

EXPLANATORY NOTE

The Money Laundering (Amendment No. 12) (Jersey) Order 202- makes a number of miscellaneous amendments to the Money Laundering (Jersey) Order 2008 to better align the Order with certain requirements of the Financial Action Task Force (“FATF”), and to provide for the declassification of politically exposed persons in certain circumstances.

Article 2 amends Article 1 (interpretation) so that references to FATF recommendations mean those recommendations as amended or replaced from time to time.

Article 3 amends Article 3 (meaning of “customer due diligence measures”) to confirm that a FATF compliant digital identification system constitutes a reliable and independent source.

Article 4 amends Article 4 (meaning of “one-off transaction”) to update references to “a money service business” to the broader “money or value transfer services” (which includes a money service business) within the meaning of the Proceeds of Crime (Jersey) Law 1999.

Article 5 amends Article 11 (policies, procedures and training to prevent and detect money laundering) to include under paragraph (3)(c) a policy for determining whether a beneficial owner or controller of a beneficiary under a life insurance policy is a politically exposed person.

Article 6 amends Article 11A (additional requirements for financial groups) to provide that the additional obligations imposed on financial groups also apply to a group of persons falling within Part 3 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 (designated non-financial businesses and professions, i.e. casinos, real estate agents, high value dealers, lawyers, accountants, and trust and company service providers) if there is, in relation to the group, a parent company or other legal person that exercises control over every member of the group.

Article 7 makes a clarification in Article 13 (application and timing of customer due diligence measures).

Article 8 amends Article 15A (enhanced customer due diligence measures in relation to politically exposed persons). New paragraph (2A) allows a relevant person to treat a domestic politically exposed person as not being a politically exposed person 2 years after the person ceases to be entrusted with a prominent public function if, following a risk assessment, the person does not present a higher risk of money laundering and there is no reason to continue to treat the person as a politically exposed person. New paragraphs (2B) and (2C) make similar provision in relation to a foreign politically exposed person and a prominent person after a period of 5 years. New paragraph (2D) provides that paragraphs (2A) to (2C) apply also to immediate family members or close associates of the politically exposed person. The definition of “prominent person” is amended to provide that the definition includes immediate family members or close associates, and a new definition of “prominent public function” in relation to an international organisation is inserted.

Article 9 amends Article 15B (enhanced customer due diligence measures in relation to banking relationships outside Jersey) so that the Article is broadened to require a Jersey financial institution or Jersey VASP (virtual asset service provider), which has or proposes to have a correspondent banking or similar relationship with a foreign financial institution or foreign VASP, to apply enhanced customer due diligence measures on a risk-sensitive basis. Definitions of Jersey and foreign financial institutions and VASPs are inserted in new paragraph (3).

Article 10 amends Article 17A(1) to provide that none of the identification exemptions in Part 3A (Articles 17B to 18) apply in the cases set out in that paragraph (suspicion or higher risk of money laundering, customer is resident in non-FATF compliant country or has relevant connection with enhanced risk state). Article 17A(2) is deleted as it does not align with FATF guidance.

Article 11 amends Article 23A (shell banks), which currently applies only to a person carrying on deposit-taking business. Paragraph (1) is broadened to include Jersey financial institutions and

Jersey VASPs (virtual asset service providers) as defined in Article 15B (as amended by *Article 9* of this Order), so that they are prohibited from entering into or continuing a correspondent banking relationship with a shell bank. Paragraph (2) is also broadened to include Jersey financial institutions and Jersey VASPs, so that they are required to take appropriate measures to ensure that they do not enter into or continue a correspondent banking relationship with a Jersey or foreign financial institution or a Jersey or foreign VASP that is known to permit its accounts to be used by a shell bank. Paragraph (3), which provided exceptions for a deposit-taking business doing anything on behalf of the States, the Bank of England, the central bank of a member State of the European Community or the National Savings Bank of the United Kingdom, is deleted. Paragraph (4) is amended to insert definitions.

Article 12 gives the citation of this Order, and provides that this Order comes into force 7 days after it is made.

