

# STATES OF JERSEY



## **DRAFT EU LEGISLATION (INFORMATION ACCOMPANYING TRANSFERS OF FUNDS) (AMENDMENT) (JERSEY) REGULATIONS 202- (P.36/2023): COMMENTS**

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**Presented to the States on 12th July 2023  
by the Economic and International Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### **Background**

The Draft EU Legislation (Information Accompanying Transfers Of Funds) (Amendment) (Jersey) Regulations 202- [P.36/2023](#) (the proposed Regulations) will, if adopted, bring Virtual Asset Service Providers (VASPs) and Money or Value Transfer Services (MVTs) into the scope of requirements established within the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#).

The Panel questioned the Assistant Chief Minister with Responsibility for Financial Services (the Assistant Chief Minister) on the formation of the proposed Regulations during its public quarterly hearings of the [21st April](#) and [21st June](#) 2023. The Panel was informed that originator and beneficiary information being provided along with a transfer of virtual assets was formally part of the Financial Action Task Force (FATF) standards and was therefore a requirement for the Government of Jersey to regulate.

This necessity is further iterated in the report accompanying the proposed Regulations which outlines their relevance to the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) assessment.

### **Consultation**

The Panel was notified that a public consultation was to be carried out on the proposed Regulations and this was undertaken from 17th April to 12th May 2023. The Panel has been informed that the consultation was also directly shared with Jersey Finance Limited and Digital Jersey, and that these bodies were requested to highlight the consultation to their members. The Panel understands that the Jersey Financial Services Commission (JFSC) was also directly contacted and forwarded the consultation to all registered VASPs in the Island.

Upon further questioning, the Panel has been informed that [responses](#) to the consultation were supportive of the proposed Regulations, however it was acknowledged by government officers that some respondents requested further guidance regarding operational implementation.

The Panel [wrote](#) to Jersey Finance Limited who [confirmed](#) that the consultation had been publicised in their Industry Insight newsletter and on their website, as well as being mentioned in trade body meetings. In its response to the Panel, Jersey Finance Limited expressed awareness of the need to bring VASPs and MVTs within the scope of the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017 in order to comply with the FATF recommendations.

Following correspondence with Jersey Finance Limited the Panel [wrote](#) to the Jersey Funds Association which has confirmed that it holds no major concerns with the proposed Regulations.

### **De minimis exemption**

The Panel notes that the proposed Regulations include an exemption for payment service providers where transfer of virtual assets is equivalent to less than EUR 1,000 if the payer and payee are both virtual asset service providers. The Panel has been informed that this would not apply if a payment service provider considers there a higher risk of money laundering in respect of a transfer of virtual assets, if the payer is a VASP

but the payee is not a VASP, or the payer is not a VASP but the payee is a VASP, irrespective of the amount transferred.

The Panel agrees that this is in keeping with the international standards set by the FATF, noting the [interpretive note](#) to recommendation 16 of the International Standards on Combating Money Laundering and The Financing of Terrorism & Proliferation:

*5. Countries may adopt a de minimis threshold for cross-border wire transfers (no higher than USD/EUR 1,000), below which the following requirements should apply:*

- (a) Countries should ensure that financial institutions include with such transfers: (i) the name of the originator; (ii) the name of the beneficiary; and (iii) an account number for each, or a unique transaction reference number. Such information need not be verified for accuracy, unless there is a suspicion of money laundering or terrorist financing, in which case, the financial institution should verify the information pertaining to its customer.*
- (b) Countries may, nevertheless, require that incoming cross-border wire transfers below the threshold contain required and accurate originator information.*

The Panel has also been informed that although under this exemption the transaction information does not need to be attached and *transferred* as part of the actual transfer all the AML/CFT information would still have to be *collected* by the respective VASP.

### **Implementation**

Upon questioning government officers, the Panel has received confirmation that, should the proposed Regulations be adopted, the JFSC would issue guidance on how the new requirements should be applied and implemented. It has been clarified to the Panel that this would be undertaken within their business as usual work streams.

Noting calls during the consultation for further implementation guidance, the Panel has been informed by government officers that additional guidance would likely be published both as separate documentation and as part of the JFCS's [AML/CFT/CPF Handbook](#) (Anti-money laundering/countering the financing of terrorism/countering proliferation financing Handbook).

It is anticipated that the JFSC will undertake its supervisory role through a specific Non-Profit Organisations (NPOs), Designated Non-Financial Businesses and Professions (DNFBPs) and VASP [team](#).

The Panel was informed by the Assistant Chief Minister that there is a low number of VASPs currently operating in the Island and is in general agreement with the proposed method of implementation of the proposed Regulations and anticipated publication of further guidance.

### **Conclusion**

The Panel is satisfied that the proposed Regulations are supported by the industry and that further guidance will be provided to support their practical implementation.

The Panel agrees that the proposed Regulations are necessary in light of the upcoming MONEYVAL assessment and are in keeping with the FATF standards and recommendations.