



Jersey

FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 2) (JERSEY) LAW 2014

Arrangement

Article

PART 1	5
<hr/>	
AMENDMENTS TO THE COLLECTIVE INVESTMENT FUNDS (JERSEY) LAW 1988	5
1 Interpretation.....	5
2 Articles 1, 22 and 29 amended.....	5
3 Article 7 amended.....	6
4 Article 8E amended.....	6
5 Article 9 substituted.....	7
6 Article 12B amended.....	10
7 Article 16 amended.....	10
8 Article 22 amended.....	11
9 Article 23 amended.....	11
10 Article 24 amended.....	11
11 Article 25 amended.....	12
12 Article 32 amended.....	12
13 Article 34 amended.....	12
14 Article 38 deleted.....	13
PART 2	13
<hr/>	
AMENDMENT TO THE BANKRUPTCY (DÉSASTRE) (JERSEY) LAW 1990	13
15 Article 1 of Bankruptcy (Désastre) (Jersey) Law 1990 amended.....	13
16 Article 3 of Bankruptcy (Désastre) (Jersey) Law 1990 amended.....	13
PART 3	14
<hr/>	
AMENDMENTS TO THE BANKING BUSINESS (JERSEY) LAW 1991	14
17 Interpretation.....	14
18 Article 1 amended.....	14
19 Article 14 amended.....	14

Arrangement	Law 2014
20	Article 18 amended..... 14
21	Article 19 substituted..... 15
22	Article 26 substituted..... 16
23	Articles 27 and 29 repealed 21
24	Article 28 amended..... 21
25	Article 30 amended..... 21
26	Article 34 amended..... 21
27	Article 45 amended..... 22
28	Article 47 amended..... 22
PART 4	22
<hr/>	
AMENDMENTS TO THE INSURANCE BUSINESS (JERSEY) LAW 1996	22
29	Interpretation..... 22
30	Article 1 amended..... 23
31	Article 7 amended..... 23
32	Article 8A amended..... 23
33	Article 10 substituted..... 24
34	Article 11 amended..... 27
35	Article 12 repealed..... 27
36	Article 13 amended..... 27
37	Article 14 amended..... 28
38	Article 23 amended..... 28
39	Article 24 amended..... 28
40	Article 33 amended..... 28
41	Article 36B amended..... 29
42	Article 43 amended..... 30
PART 5	30
<hr/>	
AMENDMENTS TO THE FINANCIAL SERVICES (JERSEY) LAW 1998	30
43	Interpretation..... 30
44	Article 9 amended..... 30
45	Article 11 amended..... 31
46	Article 13 amended..... 31
47	Article 14 amended..... 32
48	Article 18 amended..... 32
49	Article 23 amended..... 32
50	Article 25 amended..... 33
51	Article 25B amended..... 34
52	Article 26 amended..... 34
53	Article 32 substituted..... 35
54	Article 33 amended..... 39
55	Article 34 amended..... 39
56	Article 36 amended..... 39
57	Article 38 amended..... 39
PART 6	40
<hr/>	
AMENDMENTS TO THE PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 2008	40

58	Interpretation.....	40
59	Article 1 amended.....	40
60	Article 2 amended.....	41
61	Article 10 amended.....	41
62	Article 14 amended.....	41
63	Article 23 amended.....	42
64	Article 25 amended.....	42
65	Article 26 amended.....	43
66	Article 30 substituted.....	43
67	Article 31 amended.....	47
68	Article 32 amended.....	47
69	Article 36 substituted.....	48
70	Article 39 amended.....	51
PART 7		51
<hr/>		
MISCELLANEOUS		51
71	Community Provisions (Wire Transfers) (Jersey) Regulations 2007 amended.....	51
72	Citation and commencement.....	51



Jersey

FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 2) (JERSEY) LAW 2014

A LAW to amend further the Collective Investment Funds (Jersey) Law 1988, the Bankruptcy (Désastre) (Jersey) Law 1990, the Banking Business (Jersey) Law 1991, the Insurance Business (Jersey) Law 1996, the Financial Services (Jersey) Law 1998, the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 and the Community Provisions (Wire Transfers) (Jersey) Regulations 2007.

Adopted by the States

4th June 2014

Sanctioned by Order of Her Majesty in Council

5th November 2014

Registered by the Royal Court

14th November 2014

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

AMENDMENTS TO THE COLLECTIVE INVESTMENT FUNDS (JERSEY) LAW 1988

1 Interpretation

In this Part, “principal Law” means the Collective Investment Funds (Jersey) Law 1988¹.

2 Articles 1, 22 and 29 amended

(1) In Article 1 of the principal Law –

- (a) in paragraph (1), the definition of “books and papers” and “books or papers” shall be deleted;

- (b) in paragraph (1), for the definition of “court”, there shall be substituted the following definitions –
- “ ‘Court’ means the Royal Court;
- ‘documents’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;”;
- (c) for paragraph (2) the following paragraphs shall be substituted –
- “(2) The States may by Regulations amend paragraph (1) or Article 3.
- (3) The States may by Regulations exclude or modify the effect of Regulations made under paragraph (2) on any enactment (which may include this Law) that is expressed to have effect in relation to a collective investment fund.”.
- (2) In Article 22 of the principal Law –
- (a) in paragraph (8) for the word “court” there shall be substituted the word “Court”;
- (b) in paragraph (9) for the word “court”, in each place where it occurs except the last, there shall be substituted the word “Court”;
- (c) in paragraph (10) for the word “court” there shall be substituted the word “Court”.
- (3) In Article 29(6)(b)(ii) of the principal Law for the word “court” there shall be substituted the word “Court”.

3 Article 7 amended

In Article 7(10) of the principal Law, the words “or fails to comply with” shall be deleted.

4 Article 8E amended

In Article 8E of the principal Law –

- (a) in paragraph (1), the word “before” shall be deleted;
- (b) in paragraph (1)(e), for the words “imposition of requirement” the words “imposition of a requirement” shall be substituted;
- (c) for paragraph (3) the following paragraph shall be substituted –
- “(3) If, on the application of the Commission, the Court is satisfied that it is in the best interests of existing or potential participants in a collective investment fund to which a permit or certificate relates, or of the public, that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (1) should be reduced, the Court may so order.”.

5 Article 9 substituted

For Article 9 of the principal Law the following Article shall be substituted –

“9 General power to require information and documents

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission’s functions under this Law;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the Commission’s functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 5, 8 or 10, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
 - (b) to attend at such times and places as are specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.
- (4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining

there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.

- (5) If the Commission, an officer or an agent serves notice on a person under paragraph (1) or (2), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).
- (6) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and appointed by the person served with the notice under this paragraph, being a report –
 - (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
 - (b) in such form (if any) as the notice under this paragraph may specify.
- (7) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
- (8) The power under this Article to require documents to be provided includes power –
 - (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
 - (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –
 - (a) for a period of one year; or
 - (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
- (10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.

-
- (11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or agent, exercising powers under paragraph (4), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (12) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.
- (13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or proceedings under any provision of Article 16 other than paragraph (6) of Article 16.
- (14) In this Article –
- ‘agent’, in any provision, means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;
- ‘defined person’ means any of the following persons –
- (a) a fund person;
 - (b) a person who was a fund person at any time;
 - (c) a person who is a principal person, or key person, in relation to another person who is a fund person or was a fund person at any time;
 - (d) a person who was at any time a principal person, or key person, in relation to another person who is a fund person or was a fund person at, before or after that time;
 - (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
 - (f) a person who is an employee of, or party to a contract for services with, another person who is a fund person or was a fund person at any time;
 - (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a fund person or was a fund person at, before or after that time;
 - (h) a person who is an employee of a person who is a party to a contract for services with another person who is a fund person;
 - (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a fund person at that time;

‘fund person’ means a holder of a permit, a fund service provider (in relation to an unclassified fund) or a certificate holder;

‘officer’, in any provision, means an officer of the Commission, being an officer who has been authorized by the Commission to perform the functions set out or referred to in that provision.

(15) For the purposes of paragraph (6), the following persons are specified –

- (a) a person within sub-paragraph (a) or (b) of the definition of ‘defined person’ in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
- (b) a person who the Commission has reasonable grounds to suspect has contravened Article 5 or 8.

(16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of ‘defined person’ in paragraph (14), the reference to a person who was a fund person includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.

(17) For the avoidance of doubt –

- (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
- (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.”.

6 Article 12B amended

After Article 12B(8) of the principal Law the following paragraph shall be inserted –

“(8A) Notice under paragraph (8) may include a requirement that the person concerned or the holder of a permit or certificate holder (as the case may be) provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.”.

7 Article 16 amended

In Article 16 of the principal Law –

- (a) in paragraph (3) for the words “books or papers” wherever occurring the words “documents” shall be substituted;
- (b) in paragraph (8) for the words “paragraph (6)” the words “paragraph (4)” shall be substituted.

8 Article 22 amended

In Article 22(8)(a) of the principal Law the words “book or” shall be deleted.

9 Article 23 amended

In Article 23 of the principal Law –

- (a) in paragraph (1)(a) for the words “information, books or papers are or are likely to be” the words “any information or document is, or is likely to be,” shall be substituted;
- (b) in paragraph (1) for the words “of information, books or papers” the words “of any information, or document,” shall be substituted;
- (c) in paragraph (2) for the words “information, books or papers” wherever occurring the words “information or documents” shall be substituted.

10 Article 24 amended

In Article 24 of the principal Law –

- (a) for paragraph (1) of the principal Law the following paragraph shall be substituted –

“(1) If the Bailiff is satisfied by information on oath that there is reasonable cause to suspect that –

- (a) if a notice were given under Article 9 it would not be complied with;
- (b) if any person were required to produce documents under Article 9, those documents would be likely to be removed, tampered with or destroyed;
- (c) a specified person has failed in any respect to comply with a notice or requirement referred to in sub-paragraph (a) or (b);
- (d) a specified person has not provided complete information or documents in response to a notice or requirement referred to in sub-paragraph (a) or (b);
- (e) an officer, or agent, within the meaning of Article 9 has been or may be obstructed in exercising a power under Article 9(4); or
- (f) an inspector appointed under Article 22 has been or may be obstructed in exercising a power under Article 22(6),

the Bailiff may grant a warrant under this paragraph.”;

- (b) in paragraphs (2)(b), (c) and (e) and (4), (5) and (7) for the words “books or papers” wherever occurring the word “documents” shall be substituted;
- (c) in paragraph (8) for the words “information, books or papers” the words “information, or documents,” shall be substituted.

11 Article 25 amended

In Article 25 of the principal Law –

- (a) after paragraph (1)(c) the following sub-paragraph shall be inserted –
 - “(ca) the power to give a direction under Article 13;”;
- (b) for paragraph (6)(a)(i) the following clause shall be substituted –
 - “(i) in Article 9 to a contravention of Article 5 or of Article 8 or of Article 10, or”.

12 Article 32 amended

In Article 32(1) and (3) of the principal Law for the words “under Article 9(2)” in each place where they occur the words “as referred to in Article 9(6)” shall be substituted.

13 Article 34 amended

In Article 34 of the principal Law –

- (a) in the heading and paragraphs (5), (6), (8), (9), (10), (13) and (15) for the word “court”, in each place where it occurs, there shall be substituted the word “Court”;
- (b) for paragraphs (11) and (12) there shall be substituted the following paragraphs –
 - “(11) Where, on the application of the Commission, the Court is satisfied that –
 - (a) the holder of a permit or a certificate holder (each referred to in this Article as ‘holder’) –
 - (i) is not, in terms of Article 7(6)(a) or 8B(7)(a), as the case requires, a fit and proper person to carry on business in relation to a collective investment fund, being business that the holder is purporting to carry on,
 - (ii) is not fit to carry on business in relation to a collective investment fund to the extent to which the holder is purporting to do, or
 - (iii) has, in relation to a collective investment fund, failed, or is likely to fail, to comply with a provision or direction as described in paragraph (8)(a); and
 - (b) it is desirable for the Court to act under this paragraph for the protection of participants or potential participants in that or any other collective investment fund in relation to which the holder carries on or purports to carry on business,the Court may, as it thinks just, make an order making the holder’s business subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

(12) If, on an application made under paragraph (11), the Court is satisfied that a holder has –

- (a) by entering into any transaction with another person, contravened Article 5 or 8;
- (b) by entering into any transaction with another person, contravened any condition applicable to the holder (whether attached to a certificate or permit or prescribed by Order) or any direction given to the holder under Article 13;
- (c) contravened Article 10 with the result that another person has been induced to enter into a transaction with the holder or with a third person; or
- (d) entered into any transaction with another person who was induced to enter into the transaction as a result of the contravention of Article 10 by a third person,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.”.

14 Article 38 deleted

Article 38 of the principal Law shall be repealed.

PART 2

**AMENDMENT TO THE BANKRUPTCY (DÉSASTRE) (JERSEY)
LAW 1990**

15 Article 1 of Bankruptcy (Désastre) (Jersey) Law 1990 amended

For the definition of “registrar” in Article 1(1) of the Bankruptcy (Désastre) (Jersey) Law 1990² the following definition shall be substituted –

“ ‘registrar’ means in relation to –

- (a) a company registered under the Companies Law;
- (b) a foundation;
- (c) an incorporated limited partnership; or
- (d) a limited liability partnership,

the registrar appointed pursuant to Article 196 of the Companies Law;”.

16 Article 3 of Bankruptcy (Désastre) (Jersey) Law 1990 amended

For Article 3(1)(c) of the Bankruptcy (Désastre) (Jersey) Law 1990³ the following sub-paragraph shall be substituted –

-
- “(c) the Commission, in the case of a person who –
 - (i) holds or has held a permit under the Insurance Business (Jersey) Law 1996⁴ or the Collective Investment Funds (Jersey) Law 1988⁵,
 - (ii) holds or has held a certificate under the Collective Investment Funds (Jersey) Law 1988,
 - (iii) is or was registered under the Banking Business (Jersey) Law 1991⁶ or the Financial Services (Jersey) Law 1998⁷, or
 - (iv) is a foundation.”.

PART 3

AMENDMENTS TO THE BANKING BUSINESS (JERSEY) LAW 1991

17 Interpretation

In this Part, “principal Law” means the Banking Business (Jersey) Law 1991⁸.

18 Article 1 amended

In Article 1 of the principal Law –

- (a) for the definition of “documents” there shall be substituted the following definition –
 - “ ‘documents’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;”;
- (b) in the definition of “former registered person” for the matter “26(10);” there shall be substituted the matter “26(19);”.

19 Article 14 amended

After Article 14(3) of the principal Law the following paragraph shall be inserted –

- “(3AA) Notice under paragraph (3) may include a requirement that the person concerned provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.”.

20 Article 18 amended

In Article 18 of the principal Law –

- (a) in paragraph (1), the word “before” shall be deleted;
- (b) for paragraph (3) the following paragraphs shall be substituted –

“(3) If, on the application of the Commission, the Court is satisfied that it is in the best interests of persons with whom a relevant person transacted or may transact deposit-taking business, or of the public, that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (1) should be reduced, the Court may so order.

(3A) In paragraph (3), ‘relevant person’ means –

- (a) in the case of a direction under Article 21(2)(c) in respect of functions for, employment by, or the business of, a specified registered person, that registered person;
- (b) in the case of a direction under Article 21(2)(c) in respect of functions for, employment by, or the business of, any registered person at all, any registered person at all;
- (c) in the case of an act under Article 10, 11(2), 13(2) or (3) or 15, or of a direction under Article 21(2)(d), in respect of a registered person, the registered person; or
- (d) in the case of a direction under Article 21(2)(d) in respect of a former registered person, the former registered person.”.

21 Article 19 substituted

For Article 19 of the principal Law the following Article shall be substituted –

“19 Powers of intervention

(1) Where, on the application of the Commission, the Court is satisfied that –

- (a) a registered person –
 - (i) is not, in terms of Article 10(3)(a), a fit and proper person to carry on a deposit-taking business that the registered person is purporting to carry on,
 - (ii) is not fit to carry on a deposit-taking business to the extent to which the registered person is purporting to carry it on, or
 - (iii) has committed or is likely to commit a contravention of a type referred to in Article 37B(1), and
- (b) it is desirable for the Court to act under this paragraph for the protection of persons with whom the registered person has transacted or may transact deposit-taking business,

the Court may, as it thinks just, make an order making the registered person’s business subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

(2) If, on an application made under paragraph (1), the Court is satisfied that a registered person has –

- (a) by entering into any transaction with another person, contravened Article 8;
- (b) by entering into any transaction with another person, contravened any condition applicable to the registered person (whether attached to the registered person's registration or prescribed by Order) or any direction given to the registered person under Article 21;
- (c) contravened Article 23 with the result that another person has been induced to enter into a transaction with the registered person or with a third person; or
- (d) entered into any transaction with another person who was induced to enter into the transaction as a result of the contravention of Article 23 by a third person,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.

- (3) The provisions of this Article shall be without prejudice to any right of any aggrieved person to bring proceedings directly in respect of any right that the person may otherwise have independently of the Commission.”.

22 Article 26 substituted

For Article 26 of the principal Law the following Article shall be substituted –

“26 General power to require information and documents

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission's functions under this Law;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the Commission's functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 8 or 23, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –

-
- (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
 - (b) to attend at such times and places as are specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
 - (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.
 - (4) The Commission, an officer or an agent may by notice in writing served on any person who is, or is to be, a director, controller or manager in relation to a registered person, require the person to provide the Commission, an officer or an agent, at such times as may be specified in the notice, with such information or documents as the Commission, an officer or an agent may reasonably require for determining whether the person is a fit and proper person to be a director, controller or manager (as the case may be) in relation to that registered person.
 - (5) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (9), as the case may be.
 - (6) If the Commission, an officer or an agent serves notice on a person under paragraph (1), (2) or (4), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1), (2) or (4) (as the case may be).
 - (7) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (16) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and
-

appointed by the person served with the notice under this paragraph, being a report –

- (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
- (b) in such form (if any) as the notice under this paragraph may specify.

(8) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.

(9) The power under this Article to require documents to be provided includes power –

- (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
- (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.

(10) If documents provided under this Article are retained under paragraph (9)(a) the documents may be so retained –

- (a) for a period of one year; or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.

(11) If the person providing a document that is retained under paragraph (9)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.

(12) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or an agent, exercising powers under paragraph (5), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.

(13) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.

(14) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in

evidence against the person in any criminal proceedings except proceedings under paragraph (12) or Article 22.

(15) In this Article –

‘agent’, in any provision, means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;

‘defined person’ means any of the following persons –

- (a) a registered person;
- (b) a person who was a registered person at any time;
- (c) a person who is a director, controller, manager, or key person, in relation to another person who is a registered person or was a registered person at any time;
- (d) a person who was at any time a director, controller, manager, or key person, in relation to another person who is a registered person or was a registered person at, before or after that time;
- (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
- (f) a person who is an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at any time;
- (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at, before or after that time;
- (h) a person who is an employee of a person who is a party to a contract for services with another person who is a registered person;
- (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a registered person at that time;
- (j) a company that is or has at any relevant time been –
 - (i) a holding company, subsidiary or related company of a registered person,
 - (ii) a subsidiary of a holding company of a registered person,
 - (iii) a holding company of a subsidiary of a registered person, or
 - (iv) a company in the case of which a shareholder controller in relation to a registered person, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50% of the voting power at a general meeting;

- (k) a partnership of which a registered person is or has at any relevant time been a member;
- (l) a significant shareholder (within the meaning of Article 25) in relation to a registered person;

‘officer’, in any provision, means an officer of the Commission, being an officer who has been authorized by the Commission to perform the functions set out or referred to in that provision;

‘qualifying capital interest’ means, in relation to any company, an interest in shares comprised in the equity share capital of that company of a class carrying rights to vote in all circumstances at general meetings of that company;

‘related company’, in relation to any company A, means any other company B (other than one that is a group company in relation to company A) in which company A holds on a long-term basis a qualifying capital interest for the purpose of securing a contribution to company A’s own activities by the exercise of any control or influence arising from that interest;

‘relevant shares’ means, in relation to any company, any such shares in that company as are mentioned in the definition of ‘qualifying capital interest’;

‘relevant time’ means, in relation to a registered person, a time at which the conduct or other thing occurred that is the subject of the information, documents or questions referred to in paragraph (1), (2) or (3).

(16) For the purposes of paragraph (7), the following persons are specified –

- (a) a person within sub-paragraph (a) or (b) of the definition of ‘defined person’ in paragraph (15) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
- (b) a person who the Commission has reasonable grounds to suspect has contravened Article 8.

(17) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of ‘defined person’ in paragraph (15), the reference to a person who was a registered person includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.

(18) Where –

- (a) a company A holds a qualifying capital interest in company B; and
- (b) the nominal value of any relevant shares in company B held by company A is equal to 20% or more of the nominal value of all relevant shares in company B,

company A shall be presumed to hold that interest on the basis and for the purpose mentioned in the definition of ‘related company’ in paragraph (15), unless the contrary is shown.

-
- (19) In paragraph (15), sub-paragraphs (j), (k) and (l) of the definition of ‘defined person’, and the definition of ‘relevant time’, apply to a former registered person as they apply to a registered person.
 - (20) For the avoidance of doubt –
 - (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
 - (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.”.

23 Articles 27 and 29 repealed

Articles 27 and 29 of the principal Law shall be repealed.

24 Article 28 amended

In Article 28(5) of the principal Law for the words “under Article 26(1)(b)” the words “as referred to in Article 26(7)” shall be substituted.

25 Article 30 amended

In Article 30 of the principal Law –

- (a) in paragraph (1) for the words “that a person is guilty of such a contravention as is mentioned in Article 29” the words “that a person has contravened Article 8 or 23” shall be substituted;
- (b) in paragraph (1)(a) and (c) for the words “under that Article” in each place where they occur the words “under Article 26(2)” shall be substituted;
- (c) in paragraph (2)(d) for the words “that person is guilty of any such contravention as is mentioned in Article 29” the words “that person has contravened Article 8 or 23” shall be substituted;
- (d) in paragraph (4)(b) for the words “any such contravention as is mentioned in Article 29” the words “any contravention of Article 8 or 23” shall be substituted.

26 Article 34 amended

In Article 34 of the principal Law –

- (a) in paragraph (1)(b) for the words “under Article 26” the words “as referred to in Article 26(7)” shall be substituted;
- (b) for paragraph (3) the following paragraph shall be substituted –
 - “(3) In relation to a person appointed to make a report as referred to in Article 26(7), this Article relates to any matter of which the person

- becomes aware in his or her capacity as the person making the report, being a matter that relates –
- (a) to the business or affairs of any registered person in relation to which the person’s report is made or of any associated body of that registered person; or
 - (b) if the report relates to an associated body of a registered person, to the business or affairs of that body.”;
- (c) in paragraph (4) for the words “Article 26(6).” the words “sub-paragraph (j), (k) or (l) of the definition of ‘defined person’ in Article 26(15).” shall be substituted.

27 Article 45 amended

In Article 45(2)(a) of the principal Law the matter “, 29” shall be deleted.

28 Article 47 amended

In Article 47 of the principal Law –

- (a) after paragraph (1)(ba) the following sub-paragraph shall be inserted –
 - “(bb) the power to give a direction under Article 21;”;
- (b) in paragraph (1)(c) for the words “Articles 26 and 27” the words “Article 26” shall be substituted;
- (c) in paragraph (1)(d) for the words “Articles 28 and 29” the words “Article 28” shall be substituted;
- (d) for paragraph (7)(a) the following sub-paragraph shall be substituted –
 - “(a) a reference in Article 26(2), 30 or 31 to a contravention of Article 8 or 23 shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 8 or 23 (as the case requires), as in force at the latter time; and”.

PART 4

AMENDMENTS TO THE INSURANCE BUSINESS (JERSEY) LAW 1996

29 Interpretation

In this Part “principal Law” means the Insurance Business (Jersey) Law 1996⁹.

30 Article 1 amended

In Article 1(1) of the principal Law, after the definition of “Court” there shall be inserted the following definition –

“ ‘documents’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;”.

31 Article 7 amended

In Article 7 of the principal Law –

- (a) in paragraph (9), for the words “(with the substitution for references to the applicant of references to the holder of the permit)” there shall be substituted the words “(with the substitution, for references to the applicant, of references to the holder of the permit, and with the substitution, for references to persons who may transact insurance business with the applicant, of references to persons who transacted or may transact insurance business with the holder of the permit)”;
- (b) in paragraph (11), for the words “this paragraph” there shall be substituted the words “this Article”;
- (c) after paragraph (13) the following paragraph shall be inserted –
“(14) A reference in paragraph (12) to a condition does not include any condition that applies a margin of solvency to a Category B permit holder as referred to in Article 24(12).”.

32 Article 8A amended

In Article 8A of the principal Law –

- (a) in paragraph (1), the word “before” shall be deleted;
- (b) for paragraph (3) the following paragraphs shall be substituted –
“(3) If, on the application of the Commission, the Court is satisfied that it is in the best interests of persons with whom a relevant person transacted or may transact insurance business, or of the public, that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (1) should be reduced, the Court may so order.
(3A) In paragraph (3), ‘relevant person’ means –
 - (a) in the case of a direction under Article 36(2)(c) in respect of functions for, employment by, or the business of, a specified permit holder, that permit holder;
 - (b) in the case of a direction under Article 36(2)(c) in respect of functions for, employment by, or the business of, any permit holder at all, any permit holder at all;

- (c) in the case of an act under Article 7, 7A(2) or (3), 23 or 25(4), or of a direction under Article 36(2)(d), in respect of a permit holder, the permit holder; or
- (d) in the case of a direction under Article 36(2)(d) in respect of a former permit holder, the former permit holder.”.

33 Article 10 substituted

For Article 10 of the principal Law the following Article shall be substituted –

“10 General power to require information and documents

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission’s functions under this Law;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the Commission’s functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 5 or 15, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.

-
- (4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.
 - (5) If the Commission, an officer or an agent serves notice on a person under paragraph (1) or (2), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).
 - (6) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and appointed by the person served with the notice under this paragraph, being a report –
 - (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
 - (b) in such form (if any) as the notice under this paragraph may specify.
 - (7) If a person provides, under this Article, documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
 - (8) The power under this Article to require documents to be provided includes power –
 - (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
 - (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
 - (9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –
 - (a) for a period of one year; or
 - (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
-

-
- (10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.
- (11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or agent, exercising powers under paragraph (4), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (12) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.
- (13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or Article 38.
- (14) In this Article –
- ‘agent’, in any provision, means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;
- ‘defined person’ means any of the following persons –
- (a) a permit holder;
 - (b) a person who was a permit holder at any time;
 - (c) a person who is a director, chief executive, shareholder controller, or key person, in relation to another person who is a permit holder or was a permit holder at any time;
 - (d) a person who was at any time a director, chief executive, shareholder controller, or key person, in relation to another person who is a permit holder or was a permit holder at, before or after that time;
 - (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
 - (f) a person who is an employee of, or party to a contract for services with, another person who is a permit holder or was a permit holder at any time;
 - (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a permit holder or was a permit holder at, before or after that time;
 - (h) a person who is an employee of a person who is a party to a contract for services with another person who is a permit holder;

-
- (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a permit holder at that time;

‘officer’, in any provision, means an officer of the Commission, being an officer who has been authorized by the Commission to perform the functions set out or referred to in that provision.

- (15) For the purposes of paragraph (6), the following persons are specified –

- (a) a person within sub-paragraph (a) or (b) of the definition of ‘defined person’ in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
- (b) a person who the Commission has reasonable grounds to suspect has contravened Article 5.

- (16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of ‘defined person’ in paragraph (14), the reference to a person who was a permit holder includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.

- (17) For the avoidance of doubt –

- (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
- (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.”.

34 Article 11 amended

In Article 11(4) of the principal Law for the words “the provisions of Article 5(2) or (6) or Article 15(1)” the words “Article 5 or 15” shall be substituted.

35 Article 12 repealed

Article 12 of the principal Law shall be repealed.

36 Article 13 amended

In Article 13 of the principal Law –

- (a) in paragraph (1) the words “or 12” shall be deleted;
- (b) in paragraph (3) for the words “Article 12” where firstly occurring the words “Article 10” shall be substituted;
- (c) for paragraph (3)(b) the following sub-paragraph shall be substituted –

“(b) that the Commission or, as the case may be, an officer or agent, has power to require the production of documents under Article 10;”.

37 Article 14 amended

In Article 14(1) of the principal Law for the words “Article 11 or 12” the words “Article 10 or 11” shall be substituted.

38 Article 23 amended

After Article 23(5) of the principal Law the following paragraph shall be inserted –

“(5A) Notice under paragraph (5) may include a requirement that the permit holder provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.”.

39 Article 24 amended

At the end of Article 24 of the principal Law the following paragraphs shall be inserted –

“(12) One or more conditions to which a Category B permit is subject by virtue of Article 7 may apply, to the holder of the permit, a margin of solvency different from that prescribed for (or otherwise applying to) the holder of the permit by Order made under paragraph (1).

(13) While one or more such conditions apply such a margin of solvency to a permit holder –

(a) any Order made under paragraph (1) shall not apply to the permit holder; and

(b) this Article shall apply to the permit holder as if any reference to the margin of solvency prescribed for (or otherwise applying to) the permit holder by Order made under paragraph (1) were a reference to the margin of solvency applying under the conditions.”.

40 Article 33 amended

In Article 33 of the principal Law –

(a) in paragraph (1)(d) for the words “Articles 11 and 12” the words “Article 11” shall be substituted;

(b) for paragraph (1)(ea) the following sub-paragraphs shall be substituted –

“(ea) the power to give a direction under Article 36;

(eb) on the application of the Commission, the powers under Article 36B;”;

(c) for paragraph (7) the following paragraph shall be substituted –

“(7) For the purposes of this Article, a reference –

- (a) in Article 10 or 11(4) to a contravention of Article 5 or 15; or
- (b) in Article 13(3) to an offence for which the penalty is imprisonment for a term of not less than 2 years,

shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 5 or 15 (as the case requires), as in force at the latter time, or (as the case requires) would constitute, at the latter time, an offence for which the penalty is imprisonment for a term of not less than 2 years.”.

41 Article 36B amended

For Article 36B(1) and (2) of the principal Law the following paragraphs shall be substituted –

“(1) Where, on the application of the Commission, the Court is satisfied that –

- (a) a permit holder –
 - (i) is not, in terms of Article 7(4)(b), a fit and proper person to carry on insurance business that the permit holder is purporting to carry on,
 - (ii) is not fit to carry on insurance business to the extent to which the permit holder is purporting to carry it on, or
 - (iii) has committed or is likely to commit a contravention of a type referred to in Article 36A(1); and
- (b) it is desirable for the Court to act under this paragraph for the protection of persons with whom the permit holder has transacted or may transact insurance business,

the Court may, as it thinks just, make an order making the permit holder’s business subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

“(2) If, on an application made under paragraph (1), the Court is satisfied that a permit holder has –

- (a) by entering into any transaction with another person, contravened Article 5;
- (b) by entering into any transaction with another person, contravened any condition applicable to the permit holder (whether attached to the permit holder’s permit or prescribed by Order) or any direction given to the permit holder under Article 36;

(c) contravened Article 15 with the result that another person has been induced to enter into a transaction with the permit holder or with a third person; or

(d) entered into any transaction with another person who was induced to enter into the transaction as a result of the contravention of Article 15 by a third person,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.”.

42 Article 43 amended

For Article 43(1)(a) of the principal Law the following sub-paragraph shall be substituted –

“(a) Article 5;”.

PART 5

AMENDMENTS TO THE FINANCIAL SERVICES (JERSEY) LAW 1998

43 Interpretation

In this Part, “principal Law” means the Financial Services (Jersey) Law 1998¹⁰.

44 Article 9 amended

In Article 9 of the principal Law –

(a) for paragraph (3)(e)(i) and (ii) the following clauses shall be substituted –

“(i) it is in the best interests of persons who may transact financial service business (other than trust company business) with the applicant that the applicant should not be registered,

(ii) it is in the best interests of persons who may enter into agreements for services provided by the applicant in carrying on trust company business that the applicant should not be registered,

(iia) it is in the best interests of persons who may receive the benefit of services provided, or arranged, by the applicant in carrying on trust company business that the applicant should not be registered;”;

(b) for paragraph (4)(e) the following sub-paragraphs shall be substituted –

“(e) on one or more of the grounds set out in paragraph (3)(a), (b), (c), (d), (f) and (g) (where those sub-paragraphs are read as if references in them to the applicant were references to the registered person);

-
- (ea) if it appears to the Commission that it is in the best interests of any of the following persons that the registered person's registration be revoked –
 - (i) persons who transacted or may transact financial service business (other than trust company business) with the registered person,
 - (ii) persons who entered or may enter into agreements for services provided by the registered person in carrying on trust company business,
 - (iii) persons who received or may receive the benefit of services provided, or arranged, by the registered person in carrying on trust company business;
 - (eb) if it appears to the Commission that, in order to protect the reputation and integrity of Jersey in financial and commercial matters, the registration should be revoked;
 - (ec) if it appears to the Commission that it is in the best economic interests of Jersey that the registration be revoked;”.

45 Article 11 amended

For Article 11(4)(a) and (b) of the principal Law the following sub-paragraphs shall be substituted –

- “(a) in the best interests of persons who transacted or may transact financial service business (other than trust company business) with the registered person;
- (b) in the best interests of persons who entered or may enter into agreements for services provided by the registered person in carrying on trust company business; or
- (c) in the best interests of persons who received or may receive the benefit of services provided, or arranged, by the registered person in carrying on trust company business;”.

46 Article 13 amended

For Article 13(4)(a) and (b) of the principal Law the following sub-paragraphs shall be substituted –

- “(a) in the best interests of persons who transacted or may transact financial service business (other than trust company business) with the registered person;
- (b) in the best interests of persons who entered or may enter into agreements for services provided by the registered person in carrying on trust company business; or
- (c) in the best interests of persons who received or may receive the benefit of services provided, or arranged, by the registered person in carrying on trust company business;”.

47 Article 14 amended

After Article 14(8) of the principal Law the following paragraph shall be inserted –

“(8A) Notice under paragraph (8) may include a requirement that the person concerned or the registered person (as the case may be) provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.”.

48 Article 18 amended

In Article 18(1)(b) of the principal Law for the words “under Article 8(5) or 32(4)” the words “as referred to in Article 8(5) or 32(6)” shall be substituted.

49 Article 23 amended

In Article 23 of the principal Law –

(a) for paragraph (1)(b) the following sub-paragraph shall be substituted –

“(b) it is in the best interests of –

- (i) creditors of a registered person,
- (ii) persons who transacted or may transact financial service business (other than trust company business) with a registered person,
- (iii) persons who entered or may enter into agreements for services provided by the registered person in carrying on trust company business,
- (iv) persons who received or may receive the benefit of services provided, or arranged, by the registered person in carrying on trust company business, or
- (v) one or more registered persons;”;

(b) for paragraph (12) the following paragraph shall be substituted –

“(12) If a direction makes a requirement referred to in paragraph (2)(c) or (d), the requirement shall not take effect until the latest of the following times –

- (a) when one month has passed since the notice of the direction was given;
- (b) such date as is specified in the notice of the direction;
- (c) if an appeal is lodged under paragraph (8) against the giving of the direction, when the appeal is determined by the Court or withdrawn.”;

(c) for paragraph (13A) the following paragraphs shall be substituted –

“(13A) If, on the application of the Commission, the Court is satisfied that it is in the best interests of –

- (a) persons who transacted or may transact financial service business (other than trust company business) with the relevant person;

- (b) persons who entered or may enter into agreements for services provided by the relevant person in carrying on trust company business;
- (c) persons who received or may receive the benefit of services provided, or arranged, by the relevant person in carrying on trust company business; or
- (d) the public,

that paragraph (12) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (12) should be reduced, the Court may so order.

(13AB) In paragraph (13A), ‘relevant person’ means –

- (a) in the case of a direction under paragraph (2)(c) in respect of functions for, employment by, or the business of, a specified registered person, that registered person;
- (b) in the case of a direction under paragraph (2)(c) in respect of functions for, employment by, or the business of, any registered person at all, any registered person at all;
- (c) in the case of a direction under paragraph (2)(d) in respect of a registered person, the registered person; or
- (d) in the case of a direction under paragraph (2)(d) in respect of a formerly registered person, the formerly registered person.”.

50 Article 25 amended

For Article 25(d) of the principal Law the following paragraph shall be substituted –

“(d) a public statement concerning a person if it appears to the Commission that the person carried on or is carrying on financial service business (whether or not the person is or was a registered person at the time of carrying on that business and whether the business is or was carried on in Jersey or in a country or territory outside Jersey), and it appears to the Commission to be desirable to issue the statement in the best interests of –

- (i) persons who transacted or may transact financial service business (other than trust company business) with the person,
- (ii) persons who entered or may enter into agreements for services provided by the person in carrying on trust company business,
- (iii) persons who received or may receive the benefit of services provided, or arranged, by the person in carrying on trust company business, or
- (iv) the public.”.

51 Article 25B amended

For Article 25B(3)(a) of the principal Law the following sub-paragraph shall be substituted –

- “(a) the Commission decides on reasonable grounds that the interests of –
 - (i) persons who transacted or may transact financial service business (other than trust company business) with any person identified (within the meaning of Article 25A) in the relevant public statement,
 - (ii) persons who entered or may enter into agreements for services provided by any person (being a person so identified) in carrying on trust company business,
 - (iii) persons who received or may receive the benefit of services provided, or arranged, by any person (being a person so identified) in carrying on trust company business, or
 - (iv) the public,in the issue of the relevant public statement on a date earlier than the date that would apply under that paragraph outweigh the detriment to the persons identified in the statement, being the detriment attributable to that earliness; and”.

52 Article 26 amended

For Article 26(1) and (2) of the principal Law the following paragraphs shall be substituted –

- “(1) Where, on the application of the Commission, the Court is satisfied that –
 - (a) a registered person –
 - (i) is not in terms of Article 9(3)(a) a fit and proper person to carry on financial service business that the registered person is purporting to carry on,
 - (ii) is not fit to carry on financial service business to the extent to which the registered person is purporting to do, or
 - (iii) has committed or is likely to commit a contravention of a type referred to in Article 24(1); and
 - (b) it is desirable for the Court to act under this paragraph for the protection of –
 - (i) persons who transacted or may transact financial service business (other than trust company business) with the registered person,
 - (ii) persons who entered or may enter into agreements for services provided by the registered person in carrying on trust company business, or

- (iii) persons who received or may receive the benefit of services provided, or arranged, by the registered person in carrying on trust company business,

the Court may, as it thinks just, make an order making the registered person's business subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

- (2) If, on an application made under paragraph (1), the Court is satisfied that a registered person has –

- (a) by entering into any transaction with another person, contravened Article 7;
- (b) by entering into any transaction with another person, contravened any condition applicable to the registered person (whether attached to the registered person's registration or prescribed by Order) or any direction given to the registered person under Article 23;
- (c) contravened Article 39G or 39L with the result that another person has been induced to enter into a transaction with the registered person or with a third person; or
- (d) entered into any transaction with another person who was induced to enter into the transaction as a result of the contravention of Article 39G or 39L by a third person,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.”

53 Article 32 substituted

For Article 32 of the principal Law the following Article shall be substituted –

“32 General power to require information and documents

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission's functions under this Law;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer

- for the purposes of the performance of the Commission's functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 7, 39G or 39L, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
 - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
 - (b) to attend at such times and places as are specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
 - (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.
 - (4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.
 - (5) If the Commission, an officer or an agent serves notice on a person under paragraph (1) or (2), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).
 - (6) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and appointed by the person served with the notice under this paragraph, being a report –
 - (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to

-
- provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
- (b) in such form (if any) as the notice under this paragraph may specify.
- (7) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
- (8) The power under this Article to require documents to be provided includes power –
- (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
- (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –
- (a) for a period of one year; or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
- (10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.
- (11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or an agent, exercising powers under paragraph (4), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (12) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.
- (13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or Article 28.
- (14) In this Article –
-

‘agent’, in any provision, means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;

‘defined person’ means any of the following persons –

- (a) a registered person;
- (b) a person who was a registered person at any time;
- (c) a person who is a principal person, or key person, in relation to another person who is a registered person or was a registered person at any time;
- (d) a person who was at any time a principal person, or key person, in relation to another person who is a registered person or was a registered person at, before or after that time;
- (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
- (f) a person who is an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at any time;
- (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at, before or after that time;
- (h) a person who is an employee of a person who is a party to a contract for services with another person who is a registered person;
- (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a registered person at that time;

‘officer’, in any provision, means an officer of the Commission, being an officer who has been authorized by the Commission to perform the functions set out or referred to in that provision.

(15) For the purposes of paragraph (6), the following persons are specified –

- (a) a person within sub-paragraph (a) or (b) of the definition of ‘defined person’ in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
- (b) a person who the Commission has reasonable grounds to suspect has contravened Article 7.

(16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of ‘defined person’ in paragraph (14), the reference to a person who was a registered person includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.

(17) For the avoidance of doubt –

-
- (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
 - (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.”.

54 Article 33 amended

In Article 33(3) of the principal Law for the words “under Article 32(4)” the words “as referred to in Article 32(6)” shall be substituted.

55 Article 34 amended

In Article 34(1) of the principal Law –

- (a) in sub-paragraphs (b) and (d) for the matter “32(1)” in each place where it occurs there shall be substituted the matter “32”;
- (b) in sub-paragraph (g) for the matter “32(3)” there shall be substituted the matter “32(4)”.

56 Article 36 amended

In Article 36 of the principal Law –

- (a) after paragraph (1)(b) the following sub-paragraph shall be inserted –
 - “(ba) the power to give a direction under Article 16 or 23;”;
- (b) in paragraph (6)(b) for the matter “32(7)” the matter “32(9)” shall be substituted.

57 Article 38 amended

For Article 38(1)(l) of the principal Law the following sub-paragraph shall be substituted –

- “(l) by any of the following persons –
 - (i) the Commission,
 - (ii) a person appointed under an enactment by any of the following –
 - (A) the Commission,
 - (B) the Court, on the application of the Commission,
 - (C) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,

to any person or body responsible for setting standards of conduct for any profession where that person or body has powers to discipline persons who fail to meet those standards if it appears to the Commission or the appointed person that disclosing the information would enable or assist the person or body responsible for setting standards to discharge its functions in relation to a person who fails, or is alleged to have failed, to meet those standards;”.

PART 6

AMENDMENTS TO THE PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 2008

58 Interpretation

In this Part, “principal Law” means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹¹.

59 Article 1 amended

In Article 1(1) of the principal Law, the following definitions shall be inserted, each according to its alphabetical order –

“ ‘documents’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;

‘ESAs’ means the European Supervisory Authorities comprising –

- (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
- (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
- (c) the European Securities and Markets Authority established by Regulation (EU) No.1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

‘supervisor of a securities market’ has the meaning given in Article 1(1) of the Financial Services (Jersey) Law 1998¹², but in reading that definition in the context of this Law the reference in that definition to a relevant supervisory authority within the meaning of the Financial Services (Jersey) Law 1998 is to be taken to be a reference to a relevant overseas supervisory authority within the meaning of this Law.”.

60 Article 2 amended

For Article 2(a) of the principal Law the following paragraph shall be substituted –

- “(a) monitoring compliance by a supervised person with any of the following –
 - (i) any requirement to which that person is subject under this Law,
 - (ii) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999¹³,
 - (iii) the Community Provisions (Wire Transfers) (Jersey) Regulations 2007¹⁴,
 - (iv) any direction under Article 6 of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012¹⁵,
 - (v) any Code of Practice that applies to that person or the supervised business carried on by that person;”.

61 Article 10 amended

For Article 10(2)(a)(ii) of the principal Law the following clause shall be substituted –

- “(ii) any person, or institution, prescribed for the purposes of this paragraph, subject to such conditions or restrictions as may be so prescribed;”.

62 Article 14 amended

For Article 14(4)(b)(ii) of the principal Law the following clauses shall be substituted –

- “(ia) an offence under –
 - (A) this Law,
 - (B) the Banking Business (Jersey) Law 1991¹⁶,
 - (C) the Collective Investment Funds (Jersey) Law 1988¹⁷,
 - (D) the Financial Services (Jersey) Law 1998¹⁸,
 - (E) the Insurance Business (Jersey) Law 1996¹⁹, or
 - (F) any Regulation or Order made under any of those Laws,
- (ib) an offence, similar to one referred to in clause (ia), under the law of a country or territory outside Jersey,
- (ii) an offence, not referred to in clause (ia) or (ib), under any enactment (whether of Jersey or of a country or territory outside Jersey) relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency,

insurance, money laundering or terrorist financing;
or”.

63 Article 23 amended

For Article 23(12) and (13) of the principal Law the following paragraphs shall be substituted –

“(12) If a direction makes a requirement referred to in paragraph (2)(c) or (d), the requirement shall not take effect until the latest of the following –

- (a) when one month has passed since the notice of the direction was given;
- (b) such date as is specified in the notice of the direction;
- (c) if an appeal is lodged under paragraph (8) against the giving of the direction, when the appeal is determined by the Court or withdrawn.

(13) Paragraph (12) shall not have effect if –

- (a) the person on whom the requirement is imposed agrees with the supervisory body that gave the direction that the requirement take effect at a time earlier than the time that would apply under paragraph (12); or
- (b) the Court so orders under paragraph (13A).

(13A) If, on the application of the supervisory body that gave the direction, the Court is satisfied that it is in the best interests of –

- (a) persons who transacted or may transact supervised business with the person on whom the relevant requirement was imposed; or
- (b) the public,

that paragraph (12) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (12) should be reduced, the Court may so order.

(13B) Except where paragraph (12)(c) has effect, an appeal made under paragraph (8) shall not suspend the operation of the direction.”.

64 Article 25 amended

For Article 25(1) to (3) of the principal Law the following paragraphs shall be substituted –

“(1) Where, on the application of a suitable supervisory body, the Court is satisfied that –

- (a) a supervised person –
 - (i) is not, in terms of Article 14(4), a fit and proper person to carry on the supervised business that the supervised person is purporting to carry on,

- (ii) is not fit to carry on the supervised business to the extent to which the supervised person is purporting to do, or
 - (iii) has committed or is likely to commit a contravention of a type referred to in Article 24(1); and
- (b) it is desirable for the Court to act under this paragraph for the protection of persons with whom the supervised person has transacted or may transact supervised business,

the Court may, as it thinks just, make an order making the supervised person subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

(2) For the purposes of this Article, references to a supervised person include a formerly supervised person.

(3) If, on an application made under paragraph (1), the Court is satisfied that a supervised person has –

- (a) by entering into any transaction with another person, contravened Article 10; or
- (b) by entering into any transaction with another person, contravened any condition applicable to the supervised person (whether attached to the supervised person's registration or prescribed by Order) or any direction given to the supervised person under Article 23,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.”.

65 Article 26 amended

For Article 26(c) of the principal Law the following paragraph shall be substituted –

“(c) a public statement concerning a person if it appears to the body that the person is carrying on, or formerly carried on, a supervised business, whether in Jersey or in a country or territory outside Jersey, and it appears to that body to be desirable to issue the statement –

- (i) in the best interests of persons who transacted or may transact supervised business with the person, or
- (ii) in the best interests of the public.”.

66 Article 30 substituted

For Article 30 of the principal Law the following Article shall be substituted –

“30 General power to require information and documents

- (1) A suitable supervisory body, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
 - (a) to provide that body, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the body, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the body’s functions under this Law;
 - (b) to attend at such times and places as may be specified in the notice and answer such questions as that body, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the body’s functions under this Law.
- (2) If a suitable supervisory body has reasonable grounds to suspect that a person has contravened Article 10, that body, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
 - (a) to provide the body, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the body, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
 - (b) to attend at such times and places as are specified in the notice and answer such questions as the body, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (3) In a case where a suitable supervisory body, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the body, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the body, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.
- (4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.
- (5) If the suitable supervisory body, an officer or an agent serves notice on a person under paragraph (1) or (2), the suitable supervisory body, officer or agent may, by the same or another

- notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).
- (6) The suitable supervisory body, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the suitable supervisory body and appointed by the person served with the notice under this paragraph, being a report –
- (a) on, or on any aspect of, any information, documents, or questions, that the suitable supervisory body, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
- (b) in such form (if any) as the notice under this paragraph may specify.
- (7) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
- (8) The power under this Article to require documents to be provided includes power –
- (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
- (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –
- (a) for a period of one year; or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
- (10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the relevant suitable supervisory body, the body shall supply the person with a copy of the document as soon as practicable.
- (11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or an agent, exercising powers under paragraph (4), the

person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.

(12) Nothing in this Article shall require the disclosure or provision by a person to a suitable supervisory body, an officer, or an agent, of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.

(13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or Article 33.

(14) In this Article –

‘agent’, in any provision, means an agent of a suitable supervisory body, being an agent who has been authorized by the body to perform the functions set out or referred to in that provision;

‘defined person’ means any of the following persons –

- (a) a person who is carrying on a supervised business;
- (b) a person who carried on a supervised business at any time;
- (c) a person who is a principal person, or key person, in relation to another person who is carrying on a supervised business or carried on a supervised business at any time;
- (d) a person who was at any time a principal person, or key person, in relation to another person who is carrying on a supervised business or carried on a supervised business at, before or after that time;
- (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
- (f) a person who is an employee of, or party to a contract for services with, another person who is carrying on a supervised business or carried on a supervised business at any time;
- (g) a person who was at any time an employee of, or party to a contract for services with, another person who is carrying on a supervised business or carried on a supervised business at, before or after that time;
- (h) a person who is an employee of a person who is a party to a contract for services with another person who is carrying on a supervised business;
- (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who carried on a supervised business at that time;

‘officer’, in any provision, means an officer of a suitable supervisory body, being an officer who has been authorized by the

body to perform the functions set out or referred to in that provision.

(15) For the purposes of paragraph (6), the following persons are specified –

- (a) a person within sub-paragraph (a) or (b) of the definition of ‘defined person’ in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
- (b) a person who the suitable supervisory body has reasonable grounds to suspect has contravened Article 10.

(16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of ‘defined person’ in paragraph (14), the reference to a person who carried on a supervised business includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.

(17) For the avoidance of doubt –

- (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
- (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.

(18) Nothing in this Article affects the operation of Article 8.”.

67 Article 31 amended

In Article 31 of the principal Law –

(a) after paragraph (1)(a)(vii) the following clause shall be added –

“,

(viii) the Community Provisions (Wire Transfers) (Jersey) Regulations 2007²⁰”;

(b) in paragraph (4)(b)(iv) for the words “Article 30(9)” the words “Article 30(6)” shall be substituted.

68 Article 32 amended

In Article 32 of the principal Law –

(a) in paragraph (1)(a) for the words “Article 30(7)” the words “Article 30(2)” shall be substituted;

(b) in paragraph (1)(b), (c), (d) and (e) for the words “Article 30(4)” in each place where they occur the words “Article 30(1)” shall be substituted;

(c) in paragraph (1)(g) for the words “Article 30(8)” the words “Article 30(4)” shall be substituted.

69 Article 36 substituted

For Article 36 of the principal Law the following Article shall be substituted –

“36 Permitted disclosures

- (1) Article 35 does not preclude the disclosure of information –
 - (a) by a supervisory body –
 - (i) to the Viscount,
 - (ii) to any person for the purpose of enabling or assisting that person to exercise that person’s statutory functions in relation to any person or class of person in respect of whom the supervisory body has or had statutory functions,
 - (iii) to the Comptroller and Auditor General for the purpose of enabling or assisting the exercise of any of his or her functions in relation to the supervisory body,
 - (iv) to a relevant overseas supervisory authority pursuant to Article 39, or
 - (v) to any person for the purposes of enabling or assisting that person to exercise that person’s statutory control functions in relation to any person or class of person in respect of whom the supervisory body does not have statutory functions;
 - (b) by or to any person in any case in which disclosure is for the purpose of –
 - (i) enabling or assisting any supervisory body, or any person acting on its behalf, to exercise that body’s, or that person’s, functions, or
 - (ii) enabling or assisting any person appointed, under an enactment, by –
 - (A) a supervisory body,
 - (B) the Court, on the application of a supervisory body, or
 - (C) a Minister,to exercise the functions of the person so appointed, or the functions of the supervisory body, under this Law or under any other enactment;
 - (c) to a person by a supervisory body showing whether or not any person is registered or was formerly registered under this Law, including any conditions which are attached or were formerly attached to the registration of that person under Article 17;
 - (d) with a view to the investigation of a suspected offence, or to the institution of, or for the purposes of, any criminal proceedings, whether under this Law or not;

-
- (e) in connection with any other proceedings arising under this Law;
 - (f) subject to paragraph (2), by –
 - (i) a supervisory body, or
 - (ii) a person appointed under an enactment by –
 - (A) a supervisory body,
 - (B) the Court, on the application of a supervisory body, or
 - (C) a Minister, where that enactment prescribes that the Minister and a supervisory body each have power to appoint that person,

to any person or body responsible for setting standards of conduct for a profession and having powers to discipline persons who fail to meet those standards;
 - (g) by a supervisory body to the Attorney General or to a police officer, if the information –
 - (i) has been obtained under Article 30, 31 or 32, or
 - (ii) is in the possession of the supervisory body and relates to any matter in relation to which a power under Article 30, 31 or 32 is exercisable;
 - (h) by a supervisory body to the auditor of –
 - (i) a supervised person or formerly supervised person, or
 - (ii) a person who appears to the supervisory body to have acted in contravention of Article 10,

where it appears to the supervisory body that disclosing the information would be in the interests of persons who transacted or may transact supervised business with such a person;
 - (i) by a supervisory body to any person acting on behalf of an international body or international organization where the body's or organization's functions include the assessment of Jersey's compliance with international standards relating to measures against money-laundering or the financing of terrorism and the disclosure is for the purpose of enabling or assisting that body or organization to discharge those functions; or
 - (j) subject to paragraphs (6) to (8), by a supervisory body to any of the following organizations or persons –
 - (i) the ESAs, or
 - (ii) a supervisor of a securities market.
- (2) Paragraph (1)(f) shall have effect only if it appears to the supervisory body or to the appointed person (as the case requires) that disclosing the information (as referred to in that subparagraph) would enable or assist the person or body responsible for setting standards to exercise his, her or its functions in relation
-

to a person who fails, or is alleged to have failed, to meet those standards.

- (3) Article 35 does not preclude the Attorney General from further disclosing the information already disclosed to him or her as referred to in paragraph (1)(g) if he or she makes the further disclosure –
 - (a) for the purposes of an investigation into a suspected offence, or of a prosecution, in Jersey; or
 - (b) for the purposes of an investigation into a suspected offence, or of a prosecution, in a country or territory outside Jersey.
- (4) Article 35 does not preclude a police officer from further disclosing the information already disclosed to him or her as referred to in paragraph (1)(g) if he or she makes the further disclosure –
 - (a) for the purposes of an investigation into a suspected offence, or of a prosecution, in Jersey; or
 - (b) with the permission of the Attorney General and for the purposes of an investigation into a suspected offence, or of a prosecution, in a country or territory outside Jersey.
- (5) A party shall not make a disclosure under or by virtue of paragraph (1)(a)(ii), (iii), (iv) or (v) or (b), (f), (i) or (j) or Article 39(1)(g) unless satisfied that the party to whom disclosure is made complies with or will comply with any conditions to which the party making the disclosure may, in its discretion, subject the disclosure.
- (6) The supervisory body shall not disclose information under paragraph (1)(j) unless satisfied that –
 - (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
 - (b) that organization or person will treat the disclosed information with appropriate confidentiality.
- (7) In deciding whether to disclose information under paragraph (1)(j), the supervisory body may take the following factors (among others) into account –
 - (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the supervisory body;
 - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
 - (c) the seriousness of the case and its importance in Jersey;
 - (d) whether the information could be obtained by other means; and
 - (e) whether it is otherwise appropriate in the public interest to disclose the information.

-
- (8) The supervisory body may refuse to disclose information under paragraph (1)(j) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the supervisory body considers appropriate.
 - (9) The States may by Regulations amend this Article by –
 - (a) adding further parties to or by whom disclosure may be made and specifying in each case the purpose for which disclosure may be made; or
 - (b) amending the circumstances of disclosure, including the purposes for which and conditions under which disclosure may be made.
 - (10) In paragraph (1)(a)(v), ‘statutory control functions’ means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.”.

70 Article 39 amended

In Article 39 of the principal Law –

- (a) after paragraph (1)(b) the following sub-paragraph shall be inserted –
 - “(ba) the power to give a direction under Article 23;”;
- (b) in paragraph (6)(a)(i) and (ii) for the words “Article 30(7)” in each place where they occur the words “Article 30(2)” shall be substituted;
- (c) in paragraph (6)(b) for the words “Article 30(12)” the words “Article 30(9)” shall be substituted.

PART 7

MISCELLANEOUS

71 Community Provisions (Wire Transfers) (Jersey) Regulations 2007 amended

Regulations 14A and 14B of the Community Provisions (Wire Transfers) (Jersey) Regulations 2007²¹ shall be repealed.

72 Citation and commencement

This Law may be cited as the Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 2014 and shall come into force 7 days after it is registered.

L.-M. HART

Deputy Greffier of the States

-
- 1 *chapter 13.100*
 - 2 *chapter 04.160*
 - 3 *chapter 04.160*
 - 4 *chapter 13.425*
 - 5 *chapter 13.100*
 - 6 *chapter 13.075*
 - 7 *chapter 13.225*
 - 8 *chapter 13.075*
 - 9 *chapter 13.425*
 - 10 *chapter 13.225*
 - 11 *chapter 08.785*
 - 12 *chapter 13.225*
 - 13 *chapter 08.780*
 - 14 *chapter 17.245.57*
 - 15 *chapter 08.685*
 - 16 *chapter 13.075*
 - 17 *chapter 13.100*
 - 18 *chapter 13.225*
 - 19 *chapter 13.425*
 - 20 *chapter 17.245.57*
 - 21 *chapter 17.245.57*