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GUERNSEY STATUTORY INSTRUMENT

2009 No.

**The Criminal Justice (Proceeds of Crime) (Legal Professionals,
Accountants and Estate Agents)
(Bailiwick of Guernsey) (Amendment) Regulations, 2009**

*Made**8 June, 2009**Coming into operation**6 July, 2009**Laid before the States**, 2009*

THE POLICY COUNCIL, in exercise of the powers conferred upon it by sections 49A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^a, hereby makes the following Regulations:-

Amendment of regulation 5 of the Principal Regulations.

1. In regulation 5 of the Principal Regulations –

(a) for subparagraph 2(a) substitute –

"(a) **"enhanced client due diligence"** means

- (i) obtaining senior management approval for establishing a business relationship or undertaking an occasional transaction,

^a Order in Council No. VIII of 1999, as amended by Order in Council No. II of 2005 and No. XV of 2007, Ordinance No. XXVIII of 1999, No. XII of 2002, No. XXXIII of 2003 and No. XLVII of 2007; G.S.I. No. 27 of 2002, G.S.I. No. 33 of 2007 and G.S.I. No. 48 of 2008; and certain sections of the Law are modified in their application to external confiscation orders by Ordinance No. XXXIII of 1999.

- (ii) obtaining senior management approval for, in the case of an existing business relationship with a politically exposed person, continuing that relationship,
- (iii) taking reasonable measures to establish the source of any funds and of the wealth of the client and beneficial owner and underlying principal,
- (iv) carrying out more frequent and more extensive ongoing monitoring in accordance with regulation 11, and
- (v) taking one or more of the following steps as would be appropriate to the particular business relationship or occasional transaction –
 - (A) obtaining additional identification data,
 - (B) verifying additional aspects of the client's identity, and
 - (C) obtaining additional information to understand the purpose and intended nature of each business relationship.",
- (b) delete paragraph (3),
- (c) in paragraph (4) after the words "where the client was not" insert the words "a Guernsey resident who was".

Amendment of regulation 8 of the Principal Regulations.

- 2. In regulation 8(a) of the Principal Regulations –

- (a) immediately after the words "not set up anonymous accounts or accounts in" insert the word "fictitious", and
- (b) delete the words "which it knows, or has reasonable cause to suspect, to be fictitious".

Amendment of regulation 14 of the Principal Regulations.

3. In regulation 14(4)(b) of the Principal Regulations immediately after the words "must be made available promptly to" insert the words "any police officer,".

Interpretation.

4. (1) In these Regulations, "the Principal Regulations" means the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008^b.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

Citation.

5. These Regulations may be cited as the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations, 2009.

Commencement.

6. These Regulations come into force on the 6 July 2009.

Dated this

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DEPUTY L.S.TROTT

^b G.S.I. No. 49 of 2008

^c Ordres en Conseil Vol. XIII, p. 355.

Chief Minister
For and on behalf of the Policy Council

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and amend the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 ("Principal Regulations"). These Regulations amend the Principal Regulations in the following manner -

The amended definition of "enhanced client due diligence" under regulation 5(2)(a) prescribes a more pro-active approach in obtaining enhanced client due diligence.

Regulation 5(4) has been amended to clarify that this regulation is only relevant to clients who are non Guernsey residents.

Regulation 8(a) has been amended to clarify the fact that prescribed businesses must not set up accounts in fictitious names (and has therefore removed the subjective test from this provision).

Regulation 14(4)(b) is amended so that documents and customer due diligence information kept under this regulation must be made available only to a police officer, the Financial Intelligence Service, the Guernsey Financial Services Commission or any other Bailiwick competent authority.