



Jersey

MONEY LAUNDERING (JERSEY) ORDER 2008

Arrangement

Article

PART 1		3
<hr/>		
	INTRODUCTORY PROVISIONS	3
1	Interpretation.....	3
2	Beneficial ownership and control	5
3	Meaning of “customer due diligence procedures”	6
4	Meaning of “one-off transaction”	7
5	Equivalent business.....	7
6	Designated police and customs officers.....	8
7	Compliance officer.....	8
8	Reporting officer	9
9	Designated persons	10
10	Exemptions from Articles 7 and 8	10
PART 2		10
<hr/>		
	PREVENTION OF MONEY LAUNDERING	10
11	Systems and training to forestall and prevent money laundering	10
12	Exceptions from Article 11	12
PART 3		12
<hr/>		
	CUSTOMER DUE DILIGENCE PROCEDURES	12
13	Application and timing of customer due diligence procedures	12
14	Termination where customer due diligence procedures are not completed.....	13
15	Enhanced customer due diligence.....	15
16	Reliance on introducers and intermediaries	16
17	Reliance in certain circumstances where the intermediary is a regulated person	17
18	Exceptions from customer due diligence procedures	18

PART 4 **19**

RECORD-KEEPING PROCEDURES 19

19 Records to be kept 19

20 Periods for which records must be kept..... 19

PART 5 **20**

REPORTING PROCEDURES AND REQUIREMENTS 20

21 Internal reporting procedures..... 20

22 Reports that need not be forwarded 21

23 Duty to report evidence of money laundering 21

PART 6 **23**

MISCELLANEOUS AND CLOSING 23

24 Revocation 23

25 Citation and commencement 23



Jersey

MONEY LAUNDERING (JERSEY) ORDER 2008

*Made**28th January 2008**Coming into force**4th February 2008*

THE MINISTER FOR TREASURY AND RESOURCES, 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 –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

(1) In this Order, unless the context otherwise requires –

“branch” in respect of a relevant person, means a branch that is under the control of that relevant person;

“business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;

“compliance officer” means –

(a) an individual appointed under paragraph (1) or (4) of Article 7; or

(b) an individual described in Article 7(2);

“customer due diligence procedures” means the procedures described in Article 3(1);

“designated customs officer” means an officer of the Impôts who is designated under Article 6(2) or, if no one is for the time being designated, the Agent of the Impôts;

“designated person” means an individual who is designated under Article 9;

“designated police officer” means a police officer who is designated under Article 6(1) or, if no one is for the time being designated, the Chief Officer of the States of Jersey Police Force;

“equivalent business” has the meaning in Article 5;

“FATF recommendations” means the Forty Recommendations (incorporating the amendments of 22nd October 2004) of the international body known as the Financial Action Task Force on Money Laundering;

“identification of a person” has the meaning in Article 3(4);

“identification procedures” means those procedures described in Article 3(2);

“insurance business” means any insurance business to which Article 5 of the Insurance Business (Jersey) Law 1996² applies;

“intermediary” has the meaning in Article 16(6);

“introducer” has the meaning in Article 16(6);

“Jersey body corporate” means a body that is incorporated in Jersey;

“Jersey limited liability partnership” means a limited liability partnership that is registered under the Limited Liability Partnerships (Jersey) Law 1997³;

“one-off transaction” has the meaning in Article 4;

“on-going identification procedures” means those procedures described in Article 3(3);

“overseas regulatory authority”, in respect of a country or territory outside Jersey, means an authority discharging in that country or territory a function that is the same or similar to a function of the Commission in respect of the forestalling and prevention of money laundering;

“public authority” means a person holding a public office in Jersey;

“public notice” means a notice published in the Jersey Gazette, or a notice whose contents are brought to the attention of the public by the taking of other reasonable steps for that purpose;

“regulated business” means a financial services business in respect of which a person –

- (a) is registered under the Banking Business (Jersey) Law 1991⁴;
- (b) holds a permit under the Collective Investment Funds (Jersey) Law 1988⁵;
- (c) is registered under the Financial Services (Jersey) Law 1998⁶; or
- (d) is authorized by a permit under the Insurance Business (Jersey) Law 1996;

“regulated person” means a person carrying on a regulated business;

“relevant person” means –

- (a) a person carrying on a financial services business in or from within Jersey; or

- (b) either –
 - (i) a Jersey body corporate, or
 - (ii) a Jersey limited liability partnership,carrying on a financial services business in any part of the world;

“reporting officer” means an individual who is appointed under Article 8(1);

“secondary recipient” means any person to whom information has been passed by the Commission;

“sole trader” means an individual carrying on a financial services business, who does not in the course of doing so –

- (a) employ any other person; or
- (b) act in association with any other person;

“subsidiary” has the same meaning as in Article 2 of the Companies (Jersey) Law 1991⁷.

- (2) In this Order –
 - (a) a reference to a document, information or record, or to anything else in writing, includes a reference to a document, information, record or writing in electronic form; and
 - (b) a reference to any amount that is expressed in sterling or euros includes a reference to an equivalent amount in any other currency.

2 Beneficial ownership and control

- (1) For the purposes of this Order, each of the following individuals is a beneficial owner or controller of a person (“other person”) where that other person is not an individual –
 - (a) an individual who is an ultimate beneficial owner of that other person (whether or not the individual is its only ultimate beneficial owner); and
 - (b) an individual who ultimately controls or otherwise exercises control over the management of that other person (whether the individual does so alone or with any other person or persons).
- (2) For the purposes of paragraph (1) it is immaterial whether an individual’s ultimate ownership or control is direct or indirect.
- (3) No individual is to be treated by reason of this Article as a beneficial owner of a person that is a body corporate the stock or shares of which are admitted to trading on a regulated market.
- (4) In determining whether an individual is a beneficial owner or controller of another person, regard must be had to all the circumstances of the case, in particular the size of an individual’s beneficial ownership or degree of control having regard to the risk of that individual or that other person being involved in money laundering.

- (5) For the purposes of this Article, “regulated market” has the same meaning as in the Money Laundering Regulations 2007 S.I. 2007/2157 of the United Kingdom.

3 Meaning of “customer due diligence procedures”

- (1) “Customer due diligence procedures” means, in respect of the customers of a relevant person’s financial services business, identification procedures and on-going identification procedures.
- (2) Identification procedures are procedures for –
- (a) identifying the customer;
 - (b) determining whether the customer is acting for a third party and, if so –
 - (i) identifying that third party,
 - (ii) where the third party is not an individual, understanding the ownership and control of that third party,
 - (iii) where clause (ii) applies, identifying each individual who is that third party’s beneficial owner or controller;
 - (c) in respect of a customer that is not an individual –
 - (i) identifying any person purporting to act on behalf of the customer,
 - (ii) understanding the ownership and control structure of that customer, and
 - (iii) identifying the individuals who are the customer’s beneficial owners or controllers;
 - (d) obtaining information on the purpose and intended nature of the business relationship or one-off transaction.
- (3) On-going identification procedures are procedures for –
- (a) scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the relevant person’s knowledge of the customer, including the customer’s business and risk profile; and
 - (b) ensuring that documents, data or information obtained under identification procedures are kept up to date and relevant by undertaking reviews of existing records, including but without prejudice to the generality of the foregoing, reviews where any inconsistency has been discovered as a result of applying the procedures described in sub-paragraph (a).
- (4) For the purposes of this Order, identification of a person means –
- (a) finding out the identity of that person, including that person’s name and legal status; and
 - (b) obtaining evidence that is reasonably capable of verifying that the person to be identified is who the person is said to be and satisfies the person responsible for the identification of a person that the evidence does establish that fact.

- (5) For the purposes of paragraph (2), the procedures must include the assessment by the relevant person of the risk that any business relationship or one-off transaction will involve money laundering, including obtaining appropriate information for assessing that risk.
- (6) For the purposes of paragraph (2)(b) and (c), procedures for obtaining evidence must involve reasonable measures having regard to all the circumstances of the case, including the degree of risk assessed.

4 Meaning of “one-off transaction”

- (1) For the purposes of this Order, a “one-off transaction” means –
 - (a) a transaction (other than in respect of a money service business) amounting to not less than 15,000 euros;
 - (b) 2 or more transactions (other than in respect of a money service business) –
 - (i) where it appears at the outset to any person handling any of the transactions that the transactions are linked and that the total amount of those transactions is not less than 15,000 euros, or
 - (ii) where at any later stage it comes to the attention of any person handling any of those transactions that clause (i) is satisfied;
 - (c) a transaction carried out in the course of a money service business amounting to not less than 1,000 euros; or
 - (d) 2 or more transactions carried out in the course of a money service business –
 - (i) where it appears at the outset to any person handling any of the transactions that those transactions are linked and that the total amount of those transactions is not less than 1,000 euros, or
 - (ii) where at any later stage it comes to the attention of any person handling any of those transactions that clause (i) is satisfied.
- (2) In this Article –
 - (a) “transaction” means a transaction other than one carried out during a business relationship; and
 - (b) “money service business” has the same meaning as in Article 1(1) of the Financial Services (Jersey) Law 1998.

5 Equivalent business

For the purposes of this Order, business (“other business”) is equivalent business in relation to any category of financial services business carried on in Jersey if –

- (a) the other business is carried on in a country or territory other than Jersey;

- (b) if carried on in Jersey, it would be financial services business of that category (whether or not it is called by the same name in Jersey);
- (c) in that other country or territory, the business may only be carried on by a person registered or otherwise authorized for that purpose under the law of that country or territory;
- (d) the conduct of the business is subject to requirements to forestall and prevent money laundering that are consistent with those in the FATF recommendations in respect of that business; and
- (e) the conduct of the business is supervised, for compliance with the requirements to which paragraph (d) refers, by an overseas regulatory authority.

6 Designated police and customs officers

- (1) The Chief Officer of the States of Jersey Police Force may by public notice designate one or more police officers (whether by reference to the name of the officer or officers or post), being members of that Force, for the purposes of this Order.
- (2) The Agent of the Impôts may by public notice designate one or more officers of the Impôts for the purposes of this Order.

7 Compliance officer

- (1) A relevant person (other than a sole trader) must appoint an individual as the compliance officer in respect of the financial services business being carried on by the relevant person.
- (2) A sole trader is the compliance officer in respect of his or her financial services business.
- (3) The compliance officer's function is to monitor whether the enactments in Jersey relating to money laundering are being complied with in the conduct of the relevant person's financial services business.
- (4) When a named individual has ceased to be the compliance officer, the relevant person must appoint another individual forthwith as compliance officer in respect of the financial services business being carried on by the relevant person.
- (5) In the case of an individual appointed under paragraph (1) or (4), the compliance officer is responsible to the relevant person.
- (6) Subject to paragraph (9), a relevant person must give the Commission written notice within one month after the date –
 - (a) an appointment under paragraph (1) or (4) takes effect; or
 - (b) an individual ceases to be the compliance officer.
- (7) The notice is to specify the name of that compliance officer and the date on which his or her appointment takes effect or he or she ceases to be the compliance officer.
- (8) A compliance officer may also be appointed as a reporting officer.

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- (9) Paragraphs (10) and (11) apply where a relevant person is a regulated person and the Commission has been notified in respect of that relevant person's regulated business pursuant to another enactment of the name of a person who has acquired, is to acquire, or ceased to have, the function described in paragraph (3) ("notified person").
 - (10) The notified person shall be deemed to have been appointed under this Article and that notification shall be deemed to comply with paragraph (6) in respect of that regulated business.
 - (11) Where the Commission has objected to the notified person under that other enactment mentioned in paragraph (9) –
 - (a) the notified person shall be deemed to have ceased being the compliance officer under this Article from the date that the objection took effect under that other enactment (whether or not his or her appointment as compliance officer took effect); and
 - (b) the relevant person shall be deemed to have complied with paragraph (6) in the case described in sub-paragraph (b).
 - (12) The requirement in paragraph (1) applies in respect of any financial services business carried on by the relevant person on or after 1st April 2008.

8 Reporting officer

- (1) A relevant person (other than a sole trader) must appoint an individual as the reporting officer in respect of the financial services business being carried on by the relevant person.
- (2) The reporting officer's function is to receive and consider reports in accordance with Article 21.
- (3) When a named individual has ceased to be the reporting officer, the relevant person must appoint another individual forthwith as the reporting officer in respect of the financial services business being carried on by the relevant person.
- (4) Subject to paragraph (7), a relevant person must give the Commission written notice, within one month after the date –
 - (a) an appointment under paragraph (1) or (3) takes effect; or
 - (b) a person ceases to be the reporting officer.
- (5) The notice is to specify the name of that reporting officer and the date on which his or her appointment takes effect or he or she ceases to be the reporting officer.
- (6) A reporting officer may also be appointed as a compliance officer.
- (7) Paragraphs (8) and (9) apply where a relevant person is a regulated person and the Commission has been notified in respect of that relevant person's regulated business pursuant to another enactment of the name of a person who has acquired, is to acquire, or ceased to have, the function described in paragraph (2) ("notified person").

- (8) The notified person shall be deemed to have been appointed under this Article and that notification shall be deemed to comply with paragraph (4) in respect of that regulated business.
- (9) Where the Commission has objected to the notified person under that other enactment –
 - (a) the notified person shall be deemed to have ceased being the reporting officer under this Article from the date that the objection took effect under that other enactment (whether or not his or her appointment as reporting officer took effect); and
 - (b) the relevant person shall be deemed to have complied with paragraph (4) in the case described in sub-paragraph (b).

9 Designated persons

A relevant person may designate one or more individuals (other than the reporting officer) to whom reports may be made in the first instance, for onward transmission, where required under this Order, to the reporting officer.

10 Exemptions from Articles 7 and 8

- (1) The Commission may by public notice exempt a relevant person or any class or description of relevant person carrying on any class of financial services business from the obligation in Article 7(6) or from the obligation in Article 8(4).
- (2) The Commission may by public notice revoke any such exemption from a date specified in the notice.
- (3) The date to be specified must allow a reasonable period of time for compliance with the obligation to which the exemption relates.

PART 2

PREVENTION OF MONEY LAUNDERING

11 Systems and training to forestall and prevent money laundering

- (1) A relevant person must maintain appropriate policies for the application of –
 - (a) customer due diligence procedures in accordance with Part 3;
 - (b) record - keeping procedures in accordance with Part 4;
 - (c) reporting procedures in accordance with Articles 21 and 22;
 - (d) such other procedures of internal control and communication as may be appropriate,in respect of that person's financial services business in order to forestall and prevent activities relating to money laundering.
- (2) For the purposes of paragraph (1), "appropriate policies" means policies that are appropriate having regard to the degree of risk of money

laundering taking into account the type of customers, business relationships, products or transactions with which the relevant person's business is concerned.

- (3) The policies referred to in paragraph (2) include policies –
 - (a) which provide for the identification and scrutiny of –
 - (i) complex or unusually large transactions,
 - (ii) business relationships and transactions connected with countries or territories which do not, or insufficiently, apply the FATF recommendations,
 - (iii) business relationships and transactions with persons or countries or territories that are subject to measures imposed by one or more countries –
 - (A) for insufficient or non-existent application of the FATF recommendations, or
 - (B) otherwise sanctioned by the European Union or United Nations for purposes connected with the prevention of money laundering,
 - (iv) unusual patterns of transactions which have no apparent economic or visible lawful purpose, and
 - (v) any other activity which the relevant person regards as particularly likely by its nature to be related to money laundering,
 - (b) which specify the taking of additional procedures, where appropriate, to prevent the use for money laundering of products and transactions which are susceptible to anonymity;
 - (c) which determine whether a customer is a politically exposed person.
- (4) For the purposes of this Article “transaction” means transactions within a business relationship and one-off transactions.
- (5) In this Article “politically exposed person” has the same meaning as in Article 15(6).
- (6) Subject to Article 12, a relevant person must maintain the policies described in paragraph (1) and apply the procedures specified in subparagraphs (a) to (d) of paragraph (1) in each branch whether in or outside Jersey in which the person carries on a financial services business.
- (7) Subject to Article 12, a relevant person with a subsidiary that has a place of business whether in or outside Jersey carrying on a financial services business must ensure that the subsidiary maintains the policies described in paragraph (1) and applies the procedures specified in subparagraphs (a) to (d) of paragraph (1).
- (8) A relevant person with any subsidiary or branch whether in or outside Jersey that carries on a financial services business must communicate to that subsidiary or branch that person's procedures for complying with paragraph (1).

- (9) A relevant person must take appropriate measures from time to time for the purposes of making employees whose duties relate to the provision of financial services aware of the following things –
 - (a) the procedures under paragraph (1) that are maintained by that person and relate to the business; and
 - (b) the enactments in Jersey relating to money laundering.
- (10) A relevant person must provide those employees from time to time with training in the recognition and handling of –
 - (a) transactions carried out by or on behalf of any person who is or appears to be engaged in money laundering; and
 - (b) other conduct that indicates that a person is or appears to be engaged in money laundering.
- (11) A relevant person must maintain adequate procedures for monitoring and testing the effectiveness of the following actions –
 - (a) the procedures applied under paragraph (1);
 - (b) the measures taken under paragraph (9); and
 - (c) the training provided under paragraph (10).

12 Exceptions from Article 11

- (1) A sole trader need not maintain internal reporting procedures under Article 21.
- (2) Paragraphs (6) and (7) of Article 11 do not apply in relation to a branch or subsidiary outside Jersey to the extent that the law of the country or territory in which that branch or subsidiary is situated has the effect of prohibiting or preventing compliance with those paragraphs.
- (3) Where paragraph (2) applies, the relevant person must inform the Commission in writing as soon as is reasonably practicable, giving details of the circumstances.
- (4) If by reason of paragraph (2) of this Article either of paragraphs (6) and (7) of Article 11 does not apply, to the extent that the law of the country or territory concerned does not have the effect of prohibiting or preventing the relevant person from taking other reasonable steps to deal effectively with the risk of money laundering, the relevant person shall take those other reasonable steps.

PART 3

CUSTOMER DUE DILIGENCE PROCEDURES

13 Application and timing of customer due diligence procedures

- (1) A relevant person must apply –
 - (a) subject to paragraph (4) or (5), identification procedures before the establishment of a business relationship or before carrying out a one-off transaction;

-
- (b) on-going identification procedures during a business relationship;
 - (c) identification procedures where –
 - (i) the relevant person suspects money laundering, or
 - (ii) the relevant person has doubts about the veracity or adequacy of documents, data or information previously obtained under the customer due diligence procedures.
 - (2) Where a relevant person has a business relationship with a customer that started before this Order comes into force, the relevant person must apply customer due diligence procedures to that relationship at appropriate times on or after 1st April 2008.
 - (3) For the purposes of paragraph (2), “appropriate times” means –
 - (a) for the application of identification procedures –
 - (i) times that are appropriate having regard to the degree of risk of money laundering taking into account the type of customer, business relationship, product or transaction concerned, and
 - (ii) times when either of the circumstances described in paragraph (1)(c) apply;
 - (b) for the application of on-going identification procedures –
 - (i) throughout the business relationship for the purposes of applying the procedure described in Article 3(3)(a); and
 - (ii) times when a relevant person becomes aware that documents, data or information that he or she holds are out of date or no longer relevant for the purposes of applying the procedure described in Article 3(3)(b).
 - (4) Identification of a person that is described in Article 3(4)(b) may be completed as soon as reasonably practicable after the establishment of a business relationship if –
 - (a) that is necessary not to interrupt the normal conduct of business; and
 - (b) there is little risk of money laundering occurring.
 - (5) Where a relevant person carries out a one-off transaction to which Article 4(1)(b)(ii) or Article 4(1)(d)(ii) applies, that person must apply identification procedures as soon as reasonably practicable.

14 Termination where customer due diligence procedures are not completed

- (1) If a relevant person is unable to apply the identification procedures before the establishment of a business relationship or before the carrying out of a one-off transaction to the extent specified in Article 13(1)(a), that person shall not establish that business relationship or carry out that one-off transaction.
- (2) If a relevant person is unable to apply the identification procedures to the extent that they involve identification of a person in the circumstances

- described in Article 13(4) after the establishment of a business relationship, that person shall terminate that relationship.
- (3) If a relevant person is unable to comply with Article 13(1)(b) in respect of a business relationship, that person shall terminate that relationship.
 - (4) If a relevant person is unable to comply with Article 13(5) in respect of a one-off transaction, that person shall not complete or carry out any further linked transactions in respect of that one-off transaction.
 - (5) Subject to paragraph (6), if a relevant person is unable to apply the identification procedures in the cases described in Article 13(1)(c) in respect of any business relationship or transaction with a person (“transaction” having the meaning in paragraph (12)) the relevant person shall not establish or shall terminate that business relationship or shall not complete or carry out that transaction, as the case requires.
 - (6) The relevant person need not apply the identification procedures in the case described in Article 13(1)(c)(i) in respect of any business relationship or transaction (“transaction” having the meaning in paragraph (12)) with a person if the relevant person, having made a report under procedures maintained under Article 21 to a designated police officer or a designated customs officer and acting with the consent of that officer –
 - (a) does not complete that transaction;
 - (b) does not carry out that transaction;
 - (c) does not establish that business relationship; or
 - (d) terminates that business relationship,as the case requires.
 - (7) Subject to paragraph (6), if a relevant person is unable to apply the identification procedures at any appropriate time described in Article 13(3)(a) for the purposes of Article 13(2) in respect of a business relationship that person shall terminate that relationship.
 - (8) Where paragraph (1), (2), (3), (4), (5) or (7) applies a relevant person must consider whether to make a report under Part 5.
 - (9) Paragraphs (1), (2), (3), (4), (5) and (7) do not apply where a lawyer or other professional adviser is in the course of ascertaining the legal position for that person’s client or performing the task of defending or representing the client in, or concerning, legal proceedings, including advice on the institution or avoidance of proceedings.
 - (10) In paragraph (9), “other professional adviser” means an auditor, accountant or tax adviser who is a member of a professional body which is established for any such persons and which makes provision for –
 - (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
 - (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

- (11) If a report is made under procedures maintained under Article 21 to a designated police officer or designated customs officer, paragraphs (1), (2), (3), (4), (5) and (7) do not apply to the extent that the relevant person is acting with the consent of that officer.
- (12) For the purposes of this Article, “transaction” means any transaction other than one carried out in the course of a business relationship, whether or not it is a one-off transaction or a transaction that falls within sub-paragraph (b) or (d) of Article 4(1).

15 Enhanced customer due diligence

- (1) A relevant person must apply on a risk-sensitive basis –
 - (a) enhanced customer due diligence procedures where paragraphs (3) to (5) apply; and
 - (b) enhanced customer due diligence procedures in any other situation which by its nature can present a higher risk of money laundering.
- (2) For the purposes of this Article “enhanced customer due diligence procedures” means customer due diligence procedures that involve appropriate measures to compensate for the higher risk of money laundering.
- (3) This paragraph applies where the customer has not been physically present for identification purposes.
- (4) This paragraph applies where a relevant person who is registered under the Banking Business (Jersey) Law 1991 has or proposes to have a banking or similar relationship with an institution whose address for that purpose is outside Jersey.
- (5) This paragraph applies where a relevant person proposes to have a business relationship or carry out a one-off transaction with a politically exposed person.
- (6) In paragraph (5), a “politically exposed person” means a person who is –
 - (a) an individual who is or has been entrusted with a prominent public function in a country or territory outside Jersey or by an international organization outside Jersey, for example –
 - (i) heads of state, heads of government, senior politicians,
 - (ii) senior government, judicial or military officials,
 - (iii) senior executives of state owned corporations,
 - (iv) important political party officials;
 - (b) an immediate family member of a person mentioned in sub-paragraph (a), including any of the following –
 - (i) a spouse,
 - (ii) a partner, that is someone considered by his or her national law as equivalent or broadly equivalent to a spouse,
 - (iii) children and their spouses or partners as defined in clause (ii),

- (iv) parents,
 - (v) grandparents and grandchildren,
 - (vi) siblings;
 - (c) close associates of a person mentioned in sub-paragraph (a), including any person who is known to maintain a close business relationship with such a person, including a person who is in a position to conduct substantial financial transactions on his or her behalf.
- (7) For the purpose of deciding whether a person is a close associate of a person referred to in paragraph (6)(a), a relevant person need only have regard to information which is in that person's possession or is publicly known.

16 Reliance on introducers and intermediaries

- (1) Provided the conditions in paragraph (4) are met, a relevant person may, if that person thinks fit, rely on an intermediary or introducer (each referred to as "the other person") to apply the identification procedures specified in paragraph (2) or (3) in respect of that other person's customers and the persons to which paragraph (5) applies in order to meet the relevant person's obligation under Article 13 to apply those specified identification procedures provided that –
- (a) the other person consents to being relied on; and
 - (b) notwithstanding the relevant person's reliance on the other person, the relevant person remains liable for any failure to apply such procedures.
- (2) Where the relevant person relies on an intermediary, the identification procedures are the ones described in Article 3(2)(b).
- (3) Where the relevant person relies on an introducer, the identification procedures are the ones described in Article 3(2)(a) to (c).
- (4) The conditions mentioned in paragraph (1) are that –
- (a) the relevant person knows or has reasonable grounds for believing that the other person is –
 - (i) a relevant person in respect of which the Commission discharges supervisory functions in respect of that other person's financial services business, or
 - (ii) a person who carries on equivalent business;
 - (b) the relevant person obtains adequate assurance in writing from the other person that –
 - (i) the other person has applied the identification procedures mentioned in paragraph (1),
 - (ii) the other person is required to keep and does keep a record of the evidence of the identification, as described in Article 3(4), relating to each of the other person's customers,
 - (iii) the other person will provide the information in that record to the relevant person at the relevant person's request;

- (c) where the other person is an introducer, the relevant person obtains, in writing –
 - (i) confirmation that each customer described in paragraph (1) is an established customer of that other person, and
 - (ii) sufficient information about each customer described in paragraph (1) to enable the relevant person to assess the risk of money laundering involving that customer; and
 - (d) where the other person is an intermediary, the relevant person obtains in writing sufficient information about the customers for whom the intermediary is acting to enable the relevant person to assess the risk of money laundering involving that customer.
- (5) This paragraph applies to any of the following –
- (a) any beneficial owner or controller of the customer;
 - (b) any third party for whom the customer is acting;
 - (c) any beneficial owner or controller of a third party for whom the customer is acting; or
 - (d) any person purporting to act on behalf of a customer.
- (6) In this Law –
- (a) an intermediary is a person who has or seeks to establish a business relationship or to carry out a one-off transaction on behalf of that person's customer with a relevant person so that the intermediary becomes a customer of the relevant person;
 - (b) an introducer is a person who has a business relationship with a customer and who introduces that customer to a relevant person with the intention that the customer will form a business relationship or conduct a one-off transaction with the relevant person so that the introducer's customer also becomes a customer of the relevant person.
- (7) For the purposes of paragraph (4), assurance is adequate if –
- (a) it is reasonably capable of being regarded as reliable; and
 - (b) the person who relies on it is satisfied that it is reliable.
- (8) Nothing in this Article shall apply in the circumstances falling within Article 13(1)(c)(i).

17 Reliance in certain circumstances where the intermediary is a regulated person

- (1) This Article applies where a relevant person knows or has reasonable grounds for believing that an intermediary is –
 - (a) a regulated person; or
 - (b) a person who carries on equivalent business to any category of regulated business.
- (2) Where this Article applies, the relevant person need not, if that person thinks fit, comply with the obligation under Article 13 to apply the

identification procedures specified in Article 3(2)(b) in respect of the customers of the intermediary's business if –

- (a) in respect of that business, the intermediary falls within paragraph (a), (b) or (d) in the definition of “regulated business”;
 - (b) that business is investment business or fund services business which the intermediary is registered to carry on under the Financial Services (Jersey) Law 1998; or
 - (c) that business is equivalent business to any category of business described in sub-paragraph (a) or (b).
- (3) Nothing in this Article shall apply in the circumstances falling within Article 13(1)(c)(i).

18 Exceptions from customer due diligence procedures

- (1) Identification procedures under Article 13 are not required in any of Cases A to E.
- (2) Case A is where the person whose identity is to be verified is a public authority, and is acting in that capacity.
- (3) Case B is where the business relationship or one-off transaction relates to a pension, superannuation or similar scheme and where the contributions to the scheme are made by way of deductions from wages and the rules of the scheme do not permit the assignment of an interest of a member of the scheme under the scheme.
- (4) Case C is where, in the case of insurance business consisting of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation –
 - (a) the policy contains no surrender clause; and
 - (b) it may not be used as collateral security for a loan.
- (5) Case D is where, in respect of insurance business, a premium is payable in one instalment of an amount not exceeding £1,750.
- (6) Case E is where, in respect of insurance business, a periodic premium is payable and the total amount payable in respect of any calendar year does not exceed £750.
- (7) Where the customer of a relevant person is –
 - (a) a regulated person; or
 - (b) a person who carries on equivalent business to any category of regulated business,

the relevant person need not comply with his or her obligations under Article 13 in respect of those procedures mentioned in sub-paragraphs (a) and (c) of Article 3(2).

- (8) Where –
 - (a) a person is authorized to act on behalf of a customer;
 - (b) the customer is not a relevant person;

- (c) the person who is so authorized acts on behalf of the customer in the course of employment by a financial services business; and
 - (d) the financial services business is either a regulated business or equivalent business to a regulated business,
- the relevant person need not comply with his or her obligations under Article 13 in respect of the procedure mentioned in Article 3(2)(c)(i).
- (9) Nothing in this Article shall apply in the circumstances falling within Article 13(1)(c)(i).

PART 4

RECORD-KEEPING PROCEDURES

19 Records to be kept

- (1) A relevant person must keep the records specified in paragraph (2).
- (2) This paragraph refers to –
 - (a) a record comprising –
 - (i) a copy of the evidence of identity obtained pursuant to the application of customer due diligence procedures or information that enables a copy of such evidence to be obtained, and
 - (ii) all the supporting documents, data or information in respect of a business relationship or one-off transaction which is the subject customer due diligence procedures;
 - (b) a record containing details relating to each transaction carried out by the relevant person in the course of any business relationship or one-off transaction.
- (3) The record to which paragraph (2)(b) refers must in any event include sufficient information to enable the reconstruction of individual transactions.
- (4) The relevant person must keep the records to which paragraph (2) refers in such a manner that those records can be made available on a timely basis to the Commission, police officer or customs officer for the purposes of complying with a requirement under any enactment.

20 Periods for which records must be kept

- (1) Where the records described in Article 19(2)(a) relate to a business relationship, a relevant person must keep those records for a period of at least 5 years commencing with the date on which the business relationship ends.
- (2) Where the records described in Article 19(2)(a) relate to a one-off transaction, a relevant person must keep those records for a period of at

least 5 years commencing with the date on which the one-off transaction is completed.

- (3) A relevant person must keep the records described in Article 19(2)(b) in relation to each transaction for a period of 5 years commencing with the date on which all activities taking place within the course of that transaction were completed.
- (4) For the purposes of paragraph (2) a one-off transaction is completed on the date of completion of all activities taking place in that transaction.
- (5) The Commission may notify to the relevant person a period longer than 5 years for the purposes of paragraphs (1), (2) or (3) and such longer period shall apply instead of the 5 years specified in those paragraphs.

PART 5

REPORTING PROCEDURES AND REQUIREMENTS

21 Internal reporting procedures

Internal reporting procedures maintained by a relevant person are in accordance with this Article if they comply with the following requirements –

- (a) they must provide for communicating the identity of the reporting officer to persons who must or may wish to make reports to that officer;
- (b) if any individual is designated under Article 9, they must provide for communicating the identity of that individual to persons who must or may wish to make reports to that individual;
- (c) they must provide that a report must be made to the reporting officer, or to a designated person, of any information or other matter that comes to the attention of any person handling financial services business and, in the opinion of the person handling that business, gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering;
- (d) they must provide that if a report is made to a designated person, it must be considered by that person, in the light of all other relevant information, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering;
- (e) they must provide that if a report is made to a designated person, the report must (subject to Article 22) be forwarded by the designated person to the reporting officer;
- (f) they must provide that if a report is made or forwarded to the reporting officer, it must be considered by the reporting officer, in the light of all other relevant information, for the purpose of determining whether or not the information or other matter contained in the report does give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering;

- (g) they must provide for the reporting officer, and any designated person through whom the report is made, to have access to all other relevant information that may be of assistance to the reporting officer or that designated person;
- (h) they must provide for securing that the information or other matter contained in a report is disclosed, by the person considering the report under sub-paragraph (d) or sub-paragraph (f), to a designated police officer or designated customs officer as soon as is reasonably practicable, in writing, where the person considering the report knows or has reasonable grounds for suspecting that another person is engaged in money laundering.

22 Reports that need not be forwarded

- (1) If a designated person, on considering a report under Article 21, concludes that it does not give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering, the designated person need not forward it to the reporting officer.
- (2) If a designated person, on considering a report under Article 21, has concluded that it does give rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering, the reporting officer need not consider whether that other person is engaged in money laundering.

23 Duty to report evidence of money laundering

- (1) If the Commission –
 - (a) obtains any information; and
 - (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,the Commission shall disclose that information to a designated police officer or designated customs officer as soon as is reasonably practicable.
- (2) If a person is a secondary recipient of information obtained by the Commission, and forms such an opinion as is described in paragraph (1)(b), the person may disclose the information to a designated police officer or designated customs officer.
- (3) If any person specified in paragraph (4) –
 - (a) obtains any information while acting in the course of any investigation, or discharging any functions, to which the person's authorization or appointment relates; and
 - (b) is of the opinion that the information indicates that any other person has or may have been engaged in money laundering,the first person shall as soon as is reasonably practicable disclose that information to the persons specified in paragraph (5).
- (4) The persons to whom this paragraph refers are –

- (a) a person authorized by the Commission under Article 26 of the Banking Business (Jersey) Law 1991 to require a person to provide information or produce documents;
 - (b) a person appointed by the Commission under Article 28 of the Banking Business (Jersey) Law 1991 to investigate and report to the Commission on a person or business;
 - (c) a person authorized by the Commission under Article 9 of the Collective Investment Funds (Jersey) Law 1988 to require a person to furnish information or produce books or papers;
 - (d) an inspector appointed by the Commission under Article 22 of the Collective Investment Funds (Jersey) Law 1988;
 - (e) an inspector appointed by the Minister for Economic Development or the Commission under Article 15 of the Company Securities (Insider Dealing) (Jersey) Law 1988⁸;
 - (f) an inspector appointed by the Minister for Economic Development or the Commission under Article 128 of the Companies (Jersey) Law 1991 to investigate and report on the affairs of a company;
 - (g) a person authorized by the Court under Article 208 of the Companies (Jersey) Law 1991 to inspect records of or under the control of a company;
 - (h) a person authorized by the Commission under Article 10 of the Insurance Business (Jersey) Law 1996 to require a person to produce information or documents;
 - (i) a person appointed by the Court under Article 11 of the Insurance Business (Jersey) Law 1996 to investigate and report to the Commission on a person or business;
 - (j) an inspector appointed by the Minister for Economic Development or the Commission under Article 31M of the Limited Liability Partnerships (Jersey) Law 1997 (as that Law applies to insolvent limited liability partnerships by virtue of Regulation 1 of the Limited Liability Partnerships (Insolvent Partnerships) (Jersey) Regulations 1998⁹);
 - (k) a person providing a report under Article 8(5) of the Financial Services (Jersey) Law 1998;
 - (l) a person authorized by the Commission under Article 32 of the Financial Services (Jersey) Law 1998 to require a person to provide information or documents or to answer questions; and
 - (m) a person appointed by the Commission under Article 33 of the Financial Services (Jersey) Law 1998 to investigate and report under that Article to the Commission.
- (5) The persons to whom this paragraph refers are –
- (a) a designated police officer or designated customs officer; and
 - (b) the Commission.
- (6) Disclosure under this Article shall be made in writing.

PART 6

MISCELLANEOUS AND CLOSING

24 Revocation

The Money Laundering (Jersey) Order 1999¹⁰ is revoked.

25 Citation and commencement

- (1) This Order may be cited as the Money Laundering (Jersey) Order 2008.
- (2) This Order comes into force 7 days after it is made.

SENATOR T.A. LE SUEUR

Minister for Treasury and Resources

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- 1 *chapter 08.780*
 - 2 *chapter 13.425*
 - 3 *chapter 13.475*
 - 4 *chapter 13.075*
 - 5 *chapter 13.100*
 - 6 *chapter 13.225*
 - 7 *chapter 13.125*
 - 8 *chapter 13.150*
 - 9 *chapter 13.475.10*
 - 10 *R&O.9399 (chapter 08.780.30)*