



Jersey

**FINANCIAL SERVICES (MONEY SERVICE
BUSINESS (EXEMPTIONS)) (JERSEY)
ORDER 2007**

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FINANCIAL SERVICES (MONEY SERVICE BUSINESS (EXEMPTIONS)) (JERSEY) ORDER 2007

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FINANCIAL SERVICES (MONEY SERVICE BUSINESS (EXEMPTIONS)) (JERSEY) ORDER 2007

THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Articles 4(1), 7(2)(a)(ii) and 42 of the [Financial Services \(Jersey\) Law 1998](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

In this Order, unless the context otherwise requires –

“1991 Law” means the [Companies \(Jersey\) Law 1991](#);

“financial period”, in relation to money service business carried on by a person, means the period, for which a profit and loss account is prepared for the person, that –

- (a) is of not more than 18 months;
- (b) begins –
 - (i) if a profit and loss account has previously been prepared for the person carrying on money service business (whether exclusively or in conjunction with other activities), at the end of the period to which the most recent profit and loss account applies, or
 - (ii) if a profit and loss account has not previously been prepared for the person carrying on money service business (whether exclusively or in conjunction with other activities), on the day the person began carrying on the business (whether the business is money service business, other activities that do not include money service business or money service business in conjunction with such other activities); and
- (c) ends on the date specified in the profit and loss account;

“last completed financial period”, in relation to a person who carries on money service business (whether exclusively or in conjunction with other activities), means the financial period, of not more than 18 months, for which the most recent profit and loss account was prepared for the person;

“Law” means the [Financial Services \(Jersey\) Law 1998](#);

“profit and loss account” shall be construed in accordance with Article 7;

“public company” has the meaning assigned by the 1991 Law;

“turnover” has the meaning assigned by Article 2.

2 Meaning of “turnover”

- (1) For the purposes of this Order, “turnover”, in relation to money service business carried on by a person, means the cumulative total, during a financial period, of all or any of the following –
 - (a) foreign currency that is, in the course of the person carrying on the business of a bureau de change, bought from, or sold to, customers of the bureau de change;
 - (b) funds transmitted or received by the person in the course of carrying on the business of transmitting or receiving funds by wire or other electronic means, or money transmission services;
 - (c) cheques cashed by the person in the course of carrying on the business of providing cheque cashing services,measured in sterling in accordance with generally accepted accounting principles.
- (2) For the purposes of this Order, “turnover”, in relation to money service business carried on by a person, shall not include any amount forming part of money service business, specified in Article 3, that is carried on by the person.
- (3) For the purposes of this Order, a calculation of the turnover in relation to a bureau de change shall only include, in relation to a transaction, the amount of money bought from a customer, or the amount of money sold to a customer, of the bureau de change, but not both.

3 Exemption for certain bureaux de change and personal money service business

- (1) A person who carries on money service business consisting of an exchange in which –
 - (a) payment for goods or services is made in cash (including by travellers’ cheque); and
 - (b) the change due in respect of that payment –
 - (i) is tendered in a different currency to the currency in which that payment is made, and
 - (ii) is tendered by the person to whom that payment is made,is a prescribed person for the purposes of Article 7(2)(a)(ii) of the Law in relation to that money service business.
- (2) A person who carries on money service business consisting of the transmission or receipt of funds by wire or other electronic means, or the provision of money transmission services, by the person for the sole purpose of any of the following –
 - (a) enabling another person to pay for goods or services;
 - (b) enabling another person to access that other person’s funds or that other person’s money,

is a prescribed person for the purposes of Article 7(2)(a)(ii) of the Law in relation to that money service business.

- (3) A person who carries on money service business consisting of the cashing of a cheque drawn by a second person on a bank account of the second person is a prescribed person for the purposes of Article 7(2)(a)(ii) of the Law in relation to that money service business.

4 Limited exemption if turnover less than specified amount

- (1) A person who carries on money service business is an exempt person for the purposes of Article 6 if –
- (a) that person notifies the Commission in writing that he or she intends to carry on money service business to which this paragraph applies; and
 - (b) the turnover for the last completed financial period for the money service business carried on by that person is less than £300,000.
- (2) For the purposes of paragraph (1)(b), after a person first begins to carry on money service business, the turnover for that business shall be taken to be less than £300,000 –
- (a) until the end of the first 18 months after the person begins to carry on the business; or
 - (b) until the date when the turnover in respect of the business for the last completed financial period is ascertained,
- whichever is earlier.
- (3) If –
- (a) a person was an exempt person for the purposes of Article 6 by virtue of paragraph (1); and
 - (b) the turnover of the person for the last completed financial period which begins within, or immediately follows, the period for which the person was an exempt person by virtue of paragraph (1), is more than £300,000,
- the person shall be, by virtue of this paragraph, an exempt person for the purposes of Article 6 until –
- (i) 10 months after the end of that person's last completed financial period for which the turnover is £300,000 or more; or
 - (ii) if the person is a public company, 7 months after the end of the last completed financial period for which the turnover is £300,000 or more.
- (4) A person who is registered to carry on money service business may, by notice in writing to the Commission, request the Commission to revoke, under Article 9(4)(a) of the Law, his or her registration to carry on money service business, for the purpose of enabling the person to become, by virtue of paragraph (1), an exempt person for the purposes of Article 6.
- (5) If the Commission, after receiving a notice under paragraph (4), revokes under Article 9(4)(a) of the Law the registration of a person to carry on money service business in accordance with the request contained in the notice, the notice shall be taken to be a notice given by the person under paragraph (1)(a).

- (6) A person shall, within 3 months of the day on which he or she ceases to carry on money service business specified in a notice given by the person to the Commission under paragraph (1)(a), notify the Commission of ceasing to carry on the business.
- (7) A person who has notified the Commission under paragraph (1)(a) shall notify the Commission within 3 months of deciding not to commence the money service business to which the notice relates.

5 Limited exemption for persons regulated under Banking Business Law

- (1) A person who carries on money service business is an exempt person for the purposes of Article 6 if he or she –
 - (a) notifies the Commission in writing that he or she intends to carry on money service business; and
 - (b) is registered under the [Banking Business \(Jersey\) Law 1991](#).
- (2) A person who, after he or she is registered to carry on money service business, becomes registered under the [Banking Business \(Jersey\) Law 1991](#), may, by notice in writing to the Commission, request the Commission to revoke, under Article 9(4)(a) of the [Financial Services \(Jersey\) Law 1998](#), his or her registration to carry on money service business, for the purpose of enabling the person to become, by virtue of paragraph (1), an exempt person for the purposes of Article 6.
- (3) If the Commission, after receiving a notice under paragraph (2), revokes under Article 9(4)(a) of the Law the registration of a person to carry on money service business in accordance with the request contained in the notice, the notice shall be taken to be notice given by the person under paragraph (1)(a).
- (4) A person who has notified the Commission under paragraph (1)(a) shall notify the Commission within 3 months of the day on which he or she ceases to carry on money service business to which the notice relates.
- (5) A person who has notified the Commission under paragraph (1)(a) shall notify the Commission within 3 months of deciding not to commence the money service business to which the notice relates.

6 Variation of, further conditions for, and restrictions on, exemptions under Articles 4 and 5

- (1) A person who is an exempt person for the purposes of this Article is a prescribed person for the purposes of Article 7(2)(a)(ii) of the Law.
- (2) In accordance with Article 4(1) of the Law, the exemption conferred by Article 7(2)(a)(ii) of the Law is amended in relation to persons referred to in paragraph (1) so that it is limited to Article 7 of the Law.
- (3) For the purposes of Article 7(2)(a)(ii) of the Law, Articles 12, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39 and 41 of the Law shall apply to and in relation to a person exempted from registration by virtue of paragraph (2), as if the person were a registered person.

7 Profit and loss account

- (1) For the purposes of a financial period to which Article 4 refers, a profit and loss account means –
- (a) in the case of –
 - (i) a person who carries on money service business exclusively and in respect of whom accounts are prepared in accordance with Article 104(1) of the 1991 Law – a profit and loss account in respect of which Article 104 of that Law has been complied with, or
 - (ii) any other person who carries on money service business exclusively – an account that complies with paragraph (2) that is prepared in respect of that person;
 - (b) in the case of a person who carries on money service business in conjunction with other activities and in respect of whom –
 - (i) accounts are prepared pursuant to Article 104(1) of the 1991 Law – a profit and loss account in respect of which Article 104 of that Law has been complied with, or
 - (ii) such accounts have not been prepared – an account that complies with paragraph (2) that is prepared for that person; or
 - (c) in the case of –
 - (i) a person who at any time during a financial period carried on money service business exclusively but who was, at the end of that financial period, carrying on money service business in conjunction with other activities – an account prepared in accordance with subparagraph (b)(i) or (ii), or
 - (ii) a person who at any time during a financial period carried on money service business in conjunction with other activities but who was, at the end of that financial period, carrying on money service business exclusively – an account prepared in accordance with subparagraph (a)(i) or (ii).
- (2) For the purposes of paragraph (1)(a)(ii) and (b)(ii), an account to which those clauses refer shall be –
- (a) an account that is prepared for a period –
 - (i) of not more than 18 months,
 - (ii) that begins –
 - (A) if an account has previously been prepared for the person carrying on money service business (whether exclusively or in conjunction with other activities) – at the end of the period to which the most recent account applies, or
 - (B) if an account has not previously been prepared for the person carrying on money service business (whether exclusively or in conjunction with other activities) – on the day that person commenced carrying on the business (whether the business is money service business, other activities that do not include money service business or money service business in conjunction with such other activities), and

- (iii) that ends on the date specified in the account;
 - (b) prepared in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss in respect of the person carrying on money service business concerned for the financial period concerned;
 - (c) accompanied by a notice in writing by the person carrying on the money service business stating that the person approves the account; and
 - (d) prepared and approved in accordance with this paragraph within 10 months after the end of the financial period concerned.
- (3) Paragraph (2)(a) shall not be construed as requiring a person who –
- (a) carried on money service business before this Order came into force; and
 - (b) had not prepared an account that complies with paragraph (2) for a period ending within 12 months before the date on which this Order comes into force,
- to prepare an account that complies with paragraph (2) for a period beginning earlier than that date.
- (4) This paragraph applies to a person carrying on money service business –
- (a) in conjunction with other activities; and
 - (b) for whom an account has been prepared in respect of that person in accordance with paragraph (1)(b)(i) or (1)(b)(ii).
- (5) A person –
- (a) to whom paragraph (4) applies; and
 - (b) who proposes, for the purposes of Article 4, to rely on an account referred to in paragraph (4) to determine the part of the general turnover of the business that relates to the turnover for money service business,
- may use that account to determine the part of the person's general turnover that relates to the turnover for money service business, if the information supporting the turnover for money service business is stated in a manner that identifies the turnover for money service business and its cumulative total.
- (6) In paragraph (5), “general turnover” means the turnover of all the business carried on by the person referred to in that paragraph that reflects all the activities referred to in paragraph (4)(a), and includes turnover for money service business.

8 Transitional provisions where exemption ceases and registration not sought

- (1) This paragraph applies to a person if –
- (a) he or she was, by virtue of Article 4(3) or 5(1), an exempt person for the purposes of Article 6;
 - (b) Article 4(3) or 5(1) has ceased to apply to the person; and
 - (c) he or she is not a person to whom Article 9(1) applies.
- (2) A person to whom paragraph (1) applies shall not be taken to have committed an offence under Article 7(4) of the Law by virtue of any action that is taken, or not

taken, by the person in the course of carrying on money service business during the relevant period.

- (3) For the purposes of this Article, the relevant period is the period on and from the day on which Article 4(3) or 5(1) ceases to apply to the person until 6 months after that day.
- (4) Articles 12, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39 and 41 of the Law shall, in respect of the relevant period, apply (with the necessary modifications) to a person to whom paragraph (1) applies, as those Articles apply to a person registered under the Law to carry on money service business.
- (5) Without prejudice to the generality of paragraph (4), a reference, in any of the Articles specified in that paragraph, to the period during which a person is registered shall be taken to be a reference to the relevant period.

9 Transitional provisions where exemption ceases and person applies for registration to carry on money service business

- (1) This paragraph applies to a person if –
 - (a) he or she was, by virtue of Article 4(3) or 5(1), an exempt person for the purposes of Article 6;
 - (b) Article 4(3) or 5(1) has ceased to apply to the person; and
 - (c) he or she applies, within one month of the day on which Article 4(3) or 5(1) ceases to apply to the person, to be registered under the Law as a person entitled to carry on money service business.
- (2) A person to whom paragraph (1) applies shall not be taken to have committed an offence under Article 7(4) of the Law by virtue of any action that is taken, or not taken, by the person in the course of carrying on money service business during the relevant period.
- (3) For the purposes of paragraph (2), the relevant period in relation to a person is the period on and from the day on which Article 4(3) or 5(1) ceases to apply to the person until the day the application referred to in paragraph (1)(c) is finally determined (including as a result of an appeal to the Court under Article 11 of the Law) or is withdrawn.
- (4) Articles 12, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39 and 41 of the Law shall, in respect of the relevant period, apply (with the necessary modifications) to a person to whom paragraph (1) applies, as those Articles apply to a person registered under the Law to carry on money service business.
- (5) Without prejudice to the generality of paragraph (4), the following modifications shall apply in relation to a person to whom paragraph (1) applies –
 - (a) a reference, in any of the Articles referred to in paragraph (4), to the period during which a person is registered shall be taken to be a reference to the period between –
 - (i) the date of the application, and
 - (ii) the date on which the application is granted or refused by the Commission, is finally determined (including as a result of an appeal to the Court under Article 11 of the Law) or is withdrawn;

- (b) a reference, in any of the Articles referred to in paragraph (4), to the terms of a registration shall be taken to be a reference to the terms of the application; and
- (c) a reference in Article 11 of the Law to the Commission, acting under Article 9 of the Law, revoking a registration shall be taken as a reference to the Commission refusing an application under Article 9 of the Law.

10 Citation

This Order may be cited as the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007	R&O.96/2007	26 July 2007

Table of Renumbered Provisions

Original	Current
10(1)	10
10(2)	Spent, omitted

Table of Endnote References

There are currently no endnote references