

# STATES OF JERSEY



Jersey

## **DRAFT EU LEGISLATION (INFORMATION ACCOMPANYING TRANSFERS OF FUNDS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

---

**Lodged au Greffe on 26th May 2023  
by the Chief Minister  
Earliest date for debate: 18th July 2023**

---

**STATES GREFFE**

## REPORT

Jersey's work on a national level for the ongoing assessment by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) as part of the fifth evaluation continues at pace. The MONEYVAL assessment, with an onsite visit scheduled for September 2023, evaluates the Island's compliance with and effectiveness against the international standards set by the Financial Action Task Force, the [FATF Recommendations](#) (the "**Recommendations**").

In order to continue Jersey's policy of compliance with the Recommendations, it is proposed to amend the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#) (the "**Wire Transfers Regulations**"). The purpose of the proposed Draft Regulations is to align Jersey's AML/CFT requirements regarding the information accompanying the transfers of funds with the FATF requirements under Recommendation 15 and 16. Therefore, the proposed Draft Regulations would, if adopted, bring Virtual Asset Service Providers (VASPs) and Money or Value Transfer Services (MVTs) into the scope of the Wire Transfers Regulations.

The general requirements regarding wire transfers are outlined in Recommendation 16. *Inter alia*, Recommendation 16 requires countries to ensure that financial institutions include accurate originator and beneficiary information, on wire transfers and related messages, and that the information remains with the wire transfer or related message throughout the payment chain. Recommendation 15 sets out that the requirements of Recommendation 16 also apply to VASPs.

The requirements of Recommendation 16 have been transposed into a Regulation of the European Union in [Regulation \(EU\) 2015/847](#). The Wire Transfers Regulations transpose Regulation (EU) 2015/847 into Jersey Law and apply it to payment service providers, currently limited to being a person registered under the [Banking Business \(Jersey\) Law 1991](#) which either is carrying out payment services in or from within Jersey, or is a legal person established under Jersey law, carrying out payment services in any part of the world other than in or from within Jersey.

With regards to the AML/CFT provisions in Jersey, MVTs are already a class of financial institutions under Part 2, Article 5, whilst VASPs are included in Part 4, Article 24 respectively, of Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#) (the "**1999 Law**") and both are therefore in scope for all AML/CFT obligations imposed under Article 37 of the 1999 Law and thereby under the [Money Laundering \(Jersey\) Order 2008](#) (the "**MLO**").

It is proposed that the Wire Transfers Regulations are amended by the Draft Regulations to widen the scope of the Wire Transfers Regulations to include VASPs and MVTs, as defined in the 1999 Law, in the definition of a payment service provider. It is also proposed to extend the definition of funds to include virtual assets. The existing definitions of VASPs, MVTs and virtual assets in the 1999 Law already mirror the respective FATF definitions.

Furthermore, it is proposed to exempt payment service providers from the requirements of the Wire Transfers Regulations in respect of a transfer of virtual assets equivalent to less than EUR 1,000 if the payer (originator) and payee (beneficiary) are both VASPs. This *de minimis* amount is in line with Recommendation 16 and similar to the approach taken in the UK.

However, the aforementioned exemption would not apply if a payment service provider considers there is 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 Draft Regulations have been subject to a public consultation and the responses to the consultation were supportive of the amendments. Inevitably, there will be certain areas where industry will benefit from additional guidance on certain aspects of the practical implementation of these changes and Government is supporting the JFSC with the provision of such guidance.

These Draft Regulations, if adopted, form another important building block to achieve better compliance with the Recommendations ahead of the MONEYVAL assessment, but they are also suitable to ensure that Jersey remains an attractive, well-regulated, and forward-looking International Finance Centre in the area of virtual and crypto assets, and I therefore recommend the Draft Regulations to the Assembly for adoption.

**Financial and manpower implications**

There are no financial and manpower implications for the States arising from the adoption of the Draft Regulations.

## EXPLANATORY NOTE

---

These Regulations amend the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017 (the “principal Regulations”) to apply them to virtual assets and money or value transfers.

*Regulation 2* amends Regulation 1 of the principal Regulations to insert definitions for the terms “money or value transfer service provider”, “payment service provider”, “virtual asset” and “virtual asset service provider”. The term “money or value transfer service provider” is defined to mean a person who provides a money or value transfer service within the meaning given in paragraph 5 in Part 2 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999. The term “payment service provider” is extended to include a person who is a virtual asset service provider or a money or value transfer service provider. The term “virtual asset” is defined to have the meaning given in Part 1 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999. The term “virtual asset service provider” is defined to have the meaning given in Part 4 of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999.

*Regulation 3* inserts Regulation 2A of the principal Regulations to –

- (a) to exempt a payment service provider from the requirements of (EU) 2015/847, as it has effect in Jersey under the principal Regulations, in respect of a transfer of virtual assets equivalent to less than EUR 1,000 if the payer and payee are both virtual asset service providers; and
- (b) to provide that if a payment service provider considers that there is a higher risk of money laundering in respect of a transfer of virtual assets, the payment service provider must comply with (EU) 2015/847 as it has effect in Jersey under the principal Regulations, irrespective of the amount transferred, if the payer is a virtual asset service provider and the payee is not a virtual asset service provider, or the payer is not a virtual asset service provider and the payee is a virtual asset service provider.

*Regulation 4* amends Regulation 3(6) of the principal Regulations to delete the definition of the term “payment service provider” which is relocated in Regulation 1 of the principal Regulations.

*Regulation 5* amends paragraph 5 of the Schedule to the principal Regulations so that virtual assets are included in the definition of the term “funds”.

*Regulation 6* gives the title to these Regulations and provides that they come into force on 1st September 2023.



Jersey

## **DRAFT EU LEGISLATION (INFORMATION ACCOMPANYING TRANSFERS OF FUNDS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

### **Contents**

---

#### **Regulation**

1	EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017 amended .....	6
2	Regulation 1 (interpretation) amended .....	6
3	Regulation 2A (virtual assets) inserted .....	7
4	Regulation 3 (offences) amended.....	7
5	Schedule amended .....	7
6	Citation and commencement .....	7



Jersey

## **DRAFT EU LEGISLATION (INFORMATION ACCOMPANYING TRANSFERS OF FUNDS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 2 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) –

### **1 [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#) amended**

These Regulations amend the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#).

### **2 Regulation 1 (interpretation) amended**

In Regulation 1 –

- (a) before the definition “payee” there is inserted –  
“ “money or value transfer service provider” means a person who provides a money or value transfer service within the meaning given in paragraph 5 in Part 2 of Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#);”;
- (b) after the definition “payer” there is inserted –  
“ “payment service provider” means a person, being a person registered under the [Banking Business \(Jersey\) Law 1991](#) or who is a virtual asset service provider or a money or value transfer service provider, when –
  - (a) the person is carrying out payment services in or from within Jersey; or
  - (b) being a legal person established under Jersey law, the person is carrying out payment services in any part of the world other than in or from within Jersey;”;
- (c) after the definition “Regulation (EU) 2015/847” there is inserted –  
“ “virtual asset” has the meaning given in Part 1 of Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#);  
“virtual asset service provider” has the meaning given in Part 4 of Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#).”.

### 3 Regulation 2A (virtual assets) inserted

After Regulation 2 there is inserted –

#### “2A Virtual assets

- (1) Despite any other provision under these Regulations, a payment service provider is exempt from the requirements and application of Regulation (EU) 2015/847, as it has effect in Jersey under Regulation 2, in respect of a transfer of virtual assets equivalent to less than EUR 1,000 if the payer and payee are both virtual asset service providers.
- (2) Despite any other provision under these Regulations, if a payment service provider considers that there is a higher risk of money laundering in respect of a transfer of virtual assets, the payment service provider must comply with the Regulation (EU) 2015/847, as it has effect in Jersey under Regulation 2, irrespective of the amount transferred, if –
  - (a) the payer is a virtual asset service provider and the payee is not a virtual asset service provider; or
  - (b) the payer is not a virtual asset service provider and the payee is a virtual asset service provider.”.

### 4 Regulation 3 (offences) amended

In Regulation 3(6), the definition “payment service provider” is deleted.

### 5 Schedule amended

In the Schedule, in paragraph 5, after sub-paragraph (c) there is inserted –

“(ca) in paragraph (8) after “Article 4 of Directive 2007/64/EC” there is inserted “or virtual assets”.”.

### 6 Citation and commencement

These Regulations may be cited as the EU Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations 202- and come into force on 1st September 2023.