



## **INSTRUCTION (NUMBER 2) FOR FINANCIAL SERVICES BUSINESSES**

11 November 2009

### **SUSPICION REPORTS**

This Instruction is made under section 49(7) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

This Instruction is being issued as a result of a review by the Commission of compliance issues as a whole arising from international AML/CFT assessments. This Instruction is particularly supported by the recommendation of the IMF that both Jersey and the Isle of Man should consider steps to enhance the timeliness of reporting of suspicious transactions.

In its recent AML/CFT assessment on Jersey the IMF expressed reservations that the requirement to report suspicions to the MLRO, rather than directly to the Jersey Financial Crime Unit (the Jersey FIU) could slow down the reporting process or even in some cases deter reports from being filed. Whilst the assessors acknowledged that care is needed on the part of the reporting institutions in determining whether transactions and events warrant reporting and that the process should be subject to appropriate internal controls, there were indications from discussions with financial institutions that the decision process may be taking longer (a week was indicated to the assessors in some institutions as typical unless the case was identified as urgent) than would be helpful from the perspective of the Jersey FIU.

A similar point is made in the September 2009 IMF report on an assessment of the Isle of Man AML/CFT framework.

### **Action to be taken by Financial Services Businesses**

As a matter of urgency, the Board of each financial services business must:

- a. review the policies, procedures and controls on the reporting of suspicion of money laundering and the financing of terrorism by staff to the MLRO and the financial services business's disclosures to the Financial Intelligence Service ("FIS") to ensure that they require the prompt handling, reporting and disclosure of suspicions;

- b. review the timeliness of handling suspicion reports made by staff to the MLRO and the disclosures which have been made to the FIS since 15 December 2007 in order to assess whether there are lessons to be learned on the promptness of reporting and, in light of these lessons, ensure promptness in the handling of future reports of suspicion made to the MLRO and disclosures made to the FIS;
- c. draw up a list of each customer where more than one disclosure has been made to the FIS in connection with that customer, together with the number of disclosures made, in order to assess whether the relationship with the customer should be continued. Documented comprehensive reasoning must be retained where a decision has been made to continue the relationship with the customer; and
- d. by the close of business on 26 February 2010 have taken any necessary action to remedy any identified deficiencies arising from this Instruction and to comply with the requirements of paragraph (c) above.

The action taken by each financial services business under this Instruction will be reviewed during on-site inspections and by other means as necessary.