



Jersey

## **PROCEEDS OF CRIME (FINANCIAL INTELLIGENCE) (AMENDMENT) (JERSEY) REGULATIONS 2022**

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## PROCEEDS OF CRIME (FINANCIAL INTELLIGENCE) (AMENDMENT) (JERSEY) REGULATIONS 2022

*Made*

*31st March 2022*

*Coming into force*

*in accordance with Regulation 12*

**THE STATES** make these Regulations under Articles 41B and 42A of the [Proceeds of Crime \(Jersey\) Law 1999](#) –

### **PART 1**

PROCEEDS OF CRIME (FINANCIAL INTELLIGENCE) (JERSEY) REGULATIONS 2015  
AMENDED

**1** [Proceeds of Crime \(Financial Intelligence\) \(Jersey\) Regulations 2015](#)  
**amended**

This Part amends the [Proceeds of Crime \(Financial Intelligence\) \(Jersey\) Regulations 2015](#).

**2** **New Part 1 heading inserted**

Before Regulation 1 there is inserted –

**“PART 1**

INTERPRETATION”.

**3** **Regulation 1 (interpretation) amended**

In Regulation 1 (interpretation) –

(a) before the definition “FIU” there is inserted –

“ “financial crime” means –

(a) money laundering;

(b) the financing of terrorism; and

- (c) offences related to money laundering or the financing of terrorism;”;
- (b) after the definition “FIU” there is inserted –  
“ “Jersey competent authority” means any person (other than the FIU) that –
  - (a) exercises functions of a public nature in Jersey; and
  - (b) is concerned with the prevention, investigation, detection or prosecution of financial crime;“overseas competent authority” means an authority outside Jersey that has equivalent functions to those of a Jersey competent authority;”;
- (c) after the definition “suspicious activity report” there is inserted –  
“ “terrorism” has the meaning given in Article 2 of the [Terrorism \(Jersey\) Law 2002](#).”.

#### **4 Regulation 2 (Financial Intelligence Unit: designation and general purpose) substituted**

For Regulation 2 (Financial Intelligence Unit: designation and general purpose) there is substituted –

### **“PART 2**

#### **FINANCIAL INTELLIGENCE UNIT**

##### **2 Designation of the FIU**

- (1) The Jersey Financial Intelligence Unit is designated as the financial intelligence unit (“FIU”) in Jersey.
- (2) The FIU must be operationally independent and autonomous in the exercise of its functions.
- (3) The FIU must have the authority and capacity to exercise its functions freely, including the ability to take autonomous decisions to analyse, gather and disseminate specific information independently of a Jersey competent authority, a financial intelligence unit outside Jersey or an overseas competent authority.
- (4) An employee or member of the FIU must not be directed or supervised in the discharge of their duties as an employee or member by the Chief Executive Officer, the States Employment Board, a Minister or a person acting on behalf of the Officer, Board or Minister.

##### **2A Functions of the FIU**

- (1) The functions of the FIU are to –
  - (a) receive, gather, store, analyse and disseminate information about financial crime (whether in Jersey or elsewhere);

- (b) receive suspicious activity reports and other disclosures of information about financial crime; and
  - (c) assist with the prevention and detection of financial crime.
- (2) The analysis function consists primarily of –
- (a) an operational analysis which –
    - (i) focuses on individual cases and specific targets, or on particular information, and
    - (ii) seeks to identify links between those cases and targets and possible financial crime; and
  - (b) a strategic analysis addressing financial crime trends and patterns.
- (3) For the purpose of exercising its functions, the FIU may make arrangements, or enter into agreements, with –
- (a) a Jersey competent authority;
  - (b) a financial intelligence unit outside Jersey;
  - (c) an overseas competent authority; or
  - (d) any other person that the FIU considers appropriate.

## **2B Protection of information**

- (1) The FIU must have rules in place governing the security and confidentiality of information, including procedures for access to, and the handling, storage, dissemination and protection of, information.
- (2) The FIU must ensure that its facilities, information and information technology systems are not able to be accessed by any person who is not authorised to do so.

## **2C Appointment and functions of the Director of the FIU**

- (1) The Minister must appoint the Director of the FIU.
- (2) The Minister may vary or terminate an appointment, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment.
- (3) Before making or terminating an appointment under this paragraph, the Minister must consult the FIU governance board.
- (4) Schedule 1 sets out the functions of the Director of the FIU.
- (5) The Director of the FIU must exercise the functions set out in Schedule 1 independently and autonomously.

## **2D FIU governance board: establishment and membership**

- (1) There is established an FIU governance board.
- (2) The members of the FIU governance board are appointed by the Minister.
- (3) The Minister must appoint to the FIU governance board –

- (a) at least one representative from a Jersey competent authority; and
  - (b) at least one representative from a government department.
- (4) The FIU governance board must have an odd number of members not less than 5.

## **2E FIU governance board: functions**

The FIU governance board is responsible for –

- (a) determining the general policy and principles by reference to which the FIU is to exercise its functions;
- (b) setting the strategic direction of the FIU;
- (c) supervising and keeping under review the FIU’s performance of its functions;
- (d) considering the annual budget submitted by the Director of the FIU and recommending the FIU’s annual resourcing requirements to the Minister;
- (e) keeping under review whether the FIU, in exercising its functions, is using its resources in an efficient and economic manner; and
- (f) preparing and providing reports on the FIU’s performance to the Minister.”.

## **5 New Part 3 heading inserted**

Before Regulation 3 there is inserted –

### **“PART 3**

**GATHERING FINANCIAL INFORMATION”.**

## **6 Regulation 3 (gathering financial information) amended**

In Regulation 3 (gathering financial information), in paragraph (2)(f) for “combating money laundering and the financing of terrorism” there is substituted “the prevention, investigation, detection or prosecution of financial crime”.

## **7 New Part 4 heading inserted**

Before Regulation 6 there is inserted –

**“PART 4  
CLOSING”.**

**8 New Schedule 1 inserted**

After Regulation 6 there is inserted –

**“SCHEDULE 1  
DIRECTOR OF THE FIU  
(Regulation 2C)**

**1 General functions**

- (1) The Director of the FIU is responsible for ensuring that the FIU exercises its functions –
  - (a) effectively;
  - (b) in a way that takes account of, and is proportionate to, the risks to Jersey from financial crime; and
  - (c) in accordance with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation as published from time to time by the international body known as the Financial Action Task Force and the principles and guidance issued by the Egmont Group of Financial Intelligence Units.
- (2) The Director of the FIU must ensure that the employees and members of the FIU –
  - (a) maintain high professional standards, including standards concerning confidentiality;
  - (b) are of high integrity and appropriately skilled and trained; and
  - (c) have the appropriate security clearance levels for handling and disseminating sensitive and confidential information.

**2 Annual reporting**

The Director of the FIU must provide annually to the FIU governance board –

- (a) a report on the activities and effectiveness of the FIU in the preceding year and on any other matters relevant to the exercise of the functions of the FIU that the Director of the FIU considers appropriate; and
- (b) a financial statement setting out details of the expenditure of the FIU in the preceding year.

### 3 Annual budget

- (1) The Director of the FIU must –
  - (a) prepare an annual budget for the FIU; and
  - (b) submit the annual budget to the FIU governance board in the year preceding that to which the budget relates.
- (2) The annual budget does not preclude the Director of the FIU from making a request to the FIU governance board or an appropriate third party for resources in addition to those in the budget if the Director of the FIU considers it necessary.

### 4 Ringfencing

- (1) The Director of the FIU may not be required to do anything in the course of employment in that role that would fall outside the functions set out in this Schedule.
- (2) The financial, technical, human and other resources of the FIU may not be used, deployed or otherwise drawn upon by a person outside the FIU.
- (3) However, this does not prevent the Director of the FIU, or an employee or member of the FIU with the consent of the Director of the FIU, from working with, or being seconded to, another domestic authority or international organisation.

### 5 Delegation of functions

- (1) The Director of the FIU may arrange for any of the functions set out in this Schedule to be exercised by an employee or member of the FIU on behalf of the Director of the FIU.
- (2) A function exercised by an employee or member under this paragraph is for all purposes exercised by the Director of the FIU and every decision taken or other thing done by an employee or member under this paragraph has the same effect as if taken or done by the Director of the FIU.”.

## PART 2

### CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS, CITATION AND COMMENCEMENT

#### 9 [Proceeds of Crime \(Jersey\) Law 1999](#) amended

- (1) This Regulation amends the [Proceeds of Crime \(Jersey\) Law 1999](#).
- (2) In Article 1 (interpretation), in paragraph (1) –
  - (a) after the definition “financial services business” there is inserted –  
““FIU” means the body for the time being designated by Regulations made under Article 41B as the financial intelligence unit for Jersey;”;



- (b) the definitions “designated customs officer” and “designated police officer” are deleted.
- (3) In Article 32 (protection for disclosures, and defence of intended disclosure) –
  - (a) in paragraph (1) for “a police officer” there is substituted “the FIU”;
  - (b) in paragraph (4)(a) for “a police officer” there is substituted “the FIU”;
  - (c) in paragraph (5) –
    - (i) for “a police officer” there is substituted “the FIU”,
    - (ii) for “the police officer” there is substituted “the FIU”;
  - (d) in paragraph (7)(a) for “a police officer” there is substituted “the FIU”.
- (4) In Article 33 (restrictions on further disclosure), in paragraph (1) –
  - (a) in sub-paragraph (a) –
    - (i) for “a police officer” there is substituted “the FIU”;
    - (ii) for “or 34A” there is substituted “, 34A or 34D”;
  - (b) sub-paragraph (b) is deleted;
  - (c) for “that officer”, in both places it appears, there is substituted “the FIU”.
- (5) In Article 34 (further disclosure permitted for certain purposes) –
  - (a) in paragraph (1) –
    - (i) after sub-paragraph (b)(iii) there is inserted –
      - “(iiia) the FIU”,
    - (ii) sub-paragraph (b)(iv) is deleted;
  - (b) in paragraph (2) there is deleted “Where the Attorney General has consented to disclosure of information and has not withdrawn that consent.”;
  - (c) paragraphs (3) to (5) are deleted.
- (6) In Article 34A (failure to disclose knowledge or suspicion of money laundering) –
  - (a) in paragraph (1B)(a) for “a police officer” there is substituted “the FIU”;
  - (b) in paragraph (3) for “a police officer” there is substituted “the FIU”.
- (7) In Article 34D (failure in a financial institution to report to designated police officer, designated customs officer or nominated officer) –
  - (a) in the heading for “designated police officer, designated customs officer” there is substituted “the FIU”;
  - (b) in paragraph (4A) for “a designated police officer, a designated customs officer” there is substituted “the FIU”;
  - (c) in paragraph (9) for “a designated police officer, designated customs officer or” there is substituted “the FIU or a”.
- (8) Article 34E is deleted.

- (9) In Article 37 (procedures to prevent and detect money laundering), in paragraph 2(b), for “a police officer” there is substituted “the FIU”.

## 10 **Terrorism (Jersey) Law 2002 amended**

- (1) This Regulation amends the [Terrorism \(Jersey\) Law 2002](#).
- (2) In Article 1 (interpretation), in paragraph (1) –
- (a) after the definition “firearm” there is inserted –  
““FIU” means the body for the time being designated by Regulations made under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#) as the financial intelligence unit for Jersey;”;
  - (b) the definitions “designated customs officer” and “designated police officer” are deleted.
- (3) In Article 18 (offences under Articles 15, 16 and 16A: co-operation with police) –
- (a) in the heading, before “police” there is inserted “the FIU or”;
  - (b) in paragraph (4)(b) for “an officer of the Force or a customs officer” there is substituted “the FIU”;
  - (c) in paragraph (5)(a) for “an officer of the Force or customs officer” there is substituted “the FIU”;
  - (d) in paragraph (7)(b) for “an officer of the Force or customs officer” there is substituted “the FIU”.
- (4) In Article 19 (general duty of disclosure of information), in paragraph (4)(a) for “an officer of the Force or a customs officer” there is substituted “the FIU”.
- (5) In Article 20 (disclosure of information: immunity), in paragraph (1)(a) for “an officer of the Force or a customs officer” there is substituted “the FIU”.
- (6) In Article 21 (failure to disclose: financial institutions), in paragraph (4A)(a) for “a designated police officer, a designated customs officer” there is substituted “the FIU”.
- (7) In Article 22 (protected disclosures), in paragraph (4) for “a designated police officer, designated customs officer or” there is substituted “the FIU or a”.
- (8) In Article 23 (restrictions on disclosure), in paragraph (1) –
- (a) for “an officer of the Force or customs officer” there is substituted “the FIU”;
  - (b) for “that officer” there is substituted “the FIU”;
  - (c) for “the officer” there is substituted “the FIU”.
- (9) In Article 24 (disclosure for purposes within Jersey), in paragraph (2) –
- (a) after sub-paragraph (b), there is inserted –  
“(ba) the FIU;”;
  - (b) sub-paragraph (d) is deleted.
- (10) In Article 25 (disclosure for purposes outside Jersey), paragraphs (1)(a) and (2) to (4) are deleted.
- (11) Article 26 is deleted.

- (12) In Article 34 (information about acts of terrorism), in paragraph (3) after “made to” there is inserted “the FIU or”.

## **11 [Money Laundering \(Jersey\) Order 2008](#) amended**

- (1) This Regulation amends the [Money Laundering \(Jersey\) Order 2008](#).
- (2) In Article 1 (interpretation), in paragraph (1) –
- (a) in the definition “Financial Intelligence Unit”, after “given” there is inserted “to FIU”;
  - (b) the definitions “designated customs officer” and “designated police officer” are deleted.
- (3) Article 6 (designated police and customs officers) is deleted.
- (4) In Article 14 (termination where customer due diligence measures are not completed) –
- (a) in paragraph (6) –
    - (i) in sub-paragraph (c) for “a designated police officer or a designated customs officer” there is substituted “the Financial Intelligence Unit”,
    - (ii) in sub-paragraph (d) for “that officer” there is substituted “the Financial Intelligence Unit”;
  - (b) in paragraph (11) –
    - (i) for “a designated police officer or designated customs officer” there is substituted “the Financial Intelligence Unit”,
    - (ii) for “that officer” there is substituted “the Financial Intelligence Unit”.
- (5) In Article 21 (reporting procedures and related disclosure requirements) –
- (a) in paragraph (1) –
    - (i) in sub-paragraph (h) for “a designated police officer or designated customs officer” there is substituted “the Financial Intelligence Unit”,
    - (ii) in sub-paragraph (ha) –
      - (A) for “designated police officer or designated customs officer” there is substituted “Financial Intelligence Unit”,
      - (B) for “that officer”, in both places it appears, there is substituted “the Financial Intelligence Unit”;
  - (b) in paragraph (2), there is deleted “a designated police officer or a designated customs officer”;
  - (c) in paragraph (4) –
    - (i) for “designated police officer or designated customs officer” there is substituted “Financial Intelligence Unit”,
    - (ii) for “that officer”, in both places it appears, there is substituted “the Financial Intelligence Unit”.
- (6) In Article 23 (duty to report evidence of money laundering) –

- (a) in paragraph (1) there is deleted “a designated police officer or a designated customs officer”;
- (b) in paragraph (2) there is deleted “a designated police officer or a designated customs officer”;
- (c) in paragraph (5), sub-paragraph (b) is deleted;
- (d) in paragraph (5A) there is deleted “a designated police officer or a designated customs officer”;
- (e) in paragraph (5B) there is deleted “a designated police officer or a designated customs officer”;
- (f) in paragraph (5E), sub-paragraph (c) is deleted.

## **12 Citation and commencement**

These Regulations may be cited as the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022 and come into force on such day or days as the States may by Act appoint.