

UNDERLYING MEMORANDUM

Under Paragraph 3 of Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, firms¹ must carry out and document a suitable and sufficient money laundering business risk assessment and terrorist financing business risk assessment and have appropriate and effective policies, procedures and controls which have regard to the National Risk Assessment (“NRA”).

The Schedule and the rules and guidance in the Commission’s Handbook on Countering Financial Crime and Terrorist Financing took effect on 31 March 2019. Chapter 17 contains measures for transitioning to the revised requirements set out in Schedule 3.

Those transitional rules presently require that a firm:

- reviews its business risk assessment to ensure it contains suitable, sufficient and separate assessments of the money laundering and terrorist financing risks to the firm and takes account of the conclusions of the Bailiwick’s NRA;
- undertakes the review by no later than four months from the effective date of the Schedule or the date of the publication of the NRA, whichever is later; and
- reviews and revises its policies, procedures and controls and has them approved by the Board by no later than three months from when the business risk assessments were approved.

The Policy and Resources Committee has moved the date for publishing the NRA to the end of the year. In light of this the Commission is proposing to amend these transitional rules so that firms can advance work on revising their business risk assessments and policies, procedures and controls to take account of the provisions of Schedule 3 and the rules and guidance in the Handbook without waiting for the NRA.

However, it is intended that the Policy and Resources Committee will issue additional guidance shortly on terrorist financing risk; this guidance will be informed by the NRA findings. While money laundering risks are well understood by firms, the Bailiwick AML/CFT authorities recognise that they might welcome additional input at this stage with regard to the assessment of terrorist financing risk as the requirement to assess this separately from money laundering risk is new.

Under the proposed changes to the transitional rules firms will have until the **end of February 2020** to revise and obtain Board approval of their business risk assessments and three months after that (by the latest **end of May**) to update and obtain Board approval of their policies, procedures and controls. These dates set the same timeframes that would apply if the NRA was published this October.

Although publication of the NRA now falls due within this period to May 2020, the Commission is of the view that it would be impractical and unreasonable to expect a firm to take account of the NRA within its assessments or revisions to its policies, procedures and controls during this period.

A firm should consider the NRA’s findings and conclusions when its business risk assessments and policies, procedures and controls next fall due for review after May 2020 in accordance with the provisions of paragraph 3(1) of the Schedule.

¹ Includes personal fiduciary licensees and sole traders registered as Prescribed Businesses.