



INSTRUCTION (NUMBER 3) FOR PRESCRIBED BUSINESSES

11 November 2009

INTRODUCED BUSINESS

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

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, from conversations with industry and in light of comments made in the recently published IMF assessment report about Jersey. In their report the IMF recommended that provisions should be in place that adequately addresses the risk that introducers in secrecy jurisdictions may have barriers to providing CDD evidence.

The assessors had concerns that the risks of placing reliance on introducers in jurisdictions with secrecy provisions which may give rise to barriers for the provision of CDD evidence had not been addressed sufficiently.

The Commission has been asked on a number of occasions for guidance on how to set up introducer relationships with prescribed businesses in jurisdictions which are widely thought of as having secrecy provisions – the issue being that businesses in such jurisdictions are not always able to provide an assurance that originals or copies of CDD information held can be provided upon request without delay. The Commission has made it clear that an introducer relationship may only be set up providing that Regulation 10 of the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 (“the Regulations”) and each of the rules in section 4.8 of the Handbook for Legal Professionals, Accountants and Estate Agents on Countering Financial Crime and Terrorist Financing (“the Handbook”) are met. Prescribed businesses cannot set up introducer relationships unless they are certain that originals or copies of CDD information held by the introducer will be provided upon request without delay.

Action to be taken by Prescribed Businesses

In light of the foregoing, the Commission requires the Board of each prescribed business to:

- a. review compliance with Regulation 10 and each of the rules in section 4.8 of the Handbook;
- b. review its programme of testing as required by rule 148 of the Handbook to ensure that, where introducers have been accepted from jurisdictions with secrecy provisions and from those jurisdiction which are widely thought of as having secrecy provisions, the risks have been identified and are being managed and mitigated by obtaining copies of the identification data on a sample basis from each of the introducers; and
- c. by the close of business on 26 February 2010 have taken any necessary action to remedy any identified deficiencies and, if they cannot be remedied to discontinue the introducer relationship.

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