



# Consultation regarding amendments to the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017

# CONSULTATION REGARDING AMENDMENTS TO THE EU LEGISLATION (INFORMATION ACCOMPANYING TRANSFERS OF FUNDS) (JERSEY) REGULATIONS 2017

## SUMMARY

In order to continue its policy of compliance with international anti-money laundering (AML) and countering the financing of terrorism (CFT) standards, the Government of Jersey is seeking to amend the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#) (the “**Wire Transfers Regulations**”). The purpose of the Draft Amendments is to align Jersey’s AML/CFT requirements regarding the information accompanying the transfers of funds with the FATF requirements under Recommendation 15 and 16. Therefore, Government looks to bring Virtual Asset Service Providers (VASPs) and Money or Value Transfer Services (MVTs) into the scope of the Wire Transfers Regulations which will require VASPs and MVTs to obtain, hold and submit accurate payer and payee information regarding transfers of funds and virtual assets. The Wire Transfers Regulations already apply to persons registered under the Banking Business (Jersey) Law 1991 carrying out payment services and there are no changes proposed with respect to that. Thus, VASPs and MVTs are the main addressees of this consultation.

## THIS CONSULTATION NOW SEEKS VIEWS ON THE DRAFT AMENDMENTS.

**Date published:** 17 April 2023

**Closing date:** 12 May 2023

### Supporting document attached:

- Draft EU Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations 202-
- Draft EU Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations 202- Explanatory Notes

### Ways to respond:

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This consultation paper has also been directly provided to

- Jersey Financial Services Commission
- Digital Jersey
- Jersey Finance

## INTRODUCTION

The Government of Jersey has made several critical commitments to combat financial crime and illicit finance whilst protecting the integrity of the international financial system from misuse. These efforts are based on the standards developed by the Financial Action Task Force (FATF). The FATF is the global money laundering and terrorist financing watchdog. The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society.

The FATF has developed and revised 40 [Recommendations](#) (the “**Recommendations**”), which ensure a co-ordinated global response to prevent organised crime, corruption, and terrorism and more than 200 countries and jurisdictions, including Jersey, committed to implementing the Recommendations. At the top of Government’s commitments is the commitment of the Chief Minister of the day to the FATF President to implement, *in full*, the revised Recommendations and the FATF Methodology post their development and adoption in 2012 and 2013 respectively. This makes compliance with the Recommendations a national commitment and therefore of national interest. Jersey is currently undergoing an assessment by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) regarding its compliance against the Recommendations and the effectiveness of their implementation with an onsite visit by MONEYVAL scheduled for September 2023.

Recommendations 15 and 16 are the main Recommendations for the purpose of this consultation. Recommendation 15 is the main Recommendation regarding VASPs and although Recommendation 14 deals specifically with MVTs, Recommendation 16 regarding wire transfers provides additional requirements applicable here.

The general requirements regarding wire transfers are outlined in Recommendation 16. These requirements have been transposed into a Regulation of the European Union in [Regulation \(EU\) 2015/847](#). The Wire Transfers Regulations transpose Regulation (EU) 2015/84 into Jersey Law and apply it to payment service providers, currently limited to being a person registered under the [Banking Business \(Jersey\) Law 1991](#) which either is carrying out payment services in or from within Jersey, or is a legal person established under Jersey law, carrying out payment services in any part of the world other than in or from within Jersey.

The FATF outlines as part of its requirements regarding wire transfers in Recommendation 16:

*“Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information, on wire transfers and related messages, and that the information remains with the wire transfer or related message throughout the payment chain.”*

Additionally, the Interpretive Note to Recommendation 16 (INR.16) sets out under section 22:

*“Money or value transfer service (MVTs) providers should be required to comply with all of the relevant requirements of Recommendation 16 in the countries in which they operate, directly or through their agents.”*

With regards to the AML/CFT provisions in Jersey, MVTs are a class of financial institutions under [Article 5](#), Part 2 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 (the “**1999 Law**”) and are therefore in scope for all AML/CFT obligations imposed under Article 37 of the 1999 Law and thereby under the Money Laundering (Jersey) Order 2008 (the “**MLO**”).

With regards to VASPs, Interpretive Note to Recommendation 15 (INR.15) sets out under section 7:

*“With respect to the preventive measures, the requirements set out in Recommendations 10 to 21 apply to VASPs, subject to the following qualifications:*

*(b) R. 16 – Countries should ensure that originating VASPs obtain and hold required and accurate originator information and required beneficiary information on virtual asset transfers, submit the above information to the beneficiary VASP or financial institution (if any) immediately and securely, and make it available on request to appropriate authorities. Countries should ensure that beneficiary VASPs obtain and hold required originator information and required and accurate beneficiary information on virtual asset transfers and make it available on request to appropriate authorities.”*

With regards to the AML/CFT provisions in Jersey, VASPs are a class of financial services business under [Article 24](#), Part 4 of Schedule 2 to the 1999 Law and are therefore in scope for all AML/CFT obligations imposed under Article 37 of the 1999 Law and thereby under the MLO.

## PROPOSALS

It is proposed that the Wire Transfers Regulations are amended by way of amendment regulations to widen the scope of the Wire Transfers Regulations to include VASPs and MVTs, as defined in the 1999 Law, in the definition of a payment service provider. It is also proposed to extend the definition of funds to include virtual assets. The existing definitions of VASPs, MVTs and virtual assets in the 1999 Law already mirror the respective FATF definitions.

Furthermore, it is proposed to exempt payment service providers from the requirements of the Wire Transfers Regulations in respect of a transfer of virtual assets equivalent to less than EUR 1,000 if the payer (originator) and payee (beneficiary) are both VASPs. This de minimis amount is in line with Recommendation 16.

However, the aforementioned exemption would not apply if a payment service provider considers there a higher risk of money laundering in respect of a transfer of virtual assets, if the payer is a VASP but the payee is not a VASP, or the payer is not a VASP but the payee is a VASP, irrespective of the amount transferred.

It is proposed to bring the Regulations into force on 1 September 2023 by an Order made by the Chief Minister.

## WHO WOULD BE AFFECTED?

The proposals in this Legislative Consultation have the potential to affect:

- (i) All VASPs undertaking the respective activities outlined in the 1999 Law;
- (ii) All MVTs undertaking the respective activities outlined in the 1999 Law.

## SUMMARY OF DRAFT AMENDMENTS

Regulation 2 amends Regulation 1 of the	Definitions for the terms “payment service provider” and “virtual asset” is inserted. The term “payment service provider” is extended to include a
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Wire Transfers Regulations	person who is a VASP or a MVTs. The term “virtual asset” is defined to have the meaning given in Part 1 of Schedule 2 to the 1999 Law.
Regulation 3 inserts Regulation 2A of the Wire Transfers Regulations	Regulation 2A(1) exempts a payment service provider from the requirements of the Wire Transfers Regulations in respect of a transfer of virtual assets equivalent to less than EUR 1,000 if the payer and payee are both VASPs.  Regulation 2A(2) provides that if a payment service provider considers that there is a higher risk of money laundering in respect of a transfer of virtual assets, the payment service provider must comply with the requirements of the Wire Transfers Regulations, irrespective of the amount transferred, if the payer is VASP and the payee is not a VASP, or the payer is not a VASP and the payee is a VASP.
Regulation 4 amends Regulation 3(6) of the Wire Transfers Regulations	The definition of the term “payment service provider” is deleted, as it is relocated in Regulation 1 of the Wire Transfers Regulations.
Regulation 5 amends paragraph 5 of the Schedule to the Wire Transfers Regulations	Paragraph 5 of the Schedule to the Wire Transfers Regulations is amended so that virtual assets are included in the definition of the term “funds”.
Regulation 6	Regulation 6 gives the title to these Regulations and provides that they come into force on a day to be specified by the Chief Minister by Order.

## IMPACT ON VASPS AND MVTs

The impact of the proposed Draft Amendments is that VASPs and MVTs need to comply with the requirements outlined in the Wire Transfers Regulations. Specifically, VASPs will be required to obtain, and hold required and accurate payer information and required payee information on virtual asset transfers, submit the above information to the payee VASP, or financial institution, immediately and securely, and make it available on request to appropriate authorities. VASPs acting as payee need to obtain and hold required payer information and required and accurate payee information on virtual asset transfers and make it available on request to appropriate authorities. Unless the exemption under new Regulations 2A applies. The same requirements which will apply to VASPs regarding the transfer of virtual assets, will apply to MVTs for the transfer of funds.

A more detailed discussion of the requirements can be found in Section 11 Wire Transfers of the JFSC’s [AML/CFT/CPF Handbook](#).

## QUESTIONS

1. Do you agree with the way the definition of payment service provider is amended to include VASPs and MVTs, if not, please explain.
2. Do you agree with the way the de minimis exemption is introduced, if not, please explain.
3. Do you have any other comments regarding the Draft Amendments?

## **RESPONDING TO THE CONSULTATION**

The Government invites comments in writing from interested parties on the proposals and the Draft Amendments included in this consultation. Where comments are made by an industry body or association, Government requests that body or association provides a summary detailing the type of individuals or businesses it represents who have expressed a view on the proposals.

All responses must be provided before the closing date, set out above to [B.Hertstein@gov.je](mailto:B.Hertstein@gov.je).