



Jersey

MONEY LAUNDERING (AMENDMENT No. 7) (JERSEY) ORDER 2014

Arrangement

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Made 20th October 2014
Coming into force 27th October 2014

THE CHIEF MINISTER, in pursuance of Articles 37 and 43 of the Proceeds of Crime (Jersey) Law 1999¹, and having consulted the Jersey Financial Services Commission, orders as follows –

1 Interpretation

In this Order “principal Order” means the Money Laundering (Jersey) Order 2008².

2 Article 1 of principal Order amended

In Article 1 of the principal Order –

- (a) in paragraph (1), for the definition “insurance business” there shall be substituted the following definition –

“ ‘insurance business’ means any long term-business, within the meaning given to that term in Article 1(1) of the Insurance Business (Jersey) Law 1996³ 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 1996⁴;”;

- (b) after paragraph (2) there shall be added the following paragraphs –

“(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.

- (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.”

3 Article 11 of principal Order amended

In Article 11(3)(d) of the principal Order, for the words “that does not apply, or insufficiently applies, the FATF recommendations” there shall be substituted the words “in relation to which the FATF has called for the application of enhanced customer due diligence measures”.

4 Article 13 of principal Order amended

In Article 13 of the principal Order –

- (a) in paragraph (3A), for the words “Article 3(4)” there shall be substituted the words “Article 3(4)(a)”;
- (b) in paragraph (11) –
 - (i) for the words “paragraph (10)” there shall be substituted the words “this paragraph”, and
 - (ii) in sub-paragraph (b) the words “and (3)” shall be deleted.

5 Article 15 of principal Order amended

In Article 15 of the principal Order –

- (a) in paragraph (1)(a) for the words “where paragraphs (3), (3A), (4), (4A) and (5)” there shall be substituted the words “where any of paragraphs (2A), (3), (3A), (4), (4A), (5), (8), (10) and (11)”;
- (b) after paragraph (2) there shall be inserted the following paragraph –
 - “(2A) This paragraph applies to a customer that has or proposes to have a business relationship, or proposes to carry out a one-off transaction, with a relevant person where –
 - (a) that person is not resident in the customer’s country of residence; and
 - (b) that person is not resident in the same country as the country from which or from within which the customer is carrying on business.”;
- (c) in paragraph (3B) –
 - (i) in sub-paragraph (c) the words “or incorporated” shall be deleted,
 - (ii) in sub-paragraph (d) for the words “a registered office or other address” there shall be substituted the words “an address”;
- (d) after paragraph (7) there shall be added the following paragraphs –
 - “(8) This paragraph applies where the relevant person provides or proposes to provide a customer with private banking services.

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- (9) For the purposes of paragraph (8) a service shall be regarded as a private banking service if –
- (a) 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
 - (b) the service –
 - (i) involves a high value investment,
 - (ii) 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
 - (iii) offers opportunities for investment in more than one jurisdiction.
- (10) This paragraph applies where the customer of the relevant person is –
- (a) a legal person established by an individual for the purpose of holding assets for investment purposes; or
 - (b) an individual acting on behalf of a legal arrangement established for the purpose of holding assets for investment purposes.
- (11) This paragraph applies where the customer of the relevant person is a company with nominee shareholders or that issues shares in bearer form.”.

6 Article 16A of principal Order amended

At the end of Article 16A(2)(b) of the principal Order for the word “and” there shall be substituted the word “or”.

7 Article 17 of principal Order amended

In Article 17 of the principal Order –

- (a) in paragraph (4), for the words “having regard to the customer’s business and the higher risk of money laundering” there shall be substituted the words “having regard to the risk of money laundering inherent in the customer’s business and the higher risk of money laundering associated with that type of business”;
- (b) in paragraph (9)(a), for the words “having regard to the customer’s business and the higher risk of money laundering” there shall be substituted the words “having regard to the risk of money laundering inherent in the customer’s business and the higher risk of money laundering associated with that type of business”;
- (c) after paragraph (9), there shall be inserted the following paragraph –

- “(9A) If, having satisfied the conditions in paragraph (4) in relation to a customer to which paragraph (3) applies, or paragraph (9) in relation to a customer to which paragraph (5), (6), (7), or (8) applies, the relevant person does not apply the identification measures specified in Article 3(2)(b), the relevant person shall instead –
- (a) consider the value and extent of any third party’s financial interest in the product, arrangement, account or other investment vehicle offered to the customer by the relevant person; and
 - (b) where the relevant person considers that the value or financial interest of the third party is significant, apply the identification measure described in Article 3(4)(a) to that third party.”;
- (d) in paragraph (12) for the word “Regulation” there shall be substituted the word “Article”;
- (e) for paragraph (14) there shall be substituted the following paragraph –
- “(14) Nothing in this Article shall permit a relevant person to apply simplified identification measures 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 assessments made under paragraph (4) or (9);
 - (c) the customer is resident in a country that is not compliant with the FATF recommendations;
 - (d) the customer is a person in respect of whom Article 15(3A) applies; or
 - (e) the customer is a person in respect of whom Article 15(4) applies.”.

8 Article 18 of principal Order amended

For Article 18(9) of the principal Order there shall be substituted the following paragraph –

- “(9) Nothing in this Article shall apply if –
- (a) the relevant person suspects money laundering;
 - (b) the relevant person considers that there is a higher risk of money laundering;
 - (c) the customer is resident in a country that is not compliant with the FATF recommendations; or
 - (d) the customer is a person in respect of whom Article 15(3A) applies.”.

9 Citation and commencement

This Order may be cited as the Money Laundering (Amendment No. 7) (Jersey) Order 2014 and shall come into force 7 days after it is made.

SENATOR I.J. GORST

Chief Minister

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- ¹ *chapter 08.780*
 - ² *chapter 08.780.30*
 - ³ *chapter 13.425*
 - ⁴ *chapter 13.425.30*