

GUERNSEY STATUTORY INSTRUMENT

2009 No

**The Criminal Justice (Proceeds of Crime) (Financial
Services Businesses) (Bailiwick of Guernsey) (Amendment)
Regulations, 2009**

<i>Made</i>	<i>8 June, 2009</i>
<i>Coming into operation</i>	<i>6 July, 2009</i>
<i>Laid before the States</i>	<i>, 2009</i>

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

Amendment of regulation 4 of the Principal Regulations.

1. In regulation 4(1)(b)(i) of the Principal Regulations the words "which the financial services business knows, or has reasonable cause to suspect, is" are deleted.

Amendment of regulation 5 of the Principal Regulations.

2. In regulation 5 of the Principal Regulations –
- (a) for subparagraph 2(a) substitute –

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

- "(a) **"enhanced customer due diligence"** means
- (i) obtaining senior management approval for establishing a business relationship or undertaking an occasional transaction,
 - (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 customer 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 customer'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 customer was not" insert the words "a Guernsey resident who was".

Amendment of regulation 8 of the Principal Regulations.

3. In regulation 8(1)(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.

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

Interpretation.

5. (1) In these Regulations, "the Principal Regulations" means the The Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007^b.

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

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

6. These Regulations may be cited as the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) (Amendment) Regulations, 2009.

Commencement.

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

Dated this day of, 2009

L. S. TROTT

Chief Minister

For and on behalf of the Policy Council

^b G.S.I. No. 33 of 2007.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 ("the Principal Regulations) which impose requirements on financial services businesses for the purpose of forestalling and preventing money laundering and terrorist financing. These Regulations amend the Principal Regulations as follows:

Regulation 4(1)(b)(i) has been amended so that the subjective test has been removed from the establishment by a financial services business of whether or not an account is in a fictitious name.

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

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

Regulation 8(1)(a) has been amended to clarify the fact that financial services 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.