business” means a financial services business in respect of which a person –

- (a) is registered under the Banking Business (Jersey) Law 1991<sup>8</sup>;
- (b) holds a permit or is a certificate holder under the Collective Investment Funds (Jersey) Law 1988<sup>9</sup>;
- (c) is registered under the Financial Services (Jersey) Law 1998<sup>10</sup>; or
- (d) is authorized by a permit under the Insurance Business (Jersey) Law 1996;

“regulated person” means a person carrying on a regulated business;

“relevant person” means –

- (a) a person carrying on a financial services business in or from within Jersey; or
- (b) either –
  - (i) a Jersey body corporate, or
  - (ii) other legal person registered in Jersey,

carrying on a financial services business in any part of the world but for the purposes of this definition “financial services business” does not include the business of acting, otherwise than by way of business, as trustee of an express trust;

“reporting officer” means an individual who is appointed under Article 8(1) or (3);

“secondary recipient” means any person to whom information has been passed by the Commission or a designated supervisory body;

“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;
- “source of the funds” means the source of the funds that are used or to be used in a business relationship or a one-off transaction;
- “subsidiary” means, in relation to a relevant person, a legal person that is majority owned or controlled by the relevant person;
- “Terrorism Law” means the Terrorism (Jersey) Law 2002<sup>11</sup>;
- “third party” includes a person, trust or any other legal arrangement.<sup>12</sup>
- (2) 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 or euros includes a reference to an equivalent amount in any other currency.
- (3) In this Order a person is regarded as being resident in a country if –
- (a) in the case of an individual, he or she has provided an address in that country; or
  - (b) in the case of a legal person, the person is registered, incorporated or otherwise established under the law of that country.<sup>13</sup>
- (4) In this Order a reference to a country not being compliant with FATF recommendations is a reference to a country in respect of which FATF has made a public statement identifying the country as one with deficiencies in its anti-money laundering strategy or its strategy for countering the financing of terrorism.<sup>14</sup>
- (5) In this Order, a person is a member of the same financial group as another person if there is, in relation to the group, a parent company or other legal person that exercises control over every member of that group for the purposes of applying group supervision under –
- (a) the core principles for effective banking supervision published by the Basel Committee on Banking Supervision (ISBN 92-9131-164-4);
  - (b) the Objectives and Principles of Securities Regulation issued by the International Organisation of Securities Commissions; or
  - (c) the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors.<sup>15</sup>

## **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 (“other person”) where that other person 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); and



- (b) an individual who ultimately controls or otherwise exercises control over the management of that other person (whether the individual does so alone or with any other person or persons).
- (2) For the purposes of paragraph (1) it is immaterial whether an individual's ultimate ownership or control is direct or indirect.
- (3) No individual is to be treated by reason of this Article as a beneficial owner of a person that is a body corporate the securities of which are listed on a regulated market.<sup>16</sup>
- (4) 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, in particular the size of an individual's beneficial ownership or degree of control having regard to the risk of that individual or that other person being involved in money laundering.
- (5) For the purposes of this Article, "regulated market" has the same meaning as in the Money Laundering Regulations 2007 S.I. 2007/2157 of the United Kingdom.

### **3 Meaning of "customer due diligence measures"<sup>17</sup>**

- (1) "Customer due diligence measures" means, in respect of the customers of a relevant person's financial services business, identification measures and on-going monitoring.<sup>18</sup>
- (2) Identification measures are measures for –
  - (a) identifying the customer;
  - (aa) identifying any person purporting to act on behalf of the customer and verifying the authority of any person purporting so to act;
  - (b) determining whether the customer is acting for a third party, whether directly or indirectly, and, if so –
    - (i) identifying that third party,
    - (ii) where the third party is a person other than an individual, understanding the ownership and control of that third party and identifying each individual who is that third party's beneficial owner or controller,
    - (iii) where the third party is not a person –
      - (A) understanding the nature of the legal arrangement under which the third party is constituted (for example, in the case of a trust, the type of trust),
      - (B) identifying each person who falls within paragraph (7), and
      - (C) in respect of each person falling within paragraph (7) who is not an individual, understanding the ownership and control of that person and identifying each individual who is that person's beneficial owner or controller;
  - (c) in respect of a customer that is not an individual –

- (i)
  - (ii) understanding the ownership and control structure of that customer and the provisions under which the customer can enter into contracts, or other similar legally binding arrangements, with third parties, and
  - (iii) identifying the individuals who are the customer's beneficial owners or controllers;
- (d) obtaining information on the purpose and intended nature of the business relationship or one-off transaction.<sup>19</sup>
- (3) On-going monitoring means –
  - (a) scrutinizing transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with the relevant person's knowledge of the customer, including the customer's business and risk profile (such scrutiny to include, where necessary, the source of the funds); and
  - (b) ensuring that documents, data or information obtained under identification measures are kept up to date and relevant by undertaking reviews of existing records, particularly in relation to higher risk categories of customers, including but without prejudice to the generality of the foregoing, reviews where any inconsistency has been discovered as a result of the scrutiny described in sub-paragraph (a).<sup>20</sup>
- (4) For the purposes of paragraph (2), identification of a person means –
  - (a) finding out the identity of that person, including that person's name and legal status; and
  - (b) obtaining evidence, on the basis of documents, data or information from a reliable and independent source, that is reasonably capable of verifying that the person to be identified is who the person is said to be and satisfies the person responsible for the identification of a person that the evidence does establish that fact.<sup>21</sup>
- (5) For the purposes of paragraph (2), the measures must include the assessment by the relevant person of the risk that any business relationship or one-off transaction will involve money laundering, including obtaining appropriate information for assessing that risk.<sup>22</sup>
- (6) For the purposes of paragraph (2)(b) and (c), measures for obtaining evidence must involve reasonable measures having regard to all the circumstances of the case, including the degree of risk assessed.<sup>23</sup>
- (7) For the purposes of paragraph (2)(b)(iii), a person falls within this paragraph if –
  - (a) that person is, in relation to a trust that is the third party, a settlor or protector;
  - (b) that person, having regard to the risk of that person being involved in money laundering –
    - (i) has a beneficial interest in the third party,

- (ii) is the object of a trust power in relation to a trust that is the third party; or
- (c) that person is an individual who otherwise exercises ultimate effective control over the third party.<sup>24</sup>

#### 4 Meaning of “one-off transaction”

- (1) For the purposes of this Order, a “one-off transaction” means –
  - (a) a transaction (other than in respect of a money service business or a virtual currency exchange business, or operating a casino) amounting to not less than 15,000 euros;
  - (b) 2 or more transactions (other than in respect of a money service business or a virtual currency exchange business, or operating a casino) –
    - (i) where it appears at the outset to any person handling any of the transactions that the transactions are linked and that the total amount of those transactions is not less than 15,000 euros, or
    - (ii) where at any later stage it comes to the attention of any person handling any of those transactions that clause (i) is satisfied;
  - (c) a transaction amounting to not less than 1,000 euros and carried out in the course of a money service business or of a virtual currency exchange business;
  - (d) 2 or more transactions carried out in the course of a money service business or of a virtual currency exchange business –
    - (i) where it appears at the outset to any person handling any of the transactions that those transactions are linked and that the total amount of those transactions is not less than 1,000 euros, or
    - (ii) where at any later stage it comes to the attention of any person handling any of those transactions that clause (i) is satisfied;
  - (e) a transaction amounting to not less than 3,000 euros carried out in the course of operating a casino; or
  - (f) 2 or more transactions carried out in the course of operating a casino –
    - (i) where it appears at the outset to any person handling any of the transactions that those transactions are linked and that the total amount of those transactions is not less than 3,000 euros, or
    - (ii) where at any later stage it comes to the attention of any person handling any of those transactions that clause (i) is satisfied.<sup>25</sup>

- (2) In this Article –
- (a) “transaction” means a transaction other than one carried out during a business relationship; and
  - (b) “money service business” has the same meaning as in Article 1(1) of the Financial Services (Jersey) Law 1998;
  - (c) “virtual currency exchange business” means the business of providing to third parties the service of virtual currency exchange, as further defined in paragraph 9 of Part 2 of Schedule B to the Proceeds of Crime (Jersey) Law 1999<sup>26,27</sup>.

## 5 Equivalent business

For the purposes of this Order, business (“other business”) is equivalent business in relation to any category of financial services business carried on 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 or otherwise authorized 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 FATF 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.

## 6 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 (whether by reference to the name of the officer or officers or post), 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.

## 7 Compliance officer

- (1) A relevant person (other than a sole trader) must appoint an individual as the compliance officer in respect of the financial services business being carried on by the relevant person.
- (2) A sole trader is the compliance officer in respect of his or her financial services business.
- (2A) A relevant person must ensure that –

- (a) the individual appointed as compliance officer under this Article is of an appropriate level of seniority; and
  - (b) such compliance officer has timely access to all records that are necessary or expedient for the purpose of performing his or her functions as a compliance officer, including, in particular, the records that a relevant person must keep under Article 19.<sup>28</sup>
- (3) The compliance officer's function is to monitor whether the enactments in Jersey relating to money laundering and any relevant Code of Practice issued under Article 22 of the Proceeds of Crime (Supervisory Bodies) Law are being complied with in the conduct of the relevant person's financial services business.<sup>29</sup>
- (4) When a named individual has ceased to be the compliance officer, the relevant person must appoint another individual forthwith as compliance officer in respect of the financial services business being carried on by the relevant person.
- (5) In the case of an individual appointed under paragraph (1) or (4), the compliance officer is responsible to the relevant person.
- (6) Subject to paragraph (9), a relevant person must give the Commission written notice within one month after the date –
  - (a) an appointment under paragraph (1) or (4) takes effect; or
  - (b) an individual ceases to be the compliance officer.
- (7) The notice is to specify the name of that compliance officer and the date on which his or her appointment takes effect or he or she ceases to be the compliance officer.
- (8) A compliance officer may also be appointed as a reporting officer.
- (9) Paragraphs (10) and (11) apply where a relevant person is a regulated person and the Commission has been notified in respect of that relevant person's regulated business pursuant to another enactment of the name of a person who has acquired, is to acquire, or ceased to have, the function described in paragraph (3) ("notified person").
- (10) The notified person shall be deemed to have been appointed under this Article and the relevant person will be deemed to have complied with paragraph (6).<sup>30</sup>
- (11) Where the Commission has objected to the notified person under that other enactment mentioned in paragraph (9) –
  - (a) the notified person shall be deemed to have ceased being the compliance officer under this Article from the date that the objection took effect under that other enactment (whether or not his or her appointment as compliance officer took effect); and
  - (b) the relevant person shall be deemed to have complied with paragraph (6) in the case described in sub-paragraph (b).
- (12) The requirement in paragraph (1) applies in respect of any financial services business carried on by the relevant person on or after 1st April 2008.

## **8 Reporting officer**

- (1) A relevant person (other than a sole trader) must appoint an individual as the reporting officer in respect of the financial services business being carried on by the relevant person.
- (2) The reporting officer's function is to receive and consider reports in accordance with Article 21.
- (2A) A relevant person must ensure that –
  - (a) the individual appointed as reporting officer under this Article is of an appropriate level of seniority; and
  - (b) such reporting officer has timely access to all records that are necessary or expedient for the purpose of performing his or her functions as a reporting officer, including, in particular, the records that a relevant person must keep under Article 19.<sup>31</sup>
- (3) When a named individual has ceased to be the reporting officer, the relevant person must appoint another individual forthwith as the reporting officer in respect of the financial services business being carried on by the relevant person.
- (4) Subject to paragraph (7), a relevant person must give the Commission written notice, within one month after the date –
  - (a) an appointment under paragraph (1) or (3) takes effect; or
  - (b) a person ceases to be the reporting officer.
- (5) The notice is to specify the name of that reporting officer and the date on which his or her appointment takes effect or he or she ceases to be the reporting officer.
- (6) A reporting officer may also be appointed as a compliance officer.
- (7) Paragraphs (8) and (9) apply where a relevant person is a regulated person and the Commission has been notified in respect of that relevant person's regulated business pursuant to another enactment of the name of a person who has acquired, is to acquire, or ceased to have, the function described in paragraph (2) ("notified person").
- (8) The notified person shall be deemed to have been appointed under this Article and the relevant person will be deemed to have complied with paragraph (4).<sup>32</sup>
- (9) Where the Commission has objected to the notified person under that other enactment –
  - (a) the notified person shall be deemed to have ceased being the reporting officer under this Article from the date that the objection took effect under that other enactment (whether or not his or her appointment as reporting officer took effect); and
  - (b) the relevant person shall be deemed to have complied with paragraph (4) in the case described in sub-paragraph (b).

## **9 Designated persons**

- (1) A relevant person 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.
- (2) A relevant person must ensure that –
  - (a) a designated person is of an appropriate level of seniority; and
  - (b) a designated person has timely access to all records that are necessary or expedient for the purpose of performing his or her functions as a designated person, including, in particular, the records that a relevant person must keep under Article 19.<sup>33</sup>

## **10 Exemptions from Articles 7 and 8**

- (1) The Commission may by public notice exempt a relevant person or any class or description of relevant person carrying on any class of financial services business from the obligation in Article 7(6) or from the obligation in Article 8(4).
- (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.

## **10A Financial services business carried on outside Jersey<sup>34</sup>**

- (1) This Article applies to financial services business carried on in a country or territory outside Jersey.
- (2) Subject to the provisions of this Article, a relevant person who falls within paragraph (b) of the definition “relevant person” must –
  - (a) comply with the requirements of this Order in respect of any financial services business to which this Article applies carried on by the relevant person;
  - (b) ensure that any subsidiary of that relevant person applies measures that are at least equivalent to the requirements of this Order in respect of any financial services business to which this Article applies carried on by that subsidiary.
- (3) Subject to the provisions of this Article, a relevant person to whom paragraph (5) applies must apply measures that are at least equivalent to the requirements of this Order in respect of any financial services business to which this Article applies carried on by any branch.
- (4) Subject to the provisions of this Article, a relevant person to whom paragraph (5) applies must ensure that any subsidiary of that relevant person applies measures that are at least equivalent to the requirements of this Order in respect of any financial services business to which this Article applies carried on by that subsidiary.
- (5) This paragraph applies to a relevant person who –

- (a) falls within paragraph (a) of the definition “relevant person”;
  - (b) does not fall within paragraph (b) of that definition; and
  - (c) is not registered, incorporated or otherwise established other than under Jersey law.<sup>35</sup>
- (6) Subject to paragraph (9), a relevant person must –
  - (a) take reasonable steps to comply with paragraphs (2), (3) and (4) to the extent that the law of the country or territory in which that person carries on a financial services business, or has a subsidiary carrying on such a business, does not have the effect of prohibiting or preventing the relevant person from taking such steps; and
  - (b) if the relevant person does not comply with paragraphs (2), (3) and (4) –
    - (i) inform the supervisory body exercising supervisory functions in relation to that relevant person under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008<sup>36</sup>, and
    - (ii) take other reasonable steps to deal effectively with the risk of money laundering.<sup>37</sup>
- (7) <sup>38</sup>
- (8) <sup>39</sup>
- (9) A relevant person need not comply with paragraphs (2), (3) and (4) in a country or territory outside Jersey in respect of any financial services business that falls within paragraphs 1 to 5 of Part B of Schedule 2 of the Law.
- (10) If, in a country or territory outside Jersey –
  - (a) a relevant person carries on a financial services business or has a subsidiary carrying on such a business; and
  - (b) that country or territory has more stringent requirements than those set out in this Order,the relevant person must ensure that those more stringent requirements are complied with.

## PART 2

### PREVENTION AND DETECTION OF MONEY LAUNDERING<sup>40</sup>

#### **11 Policies, procedures and training to prevent and detect money laundering<sup>41</sup>**

- (1) A relevant person must maintain appropriate and consistent policies and procedures relating to –
  - (a) customer due diligence measures;



- (b) reporting in accordance with the provisions in the Law and the Terrorism Law mentioned in Article 21(6);
- (c) record-keeping;
- (d) screening of employees;
- (e) internal control;
- (f) risk assessment and management; and
- (g) the monitoring and management of compliance with, and the internal communication of, such policies and procedures,

in respect of that person's financial services business carried on in Jersey or elsewhere, or a financial services business carried on in Jersey or elsewhere by a subsidiary of that person, in order to prevent and detect money laundering.<sup>42</sup>

- (2) In paragraph (1), "appropriate and consistent policies and procedures" means policies and procedures that are appropriate and consistent having regard to the degree of risk of money laundering taking into account –
  - (a) the level of risk identified in a national or sector-specific risk assessment in relation to money laundering carried out in respect of Jersey; and
  - (b) the type of customers, business relationships, products and transactions with which the relevant person's business is concerned.<sup>43</sup>
- (3) The policies and procedures referred to in paragraph (2) must include policies and procedures for –
  - (a) the identification and scrutiny of –
    - (i) complex or unusually large transactions,
    - (ii) unusual patterns of transactions which have no apparent economic or visible lawful purpose, and
    - (iii) any other activity which the relevant person regards as particularly likely by its nature to be related to the risk of money laundering;
  - (b) the taking of additional measures, where appropriate, to prevent the use for money laundering of products and transactions which are susceptible to anonymity;
  - (ba) in relation to the development of new products, services or practices, including new delivery mechanisms, the identification and assessment of associated risks before the launch of such products, services or practices and the taking of appropriate measures to manage and mitigate those risks;
  - (bb) in relation to the use of new or developing technologies for new or existing products or services, the identification and assessment of associated risks before the launch of such technologies and the taking of appropriate measures to manage and mitigate those risks;
  - (c) determining whether –

- (i) a customer,
  - (ii) a beneficial owner or controller of a customer,
  - (iii) a third party for whom a customer is acting,
  - (iv) a beneficial owner or controller of a third party described in clause (iii),
  - (v) a person acting, or purporting to act, on behalf of a customer,
  - (vi) a beneficiary under a life insurance policy,
- is a politically exposed person;
- (d) determining whether a business relationship or transaction, or proposed business relationship or transaction, is with a person connected with a country or territory in relation to which the FATF has called for the application of enhanced customer due diligence measures;
  - (e) determining whether a business relationship or transaction or a proposed business relationship or transaction is with a person that is –
    - (i) subject to measures under law applicable in Jersey for the prevention and detection of money laundering,
    - (ii) connected with an organization that is subject to such measures, or
    - (iii) connected with a country or territory that is subject to such measures;
  - (f) assessing the risk referred to in Article 13(4)(b);
  - (fa) ensuring the periodic reporting to the senior management of a relevant person cases where, in reliance upon Article 13(4), identification measures have been completed after the establishment of a business relationship so as to enable the relevant person to –
    - (i) assess that appropriate arrangements are in place for the relevant person to address any risk of money laundering that arises in such cases, and
    - (ii) ensure that identification measures are completed as soon as reasonably practicable, as required by Article 13(4);
  - (fb) managing the risks in relation to the conditions under which a customer may utilise a business relationship with the relevant person before the identification of the customer has been completed;
  - (g) having particular regard to the requirements of Article 10A in respect of any branch and subsidiary of the relevant person where such branch or subsidiary is situated in a country or territory that does not apply, or insufficiently applies, the FATF recommendations.<sup>44</sup>

- (3A) For the purposes of paragraph (3)(a) “scrutiny” includes scrutinising the background and purpose of transactions and activities.<sup>45</sup>
- (4) For the purposes of this Article “transaction” means any of the following –
- (a) a one-off transaction;
  - (b) transactions within a one-off transaction; and
  - (c) transactions within a business relationship.<sup>46</sup>
- (5) <sup>47</sup>
- (6) A relevant person need not comply with paragraph (1) in a country or territory outside Jersey in respect of any financial services business that falls within paragraphs 1 to 5 of Part B of Schedule 2 to the Law.<sup>48</sup>
- (6A) A relevant person carrying on business described in paragraph 5 of Part B of Schedule 2 to the Law must ensure that the customer due diligence information obtained in relation to a customer can be linked to each one-off transaction made by the customer in relation to that business.<sup>49</sup>
- (7) <sup>50</sup>
- (8) A relevant person with any subsidiary or branch that carries on a financial services business must communicate to that subsidiary or branch that person’s policies and procedures for complying with paragraph (1).<sup>51</sup>
- (9) A relevant person must take appropriate measures from time to time for the purposes of making employees whose duties relate to the provision of financial services business aware of the following things –
- (a) the policies and procedures under paragraph (1) that are maintained by that person and relate to the business; and
  - (b) the enactments in Jersey relating to money laundering and any relevant Code of Practice issued under Article 22 of the Proceeds of Crime (Supervisory Bodies) Law.<sup>52</sup>
- (10) A relevant person must 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.
- (10A) For the purposes of paragraph (10), such training shall include the provision of information on current money laundering techniques, methods and trends.<sup>53</sup>
- (11) A relevant person must maintain adequate procedures for monitoring and testing the effectiveness of the following actions –
- (a) the policies and procedures maintained under paragraph (1);
  - (b) the measures taken under paragraph (9); and
  - (c) the training provided under paragraph (10).<sup>54</sup>

- (12) A relevant person, when considering the type and extent of the testing to be carried out under paragraph (11), shall have regard to the risk of money laundering that exists in respect of the relevant person's business, and matters that may have an impact on that risk, such as the size and nature and structure of the relevant person's business.<sup>55</sup>

#### **11A Additional requirements for financial groups<sup>56</sup>**

- (1) This Article applies to a financial group of which a relevant person is a member.
- (2) In addition to the requirements in Article 11, a financial group must maintain a programme to prevent and detect money laundering that includes –
- (a) policies and procedures by which a relevant person within a financial group, which carries on financial services business or equivalent business, may disclose information to a member of the same financial group, but only where such disclosure is appropriate for the purpose of preventing and detecting money laundering or managing money laundering risks;
  - (b) adequate safeguards for the confidentiality and use of any such information;
  - (c) the monitoring and management of compliance with, and the internal communication of, such policies and procedures (including the appointment of a compliance officer for the financial group); and
  - (d) the screening of employees.
- (3) In this Article, "information" includes the following –
- (a) information or evidence obtained from applying identification measures;
  - (b) customer, account and transaction information;
  - (c) information relating to the analysis of transactions or activities that are considered unusual.

#### **12 Exception from Article 11<sup>57</sup>**

A sole trader need not maintain policies and procedures relating to internal reporting, screening of employees and the internal communication of such policies and procedures.

### **PART 3**

#### **CUSTOMER DUE DILIGENCE MEASURES<sup>58</sup>**

#### **13 Application and timing of customer due diligence measures<sup>59</sup>**

- (1) A relevant person must apply –

- (a) subject to paragraphs (4) to (11), identification measures before the establishment of a business relationship or before carrying out a one-off transaction;
  - (b) on-going monitoring during a business relationship;
  - (c) identification measures where –
    - (i) the relevant person suspects money laundering, or
    - (ii) the relevant person has doubts about the veracity or adequacy of documents, data or information previously obtained under the customer due diligence measures.<sup>60</sup>
- (2) Where –
- (a) a relevant person has a business relationship with a customer that started before 4th February 2008; or
  - (b) the relevant person carries on a business falling within any class of business described in Schedule 2 to the Law on or after 19th February 2008 and each of the conditions in paragraph (2A) applies,
- the relevant person must apply customer due diligence measures, as modified by paragraph (2B) in respect of on-going monitoring, to that relationship at appropriate times on or after 1st April 2008.<sup>61</sup>
- (2A) For the purposes of paragraph (2)(b) the conditions are that –
- (a) the business carried on by the relevant person did not fall within that Schedule before that date;
  - (b) the relevant person has a business relationship with a customer within the course of that business;
  - (c) that business relationship started before 19th February 2008.<sup>62</sup>
- (2B) For the purposes of paragraph (2), on-going monitoring shall mean –
- (a) the scrutiny described in Article 3(3)(a); and
  - (b) ensuring that documents, data or information –
    - (i) obtained under identification measures, or
    - (ii) (if applicable) obtained under identification measures –
      - (A) maintained under the Money Laundering (Jersey) Order 1999<sup>63</sup> immediately before 4th February 2008, and
      - (B) held immediately before 19th February 2008,
- are kept up to date and relevant by undertaking reviews of existing records, including, but without prejudice to the generality of the foregoing, reviews where any inconsistency has been discovered as a result of applying the scrutiny described in Article 3(3)(a).<sup>64</sup>
- (3) For the purposes of paragraph (2), subject to paragraph (3A), “appropriate times” means –
- (a) for the application of identification measures –

- (i) times that are appropriate having regard to the degree of risk of money laundering taking into account the type of customer, business relationship, product or transaction concerned, and
  - (ii) times when the circumstance described in paragraph (1)(c)(i) applies;
- (b) for the application of on-going monitoring, throughout the business relationship as described in Article 3(3).<sup>65</sup>
- (3A) The appropriate time for applying the identification measure of finding out the identity of a person (as required by Article 3(4)(a)) is a date that is not later than 31st December 2014, or such later date as may be agreed in writing by the Commission upon application by the relevant person to the Commission on or before 31st December 2014.<sup>66</sup>
- (3B) For the purposes of paragraph (3A), the requirement of finding out the identity of a person may be satisfied by a relevant person if the relevant person holds, in relation to that person, information as to the person's identity that is commensurate to the relevant person's assessment of the risk that the continuing business relationship with that person will involve money laundering.<sup>67</sup>
- (4) Identification of a person that is described in Article 3(4)(b) may be completed as soon as reasonably practicable after the establishment of a business relationship if –
  - (a) that is necessary not to interrupt the normal conduct of business;
  - (b) there is little risk of money laundering occurring as a result of completing such identification after the establishment of that relationship; and
  - (c) the risk of money laundering is effectively managed.<sup>68</sup>
- (5) Where a relevant person carries out a one-off transaction to which Article 4(1)(b)(ii), Article 4(1)(d)(ii) or Article 4(1)(f)(ii) applies, that person must apply identification measures as soon as reasonably practicable.<sup>69</sup>
- (6) Identification measures described in Article 3(4)(b) may be completed after the establishment of a business relationship that relates to a life insurance policy if –
  - (a) the identification measures relate to a beneficiary under the policy; and
  - (b) the relevant person is satisfied that there is little risk of money laundering occurring as a result of completing such identification after the establishment of that relationship.<sup>70</sup>
- (7) Where the identification measures are not completed, in accordance with paragraph (6), before the establishment of the business relationship, they must be completed before any payment is made under the policy or any right vested under the policy is exercised.<sup>71</sup>
- (8) Identification measures described in Article 3(4)(b) may be completed after the establishment of a business relationship that relates to a trust or foundation if –

- (a) the identification measures relate to a person who has a beneficial interest in the trust or foundation by virtue of property or income having been vested in that person; and
  - (b) the relevant person is satisfied that there is little risk of money laundering occurring as a result of completing such identification after the establishment of that relationship.<sup>72</sup>
- (9) Where the identification measures are not completed, in accordance with paragraph (8), before the establishment of the business relationship, they must be completed before any distribution of trust property or income is made.<sup>73</sup>
- (10) Paragraph (11) applies to a relevant person before establishing a business relationship, or who is in a business relationship, with a holder of units in respect of any of the following –
  - (a) a recognized fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988<sup>74</sup>;
  - (b) an unclassified fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988;
  - (c) an unregulated fund, within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008<sup>75</sup>;
  - (d) a non-public fund (as defined in Article 17), being a fund, other than a fund described in sub-paragraph (a), (b) or (c), in respect of which a service is provided by a business described in paragraph 7(1)(h) of Part B of Schedule 2 to the Law.<sup>76</sup>
- (11) A relevant person to whom this paragraph applies shall not be required to comply with the obligations under paragraph (1) or Articles 15, 15A and 15B in relation to a holder of any units in any such scheme or fund if –
  - (a) the holder of the units acquires the units through a secondary market transaction;
  - (b) a person who is –
    - (i) carrying on investment business and is registered to carry on such business under the Financial Services (Jersey) Law 1998<sup>77</sup>, or
    - (ii) carrying on equivalent business to investment business, has in relation to that holder applied the identification measures specified in Article 3(2) or, if that person is outside Jersey, has applied similar identification measures that satisfy Recommendation 10 of the FATF Recommendations.<sup>78</sup>
- (12) For the purposes of paragraph (11) –
  - (a) “secondary market” means a financial market in which previously issued units are bought and sold;
  - (b) “unit” has the same meaning as in Article 1(1) of the Collective Investment Funds (Jersey) Law 1988.<sup>79</sup>

**14 Termination where customer due diligence measures are not completed<sup>80</sup>**

- (1) If a relevant person is unable to apply the identification measures before the establishment of a business relationship or before the carrying out of a one-off transaction to the extent specified in Article 13(1)(a), that person shall not establish that business relationship or carry out that one-off transaction.<sup>81</sup>
- (2) If a relevant person is unable to apply the identification measures to the extent that they involve identification of a person in the circumstances described in Article 13(4), (6) or (8) after the establishment of a business relationship, that person shall terminate that relationship.<sup>82</sup>
- (3) If a relevant person is unable to comply with Article 13(1)(b) in respect of a business relationship, that person shall terminate that relationship.
- (4) If a relevant person is unable to comply with Article 13(5) in respect of a one-off transaction, that person shall not complete or carry out any further linked transactions in respect of that one-off transaction.
- (5) Subject to paragraph (6), if a relevant person is unable to apply the identification measures in the cases described in Article 13(1)(c) in respect of any business relationship or transaction with a person (“transaction” having the meaning in paragraph (12)) the relevant person shall not establish or shall terminate that business relationship or shall not complete or carry out that transaction, as the case requires.<sup>83</sup>
- (6) A relevant person is not required to apply any identification measures if the relevant person –
  - (a) suspects money laundering in respect of any business relationship or transaction with a person;
  - (b) reasonably believes that the application of identification measures is likely to alert the person to the relevant person’s suspicions of money laundering;
  - (c) has made a report under procedures maintained under Article 21 to a designated police officer or a designated customs officer; and
  - (d) acting with the consent of that officer, terminates or does not establish that business relationship or does not complete or carry out that transaction.<sup>84</sup>
- (7) Subject to paragraph (6), if a relevant person is unable to apply the identification measures at any appropriate time described in Article 13(3)(a) for the purposes of Article 13(2) in respect of a business relationship that person shall terminate that relationship.<sup>85</sup>
- (8) Where paragraph (1), (2), (3), (4), (5) or (7) applies a relevant person must consider whether to make a report under Part 5.
- (9) Subject to paragraph (10), paragraphs (1) to (5) and (7) do not apply where the relevant person is a person whose business falls within paragraph 1 or 2 of Part B of Schedule 2 to the Law and is in the course of ascertaining the legal position for that person’s client or performing the task of defending or representing the client in, or concerning, legal



proceedings, including advice on the institution or avoidance of proceedings.<sup>86</sup>

- (10) In paragraph (9), the relevant person must be a member of a professional body which –
  - (a) is established for persons carrying on business falling within paragraph 1 or 2 of Part B of Schedule 2 to the Law and which makes provision for –
    - (i) testing the competence of those seeking admission to membership of such a body as a condition for such admission, and
    - (ii) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards; and
  - (b) is established in respect of the business in the course of which the relevant person carries out the activities described in paragraph (9).<sup>87</sup>
- (11) If a report is made under procedures maintained under Article 21 to a designated police officer or designated customs officer, paragraphs (1), (2), (3), (4), (5) and (7) do not apply to the extent that the relevant person is acting with the consent of that officer.
- (12) For the purposes of this Article, “transaction” means any transaction other than one carried out in the course of a business relationship, whether or not it is a one-off transaction or a transaction that falls within Article 4(1)(b), (d) or (f).<sup>88</sup>

## **15 Circumstances for applying enhanced customer due diligence measures<sup>89</sup>**

- (1) A relevant person must apply enhanced customer due diligence measures on a risk-sensitive basis in the following circumstances –
  - (a) if a customer has, or proposes to have, a business relationship or proposes to carry out a one-off transaction with the relevant person and the relevant person is not resident in the customer’s country of residence or in the same country as the country from which, or from within which, the customer is carrying on business;
  - (b) if a customer has not been physically present for identification purposes;
  - (c) if the relevant person has or proposes to have a business relationship or proposes to carry out a one-off transaction with a customer having a relevant connection with a country or territory (an “enhanced risk state”) in relation to which the FATF has called for the application of enhanced customer due diligence measures;
  - (d) if the customer of the relevant person is a company with nominee shareholders or that issues shares in bearer form;
  - (e) if the customer of the relevant person is –

- (i) a legal person established by an individual for the purpose of holding assets for investment purposes, or
  - (ii) a person acting on behalf of a legal arrangement established for an individual for the purpose of holding assets for investment;
- (f) if the relevant person provides or proposes to provide a customer with private banking services;
- (g) any situation which by its nature can present a higher risk of money laundering.<sup>90</sup>
- (2) For the purposes of paragraph (1)(c) –
  - (a) a “customer” includes any of the following –
    - (i) a beneficial owner or controller of the customer,
    - (ii) a third party for whom the customer is acting,
    - (iii) a beneficial owner or controller of a third party described in paragraph (b),
    - (iv) a person acting, or purporting to act, on behalf of the customer; and
  - (b) a person has a relevant connection with an enhanced risk state if the person is –
    - (i) the government or a public authority of that state,
    - (ii) in relation to that state, a foreign politically exposed person (within the meaning of Article 15A),
    - (iii) a person resident in that state,
    - (iv) a person having an address for business in that state,
    - (v) a customer, where the source of the customer’s funds is or derives from assets held in that state by the customer or by any person on behalf of the customer or income arising in that state.<sup>91</sup>
- (3) In this Article, a service is a “private banking service” if the service is offered, or it is proposed to offer the service, only to persons identified by the service provider as being eligible for the service, having regard to the person’s net worth, and the service –
  - (a) involves a high value investment;
  - (b) is a non-standard banking or investment service tailored to the person’s needs, or uses corporate or trust investment structures, tailored to the person’s needs; or
  - (c) offers opportunities for investment in more than one jurisdiction.

### **15A Enhanced customer due diligence measures in relation to politically exposed persons<sup>92</sup>**

- (1) This Article applies to a relevant person –

- (a) who has or proposes to have a business relationship with, or proposes to carry out a one-off transaction with, a foreign politically exposed person; or
  - (b) who has or proposes to have a high risk business relationship, or proposes to carry out a high risk one-off transaction with, a domestic politically exposed person or prominent person; or
  - (c) if any of the following is a foreign politically exposed person or, in the case of a high risk business relationship or one-off transaction, a domestic politically exposed person or prominent person –
    - (i) a beneficial owner or controller of the customer of the relevant person,
    - (ii) a third party for whom the customer of the relevant person is acting,
    - (iii) a beneficial owner or controller of a third party described in clause (ii),
    - (iv) a person acting or purporting to act on behalf of the customer of the relevant person.
- (2) A relevant person to whom this Article applies must apply enhanced customer due diligence measures on a risk-sensitive basis including –
  - (a) unless the relevant person is a sole trader, measures requiring a new business relationship or continuation of a business relationship or a new one-off transaction to be approved by the senior management of the relevant person;
  - (b) measures to establish the source of the wealth of the politically exposed person and source of the funds involved in the business relationship or one-off transaction;
  - (c) measures to conduct the enhanced on-going monitoring of that relationship; and
  - (d) if the relevant business relationship relates to a high risk life insurance policy –
    - (i) measures requiring the senior management to be informed before any payment is made under the policy or any right vested under the policy is exercised, and
    - (ii) measures to consider whether to make a disclosure under Article 21(2).
- (3) In this Article –

“close associate” of a person includes any person who is known to maintain a close business relationship with the person, including a person who is in a position to conduct substantial financial transactions on behalf of the person;

“domestic politically exposed person” means a person who is an individual who is or has been entrusted with a prominent public function in Jersey including but not limited to –

  - (a) heads of state, heads of government, senior politicians;

- (b) senior government, judicial or military officials;
- (c) senior executives of state owned corporations; and
- (d) important political party officials,

and includes an immediate family member or a close associate of the person;

“enhanced on-going monitoring” means on-going monitoring that involves specific and adequate measures to compensate for the higher risk of money laundering;

“foreign politically exposed person” means a person who is an individual who is or has been entrusted with a prominent public function in a country or territory outside Jersey including but not limited to –

- (a) heads of state, heads of government, senior politicians;
- (b) senior government, judicial or military officials;
- (c) senior executives of state owned corporations; and
- (d) important political party officials,

and includes an immediate family member or a close associate of the person;

“high risk”, in relation to a business relationship or one-off transaction, means any situation which by its nature can present a higher risk of money laundering;

“immediate family member” includes any of the following –

- (a) a spouse;
- (b) a partner, that is someone considered by his or her national law as equivalent or broadly equivalent to a spouse;
- (c) children and their spouses or partners (as defined in sub-paragraph (b));
- (d) parents;
- (e) grandparents and grandchildren;
- (f) siblings;

“prominent person” means a person who is an individual who is or has been entrusted with a prominent public function by an international organisation;

“source of the wealth” means the source generating the total net worth of funds of the politically exposed person, whether those funds are used in the business relationship or one-off transaction.

- (4) For the purpose of deciding whether a person is a close associate of a person, a relevant person need only have regard to information which is in that person’s possession or is publicly known.

**15B Enhanced customer due diligence measures in relation to banking relationships outside Jersey<sup>93</sup>**

- (1) This Article applies to a relevant person who has or proposes to have a banking or similar relationship with an institution whose address for that purpose is outside Jersey.
- (2) A relevant person to whom this Article applies must apply enhanced customer due diligence measures on a risk-sensitive basis including –
  - (a) gathering sufficient information about the institution to understand fully the nature of its business;
  - (b) determining the reputation of the institution and the quality of its supervision, including whether it has been subject to any money laundering investigation or regulatory action;
  - (c) assessing the institution's systems and controls to combat money laundering in order to determine whether they are consistent with the requirements of the FATF recommendations and their effectiveness;
  - (d) requiring any new relationship to be approved by the senior management of the relevant person;
  - (e) ensuring that both the relevant person and the institution clearly understand their respective responsibilities to prevent and detect money laundering and recording those responsibilities; and
  - (f) being satisfied that, in respect of customers of the institution who have services provided directly by the relevant person, that the institution has applied customer due diligence measures at least equivalent to those set out in this Order and is able to provide a copy, at the request of the relevant person, of the evidence, documents, data and information obtained when applying such measures.

**16 Reliance on relevant person or person carrying on equivalent business<sup>94</sup>**

In this Article –

“customer of the obliged person” means –

- (a) a customer of the obliged person;
- (b) a beneficial owner or controller of that customer;
- (c) a third party for whom that customer is acting;
- (d) a beneficial owner or controller of a third party for whom that customer is acting; or
- (e) a person purporting to act on behalf of that customer;

“reliance identification measures” means –

- (a) the identification measures specified in Article 3(2)(a), (aa), (b) or (c); or

- (b) if the obliged person is not in Jersey, similar identification measures that the obliged person applies that satisfy Recommendation 10 of the FATF recommendations.
- (2) A relevant person may, for the purpose of complying with Article 13(1)(a) or (c)(ii), Article 15(1)(a), (b), (d), (e) or (g) or Article 15A, rely on an obliged person to apply reliance identification measures in respect of a customer of the obliged person, but only if –
  - (a) the obliged person consents to the reliance;
  - (b) the obliged person immediately provides the relevant person with the information obtained from applying the reliance identification measures; and
  - (c) the requirements in paragraphs (3), (4) and (5) are met.
- (3) Before relying on the obliged person, the relevant person must assess the risk of doing so and make a written record of the reasons the relevant person considers that it is appropriate to do so, having regard to –
  - (a) the higher risk of money laundering should the obliged person fail to carry out any action specified in the assurances obtained under paragraphs (4) and (5); and
  - (b) the risk that the obliged person will fail to provide the relevant person with evidence in accordance with paragraph (5)(b).
- (4) The relevant person must obtain adequate assurance in writing from the obliged person that, in the course of an established business relationship or one-off transaction, the obliged person –
  - (a) has applied reliance identification measures in relation to the customer;
  - (b) has not relied on another party to have applied any reliance identification measures;
  - (c) has not, in reliance on any provision in Part 3A (or if the obliged person is not in Jersey, a provision of similar effect), applied measures that are less than equivalent to the reliance identification measures; and
  - (d) is required to keep and does keep evidence of the identification (as described in Article 3(4)(b)) relating to each of the obliged person's customers, including a record of such evidence.
- (5) The relevant person must obtain adequate assurance in writing from the obliged person that the obliged person will –
  - (a) keep the evidence obtained from applying the reliance identification measures until –
    - (i) the evidence has been provided to the relevant person, or
    - (ii) the obliged person has been notified by the relevant person that the relevant person no longer requires that evidence to be kept; and
  - (b) if requested by the relevant person, provide the relevant person with that evidence without delay.

- (6) For the purpose of paragraphs (4) and (5) –
  - (a) assurance is adequate if it is reasonably capable of being regarded as reliable and the person who relies on it is satisfied that it is reliable; and
  - (b) assurance may be given in relation to one or more business relationships and for more than one transaction.
- (7) A relevant person (including a person who was formerly a relevant person) who has given an assurance to another person under paragraph (5) (or under an equivalent provision that applies outside Jersey) must, if requested by the other person, provide the person with the evidence obtained from applying the reliance identification measures.
- (8) A relevant person who relies on an obliged person under this Article must conduct such tests in such manner and at such intervals as the relevant person considers appropriate in all the circumstances in order to establish whether –
  - (a) the obliged person has appropriate and consistent policies and procedures in place to apply reliance identification measures;
  - (b) if the obliged person has not already provided the evidence to the relevant person, the obliged person –
    - (i) keeps the evidence that the obliged person has obtained during the course of applying reliance identification measures in respect of a person, and
    - (ii) if requested by the relevant person, provides the relevant person with that evidence without delay; and
  - (c) the obliged person may be prevented, by application of a law, from providing the required information or evidence.
- (9) If, as a result of carrying out any such test, a relevant person is not satisfied that the obliged person is meeting a requirement specified in paragraph (8)(a) or (b), the relevant person must immediately apply reliance identification measures.
- (10) Despite a relevant person's reliance on an obliged person under this Article, a relevant person is liable for any failure to apply reliance identification measures.
- (11) Nothing in this Article permits a relevant person to rely on the reliance identification measures of an obliged person if –
  - (a) the relevant person suspects money laundering;
  - (b) the relevant person considers that there is a higher risk of money laundering on the basis of the assessment made under paragraph (3); or
  - (c) the obliged person is a person having a relevant connection with an enhanced risk state (within the meaning of Article 15).

**16A Reliance on persons in same financial group as relevant person<sup>95</sup>**

- (1) In this Article –
- “external person” means a person outside Jersey who –
- (a) is not an obliged person;
  - (b) is a member of the same financial group as the relevant person; and
  - (c) carries on a business which, if that business were carried on in Jersey, would be a financial services business;
- “similar identification measures” means similar measures to those specified in Article 3(2)(a), (aa), (b) and (c) that satisfy Recommendation 10 of the FATF recommendations.
- (2) A relevant person may, for the purpose of complying with Article 13(1)(a) or (c)(ii), Article 15(1)(a), (b), (d), (e) or (g) or Article 15A, rely on an external person to apply similar identification measures, but only if –
- (a) the external person consents to the reliance;
  - (b) the external person immediately provides the relevant person with the information obtained from applying similar identification measures;
  - (c) the financial group applies the customer due diligence measures and record keeping requirements required under this Order or in Recommendations 10, 11 and 12 of the FATF recommendations;
  - (d) the financial group to which the relevant person and the external person belong maintains a programme against money laundering, which includes policies and procedures by which every member of the financial group who carries on financial services business or equivalent business shares information that is appropriate for the purpose of preventing and detecting money laundering;
  - (e) any higher risk of money laundering is adequately mitigated by the policies and procedures applied by the external person;
  - (f) the implementation of customer due diligence and record keeping requirements, and of the programme referred to in subparagraph (d), are supervised by an overseas regulatory authority; and
  - (g) the requirements in paragraphs (3), (4) and (5) have been met.
- (3) Before relying on an external person, the relevant person must assess the risk of doing so and make a written record of the reasons the relevant person considers that it is appropriate to do so, having regard to –
- (a) the higher risk of money laundering should the external person fail to carry out any action specified in the assurances obtained under paragraphs (4) and (5); and
  - (b) the risk that the external person will fail to provide the relevant person with evidence in accordance with paragraph (5)(b).



- (4) The relevant person must obtain adequate assurance in writing from the external person that, in the course of an established business relationship or one-off transaction, the external person –
  - (a) has applied similar identification measures in relation to the customer;
  - (b) has not relied on another party to have applied any of those identification measures;
  - (c) has not, in reliance on any provision of similar effect to a provision in Part 3A, applied measures that are less than equivalent to similar identification measures; and
  - (d) is required to keep and does keep evidence of the identification (as described in Article 3(4)(b)) relating to each of the external person's customers, including a record of such evidence.
- (5) The relevant person must obtain adequate assurance in writing from the external person that the external person will –
  - (a) keep the evidence obtained from applying similar identification measures until –
    - (i) the evidence has been provided to the relevant person, or
    - (ii) the external person has been notified by the relevant person that the relevant person no longer requires that evidence to be kept; and
  - (b) if requested by the relevant person, provide the relevant person with that evidence without delay.
- (6) For the purpose of paragraphs (4) and (5) –
  - (a) assurance is adequate if it is reasonably capable of being regarded as reliable and the person who relies on it is satisfied that it is reliable; and
  - (b) assurance may be given in relation to one or more business relationships and for more than one transaction.
- (7) A relevant person who relies on an external person under this Article must conduct such tests in such manner and at such intervals as the relevant person considers appropriate in all the circumstances in order to establish whether –
  - (a) the external person has appropriate and consistent policies and procedures in place to apply similar identification measures;
  - (b) if the external person has not already provided the evidence to the relevant person, the external person –
    - (i) keeps the evidence that the external person has obtained during the course of applying similar identification measures in respect of a person, and
    - (ii) if requested by the relevant person, provides the relevant person with that evidence without delay; and
  - (c) the external person may be prevented, by application of a law, from providing the required information or evidence.

- (8) If, as a result of carrying out any such test, a relevant person is not satisfied that the external person is meeting a requirement specified in paragraph (7)(a) or (b), the relevant person must immediately apply similar identification measures.
- (9) Despite a relevant person's reliance on an external person under this Article, a relevant person is liable for any failure to apply similar identification measures.
- (10) Nothing in this Article permits a relevant person to rely on similar identification measures applied by an external person if –
  - (a) the relevant person suspects money laundering;
  - (b) the relevant person considers that there is a higher risk of money laundering on the basis of the assessment made under paragraph (3); or
  - (c) the external person is a person having a relevant connection with an enhanced risk state (within the meaning of Article 15).

### **PART 3A<sup>96</sup>**

#### **EXEMPTIONS FROM CUSTOMER DUE DILIGENCE REQUIREMENTS**

#### **17 Interpretation of Part 3A<sup>97</sup>**

In this Part –

“relevant customer” means a customer of a relevant person that the relevant person knows or reasonably believes is –

- (a) a relevant person in respect of whose financial services business the Commission discharges supervisory functions, or a person carrying on equivalent business; or
- (b) a person wholly owned by a relevant person specified in subparagraph (a) (the “parent”), but only if –
  - (i) the person is incorporated or registered in the same jurisdiction as the parent,
  - (ii) the person has no customers who are not customers of the parent,
  - (iii) the person's activity is ancillary to the business in respect of which the Commission discharges supervisory functions, or to equivalent business carried on by the parent, and
  - (iv) in relation to that activity, the person maintains the same policies and procedures as the parent;

“non-public fund” means a scheme falling within the definition of “collective investment fund” in Article 3 of the Collective Investment Funds (Jersey) Law 1988<sup>98</sup>, except that the offer of units in the scheme or arrangement is not an offer to the public within the meaning of that Article;

“third party identification requirements” means the requirements of Article 13 or 15 to apply the identification measures specified in Article 3(2)(b).

**17A Circumstances in which exemptions under this Part do not apply<sup>99</sup>**

- (1) A relevant person is not exempt under this Part from applying third party identification requirements if –
  - (a) the relevant person suspects money laundering;
  - (b) the relevant person considers that there is a higher risk of money laundering;
  - (c) the relevant customer is resident in a country that is not compliant with the FATF recommendations; or
  - (d) the relevant customer is a person in respect of whom Article 15(1)(c) applies.<sup>100</sup>
- (2) A relevant person is not exempt under Articles 17B-17D from applying third party identification requirements if the relevant customer is a person in respect of whom Article 15B(1) applies.<sup>101</sup>

**17B Exemption from applying third party identification requirements in relation to relevant customers acting in certain regulated, investment or fund services business<sup>102</sup>**

- (1) A relevant person is exempt from applying third party identification requirements in relation to a third party for which a relevant customer is acting where the relevant customer is acting in the course of a business –
  - (a) that falls within paragraph (a), (b) or (d) in the definition of “regulated business”, or equivalent business; or
  - (b) that is an investment business or fund services business registered under the Financial Services (Jersey) Law 1998<sup>103</sup>, or equivalent business.
- (2) A relevant person must record the reasons for applying the exemption, having regard to the risk of money laundering inherent in the relevant customer’s business and the higher risk of money laundering associated with that type of business should the relevant customer fail to –
  - (a) apply the identification measures specified in Article 3(2)(b) or if the relevant customer is not in Jersey, similar identification measures required to be applied to satisfy the requirements in Recommendation 10 of the FATF recommendations; or
  - (b) keep records, or keep them for the period required to be kept.

**17C Exemption from applying third party identification requirements in relation to certain relevant customers involved in unregulated or non-public funds, trust company business or the legal profession<sup>104</sup>**

- (1) A relevant person is exempt from applying third party identification requirements in relation to a third party for which a relevant customer is acting if the relevant customer –
- (a) is, or carries on business in respect of, an unregulated fund, within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008<sup>105</sup>, or equivalent business;
  - (b) is, or carries on business in respect of, a fund that is a non-public fund, being a fund in respect of which a service is provided that is described in paragraph 7(1)(h) of Part B of Schedule 2 to the Law, or equivalent business;
  - (c) carries on trust company business and is registered to carry on such business under the Financial Services (Jersey) Law 1998<sup>106</sup>, or equivalent business, but only if the relevant person is –
    - (i) carrying on deposit-taking business,
    - (ii) a lawyer carrying on business described in paragraph 1 of Part B of Schedule 2 to the Law, or
    - (iii) an accountant carrying on a business described in paragraph 2 of Part B of Schedule 2 to the Law; or
  - (d) is an independent legal professional carrying on a business described in paragraph 1 of Part B of Schedule 2 to the Law and is registered to carry on such business under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008<sup>107</sup>, but only if the relevant person is carrying on deposit-taking business.
- (2) A relevant person who, by virtue of paragraph (1), does not apply third party identification requirements must –
- (a) be satisfied, by reason of the nature of the relationship with the relevant customer, that there is little risk of money laundering occurring; and
  - (b) obtain adequate assurance in writing from the relevant customer that the relevant customer –
    - (i) has applied the identification measures specified in Article 3(2)(b) to the third party, or if the relevant customer is not in Jersey, has applied similar identification measures that would satisfy the requirements in recommendations 10 and 12 of the FATF recommendations,
    - (ii) will provide the relevant person, without delay and in writing, with the information obtained from applying the identification measures, if so requested by the relevant person,
    - (iii) will keep the evidence obtained during the course of applying the identification measures, and

- (iv) will provide the relevant person with that evidence without delay, if requested to do so by the relevant person.
- (3) In this Article –
  - (a) assurance is adequate if it is reasonably capable of being regarded as reliable and the person who relies on it is satisfied that it is reliable;
  - (b) assurance may be given in relation to one or more business relationships and for more than one transaction; and
  - (c) assurance need not be given before deciding not to comply with third party requirements if an assurance has previously been given by that customer to the relevant person in relation to a business relationship or transaction.
- (4) A relevant person (including a person who was formerly a relevant person) who has given an assurance to another person under paragraph (2)(b) (or under an equivalent provision that applies outside Jersey) may, if requested by the other person, provide the person with the information or evidence obtained from applying the identification measures referred to in paragraph (2)(b)(i).<sup>108</sup>

#### **17D Obligations of relevant person who is exempt from applying third party identification requirements<sup>109</sup>**

- (1) This Article applies to a relevant person who, by virtue of the exemption under Article 17C, does not apply third party identification requirements.<sup>110</sup>
- (2) A relevant person must record the reasons for applying the exemption, having regard to the risk of money laundering inherent in the relevant customer's business and the higher risk of money laundering associated with that type of business should the relevant customer fail to –
  - (a) apply the identification measures specified in Article 3(2)(b) or if the relevant customer is not in Jersey, similar identification measures required to be applied to satisfy the requirements in Recommendation 10 of the FATF recommendations; or
  - (b) keep records, or keep them for the period required to be kept.
- (3) A relevant person must, in the manner, and as often as, the relevant person considers appropriate in all the circumstances, conduct tests in order to establish whether the relevant customer –
  - (a) has appropriate policies and procedures in place to apply the identification measures described in Articles 13(1)(a), 13(1)(c)(ii) and 15 (or if the relevant customer is not in Jersey, similar identification measures that satisfy the FATF recommendations in respect of identification measures);
  - (b) obtains information in relation to the third party;
  - (c) keeps the information or evidence that has been obtained in relation to the third party; and

- (d) provides the relevant person with that information or evidence without delay, if requested to do so by the relevant person,  
and in conducting such tests consider whether the relevant customer may be prevented, by application of a law, from providing that information or evidence.<sup>111</sup>
- (4) If, as a result of conducting tests under paragraph (3), the relevant person is unable to establish that the relevant customer complies with the requirements mentioned in paragraph (3)(b), (c) or (d), the relevant person must immediately apply the identification measures specified in Article 13(1)(a) and 13(1)(c)(ii).<sup>112</sup>

## **18 Further exemptions from applying identification requirements<sup>113</sup>**

- (1) A relevant person is exempt from applying the identification measures specified in Article 13 in respect of insurance business if –
  - (a) in the case of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation, the policy contains no surrender clause and may not be used as collateral security for a loan;
  - (b) a premium is payable in one instalment of an amount not exceeding £1,750; or
  - (c) a periodic premium is payable and the total amount payable in respect of any calendar year does not exceed £750.
- (2) A relevant person is exempt from applying the identification measures specified in Article 13 if –
  - (a) the business relationship or one-off transaction relates to a pension, superannuation, employee benefit, share option or similar scheme;
  - (b) the contributions to the scheme are made by an employer or by way of deductions from wages;
  - (c) the rules of the scheme do not permit the assignment of an interest of a member of the scheme except after the death of the member; and
  - (d) the interest of a deceased member of the scheme is not being assigned.
- (3) A relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(a), (aa) and (c) in relation to a customer if the customer is –
  - (a) a regulated person;
  - (b) a person who carries on equivalent business to any category of regulated business; or
  - (c) a person wholly owned by a person (the "parent") mentioned in sub-paragraph (a) or (b), but only if –
    - (i) the person is incorporated or registered in the same jurisdiction as the parent,

- (ii) the person has no customers who are not customers of the parent,
  - (iii) the person's activity is ancillary to the regulated business or equivalent business carried on by the parent,
  - (iv) in relation to that activity, the person maintains the same policies and procedures as the parent.
- (4) A relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(a) and (aa) (in so far as those measures require identifying any person purporting to act on behalf of the customer), 3(2)(c)(ii) and 3(2)(c)(iii) in relation to a customer if the customer is –
  - (a) a public authority acting in that capacity;
  - (b) a body corporate the securities of which are listed on an IOSCO-compliant market or on a regulated market (within the meaning of Article 2(5)); or
  - (c) a person wholly owned by a person mentioned in subparagraph (b).
- (5) A relevant person is exempt from applying the identification requirements in Article 13 in respect of the measures specified in Article 3(2)(aa) (in so far as those measures require identifying any person purporting to act on behalf of a customer) in relation to a person if –
  - (a) the person is authorised to act on behalf of the customer;
  - (b) the customer is not a relevant person;
  - (c) the person acts on behalf of the customer in the course of employment by a person carrying on a financial services business; and
  - (d) the financial services business is a regulated business or an equivalent business to a regulated business.
- (6) A relevant person is exempt from applying the identification requirements in Article 13 to the extent that the measures require identification of a person within the meaning of Article 3(4)(b) if –
  - (a) the relevant person's business falls within paragraph 1 or 3 of Part B of Schedule 2 to the Law; and
  - (b) that person enters into a business relationship or carries out a one-off transaction for the purpose of enabling a customer, directly or indirectly, to enter into a registered contract (within the meaning of the Control of Housing and Work (Jersey) Law 2012<sup>114</sup>).

## PART 4

### RECORD-KEEPING REQUIREMENTS<sup>115</sup>

#### A19 Interpretation of Part 4<sup>116</sup>

In this Part “relevant person” includes a person who was formerly a relevant person.

#### 19 Records to be kept

- (1) A relevant person must keep the records specified in paragraphs (2) and (2A).<sup>117</sup>
- (2) This paragraph refers to –
  - (a) a record comprising –
    - (i) a copy of the evidence of identity obtained pursuant to the application of customer due diligence measures or information that enables a copy of such evidence to be obtained, and
    - (ii) all the supporting documents, data or information that have been obtained in respect of a business relationship or one-off transaction following the application of customer due diligence measures, including the results of analysis undertaken in relation to the business relationship or any transaction;
  - (b) a record containing details relating to each transaction carried out by the relevant person in the course of any business relationship or one-off transaction.<sup>118</sup>
- (2A) This paragraph refers to the records, if any, that –
  - (a) the relevant person was required to keep immediately before 4th February 2008 under record keeping procedures maintained under Article 8 of the Money Laundering (Jersey) Order 1999<sup>119</sup>; and
  - (b) the relevant person held immediately before 19th February 2008.<sup>120</sup>
- (3) The record to which paragraph (2)(b) refers must in any event include sufficient information to enable the reconstruction of individual transactions.
- (4) The relevant person must keep the records to which paragraphs (2) and (2A) refer in such a manner that those records can be made available swiftly to the Commission, the Financial Intelligence Unit, a police officer or customs officer for the purposes of complying with a requirement under any enactment.<sup>121</sup>
- (5) <sup>122</sup>
- (6) <sup>123</sup>
- (7) A relevant person may make available to another person, being a person who is carrying on an equivalent business, at that other person’s request,



a copy of the evidence, documents, data and information referred to in Article 15B(2)(f).<sup>124</sup>

## **20 Periods for which records must be kept**

- (1) Where the records described in Article 19(2)(a) or (2A) relate to a business relationship, a relevant person must keep those records for a period of at least 5 years commencing with the date on which the business relationship ends.<sup>125</sup>
- (2) Where the records described in Article 19(2)(a) or (2A) relate to a one-off transaction, a relevant person must keep those records for a period of at least 5 years commencing with the date on which the one-off transaction is completed.<sup>126</sup>
- (3) A relevant person must keep the records described in Article 19(2)(b) or (2A) in relation to each transaction for a period of 5 years commencing with the date on which all activities taking place within the course of that transaction were completed.<sup>127</sup>
- (4) For the purposes of paragraph (2) a one-off transaction is completed on the date of completion of all activities taking place in that transaction.
- (4A) For the avoidance of doubt, the date described in paragraphs (1), (2) and (3) from which the period referred to in those paragraphs commences may be a date that occurred before 4th February 2008.<sup>128</sup>
- (5) The Commission may notify to the relevant person a period longer than 5 years for the purposes of paragraphs (1), (2) or (3) and such longer period shall apply instead of the 5 years specified in those paragraphs.

## **PART 5**

### **REPORTING AND DISCLOSURE<sup>129</sup>**

## **21 Reporting procedures and related disclosure requirements<sup>130</sup>**

- (1) Reporting procedures maintained by a relevant person are in accordance with this Article if they comply with the following requirements –
  - (a)
  - (b)
  - (c) they must provide for securing that a report is made to the person who is referred to in paragraph (6)(a), (b) and (c) in accordance with the provisions mentioned in those sub-paragraphs and they must communicate the identity of that person;
  - (d) they 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 knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering;

- (e) they must provide that if a report is made to a designated person, the report must (subject to Article 22) be forwarded by the designated person to the reporting officer;
  - (f) they 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, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering;
  - (g) 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, including, in particular, the records that a relevant person must keep under Article 19;
  - (h) they 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 (d) or (f), to a designated police officer or designated customs officer as soon as is practicable, using the approved form, where the person considering the report knows or suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering;
  - (ha) they must provide for securing that the person who makes a disclosure under sub-paragraph (h) provides the designated police officer or designated customs officer with such additional information relating to that disclosure as that officer may reasonably request and that such information is provided in such form and within such reasonable period as that officer may reasonably request;
  - (i) <sup>131</sup>
- (2) If a person considering a report under paragraph (1)(d) or (1)(f) knows or suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering, the first person must, as soon as is practicable, make a disclosure to the Financial Intelligence Unit, a designated police officer or a designated customs officer –
- (a) by using the approved form; and
  - (b) in compliance with the requirements indicated on the approved form.<sup>132</sup>
- (3) The person making the disclosure under paragraph (2) must ensure that –
- (a) the approved form is delivered in the manner indicated on the approved form; and
  - (b) any information entered on or accompanying the approved form is legible.<sup>133</sup>
- (4) A person who makes a disclosure under paragraph (2) must provide the designated police officer or designated customs officer with such additional information relating to that disclosure as that officer may

reasonably request in such form and within such reasonable period as that officer may require.<sup>134</sup>

- (5) The requirements described in paragraphs (1)(h), (1)(ha), (2) and (4) shall not apply to a relevant person who is a professional legal adviser where the information or matter that would otherwise be the subject of disclosure is an item subject to legal privilege.<sup>135</sup>
- (6) A designated person or, if there is no such person, the reporting officer, shall be –
  - (a) the nominated officer referred to in Article 34D of the Law and Article 21 of the Terrorism Law;
  - (b) the appropriate person referred to in Article 32(5) of the Law; and
  - (c) the person to whom disclosure may be made under any procedure established by an employer as described in Article 18(7) of the Terrorism Law.<sup>136</sup>
- (7) In this Article, “approved form” means the form approved by the Minister for the purpose of this Article.<sup>137</sup>

## **22 Reports that need not be forwarded**

- (1) If a designated person, on considering a report under Article 21, concludes that it does not give rise to knowledge, suspicion or reasonable grounds for knowledge or 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 21, has concluded that it does give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering, the reporting officer need not consider whether that other person is engaged in money laundering.

### **22A Disclosure within the relevant person’s organization<sup>138</sup>**

A relevant person may disclose –

- (a) the information contained in any report for the purpose of any of the provisions mentioned in Article 21(6);
- (b) any additional information required under Article 21(4);
- (c) the information contained in any record kept by the relevant person for the purpose of this Order,

to any person or institution with whom or which the relevant person shares common ownership, management or compliance control, or any person within the same financial group as the relevant person, where such disclosure is appropriate for the purpose of preventing and detecting money laundering.

## **23 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 the Financial Intelligence Unit, a designated police officer or a designated customs officer as soon as is reasonably practicable.<sup>139</sup>

- (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 the Financial Intelligence Unit, a designated police officer or a designated customs officer.<sup>140</sup>

- (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)
- (f) an inspector appointed 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 Court 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 under Regulation 41(3) of the Limited Liability Partnerships (Dissolution and Winding Up) (Jersey) Regulations 2018<sup>141</sup>;
  - (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;
  - (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; and
  - (n) an agent appointed by the Commission under Article 10(1) of the Financial Services Commission (Jersey) Law 1998.<sup>142</sup>
- (5) The persons to whom this paragraph refers are –
- (a) the Financial Intelligence Unit;
  - (b) a designated police officer or designated customs officer; and
  - (c) the Commission.<sup>143</sup>
- (5A) If a designated supervisory body (other than 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,
- that body shall disclose that information to the Financial Intelligence Unit, a designated police officer or a designated customs officer as soon as is reasonably practicable.<sup>144</sup>
- (5B) If a person is a secondary recipient of information obtained by a designated supervisory body (other than the Commission) and forms such an opinion as is described in paragraph (5A)(b), the person may disclose the information to the Financial Intelligence Unit, a designated police officer or a designated customs officer.<sup>145</sup>
- (5C) If any person referred to in paragraph (5D) –
- (a) obtains any information while acting in the course of any investigation, or discharging 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 reasonably practicable disclose that information to the persons and bodies referred to in paragraph (5E).<sup>146</sup>
- (5D) The persons to whom this paragraph refers are –
- (a) a person authorized by a suitable supervisory body under Article 30 of the Proceeds of Crime (Supervisory Bodies) Law to require a person to provide information or documents or to answer questions; and

- (b) a person appointed by a suitable supervisory body under Article 31 of that Law to investigate and report under that Article to that body.<sup>147</sup>
- (5E) The persons and bodies to whom this paragraph refers are –
  - (a) the suitable supervisory body referred to in paragraph (5D); and
  - (b) the Financial Intelligence Unit; and
  - (c) a designated police officer or designated customs officer.<sup>148</sup>
- (5F) In this Article “suitable supervisory body” has the same meaning as in the Proceeds of Crime (Supervisory Bodies) Law.<sup>149</sup>
- (6) Disclosure under this Article shall be made in writing.

## **PART 5A**<sup>150</sup>

### **OTHER MEASURES**

#### **23A Shell banks**<sup>151</sup>

- (1) A relevant person to whom paragraph (3) applies must not enter into or continue a banking relationship with a shell bank.
- (2) A relevant person to whom paragraph (3) applies must take appropriate measures to ensure that he or she does not enter into, or continue, a banking relationship with a bank that is known to permit its accounts to be used by a shell bank.
- (3) This paragraph applies to a relevant person who carries on a deposit-taking business as defined in Article 1 of the Banking Business (Jersey) Law 1991 except the doing of anything by or on behalf of –
  - (a) the States;
  - (aa) the Bank of England;
  - (b) the central bank of a member State of the European Community; or
  - (c) the National Savings Bank of the United Kingdom.<sup>152</sup>
- (4) For the purposes of paragraphs (1) and (2) –
  - (a) “bank” means a person or body carrying on a deposit-taking business within the meaning of the Banking Business (Jersey) Law 1991 whether or not that business is carried on from within Jersey; and
  - (b) “shell bank” means a bank incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is not subject to supervision by the Commission or by an overseas regulatory authority by reason of that bank’s connection with any other institution or person.
- (5) For the purposes of paragraph (4)(b), “connection” has the same meaning as in Article 3A of the Income Tax (Jersey) Law 1961<sup>153</sup>.

**23B Anonymous accounts<sup>154</sup>**

A relevant person must not, in relation to any of that person's customers, set up an anonymous account or an account in a name which it knows, or has reasonable cause to suspect, to be fictitious.

**23C** <sup>155</sup>**PART 6****MISCELLANEOUS AND CLOSING****24 Citation and commencement**

This Order may be cited as the Money Laundering (Jersey) Order 2008.

**24A Application to certain businesses<sup>156</sup>**

This Order shall not apply before 1st May 2008 to a relevant person whose business falls within paragraph 1 or paragraph 2(1)(b) of Part B of Schedule 2 to the Law.

## **SCHEDULE<sup>157</sup>**



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Money Laundering (Jersey) Order 2008	<a href="#">R&amp;O.20/2008</a>	4 February 2008
Money Laundering (Amendment) (Jersey) Order 2008	<a href="#">R&amp;O.26/2008</a>	19 February 2008
Money Laundering (Amendment No. 2) (Jersey) Order 2008	<a href="#">R&amp;O.142/2008</a>	7 November 2008
Money Laundering (Amendment No. 3) (Jersey) Order 2008	<a href="#">R&amp;O.146/2008</a>	10 November 2008
Money Laundering (Amendment No. 4) (Jersey) Order 2010	<a href="#">R&amp;O.2/2010</a>	18 January 2010
Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013	<a href="#">R&amp;O.30/2013</a>	1 July 2013 ( <a href="#">R&amp;O.63/2013</a> )
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	<a href="#">R&amp;O.107/2013</a>	19 July 2013
Money Laundering (Amendment No. 5) (Jersey) Order 2013	<a href="#">R&amp;O.115/2013</a>	9 August 2013
Money Laundering (Amendment No. 6) (Jersey) Order 2013	<a href="#">R&amp;O.163/2013</a>	18 December 2013
Money Laundering (Amendment No. 7) (Jersey) Order 2014	<a href="#">R&amp;O.172/2014</a>	27 October 2014
Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014	<a href="#">L.7/2014</a>	4 August 2014 ( <a href="#">R&amp;O.102/2014</a> )
Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015	<a href="#">R&amp;O.28/2015</a>	11 March 2015
Money Laundering (Amendment No. 8) (Jersey) Order 2015	<a href="#">R&amp;O.38/2015</a>	24 March 2015
Proceeds of Crime (Duties of Non-Professional Trustees) (Jersey) Order 2016	<a href="#">R&amp;O.100/2016</a>	26 September 2016 ( <a href="#">R&amp;O.99/2016</a> )
Money Laundering (Amendment No. 9) (Jersey) Order 2016	<a href="#">R&amp;O.102/2016</a>	26 September 2016
Limited Liability Partnerships (Jersey) Law 2017	<a href="#">L.2/2017</a>	1 August 2018 ( <a href="#">R&amp;O.74/2018</a> )
Limited Liability Partnerships (Dissolution and Winding Up) (Jersey) Regulations 2018	<a href="#">R&amp;O.76/2018</a>	1 August 2018

Legislation	Year and No	Commencement
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to External Relations) Order 2019	<a href="#">R&amp;O.40/2019</a>	31 May 2019
Money Laundering (Amendment No. 10) (Jersey) Order 2019	<a href="#">R&amp;O.41/2019</a>	12 June 2019
European Union (United Kingdom Exit – Financial Services) (Jersey) Order 2019	<a href="#">R&amp;O.115/2019</a>	11pm on 31 January 2020 ( <a href="#">R&amp;O.3/2020</a> )
Money Laundering (Amendment No. 11) (Jersey) Order 2020	<a href="#">R&amp;O.8/2020</a>	12 February 2020

### Table of Renumbered Provisions

Original	Current
24	spent, omitted
25(1)	24
25(2)	spent, omitted

### Table of Endnote References

<sup>1</sup>	<i>chapter 08.780</i>
<sup>2</sup>	<i>R&amp;O.28/2015</i>
<sup>3</sup>	<i>chapter 13.425</i>
<sup>4</sup>	<i>chapter 13.425.30</i>
<sup>5</sup>	<i>chapter 13.475</i>
<sup>6</sup>	<i>chapter 08.780</i>
<sup>7</sup>	<i>L.32/2008</i>
<sup>8</sup>	<i>chapter 13.075</i>
<sup>9</sup>	<i>chapter 13.100</i>
<sup>10</sup>	<i>chapter 13.225</i>
<sup>11</sup>	<i>chapter 17.860</i>
<sup>12</sup> Article 1(1)	<i>amended by R&amp;O.26/2008, R&amp;O.142/2008, R&amp;O.2/2010, R&amp;O.115/2013, R&amp;O.163/2013, R&amp;O.172/2014, L.7/2014, R&amp;O.28/2015, R&amp;O.100/2016, L.2/2017, R&amp;O.41/2019, R&amp;O.8/2020</i>
<sup>13</sup> Article 1(3)	<i>added by R&amp;O.172/2014</i>
<sup>14</sup> Article 1(4)	<i>added by R&amp;O.172/2014</i>
<sup>15</sup> Article 1(5)	<i>inserted by R&amp;O.41/2019</i>
<sup>16</sup> Article 2(3)	<i>amended by R&amp;O.142/2008</i>
<sup>17</sup> Article 3	<i>heading amended by R&amp;O.142/2008</i>
<sup>18</sup> Article 3(1)	<i>amended by R&amp;O.142/2008</i>
<sup>19</sup> Article 3(2)	<i>amended by R&amp;O.142/2008, R&amp;O.2/2010, R&amp;O.38/2015, R&amp;O.41/2019</i>
<sup>20</sup> Article 3(3)	<i>amended by R&amp;O.142/2008, R&amp;O.41/2019</i>
<sup>21</sup> Article 3(4)	<i>amended by R&amp;O.142/2008</i>
<sup>22</sup> Article 3(5)	<i>amended by R&amp;O.142/2008</i>
<sup>23</sup> Article 3(6)	<i>amended by R&amp;O.142/2008</i>
<sup>24</sup> Article 3(7)	<i>added by R&amp;O.2/2010, amended by R&amp;O.38/2015</i>

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- <sup>25</sup> Article 4(1) amended by R&O.26/2008, R&O.102/2016
- <sup>26</sup> chapter 08.780
- <sup>27</sup> Article 4(2) amended by R&O.102/2016
- <sup>28</sup> Article 7(2A) inserted by R&O.142/2008, amended by R&O.2/2010
- <sup>29</sup> Article 7(3) amended by R&O.142/2008
- <sup>30</sup> Article 7(10) substituted by R&O.142/2008
- <sup>31</sup> Article 8(2A) inserted by R&O.142/2008, amended by R&O.2/2010
- <sup>32</sup> Article 8(8) substituted by R&O.142/2008
- <sup>33</sup> Article 9(2) added by R&O.142/2008, amended by R&O.2/2010
- <sup>34</sup> Article 10A inserted by R&O.142/2008
- <sup>35</sup> Article 10A(5) substituted by R&O.163/2013
- <sup>36</sup> chapter 08.785
- <sup>37</sup> Article 10A(6) substituted by R&O.41/2019
- <sup>38</sup> Article 10A(7) deleted by R&O.41/2019
- <sup>39</sup> Article 10A(8) deleted by R&O.41/2019
- <sup>40</sup> Part 2 heading substituted by R&O.142/2008
- <sup>41</sup> Article 11 heading substituted by R&O.142/2008
- <sup>42</sup> Article 11(1) substituted by R&O.142/2008, amended by R&O.2/2010, R&O.163/2013, L.7/2014
- <sup>43</sup> Article 11(2) amended by R&O.142/2008, R&O.41/2019
- <sup>44</sup> Article 11(3) substituted by R&O.142/2008, amended by R&O.2/2010, R&O.163/2013, R&O.172/2014, R&O.38/2015, R&O.41/2019
- <sup>45</sup> Article 11(3A) inserted by R&O.142/2008
- <sup>46</sup> Article 11(4) substituted by R&O.142/2008
- <sup>47</sup> Article 11(5) deleted by R&O.8/2020
- <sup>48</sup> Article 11(6) inserted by R&O.163/2013
- <sup>49</sup> Article 11(6A) inserted by R&O.41/2019
- <sup>50</sup> Article 11(7) deleted by R&O.142/2008
- <sup>51</sup> Article 11(8) substituted by R&O.142/2008
- <sup>52</sup> Article 11(9) amended by R&O.142/2008
- <sup>53</sup> Article 11(10A) inserted by R&O.142/2008
- <sup>54</sup> Article 11(11) amended by R&O.142/2008
- <sup>55</sup> Article 11(12) added by R&O.163/2013
- <sup>56</sup> Article 11A inserted by R&O.41/2019
- <sup>57</sup> Article 12 substituted by R&O.142/2008
- <sup>58</sup> Part 3 heading amended by R&O.142/2008
- <sup>59</sup> Article 13 heading amended by R&O.142/2008
- <sup>60</sup> Article 13(1) amended by R&O.142/2008, R&O.163/2013
- <sup>61</sup> Article 13(2) substituted by R&O.26/2008, amended by R&O.142/2008
- <sup>62</sup> Article 13(2A) inserted by R&O.26/2008
- <sup>63</sup> chapter 08.780.30 (revised edition 1.1.2006)
- <sup>64</sup> Article 13(2B) inserted by R&O.26/2008, amended by R&O.142/2008
- <sup>65</sup> Article 13(3) amended by R&O.26/2008, R&O.142/2008, R&O.163/2013
- <sup>66</sup> Article 13(3A) inserted by R&O.163/2013, amended by R&O.172/2014
- <sup>67</sup> Article 13(3B) inserted by R&O.163/2013
- <sup>68</sup> Article 13(4) amended by R&O.142/2008, R&O.41/2019
- <sup>69</sup> Article 13(5) amended by R&O.142/2008
- <sup>70</sup> Article 13(6) inserted by R&O.163/2013
- <sup>71</sup> Article 13(7) inserted by R&O.163/2013
- <sup>72</sup> Article 13(8) inserted by R&O.163/2013
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- <sup>73</sup> Article 13(9) inserted by R&O.163/2013  
<sup>74</sup> chapter 13.100  
<sup>75</sup> chapter 13.100.95  
<sup>76</sup> Article 13(10) inserted by R&O.163/2013, amended by R&O.41/2019  
<sup>77</sup> chapter 13.225  
<sup>78</sup> Article 13(11) inserted by R&O.163/2013, amended by R&O.172/2014, R&O.41/2019, R&O.8/2020  
<sup>79</sup> Article 13(12) inserted by R&O.163/2013  
<sup>80</sup> Article 14 heading amended by R&O.142/2008  
<sup>81</sup> Article 14(1) amended by R&O.142/2008  
<sup>82</sup> Article 14(2) amended by R&O.142/2008, R&O.100/2016  
<sup>83</sup> Article 14(5) amended by R&O.142/2008  
<sup>84</sup> Article 14(6) amended by R&O.142/2008, R&O.41/2019  
<sup>85</sup> Article 14(7) amended by R&O.142/2008  
<sup>86</sup> Article 14(9) substituted by R&O.26/2008  
<sup>87</sup> Article 14(10) substituted by R&O.26/2008  
<sup>88</sup> Article 14(12) amended by R&O.142/2008  
<sup>89</sup> Article 15 substituted by R&O.41/2019  
<sup>90</sup> Article 15(1) amended by R&O.8/2020  
<sup>91</sup> Article 15(2) amended by R&O.8/2020  
<sup>92</sup> Article 15A inserted by R&O.41/2019  
<sup>93</sup> Article 15B inserted by R&O.41/2019  
<sup>94</sup> Article 16 substituted by R&O.163/2013, R&O.8/2020  
<sup>95</sup> Article 16A inserted by R&O.163/2013, substituted by R&O.8/2020  
<sup>96</sup> Part 3A inserted by R&O.41/2019  
<sup>97</sup> Article 17 substituted by R&O.41/2019, unofficial text change, “Commissioner” deleted, “Commission” inserted instead  
<sup>98</sup> chapter 13.100  
<sup>99</sup> Article 17A inserted by R&O.41/2019  
<sup>100</sup> Article 17A(1) amended by R&O.8/2020  
<sup>101</sup> Article 17A(2) amended by R&O.8/2020  
<sup>102</sup> Article 17B inserted by R&O.41/2019  
<sup>103</sup> chapter 13.225  
<sup>104</sup> Article 17C inserted by R&O.41/2019  
<sup>105</sup> chapter 13.100.95  
<sup>106</sup> chapter 13.225  
<sup>107</sup> chapter 08.785  
<sup>108</sup> Article 17C(4) inserted by R&O.8/2020  
<sup>109</sup> Article 17D inserted by R&O.41/2019  
<sup>110</sup> Article 17D(1) amended by R&O.8/2020  
<sup>111</sup> Article 17D(3) amended by R&O.8/2020  
<sup>112</sup> Article 17D(4) amended by R&O.8/2020  
<sup>113</sup> Article 18 substituted by R&O.41/2019  
<sup>114</sup> chapter 18.150  
<sup>115</sup> Part 4 heading amended by R&O.142/2008  
<sup>116</sup> Article A19 inserted by R&O.26/2008  
<sup>117</sup> Article 19(1) amended by R&O.26/2008  
<sup>118</sup> Article 19(2) amended by R&O.142/2008, R&O.41/2019  
<sup>119</sup> chapter 08.780.30 (revised edition 1.1.2006)  
<sup>120</sup> Article 19(2A) inserted by R&O.26/2008  
<sup>121</sup> Article 19(4) amended by R&O.26/2008, R&O.28/2015, R&O.41/2019
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- <sup>122</sup> Article 19(5) *substituted by R&O.163/2013, deleted by R&O.8/2020*
- <sup>123</sup> Article 19(6) *inserted by R&O.163/2013, amended by R&O.41/2019, unofficial text change, "Article 17(2)(b)(ii) and (iii)" deleted, "Article 17C(2)(b)(ii) and (iii)" inserted instead, deleted by R&O.8/2020*
- <sup>124</sup> Article 19(7) *inserted by R&O.163/2013, unofficial text change, "a another" deleted, "another" inserted instead, amended by R&O.8/2020*
- <sup>125</sup> Article 20(1) *amended by R&O.26/2008*
- <sup>126</sup> Article 20(2) *amended by R&O.26/2008*
- <sup>127</sup> Article 20(3) *amended by R&O.26/2008*
- <sup>128</sup> Article 20(4A) *inserted by R&O.26/2008*
- <sup>129</sup> Part 5 *heading substituted by R&O.142/2008*
- <sup>130</sup> Article 21 *heading substituted by R&O.142/2008*
- <sup>131</sup> Article 21(1) *amended by R&O.26/2008, R&O.142/2008, R&O.2/2010, R&O.8/2020*
- <sup>132</sup> Article 21(2) *added by R&O.142/2008, amended by R&O.28/2015, R&O.8/2020*
- <sup>133</sup> Article 21(3) *added by R&O.142/2008, substituted by R&O.8/2020*
- <sup>134</sup> Article 21(4) *added by R&O.142/2008*
- <sup>135</sup> Article 21(5) *substituted by R&O.38/2015*
- <sup>136</sup> Article 21(6) *added by R&O.142/2008, amended by L.7/2014*
- <sup>137</sup> Article 21(7) *inserted by R&O.8/2020*
- <sup>138</sup> Article 22A *inserted by R&O.142/2008, amended by R&O.163/2013, amended by R&O.8/2020*
- <sup>139</sup> Article 23(1) *amended by R&O.28/2015*
- <sup>140</sup> Article 23(2) *amended by R&O.28/2015*
- <sup>141</sup> *chapter 13.475.05*
- <sup>142</sup> Article 23(4) *amended by R&O.142/2008, R&O.107/2013, R&O.76/2018, R&O.40/2019*
- <sup>143</sup> Article 23(5) *amended by R&O.28/2015*
- <sup>144</sup> Article 23(5A) *inserted by R&O.142/2008, amended by R&O.28/2015*
- <sup>145</sup> Article 23(5B) *inserted by R&O.142/2008, amended by R&O.28/2015*
- <sup>146</sup> Article 23(5C) *inserted by R&O.142/2008*
- <sup>147</sup> Article 23(5D) *inserted by R&O.142/2008*
- <sup>148</sup> Article 23(5E) *inserted by R&O.142/2008, amended by R&O.28/2015*
- <sup>149</sup> Article 23(5F) *inserted by R&O.142/2008*
- <sup>150</sup> Part 5A *inserted by R&O.142/2008*
- <sup>151</sup> Article 23A *inserted by R&O.142/2008*
- <sup>152</sup> Article 23A(3) *amended by R&O.115/2019*
- <sup>153</sup> *chapter 24.750*
- <sup>154</sup> Article 23B *inserted by R&O.142/2008*
- <sup>155</sup> Article 23C *deleted by R&O.115/2013*
- <sup>156</sup> Article 24A *inserted by R&O.26/2008*
- <sup>157</sup> Schedule *added by R&O.146/2008, amended by L.7/2014, deleted by R&O.8/2020*
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