



Jersey

## **DRAFT MONEY LAUNDERING (AMENDMENT No. 12) (JERSEY) ORDER 202-**

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## **DRAFT MONEY LAUNDERING (AMENDMENT No. 12) (JERSEY) ORDER 202-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE CHIEF MINISTER** makes this Order under Articles 37 and 43 of the Proceeds of Crime (Jersey) Law 1999, having consulted the Jersey Financial Services Commission –

### **1 Money Laundering (Jersey) Order 2008 amended**

This Order amends the Money Laundering (Jersey) Order 2008.

### **2 Article 1 (interpretation) amended**

In Article 1(1), in the definition “FATF recommendations”, for “up to the date of the making of this Order” there is substituted “or replaced from time to time”.

### **3 Article 3 (meaning of “customer due diligence measures”) amended**

In Article 3, after paragraph (4) there is inserted –

“(4A) For the purposes of paragraph (4)(b), a digital identification system that complies with the FATF Guidance on Digital Identity published on 6th March 2020 as amended or replaced from time to time constitutes a reliable and independent source.”.

### **4 Article 4 (meaning of “one-off transaction”) amended**

In Article 4 –

(a) in paragraph (1)(a), (b), (c) and (d), for “a money service business” in each place there is substituted “money or value transfer services”.

(b) for paragraph (2)(b), there is substituted –

“(b) “money or value transfer services” has the same meaning as in paragraph 5 of Schedule 2 to the Law;”.

## 5 Article 11 (policies, procedures and training to prevent and detect money laundering) amended

In Article 11, in paragraph (3)(c), after clause (vi) there is inserted –

“(vii) a beneficial owner or controller of a beneficiary under a life insurance policy.”.

## 6 Article 11A (additional requirements for financial groups) amended

In Article 11A –

(a) at the end of the heading there is inserted “and DNFBP groups”;

(b) after paragraph (3) there is inserted –

“(4) For the purposes of this Article, “financial group” includes a group of persons falling within Part 3 of Schedule 2 to the Law (designated non-financial businesses and professions) if there is, in relation to the group, a parent company or other legal person that exercises control over every member of the group.”.

## 7 Article 13 (application and timing of customer due diligence measures) amended

In Article 13(11), after “15B” there is inserted “(if applicable)”.

## 8 Article 15A (enhanced customer due diligence measures in relation to politically exposed persons) amended

In Article 15A –

(a) after paragraph (2) there is inserted –

“(2A) A relevant person may 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 the relevant person is satisfied –

(a) that, following a risk assessment, the person does not present a higher risk of money laundering; and

(b) that there is no reason to continue to treat the person as a politically exposed person.

(2B) A relevant person may treat a foreign politically exposed person as not being a politically exposed person 5 years after the person ceases to be entrusted with a prominent public function if the relevant person is satisfied –

(a) that, following a risk assessment, the person does not present a higher risk of money laundering; and

(b) that there is no reason to continue to treat the person as a politically exposed person.

(2C) A relevant person may treat a prominent person as not being a politically exposed person 5 years after the person ceases to be entrusted with a prominent public function by an international organisation if the relevant person is satisfied –

- (a) that, following a risk assessment, the person does not present a higher risk of money laundering; and
  - (b) that there is no reason to continue to treat the person as a politically exposed person.
- (2D) Paragraphs (2A) to (2C) apply to immediate family members or close associates of the politically exposed person in question as they do to that person.”;
- (b) in paragraph (3) –
    - (i) in the definition “prominent person”, at the end there is inserted “, and includes an immediate family member or a close associate of the person”, and
    - (ii) after that definition there is inserted –
      - “ “prominent public function”, in relation to an international organisation, means a member of the senior management, including a director, deputy director, board member or other equivalent function;”.

## 9 Article 15B (enhanced customer due diligence measures in relation to banking relationships outside Jersey) amended

- (1) This Article amends Article 15B.
- (2) In the heading, for “banking relationships outside Jersey” there is substituted “cross-border correspondent banking and other similar relationships”.
- (3) For paragraph (1) there is substituted –
  - “(1) This Article applies to 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.”.
- (4) In paragraph (2) –
  - (a) in the opening words, for “A relevant person to whom this Article applies” there is substituted “A Jersey financial institution or Jersey VASP”;
  - (b) in sub-paragraph (a), for “the institution” there is substituted “the foreign financial institution or foreign VASP”;
  - (c) in sub-paragraph (b), for “the institution” there is substituted “the foreign financial institution or foreign VASP”;
  - (d) in sub-paragraph (c), for “the institution’s systems and controls” there is substituted “the systems and controls of the foreign financial institution or foreign VASP”;
  - (e) in sub-paragraph (d), for “the relevant person” there is substituted “the Jersey financial institution or Jersey VASP”;
  - (f) in sub-paragraph (e), for “both the relevant person and the institution” there is substituted “all parties”;
  - (g) in sub-paragraph (f) –
    - (i) for “the institution”, in both places it occurs, there is substituted “the foreign financial institution or foreign VASP”;
    - (ii) for “the relevant person”, in both places it occurs, there is substituted “the Jersey financial institution or Jersey VASP”.

- (5) After paragraph (2) there is inserted –
- “(3) In this Article –
- “foreign financial institution” means a person who carries on financial business falling within Part 2 (financial institutions) of Schedule 2 to the Law outside Jersey and is not a Jersey financial institution;
- “foreign VASP” means a person who carries on financial business falling within Part 4 (virtual asset service provider) of Schedule 2 to the Law outside Jersey and is not a Jersey financial institution;
- “Jersey financial institution” means –
- (a) a person who carries on financial services business falling within Part 2 (financial institutions) of Schedule 2 to the Law in or from within Jersey; or
  - (b) a person that is incorporated or constituted under the law of Jersey and carries on such financial services business in any part of the world;
- “Jersey VASP” means –
- (a) a person who carries on financial services business falling within Part 4 (virtual asset service provider) of Schedule 2 to the Law in or from within Jersey; or
  - (b) a person that is incorporated or constituted under the law of Jersey and carries on such financial services business in any part of the world.”.

## 10 Article 17A (circumstances in which exemptions under Part 3A do not apply) amended

- (1) In Article 17A(1), the words “third party” are deleted.
- (2) Article 17A(2) is deleted.

## 11 Article 23A (shell banks) amended

- (1) This Article amends Article 23A.
- (2) For paragraphs (1) and (2) there is substituted –
  - “(1) A Jersey financial institution or Jersey VASP must not enter into or continue a correspondent banking relationship with a shell bank.
  - (2) A Jersey financial institution or Jersey VASP must take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a financial institution or VASP that is known to permit its accounts to be used by a shell bank.”.
- (3) Paragraph (3) is deleted.
- (4) In paragraph (4) –
  - (a) for “For the purposes of paragraphs (1) and (2) –”, there is substituted “In this Article –”;
  - (b) after sub-paragraph (a) there is inserted –
    - “(aa) “financial institution” includes a Jersey financial institution and a foreign financial institution;
    - (ab) “foreign financial institution” and “foreign VASP” have the meanings given in Article 15B;

- (ac) “Jersey financial institution” and “Jersey VASP” have the meanings given in Article 15B;”;
- (c) after paragraph (b) there is inserted –
  - “(c) “VASP” includes a Jersey VASP and a foreign VASP.”.

## 12 Citation and commencement

This Order may be cited as the Money Laundering (Amendment No. 12) (Jersey) Order 202- and comes into force 7 days after it is made.