

11 WIRE TRANSFERS

Please Note:

- › Regulatory requirements are set within this section as AML/CFT Codes of Practice.
- › This section contains references to Jersey legislation which may be accessed through the [JFSC website](#).
- › Where terms appear in the Glossary this is highlighted through the use of italic text. The Glossary is available from the [JFSC website](#).

11.1 Overview of Section

1. The [FATF Recommendation 16](#) on Wire Transfers with the revised interpretative note ("**FATF Recommendation 16**") was implemented within the European Union by [Regulation \(EU\) 2015/847 of 20 May 2015 on Information Accompanying Transfers of Funds](#) ("**Regulation (EU) 2015/847**"), which repealed and replaced the previous regime under Regulation (EC) 1781/2006 to promote a more targeted and focused risk approach to the full traceability of transfers of funds for the purpose of prevention, detection and investigation of money laundering and terrorist financing.
2. Regulation (EU) 2015/847 further expands the regulatory requirements with the following objectives:
 - › to prevent the abuse of fund transfers for money laundering, terrorist financing and other financial crime purposes,
 - › to detect such abuse should it occur,
 - › to support the implementation of restrictive measures, and
 - › to allow relevant authorities to access the information promptly.
3. In Jersey, Regulation (EU) 2015/847 was implemented by virtue of the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#) ("**Wire Transfers Regulations**" or "**Regulations**") with an effect from 13 June 2017 as if it was an enactment to any extent that it doesn't otherwise have effect in Jersey, subject to certain exceptions, adaptations and modifications. Under Regulations, references to "Member State" and "the Union" shall be read as if Jersey were itself a Member State, its territory was included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom.
4. Under the Wire Transfers Regulations, the following definitions apply:

"payment service provider" ("**PSP**") means a person, being a person registered under the Banking Business (Jersey) Law 1991, when:

 - › the person is carrying out payment services in or from within Jersey; or
 - › 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;

"intermediary payment service provider" ("**IPSP**") means PSP that is neither that of the payer nor that of the payee and that participates in the execution of transfers of funds;

"payer" means a person that is the holder of an account held with a PSP that allows a transfer of funds from the account or, where there is no account, a person that places an order for a transfer of funds;

"payee" means a person that is the intended final recipient of transferred funds.

5. The core requirement is that every wire transfer must be accompanied by specific information ("**complete information**") about the payer and the payee, which should be collected and retained by payment institutions, unless special exemptions and derogations apply, including funds transfers between the British Islands.
6. A PSP should establish for each transfer of funds whether it acts as the PSP of the payer, as the PSP of the payee or as an IPSP. This will determine what information has to accompany a transfer of funds and the steps to take to comply with the Regulations.
7. It also requires PSPs to put in place effective procedures to detect transfers of funds that lack the required information about the payer and the payee, and to determine whether to execute, reject or suspend such transfers of funds.
8. References to the British Islands in this section are to an area that comprises the United Kingdom, the Bailiwick of Jersey, the Bailiwick of Guernsey, and the Isle of Man.
9. In line with the Data Protection (Jersey) Law 2018, personal data obtained by PSPs, should be used only for the purpose of preventing money laundering and terrorist financing, and PSPs should ensure the confidentiality of such data.
10. Any record of information on payer/payee should not be kept longer than is necessary for the purposes of preventing, detecting and investigating money laundering and terrorist financing.
11. In this section, any reference to a numbered Article, without more, is a reference to the Article so numbered of Regulation (EU) 2015/847 as it is read in the Wire Transfers Regulations.

11.2 The scope of the Regulations

Statutory Requirements

12. *The Wire Transfer Regulations shall apply to transfers of funds, in any currency, which are sent or received by PSP or IPSP established in Jersey, unless the Regulations sets out exemptions and derogations (Article 1).*
13. *These include credit transfers, direct debits, money remittances and transfers carried out using a payment card, an electronic money instrument, or a mobile phone, or any other digital or IT prepaid or post-paid device with similar characteristics, irrespective of whether the payer and the payee are the same person and irrespective of whether the PSP of the payer and that of the payee are one and the same. For British Islands-based PSPs, it includes, but is not necessarily limited to, international payment transfers made via SWIFT, including various Euro payment systems, and domestic transfers via CHAPS and BACS.*
14. *Despite the wide scope, the Wire Transfer Regulations shall not apply to transfers of funds that are exempt, such as transfers of funds corresponding to services referred to in points (a) to (m) and (o) of the Directive 2007/64/EC of the European Parliament and of the Council; under Article 2(1):*
 - (a) *payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;*
 - (b) *payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;*
 - (c) *professional physical transport of banknotes and coins, including their collection, processing and delivery;*
 - (d) *payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;*

- (e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through payment for the purchase of goods or services;*
- (f) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account;*
- (g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:*
 - (i) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;*
 - (ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;*
 - (iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;*
 - (iv) paper-based drafts similar to those referred to in point (iii) and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;*
 - (v) paper-based vouchers;*
 - (vi) paper-based traveller's cheques; or*
 - (vii) paper-based postal money orders as defined by the Universal Postal Union;*
- (h) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to Article 28;*
- (i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;*
- (j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services;*
- (k) services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;*
- (l) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;*
- (m) payment transactions carried out between payment service providers, their agents or branches for their own account;*

- (o) *services by providers to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the Annex.”*
15. *The point (n) is excluded from the previous list in paragraph 13 and therefore is in the scope of the Wire Transfer Regulations:*
- (n) *“payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group.”*
16. *The Wire Transfer Regulations shall not apply to transfers of funds that represent a low risk of money laundering or terrorist financing under Article 2(4) as follows:*
- › *transfers of funds, that involve the payer withdrawing cash from the payer's own payment account;*
 - › *transfers of funds to a public authority as payment for taxes, fines or other levies within the British Islands;*
 - › *transfers of funds where both the payer and the payee are PSPs acting on their own behalf;*
 - › *transfers of funds carried out through cheque images exchanges, including truncated cheques.*
17. *By way of exception, under Article 2(3) the Regulations shall not apply to transfers of funds carried out using payment cards, electronic money instruments, mobile phones or other digital or information technology (IT) prepaid or postpaid devices with similar characteristics, where the following conditions are met:*
- (a) *that card, instrument or device is used exclusively to pay for goods or services; and*
 - (b) *the number of the card, instrument or device accompanies all transfers flowing from the transaction.*
18. *By way of derogation, under Article 2(5), the Regulations shall not apply to transfers of funds within the British Islands to a payee's payment account permitting payment exclusively for the provision of goods and services where all of the following conditions are met:*
- (a) *the PSP of the payee is subject to the requirements of the Money Laundering (Jersey) Order 2008 or the Terrorism (Jersey) Law 2002 or is subject to equivalent requirements under enactments of the United Kingdom, Guernsey or the Isle of Man;*
 - (b) *the PSP of the payee is able to trace back, through the payee, by means of a unique transaction identifier, the transfer of funds from the person who has an agreement with the payee for the provision of goods or services;*
 - (c) *the amount of the transfer of funds does not exceed EUR,1000.*

Guidance Notes

19. Relevant person shall have in place systems and controls (including policies and procedures) to ensure the conditions for the exemptions and derogations are met
20. PSPs and IPSPs may demonstrate compliance with the Wire Transfers Regulations if they have in place relevant systems and controls, including policies and procedures, which set out clearly:
- › which criteria they use to determine whether or not their services and payment instruments fall under the scope of the Regulations;
 - › which of their services and payment instruments fall within the scope of the Regulations and which do not;

- › which information relating to transfers of funds has to be recorded, how this information should be recorded, and where.
21. PSPs and IPSPs may demonstrate their compliance with the application of the exemption under Article 2(3) when they have procedures for identifying and documenting:
- › that transfers by card, instrument or device are for goods or services, where the exemption applies, as opposed to person-to-person transfers, and
 - › that their systems and controls ensure that the number of the card, instrument or digital device, for example, the Primary Account Number (PAN), is provided in a way that allows the transfer to be traced back to the payer.

11.3 Outgoing Transfers - Obligations upon the PSP of the Payer

11.3.1 Transfers for Non-account Holders

	Statutory Requirements
22.	<p><i>Under Article 4(3), the PSP of the payer shall ensure that transfers of funds are accompanied by the following complete information on the payer and the payee:</i></p> <ul style="list-style-type: none"> <i>(a) the name of the payer;</i> <i>(b) a unique transaction identifier (which can trace a transaction back to the payer); and</i> <i>(c) one of either the payer's address, official personal document number, customer identification number or date and place of birth;</i> <i>(d) the name of the payee; and</i> <i>(e) a unique transaction identifier (which can trace a transaction back to the payee).</i>
23.	<p><i>These requirements apply to all types of transfers outside the British Islands and exceeding EUR 1, 000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked.</i></p>
24.	<p><i>The 'unique transaction identifier' is defined as a combination of letters, numbers or symbols determined by the PSP, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, which permits the traceability of the transaction back to the payer and the payee.</i></p>
25.	<p><i>Under Article 5 and 6 of the Wire Transfer Regulations the following derogation applies, which allow for a reduced information to be provided:</i></p> <ul style="list-style-type: none"> › <i>Under Article 5, where all of the PSPs involved in the payment chain are established in the British Islands, the transfer shall include at least the unique transaction identifier (which can trace a transaction back to the payer and payee) for the payer and the payee. If further information is requested by the PSP of the payee or the Intermediary PSP, such information shall be provided within three working days of the receipt of a request for such information.</i> › <i>Under Article 6, where PSP of the payee is established outside the British Islands, transfers of funds not exceeding EUR 1,000 shall be accompanied by at least: the names of the payer and the payee and the unique transaction identifier.</i> <p><i>Note: For transfers of funds not exceeding EUR 1,000 the PSP of the payer need not verify the information on the payer unless the funds to be transferred have been received in cash or in anonymous electronic money, or the PSP has reasonable grounds for suspecting ML and/or FT.</i></p>

11.3.2 Transfers for Account holders

Statutory Requirements

26. *Under Article 4(1) and 4(2), where a transfer of funds is made from or to an account, the PSP of the payer shall ensure that transfers of funds are accompanied by the following complete information:*
- (a) *the name of the payer;*
 - (b) *the payer's payment account number; and*
 - (c) *one of either the payer's address, official personal document number, customer identification number or date and place of birth;*
 - (d) *the name of the payee; and*
 - (e) *the payee's payment account number*
27. *These requirements apply to all types of transfers outside the British Islands and exceeding EUR 1,000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked.*
28. *Under Article 5 and 6 of the Wire Transfer Regulations the following derogation from the requirements of Article 4 apply:*
- › *Where all of the PSPs involved in a transfer are established in the British Islands, Article 5 of the Regulation requires that the transfer includes a payment account number of the payer and the payee. The account number could be but is not required to be, expressed as the IBAN. If further information (for example, the name and address of the payer) is requested by the PSP of the payee or the IPSP, such information shall be provided by the PSP within three working days.*
 - › *Under Article 6, where PSP of the payee is established outside the British Islands, transfers of funds not exceeding EUR 1,000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, shall be accompanied by at least: the names of the payer and the payee and the payment account numbers of the payer and of the payee.*
- Note: For transfers of funds not exceeding EUR 1,000 the PSP of the payer need not verify the information on the payer unless the funds to be transferred have been received in cash or in anonymous electronic money, or the PSP has reasonable grounds for suspecting ML and/or FT.*

AML/CFT CODES OF PRACTICE

29. In the case of a payer that is a company, a wire transfer must be accompanied by an address at which the company's business is conducted, or at which it may be contacted. In the case of a payer that is a trustee, a wire transfer must be accompanied by the address of the trustee.

Guidance Notes

30. Linked transactions are defined, at least, as those transactions that are sent from the same payment account or the same payer to the same payee and within a short time-frame, for example within six months. PSPs and IPSPs may demonstrate that they are able to detect transfers of funds that appear to be linked by reflecting all possible scenarios in their policies and procedures.

31. The exemptions for transfers within the British Islands arises from expediency, not principle, in order to accommodate transfers by domestic systems like BACS which are currently unable to include complete information. Accordingly, where the system used for a transfer within the British Islands has the functionality to carry complete information, it is considered a good practice to include it, and thereby reduce the likely incidence of inbound requests from payee PSPs for complete information.
32. The verification requirement set out in the Regulations will be met for an account holding customer of a PSP where the payer's identity has already been verified by CDD measures and is stored, in accordance with the Money Laundering (Jersey) Order 2008.
33. In order to meet the technical limitations and to manage cases with multiple account holders and different addresses, the PSP of the payer may demonstrate compliance with the Wire Transfer Regulations by documenting the priority given to the payer's information in line with law enforcement purposes to trace the payer and for sanctions screening. For example, by de-prioritising titles and full middle names, whilst prioritising the initial of the given name and the full family name and at least the country and the city of address; or for joint accounts holders to provide both names, giving priority to family name over given names.

11.3.3 Batch Files – payments either inside or outside of British Islands

Statutory Requirements

34. *Under Article 6(1), transfers of funds from a single payer to several payees that are to be sent in batch files containing individual transfers shall carry only the payment account number or the unique transaction identifier of the payer, as well as complete information on the payee, provided that the batch file contains complete information on the payer that is verified for accuracy and complete information on the payee that is fully traceable.*
35. *Where the transfer is at or below the EUR 1,000 threshold it need only include:*
 - (a) *the names of the payer and or payee; and*
 - (b) *the payment account numbers of the payer and the payee or a unique transaction identifier if there is no payment account for one or both parties.*

11.4 Incoming Transfers - Obligation on the PSP of the payee and IPSP

OVERVIEW

36. Under the Wire Transfer Regulations, the PSPs of the payee and IPSPs are required to implement a targeted and proportionate risk-based approach to the monitoring of incoming traffic of fund transfers, with the PSP of the payer holding responsibility for communicating all mandatory wire transfer information, which must be transmitted in the designated data fields of the payment message scheme.
37. If the required information on the payer or the payee has been provided only in part ("incomplete information") or has not been provided ("missing information"), given the potential threat of ML/TF presented by anonymous transfers, PSPs should put in place the following measures, which are proportionate to, and commensurate with the ML/TF risk to which the PSP or IPSP are exposed:
 - › effective systems and controls to detect transfers of funds that lack required information, and
 - › risk-based policies and procedures to determine whether to execute, reject or suspend a transfer of funds that lacks the required information.
38. Effective policies and procedures should be set up in a way that reflects a risk-based approach and document the following aspects clearly:

- › which information relating to transfers of funds has to be recorded, how this information should be recorded, and where;
 - › which transfers of funds have to be monitored in real time and which transfers of funds can be monitored on an ex-post basis, and why;
 - › the obligations of members of staff where they detect a missing or incomplete information and the processes they should follow.
39. PSPs should document which high-risk factor or combination of high-risk factors are to be considered when determining the risk-based approach, for example:
- › residuals risks (risk posed by the types of customers, products, services, and delivery channels);
 - › country risks (association with high-risk jurisdiction or relevant sanction regime);
 - › unusual value and volume of transactions (compare to their particular business model);
 - › a negative AML/CFT compliance record on the PSP of payer or the prior PSP in the payment chain.
40. PSPs and IPSPs should implement three methods of wire transfer monitoring; Real-Time Monitoring, Post-Event Monitoring, and random Post-Event Sampling. It should be determined and documented which high-risk factors, or a combination of high-risk factors, will always trigger real-time monitoring, and which will trigger a targeted ex-post review. In cases of specific concern, identified through ex-post monitoring, transfers of funds should always be monitored in real time.
41. In addition to real-time and targeted ex-post monitoring, PSPs and IPSPs should regularly perform ex-post reviews on a random sample taken from all processed transfers of funds.

11.4.1 Admissible characters or input and missing information checks

Statutory Requirements	
42.	<i>Under Article 7(1) and Article 11(1), the PSP of the payee and IPSP respectively shall implement effective procedures to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.</i>
43.	<i>Under Article 7(2) and Article 11(2), the PSP of the payee and IPSP shall implement effective procedures, including, where appropriate, ex-post monitoring or real-time monitoring, in order to detect whether the following information on the payer or the payee is missing or incomplete.</i>

AML/CFT CODES OF PRACTICE

44. A PSP must subject incoming payment traffic to an appropriate level of post-event risk-based sampling to detect non-compliant payments.

Guidance Notes

45. A relevant person may demonstrate compliance with the Regulations by conducting and documenting a current risk assessment that covers the payments activities, taking into account the overall volume and jurisdictions of funds transfers and the role of all bodies involved.
46. A relevant person may assume compliance with the obligation to detect inadmissible characters and inputs, if the system's validation rules meet certain requirements, in particular, automatically prevent the sending/receiving of payments with inadmissible characters or inputs.

47. Other specific measures may be considered for a “meaningful character check”. Current SWIFT standards prevent payments being received without mandatory information, but in some cases the payer and payee information fields, could include incorrect or meaningless information, such as “our client”, “my customer”, which doesn’t make sense, even if this information has been provided using characters or inputs in accordance with the conventions of the messaging or payment and settlement system. Although SWIFT continues to review its validation standards to support inward monitoring and has introduced structured remitter fields (50F), however, its use is not currently mandatory. A relevant person may identify these fields by undertaking sample testing, keeping a list of commonly found meaningless terms and updating it regularly.
48. In addition to real-time and targeted ex-post monitoring, PSP and IPSP may demonstrate an appropriate level of controls by performing ex-post reviews on a random sample taken from all processed transfers of funds.
49. Other specific measures might be considered, e.g. checking, at the point of payment delivery, that payer information is compliant and meaningful on all transfers that are collected in cash by payees on a “pay on application and identification” basis.
50. Where possible, a relevant person may draw on existing policies and procedures if they designed to meet their obligations under the Regulations, subject to periodic reviews, updates, availability and training provided to all relevant members of staff, including persons responsible for processing transfers of funds.

11.4.2 Managing transfer of funds with missing information or inadmissible characters or inputs

Statutory Requirements	
51.	<i>Under Article 8(1) and Article 12(1), PSP of the payee and IPSP shall implement effective risk-based procedures, including the measure referred to in Article 3(5) of the Money Laundering (Jersey) Order 2008 for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.</i>
52.	<i>The PSP of the payee and IPSP should consider the most appropriate course of action on risk-sensitive basis and where the requested information is not provided by the set deadline, the PSP or IPSP should, in line with its risk-based policies and procedures:</i> <i>(a) decide whether to reject or execute the transfer;</i> <i>(b) consider whether or not the prior PSP in the payment chain’s failure to supply the required information gives rise to suspicion; and</i> <i>(c) consider the future treatment of the prior PSP in the payment chain for AML/CFT compliance purposes.</i>
53.	<i>Under Article 9, separate from the decision whether to execute, suspend or reject a transaction, missing or incomplete information must be considered as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious and whether a disclosure is to be made under Article 34D(4) of the Proceeds of Crime (Jersey) Law 1999, Articles 21(2) of the Money Laundering (Jersey) Order 2008 or Article 21(4) of the Terrorism (Jersey) Law 2002.</i>

Guidance Notes

54. In order to determine whether to reject, suspend or execute a transfer of funds in compliance with Articles 8 and 12, a relevant person may consider the ML/TF risk associated with that transfer of funds and documents it, for example:
 - › what ML/TF concerns the type of missing information gives rise to; and

- › what high-risk indicators have been identified that may suggest that the transaction presents a high ML/TF risk or gives rise to suspicion of ML/TF;
55. A relevant person may demonstrate implementation of effective risk-based procedures and processes by documenting and recording all of its actions and the reason for its actions or inaction, including:
- › making a decision on rejecting the transfer and informing the prior PSP in the payment chain of the reason for the rejection;
 - › making a decision on execution of the transfer and sending of a request for information, before or after crediting the payee's payment account or making the funds available to the payee
 - › all appropriate follow up steps taken to obtain the response, including the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider or restricting or terminating its business relationship with that PSP.

11.4.3 Failure to provide information

Statutory Requirements

56. *Under Article 8(2) and Article 12(2) should the PSP repeatedly fails to provide the required information on the payer or the payee, even after warnings and deadlines, the PSP of the payee or IPSP shall take further steps by:*
- › *either rejecting any future transfers of funds from that PSP, or*
 - › *restricting or terminating its business relationship with that PSP.*
57. *The PSP of the payee or IPSP shall report that failure, and the steps taken, to the Commission.*

Guidance Notes

58. A combination of quantitative and qualitative criteria may be used to assess PSPs as 'repeatedly failing', for example:
- › the percentage of transfers with missing information sent by a specific PSP or IPSP within a certain timeframe;
 - › the percentage of follow-up requests that were left unanswered or were not adequately answered by a certain deadline;
 - › the level of cooperation of the requested PSP or IPSP relating to previous requests for missing information;
 - › the type of information missing.
59. The report to the Commission should be completed without delay and contain the following information such as that published in Appendix E1:
- › the name of the PSP or IPSP identified as repeatedly failing to provide the required information;
 - › the country in which the PSP or IPSP is authorised;
 - › the nature of the breach, including:
 - › the frequency of transfers of funds with missing information,
 - › the period of time during which the breaches were identified and

- › any reasons the PSP or IPSP may have given to justify their repeated failure to provide the required information;
 - › details of the steps the reporting PSP or IPSP has taken including the issuing of warnings or deadlines up until the decision to restrict or terminate the relationship was made.
60. This reporting requirement does not apply to instances where a request for the missing or incomplete information which accompanied a transfer, is fulfilled by the PSP of the payer. The obligation to report applies to circumstances where information requests are not fulfilled and the PSP of the payee invokes measures which restrict or terminate the business relationship with that PSP.

11.4.4 Additional Obligations on IPSP

Statutory Requirements

61. *In addition to the requirements of Articles 11 and 12, addressed in section 11.4 above, under Article 10 of the Wire Transfers Regulations, IPSP shall ensure that all the information received on the payer and the payee that accompanies a transfer of funds is retained with the transfer.*

Guidance Notes

62. IPSPs should satisfy themselves that their systems and controls enable them to comply with their duty to ensure that all information on the payer and the payee that accompanies a transfer of funds is retained with that transfer. As part of this, IPSPs should satisfy themselves of their system's ability to convert information into a different format without error or omission.

11.5 Reporting of Breaches

Statutory Requirements

63. *Under Article 21, PSPs shall notify the Commission of breaches of the Wire Transfer Regulations.*
64. *PSPs shall establish appropriate internal procedures for their employees, or persons in a comparable position, to report breaches internally through a secure, independent, specific and anonymous channel, proportionate to the nature and size of the PSP (Article 21(2)).*
65. *Under Regulation 3 of the Wire Transfer Regulations, a relevant person who contravenes any requirement of Articles 21(2) shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine. This applies to all PSPs, irrespective of the capacity within which the PSP is acting.*

Guidance Notes

66. A relevant person should ensure that any failure by it to comply with the Wire Transfer Regulations is promptly reported to the Commission.
67. A relevant person should report all material failures to comply with the Regulations and any serious breaches of the PSP's policies, procedures and controls in respect of transfers of funds.
68. The report to the Commission should be completed without delay and contain the following information such as that published in Appendix E2:
- › the specific provision in the Wire Transfer Regulations, which have been breached;
 - › the nature of the breach, including its cause;
 - › the date the breach was identified by the PSP; and

- › where possible a summary of the measures taken by the PSP in relation to the breach and any subsequent changes to its policies, procedures and controls to mitigate against a recurrence.
69. A relevant person should establish policies and procedures for the internal reporting of breaches of the Wire Transfer Regulations and maintain a record of those breaches and action taken, ensuring sufficient confidentiality and protection for employees who report breaches committed within the relevant person.

11.6 Information, Data Protection and Record retention

Statutory Requirements

70. *Under Regulation 3 of the Wire Transfer Regulations, a relevant person who contravenes any requirement of Articles 14, 15(2) or (3), or 16 shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine. This applies to all PSPs, irrespective of the capacity within which the PSP is acting.*
71. *PSPs shall respond fully and without delay and in accordance with the procedural requirements laid down in the national law of the Member State in which they are established, to enquiries exclusively from the authorities responsible for preventing and combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation (Article 14 Provision of information).*
72. *Personal data shall be processed by payment service providers on the basis of this Regulation only for the purposes of the prevention of money laundering and terrorist financing and shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for commercial purposes shall be prohibited (Article 15(2) Data Protection).*
73. *Payment service providers shall provide new clients with the information required pursuant to the Data Protection (Jersey) Law 2018 before establishing a business relationship or carrying out an occasional transaction. That information shall, in particular, include a general notice concerning the legal obligations of payment service providers under this Regulation when processing personal data for the purposes of the prevention of money laundering and terrorist financing (Article 15(3) Data protection).*
74. *Information on the payer and the payee shall not be retained for longer than strictly necessary. Payment service providers of the payer and of the payee shall retain records of the information referred to in Articles 4 to 7 for a period of six years (Article 16 Record retention).*

Guidance Notes

75. Within the context of the Wire Transfer Regulations, “the authorities responsible for preventing and combating money laundering or terrorist financing are to be understood as the Commission and the Jersey Police Department, including the Jersey Financial Crime Unit (the “JFCU”).

11.7 Offences and Criminal Liability

Statutory Requirements

76. *Under Regulation 3 of the Wire Transfer Regulations, a relevant person, whether acting in the capacity of PSP of the payer, PSP of the payee or an intermediary PSP, who contravenes any requirement of the specific provisions of its Articles, which have effect in Jersey by virtue of Regulation 2, shall be guilty of an offence and liable to imprisonment for a term of 2 years, and to a fine as follows:*

- › *PSP of the payer - Articles 4, 5, 6 (see section 11.3 Outgoing Transfers - Obligations upon the PSP of the Payer)*
 - › *PSP of the payee - Articles 7, 8, 9 (see section 11.4 Incoming Transfers - Obligation on the PSP of the payee and IPSP)*
 - › *IPSP - Articles 10, 11, 12 (see section 11.4 Incoming Transfers - Obligation on the PSP of the payee and IPSP)*
77. *In deciding whether a person has committed an offence under the Wire Transfer Regulations, the court shall take into account whether the person followed any relevant guidance that applies to the person and which was at the time issued, adopted or approved by the Commission under any other enactment.*
78. *A person shall not be guilty of an offence under the Wire Transfer Regulation if he or she took all reasonable steps, and exercised all due diligence, to avoid committing the offence.*
79. *Under Regulation 4(1), if an offence under these Regulations committed by a limited liability partnership, a separate limited partnership, any other partnership having separate legal personality or a body corporate is proved to have been committed with the consent or connivance of –*
- (a) a person who is a partner of the partnership, or a director, manager, secretary or other similar officers of the body corporate; or*
 - (b) any person purporting to act in any such capacity, the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.*
80. *Under Regulation 4(2), if the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.*