



INSTRUCTION (NUMBER 3) FOR FINANCIAL SERVICES BUSINESSES

11 November 2009

WIRE TRANSFERS

This Instruction is made under section 49(7) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, section 15 of the Transfer of Funds (Guernsey) Ordinance, 2007, section 15 of the Transfer of Funds (Alderney) Ordinance, 2007 and section 15 of the Transfer of Funds (Sark) Ordinance, 2007.

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 and in light of comments made in the recently published IMF assessment reports about Jersey and the Isle of Man. In these reports the IMF recommended that both jurisdictions should consider steps to tighten implementation of the risk based approach when dealing with wire transfers that lack full originator information.

Under FATF Special Recommendation VII (SR.VII), the primary responsibility for providing originator information rests with the remitting bank. Nevertheless, the recipient bank also has secondary responsibilities on receipt of wire transfers omitting full originator information. In discussions with banks in Jersey and the Isle of Man it appeared to the IMF assessors that the procedures of a number of banks were limited to spot checking the incoming transfers for originator information. Additionally, it was not clear how many such transfers were followed up and whether any were held pending the provision of originator details. Some banks explained that they monitored patterns of missing details and could follow up with banks that were habitual offenders. In the assessors' view, this approach falls short of the "effective risk-based procedures for identifying and handling" such transfers, as called for by SR.VII.

Action to be taken by Financial Services Businesses

As a result of the issues identified in other jurisdictions, the Commission requires the Board of each financial services business acting as a recipient of wire transfers to:

- a. review the policies, procedures and controls on the detection of missing information on the payer and the action to be taken where information on the payer is missing or incomplete to ensure that they meet the

requirements of sections 5, 6 and 7 of the Transfer of Funds (Guernsey) Ordinance, 2007 and the rules in the Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing (“the Handbook”) appropriately and effectively;

- b. ensure that where information on the payer is missing or incomplete documented evidence of the action taken is retained; and
- c. by the close of business on 29 January 2010 have taken any necessary action to remedy any deficiencies.

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