



Jersey

## **MONEY LAUNDERING (AMENDMENT No. 5) (JERSEY) ORDER 2013**

### **Arrangement**

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#### **Article**

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## **MONEY LAUNDERING (AMENDMENT No. 5) (JERSEY) ORDER 2013**

*Made*

*Coming into force*

**THE CHIEF MINISTER**, in pursuance of Articles 37 and 43 of the Proceeds of Crime (Jersey) Law 1999, and having consulted the Jersey Financial Services Commission, orders as follows –

### **1 Interpretation**

In this Order, the “principal Order” means the Money Laundering (Jersey) Order 2008.

### **2 Article 1 amended**

In Article 1(1) of the principal Order –

- (a) after the definition “equivalent business” there shall be inserted the following definition –

“ ‘FATF’ means the international body known as the Financial Action Task Force;”;
- (b) for the definition “FATF recommendations” there shall be substituted the following definition –

“ ‘FATF recommendations’ means the Forty Recommendations (incorporating the amendments of 22nd October 2004) of the FATF;”;
- (c) after the definition “introducer” there shall be inserted the following definition –

“ ‘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;”.

**3 Article 15 amended**

In Article 15 of the principal Order, for paragraph (3A) there shall be substituted the following paragraphs –

“(3A) This paragraph applies where –

- (a) a 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; or
- (b) any of the following is a person having such a connection –
  - (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 clause (ii),
  - (iv) a person acting, or purporting to act, on behalf of the customer.

(3B) For the purposes of paragraph (3A), a person has a relevant connection with an enhanced risk state if the person is –

- (a) the government or a public authority of the state;
- (b) in relation to the state, a politically exposed person within the meaning given to that expression by paragraph (6)(a);
- (c) a person resident or incorporated in the state;
- (d) a person having a registered office or other address for business in the state;
- (e) a customer, where the source of the customer’s funds is or derives from –
  - (i) assets held in the state by the customer or by any person on behalf of the customer, or
  - (ii) income arising in the state.”.

**4 Article 17 amended**

(1) In Article 17(1) of the principal Order –

- (a) at the end of sub-paragraph (a), the word “or” shall be deleted;
- (b) at the end of sub-paragraph (b), for the full stop there shall be substituted “; or”, and there shall be inserted the following sub-paragraph –

“(c) a person –

- (i) wholly owned by a person (the ‘parent’) mentioned in sub-paragraph (a) or (b), and
- (ii) fulfilling the conditions in paragraph (4).”.

(2) At the end of Article 17 of the principal Order there shall be added the following paragraph –

- “(4) The conditions mentioned in paragraph (1)(c)(ii) are that –
- (a) the person is incorporated or registered, as the case may be, in the same jurisdiction as the parent;
  - (b) the person has no customers who are not customers of the parent;
  - (c) the person’s activity is ancillary to the regulated business or equivalent business carried on by the parent;
  - (d) in relation to that activity, the person maintains the same policies and procedures as the parent.”.

## 5 Article 18 amended

- (1) At the end of Article 18(1) of the principal Order, the full stop shall be deleted and there shall be added the words “except as provided by paragraph (3A) in relation to case B.”.
- (2) In Article 18(3) of the principal Order –
  - (a) after the word “superannuation” there shall be inserted the words “, employee benefit, share option”;
  - (b) for the words from “except” to the end of that paragraph there shall be substituted the words “except after the death of the member.”.
- (3) After Article 18(3) of the principal Order there shall be inserted the following paragraph –

“(3A) In a case falling within case B where it is proposed to assign the interest of a deceased member of the scheme, the trustees of the scheme must apply the identification measures described in Article 3(2)(a) to (c) in respect of the proposed assignee, and in the application of Article 3(2) for this purpose, references to the customer shall be taken to include references to the proposed assignee.”.
- (4) In Article 18(6A) of the principal Order –
  - (a) at the end of sub-paragraph (a), the word “or” shall be deleted;
  - (b) for sub-paragraph (b) there shall be substituted the following sub-paragraphs –
    - “(b) a body corporate the securities of which are listed –
      - (i) on an IOSCO-compliant market, or
      - (ii) on a regulated market as defined by Article 2(5);or
    - (c) a person wholly owned by a person mentioned in sub-paragraph (b),”.
- (5) In Article 18(7) of the principal Order –
  - (a) at the end of sub-paragraph (a), the word “or” shall be deleted;
  - (b) at the end of sub-paragraph (b), for the comma there shall be substituted “; or”, and there shall be inserted the following sub-paragraph –

- “(c) a person –
      - (i) wholly owned by a person (the ‘parent’) mentioned in sub-paragraph (a) or (b), and
      - (ii) fulfilling the conditions in paragraph (7A),”.
- (6) After Article 18(7) of the principal Order there shall be inserted the following paragraph –
  - “(7A) The conditions mentioned in paragraph (7)(c)(ii) are that –
    - (a) the person is incorporated or registered, as the case may be, in the same jurisdiction as the parent;
    - (b) the person has no customers who are not customers of the parent;
    - (c) the person’s activity is ancillary to the regulated business or equivalent business carried on by the parent;
    - (d) in relation to that activity, the person maintains the same policies and procedures as the parent.”.

**6 Article 23C deleted**

Article 23C of the principal Order shall be deleted.

**7 Citation and commencement**

This Order may be cited as the Money Laundering (Amendment No. 5) (Jersey) Order 2013 and shall come into force 7 days after the day on which it is made.

*Signed*.....

*Date*.....

*Chief Minister*

