

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF GUERNSEY)
(AMENDMENT) REGULATIONS, 2019

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2019" dated 2nd May 2019 of the Policy & Resources Committee, they are of the opinion to approve, in pursuance of section 54(1A) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2019.

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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(AMENDMENT) REGULATIONS, 2019

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

29 April, 2019

Dear Sir

1. Background

- 1.1 Amendments to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (“the Law”) in December 2018 repealed regulations specifying measures (such as customer due diligence) to be taken by financial services businesses and other businesses for the purposes of combatting of money laundering and terrorist financing and incorporated revised provisions in Schedule 3 to the Law. These revised provisions are, inter alia, part of the Bailiwick of Guernsey’s response to ensuring compliance with the current standards of the Financial Action Task Force.
- 1.2 Schedule 3 may be revised by regulations made by the Policy & Resources Committee but any such regulations shall not have effect unless and until approved by a resolution of the States under section 54(1A) of the Law.
- 1.3 Implementation of Schedule 3 by the private sector, together with the release of rules and guidance by the Guernsey Financial Services Commission (GFSC) in a handbook in final draft form, and liaison between the Committee and the GFSC, have indicated that a few minor amendments should be made to Schedule 3 which will benefit the sector.
- 1.4 These include:

- modifying the definitions of Money Laundering Compliance Officer and Money Laundering Reporting Officer for the purposes of consistency; and
- introducing a start-date, prior to which former holders of prominent public functions within the Bailiwick of Guernsey would not be considered domestic politically exposed persons to reduce the burden on the private sector. For the avoidance of doubt, while reducing the burden, the amendment is also appropriate on risk grounds.

1.5 The attached Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2019 contain the relevant changes.

2. Proposition

2.1 The States are asked to decide whether they are of the opinion to approve the attached Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2019.

3. Committee Support

3.1 It is confirmed that the proposition above has the unanimous support of the Committee.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens

GUERNSEY STATUTORY INSTRUMENT

2019 No.

**The Criminal Justice (Proceeds of Crime)
(Bailiwick of Guernsey) (Amendment) Regulations, 2019**

Made

9th April, 2019

Coming into operation

13 June, 2019

Laid before the States

12 June, 2019

THE STATES POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 49AA(4) and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of Schedule 3 to the Law.

1. Schedule 3 (Specified Businesses) to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as set out in these regulations.
2. For paragraph 4(7), substitute –

^a Order in Council No. VIII of 1999; as amended by Order in Council No. II of 2005; No. XV of 2007; No. XIII of 2010; No. XI of 2011; Ordinance No. XXVIII of 1999; No. XII of 2002; No. XXXIII of 2003; No. XLVII of 2007; No. XXXVII of 2008; No. XVI of 2010; No. XXXIV of 2010; No. XVII of 2014; No. IX of 2016; No. XVIII of 2007; No. XLIV of 2018; G.S.I. No. 33 of 2007; G.S.I. Nos. 48 and 73 of 2008; G.S.I. No. 12 of 2010; G.S.I. No. 14 of 2013; G.S.I. No. 45 of 2016; and certain sections of the Law are modified in their application to external confiscation orders by Ordinance XXXIII of 1999.

"(7) A specified business must have regard to any relevant rules and guidance in the Handbook in determining, for the purposes of subparagraph (3)(c) and paragraphs 5(3)(a)(iii) and 5(3)(a)(v)(D), what constitutes reasonable measures."

3. In paragraph 5(4) –

(a) for "Subject to subparagraph (5)", substitute "Subject to subparagraphs (5) and (5A)", and

(b) in item (d), for "close associate of such a person" substitute "close associate of a person referred to in (a) or (b)".

4. After paragraph 5(5), insert –

"(5A) A person is not a politically exposed person for the purposes of this Schedule if that person –

(a) was not a politically exposed person within the meaning of regulation 5(2)(b) of the FSB Regulations or regulation 5(2)(b) of the PB Regulations, when those Regulations were in force, and

(b) ceased to be entrusted with a prominent public function in respect of the Bailiwick before 31st March 2019."

5. In paragraphs 12(1)(a) and 15(1)(a), for "management level" substitute "manager level".

6. In paragraph 21, in the definition of "beneficial owner", for "subparagraph (4)" substitute "paragraph 22", and for the definitions of "Money Laundering Compliance Officer" and "Money Laundering Reporting Officer", substitute the following –

""Money Laundering Compliance Officer" means a person of at least manager level appointed by a specified business to monitor compliance with policies, procedures and controls to forestall, prevent and detect money laundering and terrorist financing,

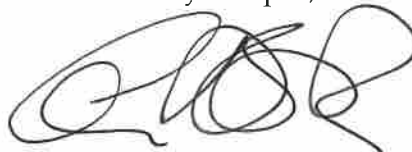
"Money Laundering Reporting Officer" means a person of at least manager level appointed by a specified business to make or receive disclosures under Part I of the Disclosure Law and sections 12, 15 and 15A of the Terrorism Law,".

7. In paragraph 22(8), for ""beneficial owner" means –", substitute ""beneficial owner means, for the purposes of this Schedule –".

Citation and commencement.

8. These Regulations may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2019 and shall come into force on the 13th June, 2019.

Dated this *14* day of April, 2019



G. A. ST PIER

President of the Policy & Resources Committee

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make minor amendments to Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ("the Law"), which Schedule was inserted by the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2018. The changes made include making the definitions of Money Laundering Compliance Officer and Money Laundering Reporting Officer more consistent, and a minor amendment to the provisions relating to politically exposed persons (or "PEPs"). Pursuant to section 54(1A) of the Law, these Regulations shall not have effect unless and until approved by a resolution of the States.

If so approved, these Regulations come into force on the 13th day of June, 2019.