



Jersey

**BANKING BUSINESS (JERSEY)  
LAW 1991**

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Jersey

## BANKING BUSINESS (JERSEY) LAW 1991

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Jersey

## **BANKING BUSINESS (JERSEY) LAW 1991<sup>1</sup>**

**A LAW** to make provision to regulate banking and other categories of deposit-taking business, to penalize fraudulent inducements to take deposits, to regulate the use of banking names and descriptions, and generally to provide for purposes connected therewith and incidental thereto

Commencement [[see endnotes](#)]

### **PART 1**

#### **PRELIMINARY**

##### **1 Interpretation**

In this Law, unless the context otherwise requires –

“associate”, in relation to a person entitled to exercise or control the exercise of voting power in relation to, or holding shares in, a body corporate, means –

- (a) the wife or husband or son or daughter or stepson or step-daughter of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person;
- (d) if that person is a company –
  - (i) any director of that company,
  - (ii) any subsidiary of that company, and
  - (iii) any director or employee of any such subsidiary; and
- (e) if that person has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in that body corporate or under which they undertake to act together in exercising their voting power in relation to it, that other person;

“auditor” means a person qualified under Article 113 of the Companies (Jersey) Law 1991<sup>2</sup> for appointment as auditor of a company under Article 109 of the Companies (Jersey) Law 1991;

“authorization” means authorization granted by the Minister under this Law and authorized shall be construed accordingly;

“chief executive”, in relation to a registered person, means a person who, either alone or jointly with one or more other persons, is responsible under the immediate authority of the directors for the conduct of the business of the registered person and in relation to a registered person whose principal place of business is in a place outside Jersey, includes a person who, either alone or jointly with one or more other persons, is responsible for the conduct of its business in Jersey;

“code of practice” means a code of practice under Article 19A;

“Commission” means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998<sup>3</sup>;

“company” means any body corporate incorporated with or without limited liability in any part of the world;

“compliance officer” means a person so designated, under a code of practice, by a registered person and having the function of monitoring whether the law of Jersey, and the codes of practice, are being complied with in the conduct of the business in respect of which the registered person is registered;

“controller” in relation to an institution, means –

- (a) a managing director or chief executive of the institution;
- (b) a managing director or chief executive of any other institution of which that institution is a subsidiary company;
- (c) a partner in any partnership of which the institution is also a partner;
- (d) a person in accordance with whose directions or instructions any director of that institution or any other institution of which that institution is a subsidiary company is accustomed to act;
- (e) a person who, either alone or with any associate or associates, is entitled to exercise or control the exercise of not less than 15% of the voting power in general meeting of that institution or of any other institution of which that institution is a subsidiary company,

and in this Law, a person coming within sub-paragraph (d) is referred to as “an indirect controller” and a person coming within sub-paragraph (e) is referred to as a “shareholder controller”;

“Court” means the Royal Court;

“deposit” has the meaning given in Article 2;

“deposit-taking business” has the meaning given in Article 3;

“director” includes –

- (a) a person who occupies the position of a director, by whatever name called;



(b) in the case of a partnership, a partner;

“documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“former registered person” means a person –

- (a) who was formerly a registered person under the Investors (Prevention of Fraud) (Jersey) Law 1967<sup>4</sup> or under this Law; and
- (b) who continues to have a liability in respect of any deposit for which it had a liability at a time when the person was a registered person under the Investors (Prevention of Fraud) (Jersey) Law 1967 or under this Law;

however paragraph (b) shall not apply for the purposes of any of the following Articles –

22(3);

26(10);

28(6);

34(7);

43(2);

“holding company” has the meaning given in Article 4;

“institution” means –

- (a) a body corporate, wherever incorporated;
- (b) a partnership formed under the law of Jersey; or
- (c) a partnership or other unincorporated association of 2 or more persons formed under the law of a member State of the European Community;

“key person” means a person employed or otherwise engaged by a registered person as an officer of any one or more of the following classes in relation to the conduct of the business in respect of which the registered person is registered –

- (a) compliance officer;
- (b) money laundering compliance officer;
- (c) money laundering reporting officer;

“manager” means a person, by whatever name called, other than a director or chief executive who is responsible for the overall control and administration or having effective control of the day to day business of a registered person or an office in Jersey of that registered person;

“Minister” means the Minister for Economic Development;

“money laundering compliance officer” means a person appointed as ‘compliance officer’ under the Money Laundering (Jersey) Order 2008<sup>5</sup>;

“money laundering reporting officer” means a person appointed as ‘reporting officer’ under the Money Laundering (Jersey) Order 2008;

“prescribed” means prescribed by Order of the Minister on the recommendation of the Commission;

“public statement” means a public statement issued under Article 48;

“registered” means registered under this Law or the Investors (Prevention of Fraud) (Jersey) Law 1967;<sup>6</sup>

“relevant supervisory authority”, in relation to a country or territory outside Jersey, means an authority discharging in that country or territory any function that is the same as, or similar to, a function of the Commission;

“shareholder controller” has the meaning given by sub-paragraph (e) of the definition of “controller”, and “minority shareholder controller”, “majority shareholder controller” and “principal shareholder controller” mean, respectively –

- (a) a shareholder controller in whose case the percentage referred to in that paragraph does not exceed 50;
- (b) a shareholder controller in whose case that percentage exceeds 50 but does not exceed 75;
- (c) a shareholder controller in whose case that percentage exceeds 75;

“subsidiary company” has the meaning given in Article 4;

“vary” includes amend, replace and revoke;

“wholly-owned subsidiary” has the meaning given in Article 4.<sup>7</sup>

## **2 Meaning of “deposit”**

- (1) Unless the context otherwise requires, “deposit” means a sum of money paid on terms –
  - (a) under which it will be repaid, with or without interest or a premium, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and
  - (b) which are not referable to the provision of property or services or the giving of security,and references in this Law to money deposited and to the making of a deposit shall be construed accordingly.
- (2) For the purposes of paragraph (1)(b), money is paid on terms which are referable to the provision of property or services or to the giving of security if, and only if –
  - (a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services and is repayable only in the event that the property or services is not or are not in fact, sold, hired or otherwise provided;

- 
- (b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or
  - (c) without prejudice to sub-paragraph (b), it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.
- (3) Except so far as any provision of this Law otherwise provides, in this Law “deposit” does not include –
- (a) a sum paid by a registered person;
  - (b) a sum paid by a person or institution mentioned in Article 8(2);
  - (c) a sum paid by a person, other than a person or institution mentioned in paragraph (a) or (b), in the course of carrying on a business consisting wholly or mainly of lending money;
  - (d) a sum which is paid by one company to another at a time when one is a subsidiary of the other or both are subsidiaries of another company or the same individual is a majority or principal shareholder controller of both of them;
  - (e) a sum which is paid by a person who, at the time when it is paid, is a close relative of the person receiving it or who is, or is a close relative of, a director, controller or manager of that person;
  - (f) a sum paid on terms involving the issue of debentures or other securities;
  - (g) a sum paid under a transaction which is exempted by an Order made under Article 8(3).
- (4) In the application of paragraph (3)(e) to a sum paid by a partnership, sub-paragraph (e) shall have effect as if for the reference to the person paying the sum there were substituted a reference to each of the partners.
- (5) In paragraph (3)(e) “close relative”, in relation to any person means –
- (a) the person’s spouse;
  - (b) the person’s children and step-children, the person’s parents and step-parents, the person’s brothers and sisters and step-brothers and step-sisters; and
  - (c) the spouse of any person within sub-paragraph (b).

### **3 Meaning of “deposit-taking business”**

- (1) In this Law, unless the context otherwise requires, a person carries on a deposit-taking business if –
- (a) in the course of that business the person lends the whole or any part of a deposit received by that person to any other person; or
  - (b) the person uses the whole or any part of any deposit received by him or her in the course of that business, or the whole or any part of any interest derived from a deposit received by him or her in the course of that business, to finance to a material extent any other activity of the business.

- (2) Notwithstanding paragraph (1), a business is not a deposit-taking business if in the normal course of the business –
  - (a) the person carrying on that business does not hold himself or herself out to accept deposits on a day to day basis; and
  - (b) any deposits which are accepted are only accepted on particular occasions.
- (3) Without prejudice to the generality of the meaning of the words “in or from within Jersey” in this Law, but subject always to paragraph (2), a person who –
  - (a) carries on a deposit-taking business outside Jersey; and
  - (b) is a company incorporated in or registered in Jersey or a limited liability partnership registered under the Limited Liability Partnerships (Jersey) Law 1997,<sup>8</sup>carries on business from within Jersey within the meaning of this Law.<sup>9</sup>

#### **4 Meaning of “holding company”, “subsidiary company” and “wholly owned subsidiary”**

- (1) For the purposes of this Law, a company shall, subject to the provisions of paragraph (4), be deemed to be a subsidiary of another if, but only if –
  - (a) that other either –
    - (i) is a member of it and controls the composition of its board of directors, or
    - (ii) holds more than one half in nominal value of its equity share capital; or
  - (b) the first mentioned company is a subsidiary of any company which is that other’s subsidiary.
- (2) For the purposes of paragraph (1), the composition of a company’s board of directors shall be deemed to be controlled by another company if, but only if, that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships.
- (3) For the purposes of paragraph (2), that other company is deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied –
  - (a) that a person cannot be appointed thereto without the exercise in the person’s favour by that other company of such a power as aforesaid; or
  - (b) that a person’s appointment thereto follows necessarily from the person’s appointment as director of that other company;
  - (c) that the directorship is held by that other company itself or a subsidiary of it.
- (4) In determining whether a company is a subsidiary of another –
  - (a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;

- (b) subject to sub-paragraph (c), any shares held or power exercisable –
    - (i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity),
    - (ii) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity, shall be treated as held or exercisable by that other;
  - (c) any shares held or power exercisable by, or by a nominee for, the other or its subsidiary shall be treated as not held or exercisable by that other if the shares are held or the power is exercisable as above mentioned by way of security only.<sup>10</sup>
- (5) For the purposes of this Law –
- (a) a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary; and
  - (b) a body corporate is deemed to be the wholly-owned subsidiary of another if it has no members except that other and that other's wholly-owned subsidiaries and its or their nominees.
- (6) In this Article "company" includes any body corporate.

## **5 Power to amend definitions<sup>11</sup>**

- (1) The States may by Regulations amend any definition in Article 1, 2, 3 or 4 or in the Schedule.
- (2) Without prejudice to the generality of paragraph (1), Regulations under that paragraph amending the definition of deposit-taking business may provide for taking into account as activities of an institution the activities of any person who is connected with it in such a manner as is specified in the Regulations.
- (3) Regulations made under this Article may include provisions that exclude or modify the effect of the Regulations on any other enactment which is expressed to have effect in relation to a deposit or deposit-taking business within the meaning of this Law.

## **PART 2**

### **FUNCTIONS OF FINANCIAL SERVICES COMMISSION AND CONTROL OF DEPOSIT-TAKING BUSINESSES<sup>12</sup>**

## **6 Functions of the Commission<sup>13</sup>**

The Commission shall have the powers conferred on it by this Law and the duty generally to supervise the persons registered by it in the exercise of those powers.

**7 Limitation of liability**

- (1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.
- (2) This Article applies to –
  - (a) the States;
  - (b) the Minister or any person who is, or is acting as, an officer, servant or agent in an administration of the States for which the Minister is assigned responsibility, or who is performing any duty or exercising any power on behalf of the Minister; and
  - (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is a person appointed by the Commission to conduct an investigation under Article 28 or who is performing any duty or exercising any power on behalf of the Commission.<sup>14</sup>

**8 Prohibition of unregistered deposit-taking business**

- (1) Subject to the provisions of this Law, no person shall carry on or hold himself or herself out as carrying on a deposit-taking business in or from within Jersey unless the person is for the time being registered under this Law.
- (2) This Article shall not apply to the doing of anything by or on behalf of –
  - (a) the States;
  - (b) the central bank of a member State of the European Community;
  - (c) the National Savings Bank of the United Kingdom; or
  - (d) subject to such conditions or restrictions as may be prescribed, any other prescribed person or institution.<sup>15</sup>
- (3) This Article shall not apply to any transaction prescribed by the Minister for the purposes of this paragraph.
- (4) An Order under paragraph (3) may prescribe transactions by reference to any factor appearing to the Commission to be appropriate and, in particular, by reference to all or any of the following –
  - (a) the amount of the deposit;
  - (b) the total liability of the person accepting the deposit to the person's depositors or to any other creditors;
  - (c) the circumstances in which, or the purpose for which, the deposit is made;
  - (d) the identity of the person by whom the deposit is made or accepted, including the person's membership of a class whose membership is determined otherwise than by the Commission;
  - (e) the number of, or the amount involved in, transactions of a particular description carried out by the person accepting the

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deposit or the frequency with which the person carries out transactions of any particular description.<sup>16</sup>

- (5) An Order under paragraph (3) may make any exemption for which it provides subject to compliance with specified conditions or requirements.
- (6) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (7) The fact that a deposit has been accepted by a person in the course of a contravention of this Article shall not affect any civil liability arising in respect of the deposit or the money deposited.

## **9 Applications for and grant and extent of registration<sup>17</sup>**

- (1) Subject to the provisions of this Law, on application by any person in the prescribed manner and on payment of the fee published by the Commission in accordance with Article 15(5)<sup>18</sup> of the Financial Services Commission (Jersey) Law 1998, the Commission shall register the person.<sup>19</sup>
- (2) Every registration shall, unless previously revoked under the provisions of Article 10, expire on 31st January next following the day on which it takes effect.
- (3) An application under this Article shall, subject to paragraph (4), be accompanied by –
  - (a) a statement setting out the nature and scale of the deposit-taking business which the applicant intends to carry on, any plans of the applicant for the future development of that business and particulars of the applicant's arrangements for the management of that business; and
  - (b) such other information or documents as the Commission may reasonably require for the purpose of determining the application.
- (4) Without prejudice to the Commission's power to require an applicant to provide additional information or documents or information under paragraph (5), where an application under this Article is made by, or on behalf of, a person who is at the time of the application a registered person, the applicant need not provide the statement or other information or documents required by paragraph (3)(a) and (b), but may be required to provide a statement setting out the extent to which the information contained in the statement, information or documents accompanying the last such application has changed.
- (5) At any time after receiving an application and before determining it, the Commission may, by written notice, require the applicant or any person who is, or is to be, a director, controller or manager of the applicant to provide additional information or documents.
- (6) The directions and requirements given or imposed under paragraphs (3) and (5) may differ as between different applications.

- (7) Any information or statement to be provided to the Commission under this Article shall be in such form as the Commission may specify; and the Commission may by written notice require the applicant or any such person as is mentioned in paragraph (5) to provide a report by an accountant or other qualified person approved by the Commission on such aspects of that information as may be specified by the Commission.
- (8) An application may be withdrawn by written notice to the Commission at any time before it is granted or refused.
- (9) An applicant who, while his or her application is awaiting determination by the Commission under this Article –
  - (a) determines to bring about any alteration in; or
  - (b) becomes aware of any event which may affect in any material respect,  
any information or documents supplied by the applicant to the Commission in connection with the application shall forthwith give written notice of that matter to the Commission.<sup>20</sup>

#### **10 Refusal or revocation of registration<sup>21</sup>**

- (1) The Commission shall refuse to grant an application for registration, or where registration has been granted shall revoke the registration, if the applicant or registered person –
  - (a) has no physical presence in Jersey involving meaningful decision-making and management; and
  - (b) is not subject to supervision by a relevant supervisory authority by reason of that person's connection with any other institution or person.
- (2) For the purposes of paragraph (1)(b), "connection" has the same meaning as in Article 3A of the Income Tax (Jersey) Law 1961<sup>22</sup>.
- (3) If a person ("person A") applies for registration, or is already registered, the Commission may refuse to register the person, or revoke the registration, on one or more of the following grounds –
  - (a) having regard to the information before the Commission as to –
    - (i) the integrity, competence, financial standing, structure and organization of person A,
    - (ii) the persons employed by or associated with person A for the purposes of person A's business or who are directors, controllers, or managers, in relation to person A, or
    - (iii) the description of business that person A proposes to carry on or carries on,  
the Commission is not satisfied that person A is a fit and proper person to be registered;
  - (b) person A has, at any time and whether or not in relation to his or her application, in any case where information was required under this Law to be given in any connection –
    - (i) failed to provide any such information, or



- 
- (ii) provided information that was untrue or misleading in any material particular;
  - (c) person A has at any time failed to comply in any material respect with any condition prescribed or attached under Article 11 to a current or previous registration held by person A;
  - (d) person A or any person employed by or associated with person A for the purposes of person A's business has been convicted of –
    - (i) an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty,
    - (ii) an offence under –
      - (A) this Law,
      - (B) the Collective Investment Funds (Jersey) Law 1988<sup>23</sup>,
      - (C) the Financial Services (Jersey) Law 1998<sup>24</sup>,
      - (D) the Insurance Business (Jersey) Law 1996<sup>25</sup>,
      - (E) any Regulation or Order made under any of those Laws,
    - (iii) any similar offence to those listed in clause (ii) under the laws of any country or territory outside Jersey,
    - (iv) where clause (ii) or (iii) does not apply, an offence 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
    - (v) an offence (whether under the law of Jersey or of a country or territory outside Jersey) of perjury or conspiracy to pervert the course of justice;
  - (e) it appears to the Commission, as a result of information provided under Article 9, or information otherwise obtained, that –
    - (i) it is not in the best interests of persons who may deposit, or have deposited, money with person A that person A should be registered or should continue to be registered,
    - (ii) in order to protect the reputation and integrity of Jersey in financial or commercial matters, person A should not be registered or should not continue to be registered, or
    - (iii) it is not in the best economic interests of Jersey that person A should be registered or should continue to be registered;
  - (f) the Commission has reason to believe that there has been a failure at any time on the part of person A to follow a code of practice;
  - (g) person A has failed to comply with a direction given to the person at any time under Article 17 or 21.

**11 Conditions of registration<sup>26</sup>**

- (1) The Minister may, on the recommendation of the Commission, prescribe by Order conditions that are applicable to the registration of all persons under Article 9 or to the registration of a class of persons.
- (2) The Commission –
  - (a) may attach additional conditions to the registration of a person under Article 9; and
  - (b) may vary conditions applying to the registration of a person whether by virtue of paragraph (1) or by virtue of subparagraph (a).
- (3) Without prejudice to the generality of paragraphs (1) and (2), the conditions may include matters that the Commission considers to be desirable in the interests of depositors or potential depositors, whether for the purpose of safeguarding the assets of the person registered or otherwise.
- (4) The conditions may, in particular –
  - (a) require the registered person to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict its business in a particular way;
  - (b) impose limitations on the acceptance of deposits, the granting of credit or the making of investments;
  - (c) prohibit the registered person from soliciting deposits either generally or from persons who are not already depositors with that registered person;
  - (d) prohibit the registered person from entering into any other transaction or class of transactions;
  - (e) require that the registered person shall at all times have appointed a senior officer approved by the Commission responsible for ensuring compliance with the terms and conditions of the registration.
- (5) A person who fails to comply with a condition imposed under this Article, being a condition that has effect in relation to the person, shall be guilty of an offence and liable to imprisonment for 2 years and to a fine.

**12 Certificates of registration<sup>27</sup>**

Whenever the Commission registers a person it shall issue to that person, free of charge, a registration certificate.

**13 Display of registration certificate and conditions<sup>28</sup>**

- (1) When the Commission registers a person under Article 9(1), it may give that person notice in writing of the manner in which that person shall display or otherwise make available to members of the public –
  - (a) that person's registration certificate, or the information contained in the certificate, or both; and

- 
- (b) a record of such conditions as the Commission may specify, being conditions –
    - (i) to which the person's registration is subject by virtue of an Order under Article 11(1), or
    - (ii) to which the person's registration is subject under Article 11(2).
  - (2) Where the Commission under Article 11(2) varies a condition or attaches any new condition to the registration of a person it may give that person notice in writing of the manner in which that person shall display or otherwise make available to members of the public a record of the conditions as varied or the new condition, as the case may be.
  - (3) The Commission may at any time vary any requirement in any notice it has given under paragraph (1) or (2) by further notice to the registered person.
  - (4) Without prejudice to the generality of paragraphs (1), (2) and (3), a notice under any of those paragraphs may require the certificate, information or record of conditions, as the case may be, to be displayed at any address at which the registered person carries on deposit-taking business or to be published on the internet, or both.
  - (5) A notice under paragraph (1) shall take effect on such date as is specified in the notice.
  - (6) A notice under paragraph (2) or (3) shall take effect in accordance with Article 18.
  - (7) A registered person who carries on a deposit-taking business in breach of any requirements in a notice given under this Article which have effect in relation to that business shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

#### **14 Notification of new or increased control**

- (1) No person shall become a minority, majority or principal shareholder controller or an indirect controller of a registered person which is a company incorporated in Jersey unless the person has notified the Commission in writing of the person's intention to become such a controller and the Commission has notified the person in writing that there is no objection to his or her becoming such a controller.
- (2) Paragraph (1) applies also in relation to a person becoming a partner of a registered person which is a partnership formed under the law of Jersey.
- (3) Following receipt of a notice under paragraph (1), the Commission may, by giving written notice to the person from whom the notice was received, require the person to give such additional information or documents as the Commission may require for deciding whether to serve a notice of objection.
- (3A) The Commission shall serve notice, on the person from whom notice was received under this Article, stating whether the Commission objects or

does not object to his or her becoming a controller, as referred to in paragraph (1).<sup>29</sup>

- (4) The Commission may serve a notice of objection under this Article unless it is satisfied –
  - (a) that the person concerned is a fit and proper person to become a controller of the description in question of the registered person;
  - (b) that the interests of depositors and potential depositors of the registered person would not be in any other manner prejudiced by that person becoming a controller of that description; and
  - (c) without prejudice to sub-paragraphs (a) and (b), that, having regard to that person's likely influence on the registered person as such a controller the registered person would be likely to continue to fulfil the criteria (including those set out in Article 10) which it met on registration, or, if any of those criteria is not fulfilled, that the person concerned would be likely to take remedial action.<sup>30</sup>
- (5) A notice of objection under this Article shall –
  - (a) specify which of the matters mentioned in paragraph (4) the Commission is not satisfied about and, subject to paragraph (6), the reasons for which it is not satisfied;
  - (b) give particulars of the rights of appeal conferred by Article 18A.<sup>31</sup>
- (6) Paragraph (5) shall not require the Commission to specify any reason which would in its opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party.<sup>32</sup>

## **15 Objection to existing shareholder controller**

- (1) Where it appears to the Commission that a person who is a shareholder controller of any description of a registered person which is a company incorporated in Jersey is not or is no longer, a fit person to be such a controller, the Commission may serve on the person a written notice of objection to the person being such a controller.
- (2) The Commission may, in deciding whether to serve notice under paragraph (1), take into account such of the matters set out in Article 10 as may be relevant, as well as such other matters as it thinks fit.<sup>33</sup>
- (3) <sup>34</sup>

## **16 Contravention by controller**

- (1) Subject to paragraph (2), any person who contravenes Article 14 by –
  - (a) failing to give the notice required by Article 14(1);
  - (b) becoming a controller of any description to which that paragraph applies before having been served with a notice by the Commission under that paragraph; or
  - (c) having become a controller of any description in contravention of that Article (whether before or after being served with such a

notice of objection) continues to be such a controller after such a notice has been served on the person,

shall be guilty of an offence.

- (2) A person shall not be guilty of an offence under paragraph (1) if the person shows that he or she did not know of the acts or circumstances by virtue of which he or she became a controller of the relevant description; but where a person becomes a controller of any description without such knowledge and subsequently becomes aware of the fact that he or she has become such a controller the person shall be guilty of an offence unless he or she gives the Commission written notice of the fact that he or she has become such a controller within 14 days of becoming aware of that fact.
- (3) A person guilty of an offence under this Article shall be liable to a fine or to imprisonment for a term not exceeding 2 years, or both and in the case of an offence under paragraph (1)(c), to a fine not exceeding £1,000 for each day on which the offence has continued.<sup>35</sup>

## **17 Restrictions on sales of shares**

- (1) The powers conferred by this Article shall be exercisable where a person has, either by becoming a shareholder controller of any description or by continuing to be such a shareholder controller, as the case may be, contravened Article 14 or continued to be a shareholder controller of any description after being served with a notice under Article 15.
- (2) The Commission may by notice in writing served on the person concerned direct that any specified shares to which this Article applies shall, until further notice, be subject to one or more of the following restrictions –
  - (a) any transfer of, or agreement to transfer, those shares or, in the case of unissued shares, any transfer of, or agreement to transfer the right to be issued with them shall be void;
  - (b) no voting rights shall be exercisable in respect of the shares;
  - (c) no further shares shall be issued in right of them or in pursuance of any offer made to their holder;
  - (d) except in liquidation, no payment shall be made of any sum, due from the registered person on the shares, whether in respect of capital or otherwise.
- (2A) The power to give directions under this Article shall include the power by direction to vary a direction given under this Article.<sup>36</sup>
- (3) The Court may, on the application of the Commission, order the sale of any specified shares to which this Article applies and, if they are for the time being subject to any restrictions under paragraph (2), that they shall cease to be subject to those restrictions.
- (4) No order shall be made under paragraph (3) in a case where a notice of objection was served under Article 14 or 15 –

- (a) until the end of the period within which an appeal can be brought against the notice of objection; and
  - (b) if such an appeal is brought, until it has been determined by the Court or withdrawn.<sup>37</sup>
- (5) Where an order has been made under paragraph (3) the Court may, on the application of the Commission, make such further order relating to the sale or transfer of the shares as it thinks fit.
- (6) Where shares are sold in pursuance of an order under this Article the proceeds of sale, less the costs of the sale, shall be paid to the Viscount for the benefit of the persons beneficially interested in them; and any such person may apply to the Court for an order that the whole or part of the proceeds to be paid to him or her by the Viscount.
- (7) This Article applies –
- (a) to all the shares in a registered person of which the person in question is a controller of the relevant description which are held by the person or any associate of the person and were not so held immediately before he or she became such a controller of the registered person; and
  - (b) where the person in question became a controller of the relevant description of a registered person as a result of the acquisition by the person or any associate of the person of shares in another company, to all the shares in that company which are held by the person or any associate of the person and were not so held before he or she became such a controller of that registered person.
- (8) A copy of the notice served on the person concerned under paragraph (2) shall be served on the registered person or the company to whose shares it relates and, if it relates to shares held by an associate of that person, on that associate.<sup>38</sup>

#### **17A Notice of acts and reasons<sup>39</sup>**

- (1) The Commission shall give notice as follows –
- (a) if under Article 10 it refuses an application for registration, it shall give notice to the applicant;
  - (b) if under Article 10 it revokes a person's registration, it shall give notice to the person;
  - (c) if under Article 11, at the time of a person's registration it attaches a condition to the registration, or at any time after a person's registration, it attaches an additional condition to the person's registration, or varies the conditions attached to the person's registration, it shall give notice to the person;
  - (d) if under Article 39 it refuses permission or grants permission subject to one or more conditions or restrictions, it shall give notice to the applicant for the permission;
  - (e) if under any Order under this Law it refuses consent, refuses approval, or imposes a requirement, it shall give notice to the

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relevant registered person (if any) and any other person in respect of whom the refusal or imposition is made.

- (2) A notice required under this Article, or a notice under Article 13, 15, 17(2) or 21(6) shall –
  - (a) set out the terms of the refusal, revocation, attachment or imposition of conditions, imposition or variation of requirements, objection, conditions or restrictions, direction, or partial grant, of which it is notice;
  - (b) except in the case of an objection under Article 15, set out the terms of the relevant conditions, requirements, or restrictions (including conditions, requirements or restrictions as varied);
  - (c) give the reasons for the refusal, revocation, attachment, imposition, variation, objection, giving of directions, or partial grant (except in the case of a revocation, attachment, or variation, made on the application of the relevant registered person); and
  - (d) except in the case of a notice under Article 17(2), give particulars of the rights of appeal conferred by Article 18A.
- (3) A notice required under Article 21(1), shall –
  - (a) give the reasons for the giving of the direction;
  - (b) specify when the direction is to have effect;
  - (c) give particulars of the provisions of Article 21(5) and (6); and
  - (d) give particulars of the rights of appeal conferred by Article 18A.
- (4) If under this Article the Commission is required to give reasons in a notice, that requirement shall not require the Commission –
  - (a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or
  - (b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.

## **18 Delay in taking effect<sup>40</sup>**

- (1) Any of the following acts of the Commission shall not take effect until one month after notice of them is given under this Law, such date as is specified in the notice, or, if an appeal is lodged under this Law against the act or the decision relating to the act, before the appeal is determined by the Court or withdrawn, whichever is the latest time –
  - (a) a revocation under Article 10;
  - (b) an attachment under Article 11(2) of an additional condition to a person's registration, or variation under that paragraph of the conditions attached to a person's registration, at any time after the registration of the person;
  - (c) the imposition of a requirement under Article 13(2) or (3) or 21(2)(c) or (d);
  - (d) an objection under Article 15.<sup>41</sup>

- (2) Paragraph (1) shall not however have effect if –
  - (a) the persons entitled to notice of the act agree with the Commission that the act take effect at a time earlier than the time that would apply under paragraph (1); or
  - (b) the Court orders otherwise under paragraph (3).
- (3) If, on the application of the Commission, the Court is satisfied that it is in the best interests of persons with whom a registered person has transacted or may transact deposit-taking business 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.
- (4) An order under paragraph (3) may be made without prior notice to and without hearing the registered person concerned.
- (5) The order shall have immediate effect, but any person aggrieved by the order may apply to the Court to vary or set aside the order.
- (6) In respect of an application under paragraph (3), the Court may make such order as it thinks fit, and in respect of an application under paragraph (5), the Court may make such order in respect of the relevant order under paragraph (3) as it thinks fit.

#### **18A Appeals<sup>42</sup>**

- (1) A person aggrieved by an act of the Commission, being –
  - (a) a refusal under Article 10;
  - (b) a revocation under Article 10;
  - (c) an attachment under Article 11(2) of a condition at the time of a person's registration to the registration, or of an additional condition to a person's registration after that time, or variation under that paragraph of the conditions attached to a person's registration;
  - (d) the imposition of a requirement under Article 13;
  - (e) an objection under Article 14, 15 or 24;
  - (f) the giving of a direction under Article 21;
  - (g) the refusal of an application under Article 21(5) or granting of such an application only in part;
  - (h) a refusal of permission, or grant of permission subject to one or more conditions or restrictions, under Article 39;
  - (i) a refusal of consent, refusal of approval, or imposition of a requirement, under any Order under this Law,may appeal to the Court, in accordance with this Article, against that act.
- (2) An appeal under paragraph (1) may be made only on the ground that the act appealed against was unreasonable having regard to all the circumstances of the case.



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- (3) A person's appeal under this Article shall be lodged with the Court no later than the day that is one month after the day on which notice was served on the person of the relevant act.
  - (4) On an appeal under this Article, the Court may make such interim or final order as it thinks fit.
  - (5) If an appeal is made under paragraph (1) against the giving of a direction that makes a requirement referred to in Article 21(2)(c) or (d), the direction shall have no effect until the appeal is determined by the Court or withdrawn.
  - (6) In other cases, an appeal made under paragraph (1) against the giving of a direction shall not suspend the operation of the direction.
  - (7) An appeal made under paragraph (1)(g) in relation to an application under Article 21(5) shall not suspend the operation of the direction in connection with which the application was made.

## **19 Powers of intervention<sup>43</sup>**

- (1) Where, on the application of the Commission, the Court is satisfied in relation to a registered person that –
  - (a) the registered person is not, in terms of Article 10(3)(a) a fit and proper person to carry on a deposit-taking business which the registered person is purporting to carry on, or is not fit to carry it on to the extent to which the registered person is purporting to do; or
  - (b) the registered person has committed or is likely to commit a contravention of a type referred to in Article 37B, andit is desirable for the protection of persons with whom a 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 person, by entering into any transaction, has contravened Article 8 or entered into any transaction with another party who was induced to enter the transaction as a result of the person's contravening Article 23, the Court may order that person 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 the parties 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 such person may otherwise have independently of the Commission.

**19A Codes of practice<sup>44</sup>**

- (1) The Commission may, after consulting any persons or bodies the Commission considers are representative of the interests concerned –
  - (a) issue a code of practice that sets out sound principles for the conduct of deposit-taking business;
  - (b) revise any such code by revoking, varying, amending or adding to the provisions of the code;
  - (c) indicate in a code of practice if and to what extent it is or is not to apply to a class of deposit-taking business or a particular deposit-taking business.<sup>45</sup>
- (2) The Commission shall publish a code of practice in a manner that is likely to bring it to the attention of those affected by it.
- (3) A failure to follow a code of practice does not of itself render a person liable to proceedings of any kind, or invalidate any transaction.
- (4) In proceedings under this Law or otherwise, a code of practice is admissible in evidence if it appears to the court conducting the proceedings to be relevant to a question arising in the proceedings, and is to be taken into account in determining such a question.
- (5) A copy, certified in writing on behalf of the Commission to be an accurate copy –
  - (a) of a code of practice; or
  - (b) of a part of a code of practice,is admissible in evidence in legal proceedings as of equal validity with the original and as evidence of any fact stated in it of which direct oral evidence would be admissible.
- (6) If a document purports on its face to be a copy of a code of practice or part of a code of practice, certified in accordance with paragraph (5), it shall be unnecessary for the purposes of paragraph (5) to prove the official position or handwriting of the person signing on behalf of the Commission.

**20 Control of advertising**

- (1) The Minister may, on the recommendation of the Commission, make Orders relating to the issue, form and content of deposit advertisements.<sup>46</sup>
- (2) Orders made under this Article may make different provision for different cases and, without prejudice to the generality of paragraph (1), may in particular –
  - (a) prohibit the issue of advertisements of any description (whether by reference to their contents, to the persons by whom they are issued or otherwise);
  - (b) make provision with respect to matters which must be, as well as matters which may not be, included in advertisements;
  - (c) provide for exemptions from any prohibition or requirement imposed by the Orders, including exemptions by reference to a

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person's membership of a class whose membership is determined otherwise than by the Minister or the Commission.<sup>47</sup>

- (3) Any registered person who issues in Jersey or elsewhere, or, subject to paragraph (4), any other person who issues in Jersey, an advertisement the issue of which is prohibited by an Order made under this Article or which does not comply with any requirements imposed by that Order shall be guilty of an offence and liable to a fine or to imprisonment for a term not exceeding 2 years, or both.
- (4) A person whose business it is to publish or arrange for publication of advertisements shall not be guilty of an offence under this Article if he or she proves that he or she received the advertisement for publication in the ordinary course of his or her business, that the matters contained in the advertisement were not (wholly or in part) devised or selected by the person or by any person under his or her direction or control and that he or she did not know and had no reason for believing that publication of the advertisement would constitute an offence.
- (5) In this Article "deposit advertisement" means any advertisement containing –
  - (a) an invitation to make a deposit; or
  - (b) information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit,and for the purposes of this Article an advertisement includes any means of bringing such an invitation or such information to the notice of the person or persons to whom it is addressed and references to an advertisement shall be construed accordingly.
- (6) For the purposes of this Article –
  - (a) an advertisement issued or caused to be issued by any person by way of display or exhibition in a public place shall be treated as issued or caused to be issued by the person on every day on which he or she causes or permits it to be displayed or exhibited;
  - (b) an advertisement inviting deposits with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued to the order of that person.
- (7) For the purposes of this Article an advertisement issued outside Jersey shall be treated as issued in Jersey if it is directed to persons in Jersey or is made available to them otherwise than in a newspaper, journal, magazine or other publication published and circulating principally outside Jersey or in a sound or television broadcast transmitted principally for reception outside Jersey.

## **21 Power to issue directions<sup>48</sup>**

- (1) If it appears to the Commission that –
  - (a) any requirements in relation to the registration of a person are no longer satisfied;

- (b) it is in the best interests of persons with whom a registered person has transacted or may transact deposit-taking business, or in the best interests of the creditors of a registered person;
  - (c) it is in the best interests of one or more registered persons;
  - (d) it is desirable in order to protect the reputation and integrity of Jersey in financial and commercial matters; or
  - (e) it is in the best economic interests of Jersey,
- the Commission may, whenever it considers it necessary, give, by notice in writing, such directions as it may consider appropriate in the circumstances.
- (2) Without prejudice to the generality of paragraph (1), a direction under this Article may –
- (a) require anything to be done or not to be done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;
  - (b) require that a director, chief executive, shareholder controller, key person, or person having functions, in relation to a registered person, be removed or removed and replaced by another person acceptable to the Commission;
  - (c) require that any individual –
    - (i) not perform a specified function (or any function at all) for,
    - (ii) not engage in specified employment (or any employment at all) by, or
    - (iii) not hold a specified position (or any position at all) in the business of,a specified registered person (or any registered person at all);
  - (d) require a registered person or former registered person to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the direction, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the registered person or former registered person;
  - (e) prohibit the issue, re-issue or continuance of a particular advertisement relating to deposit-taking business;
  - (f) require that any particular advertisement relating to deposit-taking business be modified in a specified manner;
  - (g) prohibit the issue, re-issue or continuance of advertisements (relating to deposit-taking business) of any description; or
  - (h) require that advertisements (relating to deposit-taking business) of any description be modified in a specified manner.
- (3) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.

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- (4) The power to give directions under this Article shall include the power by direction to vary a direction given under this Article.
  - (5) Any person to whom a direction is given under this Article may apply to the Commission to have it withdrawn or varied and the Commission shall withdraw or vary the direction in whole or in part if it considers that there are no longer any grounds under paragraph (1)(a) to (e) that justify the direction or part of the direction concerned.
  - (6) If the Commission refuses an application under paragraph (5), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.
  - (7) A person who fails to comply with a direction in respect of which notice is given under paragraph (1) to the person shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
  - (7A) A person who allows an individual to perform a function, engage in employment or hold a position where the person knows that such performance, engagement or holding is in contravention of a direction that makes a requirement referred to in paragraph (2)(c) shall be guilty of an offence and liable to a term of imprisonment for 2 years and a fine.<sup>49</sup>
  - (8) The record of the conviction of a person for an offence under paragraph (7) or (7A) is admissible in civil proceedings as evidence of the facts constituting the offence.<sup>50</sup>

## 22 False statements

- (1) Any person who knowingly or recklessly provides the Commission or any other person with information which is false or misleading in a material particular shall be guilty of an offence if the information is provided –
  - (a) in purported compliance with a requirement imposed under this Law or any Regulations or Order made thereunder;
  - (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Commission for the purpose of exercising its functions under this Law.<sup>51</sup>
- (2) Any person who knowingly or recklessly provides the Commission or any other person with information which is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application for registration under this Law.<sup>52</sup>
- (3) A registered person or a former registered person shall be guilty of an offence if it fails to provide the Commission with any information in its possession knowing or having reasonable cause to believe –
  - (a) that the information is relevant to the exercise by the Commission of its functions under this Law in relation to the registered person or former registered person; and

- (b) that the withholding of the information is likely to result in the Commission being misled as to any matter which is relevant to and of material significance for the exercise of those functions in relation to the registered person or former registered person.
- (4) Any person who knowingly or recklessly provides any person appointed under Article 28 with information which is false or misleading in a material particular shall be guilty of an offence.<sup>53</sup>
- (5) A person guilty of an offence under this Article shall be liable to a fine or to imprisonment for a term not exceeding 2 years, or both.<sup>54</sup>

### **23 Fraudulent inducement to make a deposit**

- (1) Any person who –
  - (a) makes a statement, promise or forecast which the person knows to be misleading, false or deceptive, or fraudulently conceals any material facts; or
  - (b) recklessly makes (fraudulently or otherwise) a statement, promise or forecast which is misleading, false or deceptive,is guilty of an offence if the person makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed) –
  - (i) to make, or refrain from making, a deposit with the person or any other person; or
  - (ii) to enter or refrain from entering into an agreement for the purpose of making such a deposit.
- (2) This Article does not apply unless –
  - (a) the statement, promise or forecast is made in or from, or the facts are concealed in or from, Jersey or arrangements are made in or from Jersey for the statement, promise or forecast to be made or the facts to be concealed;
  - (b) the person on whom the inducement is intended to or may have effect, is in Jersey; or
  - (c) the deposit is or would be made, or the agreement is or would be entered into, in Jersey.
- (3) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 7 years or a fine, or both.

### **24 Notification of change of director etc.<sup>55</sup>**

- (1) A person shall not become a director, controller, key person of any class or manager of a registered person unless –
  - (a) he or she has notified the Commission in writing of his or her intention to become such a director, such a controller, key person of such a class or such a manager; and

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- (b) the Commission has notified the person in writing that there is no objection to his or her becoming such a director, such a controller, key person of such a class or such a manager.
- (2) If the intended director, controller, key person or manager is to be a full time employee of the registered person, the notification to the Commission may be made by the registered person instead.
- (3) The Commission shall serve notice on the person in relation to whom notice was received under paragraph (1) or (2), stating whether the Commission objects or does not object to his or her becoming a director, controller, key person of the relevant class or manager, of a registered person, as referred to in paragraph (1).
- (4) A registered person shall give written notice to the Commission of the fact that any person has become or ceased to be a director, controller, key person or manager of the registered person.
- (5) A notice required to be given under paragraph (4) shall be given before the end of the period of 14 days beginning with the day on which the registered person becomes aware of the relevant facts.
- (6) The Commission may by notice in writing wholly or partly dispense from the obligation imposed by paragraph (4) any registered person whose principal place of business is outside Jersey.
- (7) A notice of objection under this Article shall –
- (a) subject to paragraph (8), specify the reasons for the Commission's objection; and
- (b) give particulars of the rights of appeal conferred by Article 18A.
- (8) Paragraph (7) shall not require the Commission –
- (a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or
- (b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.
- (9) A person who –
- (a) fails to give a notice required by paragraph (1)(a) or (4); or
- (b) becomes a director, controller, key person of any class, or manager, of a registered person without having been served with a notice by the Commission under paragraph (1)(b) to the effect that the Commission does not object to the person's so becoming a director, controller, key person of the relevant class or of any class, or manager,
- shall be guilty of an offence.
- (10) A person shall not be guilty of an offence under paragraph (9) if he or she shows that he or she did not know of the acts or circumstances by which, as the case may be, he or she, or another person, became a director, controller, key person of the relevant class, or manager, of the registered person.

- (11) Despite paragraph (10), if the person subsequently becomes aware of the relevant acts or circumstances, he or she shall be guilty of an offence unless he or she gives the Commission written notice of the fact that he or she, or another person, became, as the case may be, a director, controller, key person of the relevant class, or manager, of the registered person, within 14 days of becoming aware of that fact.
- (12) A person guilty of an offence under paragraph (9) or (11) shall be liable to imprisonment for a term of 2 years and to a fine.

## **25 Notification of acquisition of significant shareholding**

- (1) A person who becomes a significant shareholder in relation to a registered person incorporated in Jersey shall within 14 days give written notice of that fact to the Commission.
- (2) For the purposes of this Article “a significant shareholder”, in relation to a registered person, means a person who, either alone or with an associate or associates, is entitled to exercise, or to control the exercise of, 3% or more but less than 15% of the voting power at any general meeting of the registered person.
- (3) Subject to the provisions of paragraph (4), any person who contravenes paragraph (1) shall be guilty of an offence.
- (4) A person shall not be guilty of an offence under paragraph (3) if the person shows that he or she did not know of the acts or circumstances by virtue of which the person became a significant shareholder in relation to the registered person; but where any person becomes such a shareholder without such knowledge and subsequently becomes aware of the fact that he or she has become such a shareholder the person shall be guilty of an offence unless he or she gives the Commission written notice of the fact that he or she has become such a shareholder within 14 days of becoming aware of that fact.
- (5) A person guilty of an offence under this Article shall be liable to a fine not exceeding £2,000.<sup>56</sup>

## **26 Power to obtain information and require production of documents<sup>57</sup>**

- (1) The Commission may by notice in writing served on a registered person –
  - (a) require the registered person to provide the Commission, at such time or times or at such intervals or in respect of such period or periods as may be specified in the notice, with such information as the Commission may reasonably require for the performance of its functions under this Law;
  - (b) require the registered person to provide the Commission with a report by an accountant or other person with relevant professional skill on, or on any aspect of, any matter about which the Commission has required or could require the registered person to provide information under sub-paragraph (a).
- (2) The accountant or other person appointed by a registered person to make a report under paragraph (1)(b) shall be a person nominated or approved



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by the Commission; and the Commission may require his or her report to be in such form as is specified in the notice.

- (3) The Commission may –
- (a) by notice in writing served on a registered person require it to produce, within such time and at such place as may be specified in the notice, such document or documents of such description as may be so specified;
  - (b) authorize a person as agent of the Commission, on producing evidence of his or her authority, to require any such registered person to provide the person forthwith with such information, or to produce to him or her forthwith such documents, as he or she may specify,

being such information or documents as the Commission may reasonably require for the performance of its functions under this Law.

- (4) Where, by virtue of paragraph (3), the Commission or any agent of the Commission has power to require the production of any documents from a registered person, the Commission or that agent shall have the like power to require the production of those documents from any person who appears to be in possession of them; but where any person from whom such production is required claims a lien on documents produced by the person, the production shall be without prejudice to the lien.
- (5) The power under this Article to require a registered person or other person to produce any documents includes power –
- (a) if the documents are produced, to take copies of them or extracts from them and to require that registered person or other person, or any other person who is a present or past director, controller or manager of, or is or was at any time employed by or acting as an employee of, the registered person in question, to provide an explanation of them; and
  - (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his or her knowledge and belief, where they are.
- (6) If it appears to the Commission to be desirable in the interests of the depositors or potential depositors of a registered person to do so, it may also exercise the powers conferred by paragraphs (1) and (3) in relation to any body corporate which is or has at any relevant time been –
- (a) a holding company, subsidiary or related company of that registered person;
  - (b) a subsidiary of a holding company of that registered person;
  - (c) a holding company of a subsidiary of that registered person; or
  - (d) a body corporate in the case of which a shareholder controller of that 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,

or in relation to any partnership of which that registered person is or has at any relevant time been a member.

- (7) In this Article, “related company”, in relation to any company, means any body corporate (other than one which is a group company in relation to that company) in which that company holds on a long-term basis a qualifying capital interest for the purpose of securing a contribution to that company’s own activities by the exercise of any control or influence arising from that interest.
- (8) In this Article “qualifying capital interest” means, in relation to any body corporate, an interest in shares comprised in the equity share capital of that body corporate of a class carrying rights to vote in all circumstances at general meetings of that body corporate.
- (9) Where –
- (a) a company holds a qualifying capital interest in a body corporate; and
  - (b) the nominal value of any relevant shares in that body corporate held by that company is equal to 20% or more of the nominal value of all relevant shares in that body corporate,
- it shall be presumed to hold that interest on the basis and for the purpose mentioned in paragraph (7), unless the contrary is shown; in this paragraph “relevant shares” means, in relation to any body corporate, any such shares in that body corporate as are mentioned in paragraph (8).
- (10) The foregoing provisions of this Article shall apply to a former registered person as they apply to a registered person.
- (11) The Commission may by notice in writing served on any person who is, or is to be, a director, controller or manager of a registered person, require the person to provide the Commission, within such time as may be specified in the notice, with such information or documents as the Commission may reasonably require for determining whether the person is a fit and proper person to hold the particular position which the person holds or is to hold.
- (12) The Commission may exercise the powers conferred by paragraphs (1) and (3) in relation to any person who is a significant shareholder in a registered person within the meaning of Article 25 if the Commission considers that the exercise of those powers is desirable in the interests of the depositors or potential depositors of that registered person.
- (13) Any person who without reasonable excuse fails to comply with a requirement imposed on the person under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 6 months or a fine not exceeding £2,000, or both.
- (14) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (13) or Article 22.<sup>58</sup>
- (15) Nothing in this Article shall compel the production by an advocate or solicitor of a document containing a privileged communication made by the advocate or solicitor or to the advocate or solicitor in that capacity.

**27 Right of entry to obtain information and documents**

- (1) Any officer or agent of the Commission may, on producing if required evidence of his or her authority, enter any premises occupied by a person on whom a notice has been served under Article 26 for the purpose of obtaining there the information or documents required by that notice and of exercising the powers conferred by Article 26(5).
- (2) Any officer or agent of the Commission may, on producing if required evidence of his or her authority, enter any premises occupied by any person on whom a notice could be served under Article 26 for the purpose of obtaining there such information or documents as are specified in the authority, being information or documents that could have been required by such a notice; but the Commission shall not authorize any person to act under this paragraph unless it has reasonable cause to believe that if such notice were served it would not be complied with or that any documents to which it would relate would be removed, tampered with or destroyed.
- (3) Any person who intentionally obstructs a person exercising rights conferred by this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 6 months or a fine not exceeding £2,000, or both.<sup>59</sup>

**28 Investigations on behalf of the Commission<sup>60</sup>**

- (1) If it appears to the Commission desirable to do so in the interests of the depositors or potential depositors of a registered person, the Commission may appoint one or more competent persons to investigate and to report to the Commission on –
  - (a) the nature, conduct or state of the registered person's business or a particular aspect of it;
  - (b) the ownership or control of the registered person;
  - (c) the compliance by the registered person with this Law or with any Regulations, Order or code of practice made or issued under this Law;
  - (d) the compliance by the registered person with a condition of the person's grant of registration under this Law; or
  - (e) the compliance by the registered person with a direction given to the person under this Law.<sup>61</sup>
- (1A) The Commission shall give written notice of the appointment to the registered person concerned.<sup>62</sup>
- (2) If a person appointed under paragraph (1) thinks it necessary for the purposes of his or her investigation, he or she may also investigate the business of any body corporate which is or has at any relevant time been –
  - (a) a holding company, subsidiary or related company of the registered person under investigation;

- (b) a subsidiary or related company of a holding company of that registered person;
- (c) a holding company of a subsidiary of that registered person; or
- (d) a body corporate in the case of which a shareholder controller of that registered person, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 20% of the voting power at a general meeting,

or the business of any partnership of which that registered person is or has at any relevant time been a member.

- (3) In this Article “related company” has the same meaning as in Article 26.
- (4) Where a person appointed under paragraph (1) decides to investigate the business of any body by virtue of paragraph (2) the person shall give it written notice to that effect.
- (5) It shall be the duty of every person who is or was a director, controller, manager, employee, banker, auditor or legal adviser (subject to the preservation of legal professional privilege) of a body which is under investigation (whether by virtue of paragraph (1) or (2)), any person appointed to make a report in respect of that body under Article 26(1)(b) and anyone who is a significant shareholder in relation to that body within the meaning of Article 25 –
  - (a) to produce to the persons appointed under paragraph (1), within such time and at such place as they may require, all documents relating to the body concerned which are in the person’s custody or power;
  - (b) to attend before the persons appointed at such time and place as they may require; and
  - (c) otherwise to give those persons all assistance in connection with the investigation which the person is reasonably able to give,and those persons may take copies of or extracts from any documents produced to them under sub-paragraph (a).
- (6) The foregoing provisions of this Article shall apply to a former registered person as they apply to a registered person.
- (7) For the purpose of exercising the person’s power under this Article a person appointed under paragraph (1) may enter any premises occupied by a body which is being investigated by the person under this Article; but the person shall not do so without prior notice in writing unless he or she has reasonable cause to believe that if such a notice were given any documents whose production could be required under this Article would be removed, tampered with or destroyed.
- (8) A person exercising powers by virtue of an appointment under this Article shall, if so required, produce evidence of his or her authority.
- (9) Any person who –
  - (a) without reasonable excuse fails to produce any documents which it is the person’s duty to produce under paragraph (5);
  - (b) without reasonable excuse fails to attend before the persons appointed under paragraph (1) when required to do so;

- (c) without reasonable excuse fails to answer any question which is put to the person by persons so appointed with respect to a registered person which is under investigation or a body which is being investigated by virtue of paragraph (1) or (2); or
- (d) intentionally obstructs a person in the exercise of the rights conferred by paragraph (7),

shall be guilty of an offence and liable to imprisonment for a term not exceeding 6 months or a fine not exceeding £2,000, or both.

- (10) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (9) or Article 22.<sup>63</sup>
- (11) Nothing in this Article shall compel the production by an advocate or solicitor of a document containing a privileged communication made by the advocate or solicitor or to the advocate or solicitor in that capacity.

## **29 Investigation of suspected contraventions<sup>64</sup>**

- (1) Where the Commission has reasonable grounds for suspecting that a person is guilty of contravening Article 8 or 23 the Commission or any duly authorized officer or agent of the Commission may by notice in writing require that or any other person –
  - (a) to provide, at such place as may be specified in the notice and either forthwith or at such time as may be so specified, such information as the Commission may reasonably require for the purpose of investigating the suspected contravention;
  - (b) to produce, at such place as may be specified in the notice and either forthwith or at such time as may be so specified, such documents, or documents of such description, as may be specified, being documents the production of which may be reasonably required by the Commission for that purpose;
  - (c) to attend at such place and time as may be specified in the notice and answer questions relevant for determining whether such a contravention has occurred.
- (2) The Commission or a duly authorized officer or agent of the Commission may take copies of or extracts from any documents produced under this Article.
- (3) Any officer or agent of the Commission may, on producing if required evidence of his or her authority, enter any premises occupied by a person on whom a notice has been served under paragraph (1) for the purpose of obtaining there the information or documents required by the notice, putting the questions referred to in paragraph (1)(c) or exercising the powers conferred by paragraph (2).
- (4) Any person who without reasonable excuse fails to comply with a requirement imposed on the person under this Article or intentionally obstructs a person in the exercise of his or her rights conferred by

paragraph (3) shall be guilty of an offence and liable to imprisonment for a term not exceeding 6 months or a fine not exceeding £2,000, or both.

- (5) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (4) or Article 22.<sup>65</sup>
- (6) Nothing in this Article shall compel the production by an advocate or solicitor of a document containing a privileged communication made by the advocate or solicitor or to the advocate or solicitor in that capacity.

### **30 Powers of entry in cases of suspected contraventions**

- (1) If the Bailiff is satisfied by information on oath that there is reasonable cause to suspect that a person is guilty of such a contravention as is mentioned in Article 29 and –
  - (a) that that person has failed to comply with a notice served on the person under that Article;
  - (b) that there are reasonable grounds for suspecting the completeness of any information provided or documents produced by the person in response to such a notice; or
  - (c) that there are reasonable grounds for suspecting that if a notice were served on the person under that Article it would not be complied with or that any documents to which it would relate would be removed, tampered with or destroyed,the Bailiff may grant a warrant under this Article.
- (2) A warrant under this Article shall authorize any police officer, together with any other person named in the warrant –
  - (a) to enter any premises occupied by the person mentioned in paragraph (1) which are specified in the warrant, using such force as is reasonably necessary for the purpose;
  - (b) to search the premises and take possession of any documents appearing to be such documents as are mentioned in paragraph (1)(c) or to take, in relation to any such documents, any other steps which may appear to be necessary to preserve them or prevent interference with them;
  - (c) to take copies of or extracts from such documents;
  - (d) to require any person named in the warrant to answer questions relevant for determining whether that person is guilty of any such contravention as is mentioned in Article 29.
- (3) A warrant under this Article shall continue in force until the end of the period of one month beginning with the date on which it was issued.
- (4) Any documents of which possession is taken under this Article may be 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 for any such

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contravention as is mentioned in Article 29, until the conclusion of those proceedings.<sup>66</sup>

- (5) A person who requires any documents of which possession is taken under paragraph (2) for the purpose of the person's business and who requests such documents shall be supplied with copies as soon as practicable.<sup>67</sup>
- (6) Any person who intentionally obstructs the exercise of any right conferred by a warrant issued under this Article or fails without reasonable excuse to comply with any requirement imposed in accordance with paragraph (2)(d) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.
- (7) The power to obtain information conferred by paragraph (2)(b) includes a power to require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible.<sup>68</sup>

### **31 Obstruction of investigations**

- (1) A person who knows or suspects that an investigation is being or is likely to be carried out –
  - (a) under Article 28; or
  - (b) into a suspected contravention of Article 8 or 23,shall be guilty of an offence if the person falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which the person knows or suspects are or would be relevant to such an investigation unless he or she proves that he or she had no intention of concealing facts disclosed by the documents from persons carrying out such an investigation.
- (2) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 2 years or a fine, or both.

### **32 Audited accounts to be open to inspection**

- (1) A registered person shall at each of its offices in Jersey at which it holds itself out as accepting deposits –
  - (a) keep a copy of its most recent audited accounts; and
  - (b) during normal business hours make that copy available for inspection by any person on request.
- (2) In the case of a registered person incorporated in Jersey, the accounts referred to in paragraph (1) include the auditors' report on the accounts.
- (3) A registered person which fails to comply with paragraph (1)(a) or with any request made in accordance with paragraph (1)(b) shall be guilty of an offence and liable to a fine not exceeding £2,000.

**33 Notification in respect of auditors**

- (1) A registered person incorporated in Jersey shall forthwith give written notice to the Commission if the registered person –
  - (a) proposes to give special notice to its shareholders of any resolution removing an auditor before the expiration of the auditor's term of office; or
  - (b) gives notice to its shareholders of a resolution replacing an auditor at the expiration of the auditor's term of office with a different auditor,or if a person ceases to be an auditor of a registered person otherwise than in consequence of such a resolution.
- (2) A registered person not incorporated in Jersey who has been required by the Commission under Article 11 to appoint an auditor of its business operation in Jersey shall not replace that auditor before giving notice to the Commission of the auditor's intended replacement.
- (3) An auditor of a registered person who is appointed by virtue of –
  - (a) any provision of this Law;
  - (b) any enactment in force in Jersey relating to companies; or
  - (c) if a company incorporated in Jersey, its memorandum and articles of association,shall forthwith give notice to the Commission if –
  - (i) the auditor resigns before the expiration of the auditor's term of office,
  - (ii) the auditor does not seek to be re-appointed,
  - (iii) the auditor decides to include in the auditor's report any qualification as to any matter.
- (4) The foregoing provisions of this Article shall apply to a former registered person as they apply to a registered person.
- (5) A registered person or an auditor who fails to comply with this Article shall be guilty of an offence and liable to a fine not exceeding £2,000.<sup>69</sup>

**34 Communication by auditor, etc. with the Commission<sup>70</sup>**

- (1) No duty to which –
  - (a) an auditor of a registered person; or
  - (b) a person appointed to make a report under Article 26,may be subject, shall be regarded as contravened by reason of the person communicating in good faith to the Commission, whether or not in response to a request made by it, any information or opinion on a matter to which this Article applies and which is relevant to any function of the Commission under this Law.<sup>71</sup>
- (2) In relation to an auditor of a registered person, this Article applies to any matter of which the auditor becomes aware in his or her capacity as



auditor and which relates to the business or affairs of the registered person or any associated body.

- (3) In relation to a person appointed to make a report under Article 26, this Article relates to any matter of which the person becomes aware in his or her capacity as the person making the report and which –
  - (a) relates to the business or affairs of the registered person in relation to which the person's report is made or any associated body of that registered person; or
  - (b) if by virtue of Article 26(6) the report relates to an associated body of a registered person, to the business affairs of that body.
- (4) In this Article "associated body", in relation to a registered person, means any such body as is mentioned in Article 26(6).
- (5) Subject to paragraph (6), the Minister may make Orders specifying circumstances in which a person described in paragraph (1)(a) or (b) shall be required to communicate any information or opinion to the Commission on a matter to which this Article applies, and which is relevant to any functions of the Commission under this Law.<sup>72</sup>
- (6) Orders under this Article may only be made –
  - (a) on the recommendation of the Commission; and
  - (b) after consultation with such bodies as appear to the Commission to represent the interests of accountants and registered persons.<sup>73</sup>
- (7) This Article shall apply to the auditor of a former registered person as it applies to the auditor of a registered person.<sup>74</sup>

### **35 Repayment of unauthorized deposits**

If on a representation to the Court made by the Commission it appears to the Court that a person has accepted deposits in contravention of Article 8, the Court may –

- (a) order the person and any other person who appears to the Court knowingly to have been concerned in the contravention to repay the deposits forthwith or at such time as the Court may direct; or
- (b) appoint the Viscount to recover those deposits,

but in deciding whether and, if so, on what terms to make an order under this Article the Court shall have regard to the effect that repayment in accordance with the order would have on the solvency of the person concerned or otherwise on the person's ability to carry on his or her business in a manner satisfactory to his or her creditors.<sup>75</sup>

### **36 Profits from unauthorized deposits**

- (1) If on the representation of the Commission, the Court is satisfied that profits have accrued to a person as a result of a contravention of Article 8, the Court may either order the person to pay to the Viscount or may appoint the Viscount to recover from the person, such sum as appears to

the Court to be just having regard to the profits appearing to the Court to have accrued to the person.

- (2) In deciding whether, and if so, on what terms to make an order under this Article the Court shall have regard to the effect that payment in accordance with the order would have on the solvency of the person concerned or otherwise on the person's ability to carry on his or her business in a manner satisfactory to his or her creditors.
- (3) Any amount paid to the Viscount or recovered from a person in pursuance of an order under this Article shall be paid out to such person or distributed among such persons as the Court may direct, being a person or persons appearing to the Court to have made the deposits as a result of which the profits mentioned in paragraph (1) have accrued or such other person or persons as the Court thinks just.<sup>76</sup>

### **37 Compensation schemes**

- (1) The States may by Regulations establish in relation to any deposit-taking business schemes for compensating depositors in cases where registered persons or former registered persons are unable, or are likely to be unable, to satisfy claims in respect of any description of civil liability incurred by them in connection with their deposit-taking business.<sup>77</sup>
- (2) Without prejudice to the generality of paragraph (1), Regulations may in particular make provision –
  - (a) for levies to be imposed on registered persons for the purpose of meeting expenses incurred, or expected to be incurred, including expenses related to establishing the scheme and paying compensation;
  - (b) for the procedure to be followed in making a claim;
  - (c) for making interim payments before a claim is finally determined;
  - (d) limiting the amount payable on a claim to a specified maximum amount or a maximum amount calculated in a specified manner;
  - (e) for payment to be made, in specified circumstances, to a person other than the claimant;
  - (f) for the determination and regulation of matters relating to the scheme by any specified person;
  - (g) as to the effect of a payment of compensation under the scheme in relation to rights or obligations arising out of the claim against a registered person or former registered person in respect of which the payment was made;
  - (h) for conferring on any person managing the scheme a right of recovery against a registered person or former registered person.<sup>78</sup>

### **37A Commission may appoint a manager in prescribed circumstances<sup>79</sup>**

- (1) The Minister may, on the recommendation of the Commission, by Order prescribe circumstances in which the Commission may appoint a person

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to manage the affairs, or any part of the affairs, of persons in so far as they relate to the carrying on of deposit-taking business.

- (2) An Order made under paragraph (1) –
  - (a) may contain such incidental or supplementary provisions as the Minister thinks necessary or expedient; and
  - (b) may contain different provisions for different classes of deposit-taking business.
- (3) The Commission may, if it is satisfied there exist in respect of a person carrying on deposit-taking business, circumstances prescribed in an Order made under paragraph (1), appoint, on such terms as it considers to be appropriate, a person to manage the affairs, or any part of the affairs, of the person in so far as they relate to the carrying on of deposit-taking business.
- (4) Subject to the terms of his or her appointment, a person appointed under paragraph (3) shall have all the powers necessary to manage the affairs, or the part of the affairs, of the person in respect of whom the appointment was made in so far as they relate to the carrying on of a deposit-taking business.
- (5) A person aggrieved by the Commission's decision to appoint a person in accordance with paragraph (3), may, within 1 month of being informed of the decision, appeal to the Court on the ground that the decision was unreasonable having regard to the circumstances of the case.
- (6) On the appeal the Court may –
  - (a) confirm the decision of the Commission to make the appointment;
  - (b) order the Commission to amend the terms of appointment of the person as the Court may specify; or
  - (c) order the Commission to cancel the appointment.

### **37B Injunctions and remedial orders<sup>80</sup>**

- (1) Where, on the application of the Commission, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) –
  - (a) Article 8(1);
  - (b) any condition prescribed or attached under Article 11;
  - (c) any provision of Article 20, 22 or 23;
  - (d) any direction given under Article 21; or
  - (e) any Regulations or Order made under this Law,the Court may if it thinks fit issue an injunction restraining that person from committing (or, as the case may be, continuing or repeating) the contravention.
- (2) Where on the application of the Commission, the Court is satisfied that any person has committed a contravention of a type referred to in paragraph (1), and that there are steps which could be taken to remedy the

contravention, the Court may make an order requiring that person, or any other person who appears to the Court to have been knowingly concerned, to take such steps as the Court may direct to remedy the contravention.

### **PART 3**

#### **BANKING NAMES AND DESCRIPTIONS**

##### **38 Restriction on use of certain names and descriptions**

- (1) Notwithstanding anything contained in any other enactment no person carrying on any business in Jersey other than the States, the central bank of a member State of the European Community or the National Savings Bank of the United Kingdom shall use any name which indicates or may reasonably be understood to indicate (whether in English or any other language) that the person is a bank or banker or is carrying on a banking business unless the person is a registered person or has first obtained the permission of the Commission under Article 39.
- (2) No person carrying on any business in Jersey other than a registered person, the States, the central bank of a member state of the European Community, the National Savings Bank of the United Kingdom or a person who has obtained the permission of the Commission under Article 39 and is acting in accordance with the terms of that permission, shall so describe the person, or hold the person out as to indicate or reasonably be understood to indicate (whether in English or any other language) that the person is a bank or banker or is carrying on a banking business.
- (3) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding 6 months or a fine not exceeding £2,000, or both and, where the offence consists of continuing any such contravention after conviction therefor, to a daily penalty not exceeding £200.<sup>81</sup>

##### **39 Applications for and grant, etc. of permission for the use of certain names by companies and businesses**

- (1) Any person other than a registered person desirous of obtaining the permission of the Commission to use any name which indicates or might reasonably be understood to indicate (whether in English or any other language) that the person is a bank or banker or is carrying on a banking business in Jersey may make application in that behalf to the Commission.
- (2) An application under paragraph (1) shall be in such form and accompanied by such information as the Commission may from time to time require and the Commission may require the applicant to provide such further information as it considers necessary or desirable at any time after receipt of an application.

- (3) Upon consideration of an application under paragraph (1), the Commission may grant permission or grant permission subject to such conditions or restrictions as it considers necessary or expedient, or refuse permission.<sup>82</sup>

#### **40 Registration and change of name of companies**

No application made in pursuance of the provisions of the Companies (Jersey) Law 1991<sup>83</sup> for –

- (a) the registration of a company in the proposed name of which there appears any of the words “bank”, “banker” or “banking” or any cognate expression, whether in English or any other language; or
- (b) the change of the name of a company registered in Jersey by the inclusion of the word “bank”, “banker” or “banking” or any cognate expression, whether in English or any other language,

shall be granted unless the applicant establishes that the company is a registered person or has obtained the permission of the Commission under Article 39.<sup>84</sup>

#### **41 Registration of business names**

Notwithstanding Article 13 of the Registration of Business Names (Jersey) Law 1956,<sup>85</sup> upon an application being made to the registrar in pursuance of the provisions of that Law for the registration of a business name in which there appears any of the words “bank”, “banker” or “banking” or any cognate expression, whether in English or any other language, the registrar shall not grant the application unless the registrar is satisfied that the applicants are registered persons or have obtained the permission of the Commission under Article 39 to use the word or expression concerned in the business name.<sup>86</sup>

## **PART 4**

### **RESTRICTION ON DISCLOSURE OF INFORMATION**

#### **42 Restricted information**

- (1) Except as provided by the subsequent provisions of this Part –
- (a) no person who under or for the purposes of this Law receives information relating to the business or other affairs of any person; and
- (b) no person who obtains any such information directly or indirectly from a person who has received it as aforesaid,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received as aforesaid.

- (2) This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other

sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

- (3) Any person who discloses information in contravention of this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.

#### **43 Disclosure for facilitating discharge of functions of Commission and specified persons<sup>87</sup>**

- (1) Article 42 does not preclude the disclosure of information by or to any person in any case in which such disclosure is for the purpose of enabling or assisting any of the following –
- (a) the Commission or any person acting on its behalf;
  - (b) a person appointed under an enactment by any of the following –
    - (i) the Commission,
    - (ii) the Court, on the application of the Commission,
    - (iii) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,

to discharge the Commission's functions or that person's functions under this Law or under any other enactment.<sup>88</sup>

- (2) Article 42 does not preclude the disclosure of information by the Commission to the auditor of –
- (a) a registered person;
  - (b) a former registered person; or
  - (c) a person who appears to the Commission to be acting or to have acted in contravention of Article 8,

if it appears to the Commission that disclosing the information would be in the interests of depositors or potential depositors.<sup>89</sup>

- (3) <sup>90 91</sup>

#### **44 Disclosure for facilitating discharge of functions by other supervisory authorities**

- (1) Article 42 does not preclude the disclosure of information by the Commission to –
- (a) the Viscount;
  - (b) the Comptroller and Auditor General for the purpose of enabling or assisting the carrying out of any of the Comptroller and Auditor General's functions in relation to the Commission; or
  - (c) 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 Commission has statutory functions.<sup>92</sup>

- (2) Article 42 does not preclude the disclosure of information for the purpose of enabling or assisting a relevant supervisory authority to exercise any of its supervisory functions.<sup>93</sup>

#### **45 Other permitted disclosures**

- (1) Article 42 does not preclude the disclosure of information –
- (a)
  - (b) with a view to the investigation of a suspected offence or the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Law or not;
  - (c) in connection with any other proceedings arising out of this Law;
  - (d)
  - (e) to a person by the Commission showing whether or not any person is registered under this Law, including any conditions which are attached to the registration of that person under Article 11(2).<sup>94</sup>
- (2) Article 42 does not preclude the disclosure by the Commission to the Attorney General or to a police officer of –
- (a) information obtained by virtue of any of Articles 26, 28, 29 or 30; or
  - (b) information in the possession of the Commission as to any matter in relation to which the powers conferred by any of those Articles are exercisable.<sup>95</sup>
- (3) Information disclosed under paragraph (2) may only be disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence in Jersey or a prosecution in Jersey or, at the discretion of the Attorney General, a suspected offence or prosecution in a country or territory outside Jersey.<sup>96</sup>
- (4) Article 42 does not preclude the disclosure of information by the Commission to any person or body responsible for a compensation scheme in relation to one or more deposit-taking businesses (whether in Jersey or in a country or territory outside Jersey) if –
- (a) it appears to the Commission that disclosing the information would enable or assist the recipient of the information or the Commission to discharge its functions; and
  - (b) the recipient of the information gives to the Commission prior to disclosure a written undertaking that the information will not be further disclosed without the prior consent of the Commission.<sup>97</sup>
- (5) Article 42 does not preclude the disclosure of information by the Commission to any person acting on behalf of an international body or organization where that body's or organization's functions include the assessment of Jersey's compliance with international standards relating to regulation of the financial sector and the disclosure is for the purpose of enabling or assisting that body or organization to discharge those functions.<sup>98</sup>

- 
- (6) Article 42 does not preclude the disclosure of information by –
- (a) the Commission;
  - (b) a person appointed under an enactment by any of the following –
    - (i) the Commission,
    - (ii) the Court, on the application of the Commission,
    - (iii) 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.<sup>99</sup>

- (7) No information shall be disclosed under or by virtue of paragraph (5) or (6) or Article 43(1)(a), 44(1)(b) or (c) or (2) or 47(1)(f) unless the Commission or person, as the case requires, making the disclosure ('the disclosing party') is satisfied that the person or body to whom or which the disclosure is made complies with or will comply with any conditions to which the disclosing party may, in its discretion, subject such disclosure.<sup>100 101</sup>

#### **45A Regulation making power to amend disclosure provisions<sup>102</sup>**

The States may by Regulations amend Articles 43, 44 and 45 by –

- (a) adding further persons or bodies to or by whom disclosure may be made and specifying in each case the purpose for which disclosure of information may be made; and
- (b) amending the circumstances in which disclosure may be made to whom or by any person or body specified in those Articles, including the purposes for which and conditions in which such disclosure may be made.

#### **46 Information supplied to Commission by relevant overseas authority**

Articles 42 to 45 apply also to information supplied to the Commission for the purposes of its functions under this Law by a relevant supervisory authority.<sup>103</sup>

#### **47 Co-operation with relevant supervisory authority<sup>104</sup>**

- (1) The following powers may be exercised (by the officer or person specified in the relevant provision) in order to assist a relevant supervisory authority –
  - (a) the power to refuse or revoke a registration under Article 10(3);
  - (b) the power to attach or vary conditions pursuant to Article 11(2);
  - (ba) on the application of the Commission, the powers under Article 19;



- 
- (c) the powers relating to information and documents under Articles 26 and 27;
  - (d) the powers under Articles 28 and 29;
  - (e) the powers under Article 30;
  - (f) communication by the Commission to the relevant supervisory authority of information that is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers.<sup>105</sup>
- (2) The Commission shall not exercise the power referred to in paragraph (1)(f) unless satisfied that the relevant supervisory authority will treat the information communicated with appropriate confidentiality and that –
    - (a) the power is exercised in order to assist the authority in the exercise of its supervisory functions; or
    - (b) the exercise of the power has been requested by the authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its supervisory functions.
  - (3) The other powers referred to in paragraph (1) shall not be exercised by virtue of this Article unless the Commission is satisfied that the exercise has been requested by the relevant supervisory authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its supervisory functions.
  - (4) In deciding whether to exercise a power by virtue of this Article, the following factors (among others) may be taken into account –
    - (a) whether corresponding assistance would be given in that country or territory to the Commission;
    - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;
    - (c) the seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means;
    - (d) whether it is otherwise appropriate in the public interest to give the assistance.
  - (5) The exercise of powers by virtue of this Article may be refused unless the relevant supervisory authority undertakes to make such contribution towards the costs of its exercise as the Commission considers appropriate.
  - (6) The Commission shall not disclose to a relevant supervisory authority or to any other person any information obtained in the exercise of a power by virtue of this Article unless the Commission is satisfied that any conditions imposed on the disclosure will be complied with.
  - (7) For the purposes of this Article –
    - (a) a reference in Article 29(1) or 31 to a contravention of Article 8 or 23, or in Article 30 to such a contravention as is mentioned in Article 29, 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, or such a contravention as is mentioned in Article 29, as in force at the latter time; and

- (b) a reference in Article 30(4) to proceedings shall include a reference to proceedings outside Jersey.
- (8) For the purposes of this Article, a reference (however expressed or implied) in Article 8 or 23 (or in any provision necessary for the interpretation of that Article) to Jersey, or to any class of person, any qualification or any provision, shall be construed, in the application of that Article to a contravention of a law of a country or territory outside Jersey, as a reference to that country or territory, or to an equivalent class of person, qualification or provision, in terms of the law of that country or territory.
- (9) The exercise of a power under any provision shall be no less an exercise of that power under that provision because it is exercised by virtue of this Article, and this Law (and any other law that applies when a power is exercised directly under that provision) applies also when that power is exercised by virtue of this Article.

#### **48 Public statement<sup>106</sup>**

- (1) The Commission may issue a public statement concerning a person if that person appears to the Commission to have contravened any of the following –
  - (a) Article 8;
  - (b) Article 11;
  - (c) Article 20;
  - (d) Article 21;
  - (e) Article 22;
  - (f) Article 23;
  - (g) a Regulation, or an Order, made under this Law;
  - (h) a code of practice.
- (2) The Commission may issue –
  - (a) a public statement with respect to, or setting out, any direction that the Commission has given under Article 17 or 21;
  - (b) a public statement concerning a person if that person appears to the Commission to have failed to comply with a code of practice; or
  - (c) a public statement concerning a person if it appears to the Commission that the person is, or has been, carrying on a deposit-taking business, whether in Jersey or in a country or territory outside Jersey, and it appears to the Commission to be desirable to issue the statement –

- (i) in the best interests of persons who have transacted or may transact deposit-taking business with the person, or
- (ii) in the best interests of the public.<sup>107</sup>

**48A Notice of public statement<sup>108</sup>**

- (1) If a public statement identifies any person who is registered, the Commission shall serve notice on the person.
- (2) If a public statement identifies any person who is not registered, and at any time before the Commission issues the public statement it is reasonably practicable for the Commission to serve notice on the person, the Commission shall do so.
- (3) A notice under paragraph (1) or (2) shall –
  - (a) give the reasons for issuing the statement;
  - (b) give the proposed or actual date of issue of the statement;
  - (c) contain a copy of the statement;
  - (d) give particulars of the right of appeal under Article 48C in respect of the statement; and
  - (e) if the statement is issued, in accordance with a decision under Article 48B(3), before the day specified in Article 48B(1) in relation to the statement, give the reasons for issuing it before that day.
- (4) Paragraph (3) shall not require the Commission –
  - (a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or
  - (b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.
- (5) In this Article and Articles 48B and 48C, a reference to the identification of a person in a public statement does not include the identification, in the statement, of the Commission or of any other person in their capacity of exercising functions under this Law.

**48B Notice period<sup>109</sup>**

- (1) If service is required under Article 48A(1) or (2) in relation to a public statement, the Commission shall not issue the public statement before the expiration of one month following the date of the last such service in relation to the public statement.
- (2) Paragraph (1) shall not apply if –
  - (a) each of the persons identified (within the meaning of Article 48A) in the relevant public statement agrees with the Commission that the statement may be issued on a date earlier than the date that would apply under that paragraph; and
  - (b) the statement is in fact issued on or after the earlier date.

- (3) Paragraph (1) shall not apply if –
- (a) the Commission decides on reasonable grounds that the interests of –
    - (i) persons who have transacted or may transact deposit-taking business with the person, or
    - (ii) the public,in the issue of the relevant public statement on a date earlier than the date that would apply under that paragraph outweighs the detriment to the persons identified in the statement, being the detriment attributable to the earliness; and
  - (b) the statement is in fact issued on or after the earlier date.<sup>110</sup>
- (4) In making a decision under paragraph (3), the Commission is not prevented from choosing as the date of issue of a public statement the date of service (if any) of notice of the statement.
- (5) Despite this Article, if an appeal is made to the Court under Article 48C(1), and the Court orders that the statement not be issued before any specified date or event, the Commission shall not issue the statement before the date or event so specified.
- (6) In a case to which paragraph (1) applies, if an appeal is made under Article 48C(2) to the Court against a decision to issue a public statement, the Commission shall not issue the statement before the day on which that appeal is determined by the Court or withdrawn.

#### **48C Appeals and orders about public statements<sup>111</sup>**

- (1) A person aggrieved by a decision of the Commission under Article 48B(3) may appeal to the Court, in accordance with this Article, against the decision.
- (2) A person aggrieved by a decision of the Commission to issue a public statement that identifies the person may appeal to the Court, in accordance with this Article, against the decision.
- (3) An appeal under paragraph (2) may be made only on the ground that the decision of the Commission was unreasonable having regard to all the circumstances of the case.
- (4) A person's appeal under this Article shall be lodged with the Court no later than –
- (a) if notice is served on the person under Article 48A in relation to the public statement, the day that is one month after the date of the last such service on the person in relation to the public statement; or
  - (b) if no such notice is served on the person, the day that is one month after the issue of the public statement.
- (5) Nothing in paragraph (4) prevents the lodging of an appeal before a notice is served or a public statement is issued.
- (6) On an appeal under this Article, the Court may make such interim or final order as it thinks fit, including an order that the Commission not issue the

relevant public statement or, if the public statement has been issued, that the Commission issue a further public statement to the effect set out in the order or stop making the statement available to the public.

## **PART 5**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **48D Transfer of deposit-taking business<sup>112</sup>**

The Schedule shall have effect to regulate any transfer of deposit-taking business from one registered deposit taker to another.

#### **49 Service of notices<sup>113</sup>**

- (1) No notice or other document required by this Law to be given to the Commission shall be regarded as so given until it is received.
- (2) Subject to paragraph (1), any notice or other document required or authorized by or under this Law to be given to the Commission may be given by facsimile, electronic transmission or by any similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (3) Any notice, direction or other document required or authorized by or under this Law to be given to or served on any person other than the Commission may be given or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving it at the person's proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (4) Any such notice, direction or other document may –
  - (a) in the case of a company incorporated in Jersey, be served by being delivered to its registered or principal office;
  - (b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on a person who is a principal person in relation to it, or on the secretary or other similar officer of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the partnership business, as the case may be, or by being served on the person or delivered to the person's registered or administrative office.
- (5) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954<sup>114</sup> in its application to this Article, the proper address

of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –

- (a) in the case of a company incorporated in Jersey, or its secretary, clerk or other similar officer or person, it shall be the address of the registered or principal office of the company in Jersey; and
  - (b) in the case of a partnership, or a person who is a principal person in relation to a partnership, it shall be that of its principal office in Jersey.
- (6) If the person to or on whom any notice, direction or other document referred to in paragraph (3) is to be given or served has notified the Commission of an address within Jersey other than the person's proper address within the meaning of paragraph (5), as the one at which the person or someone on the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person's proper address.

## **50 Evidence**

- (1) In any proceedings, a certificate purporting to be signed on behalf of the Commission and certifying –
  - (a) that a particular person is or is not a registered person or was or was not a registered person at a particular time;
  - (b) the date on which a particular registered person became or ceased to be registered;
  - (c) whether or not a particular registered person's registration is or was restricted,shall be admissible in evidence.
- (2) A certificate purporting to be signed as mentioned in paragraph (1) shall be deemed to have been duly signed unless the contrary is shown.<sup>115</sup>

## **51 Regulations and Orders<sup>116</sup>**

- (1) The Minister may make Orders for the purposes of carrying this Law into effect and in particular, without prejudice to the generality of the foregoing power, for prescribing any matter which is to be prescribed by any provision of this Law.
- (2) <sup>117</sup>
- (2A) <sup>118</sup>
- (3) Regulations or an Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or Minister (as the case requires) to be necessary or expedient for the purposes of the Regulations or Order.<sup>119</sup>
- (4) The power to make Orders, or the power to make Regulations, under this Law may be exercised –

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised –
  - (i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),
  - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of the Order or Regulations,
  - (iii) any such provision either unconditionally or subject to any specified condition.<sup>120</sup>

## **52 Criminal liability of officers; aiders and abettors, etc.**

- (1) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, controller, manager, secretary or other similar officer of that body corporate or any person purporting to act in any such capacity, those persons, as well as the body corporate shall be guilty of the same offence and liable in the same manner to the penalty provided for that offence.
- (2) Without prejudice to paragraph (1), any person who knowingly and wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Law shall be liable to be dealt with, tried and punished as a principal offender.
- (3) No proceedings for an offence under this Law shall be instituted except by or with the consent of the Attorney General.<sup>121</sup>

## **53 Citation**

This Law may be cited as the Banking Business (Jersey) Law 1991.

**SCHEDULE<sup>122</sup>**

(Article 48D)

**TRANSFER OF DEPOSIT-TAKING BUSINESS**

- 1 Where it is proposed to carry out a scheme under which the whole or part of the deposit-taking business carried on in or from within Jersey by a registered person (the “transferor”) is to be transferred to another body whether incorporated or not (the ‘transferee’) the transferor or transferee may apply to the Court for an order sanctioning the scheme.
- 2 If such a scheme involves a compromise or arrangement the provisions of Articles 125 to 127 of the Companies (Jersey) Law 1991<sup>123</sup> shall have effect in the case of a company to which that Law applies as regards that compromise or arrangement, but without prejudice to the operation of the provisions of this Schedule in relation to the scheme.
- 3 The Court shall not determine an application under this Schedule unless the application is accompanied by a report on the terms of the scheme by an independent auditor and the Court is satisfied that the requirements of paragraph 4 have been complied with.
- 4 Those requirements are –
  - (a) that a notice has been published in the Jersey Gazette stating that the application has been made and giving the address of the offices at which, and the period for which, copies of the documents mentioned in sub-paragraph (d) will be available as required by that sub-paragraph;
  - (b) except where the Court has otherwise directed, that a statement –
    - (i) setting out the terms of the scheme, and
    - (ii) containing a summary of the report mentioned in paragraph 3 sufficient to indicate the opinion of the auditor on the likely effects of the scheme on the customers of the transferor and transferee concerned,has been sent to each of those customers and to every member of the transferor and transferee;
  - (c) that a copy of the application to the Court, of the report mentioned in paragraph 3 and of any statement sent out under sub-paragraph (b) has been served on the Commission and that a period of not less than 21 days has elapsed since the date of service;
  - (d) that copies of the application to the Court and of the report mentioned in paragraph 3 have been open to inspection at offices in Jersey of the transferor and transferee for a period of not less than 21 days beginning with the date of the first publication of a notice in accordance with sub-paragraph (a).
- 5 The transferor or transferee shall, on payment of such fee as may be prescribed by rules of court, furnish a copy of the application and of the report mentioned in paragraph 3 to any person who asks for one at any



- 
- time before an order sanctioning the scheme is made on the application to the Court.
- 6 On an application to the Court under this Schedule –
- (a) the Commission; and
  - (b) any person (including any employee of the transferor or the transferee) who alleges that the person would be adversely affected by the carrying out of the scheme,
- shall be entitled to be heard.
- 7 The Court shall not make an order sanctioning the scheme unless it is satisfied that the transferee is, or immediately after the making of the order will be, authorized to carry on the deposit-taking business to be transferred under the scheme.
- 8 No transfer described in paragraph 1 shall be carried out unless the scheme relating to the transfer has been sanctioned by the Court in accordance with this Schedule.
- 9 Where the Court makes an order under this Schedule sanctioning a scheme, the Court may, either by that order or by a subsequent order, make provision for all or any of the following matters –
- (a) the transfer to the transferee of the whole or a part of the undertaking and of the property or liabilities of the transferor;
  - (b) the allotting or appropriation by the transferee of any shares, debentures, policies, deposits or other like interests in the transferee which under the scheme are to be allotted or appropriated by the transferee to or for any person;
  - (c) the continuation by or against the transferee of any legal proceedings pending by or against the transferor;
  - (d) the dissolution, without winding up, of the transferor;
  - (e) such incidental, consequential and supplementary matters as are necessary to secure that the scheme shall be fully and effectively carried out.
- 10 Where such order provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee, and in the case of any property, if the order so directs, freed from any other hypothec, security interest or other charge which is by virtue of the scheme to cease to have effect, except that property so transferred vests in the transferee subject to any obligations and liabilities however arising that bound the transferor in relation to that property on the date of the order.
- 11 Where a scheme is sanctioned by an order of the Court under this Schedule the transferee shall, within 10 days from the date on which the order is made or such longer period as the Commission may allow, deposit 2 copies of the order with the Commission.
- 12 A person who fails to comply with paragraph 5 shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

13 A person who fails to comply with paragraph 11 shall be guilty of an offence shall be liable to a fine of level 3 on the standard scale.

14 In this Schedule –

“arrangement” includes a reorganization of a company’s share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods;

“customer”, in respect of a transferor or transferee, means –

- (a) a person who has money deposited with the transferor or transferee;
- (b) a person who has money borrowed from the transferor or transferee; or
- (c) a person who owes to the transferor or transferee interest or any other obligation on money borrowed from the transferor or transferee;

“liabilities” includes duties;

“obligations” includes a requirement or restriction imposed by an enactment affecting the development, use or disposition of property or a transaction in relation to property;

“property” includes property, rights and powers of every description.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and Number</b>	<b>Commencement</b>
Banking Business (Jersey) Law 1991	L.19/1991	1 October 1991 (R&O.8272)
Banking Business (Amendment) (Jersey) Law 1993	L.2/1993	8 January 1993
Finance (No.4) (Jersey) Law 1995	L.21/1995	6 December 1994
Limited Liability Partnerships (Jersey) Law 1997	L.3/1997	9 September 1998 (R&O.9233)
Financial Services Commission (Jersey) Law 1998	L.11/1998	1 July 1998 (R&O.9238)
Banking Business (Amendment No. 2) (Jersey) Law 1998	L.40/1998	11 December 1998
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	L.23/1999	23 July 1999
Fees (Miscellaneous Amendments and Validation) (Jersey) Law 1999	L.30/1999	5 November 1999
Banking Business (Amendment No. 3) (Jersey) Law 2002	L.3/2002	1 March 2002 (R&O.9/2002)
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	R&O.101/2003	14 October 2003
Banking Business (Amendment No. 4) (Jersey) Law 2004	L.16/2004	3 September 2004
States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005	R&O.44/2005	9 December 2005
Banking Business (Amendment No. 5) (Jersey) Law 2007	L.12/2007	9 March 2007
Financial Services Commission (Amendment No. 4) (Jersey) Law 2007	L.33/2007	24 January 2008
Banking Business (Amendment No. 6) (Jersey) Law 2008	L.13/2008	4 April 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Law 2009	L.4/2009	9 January 2009

**Table of Renumbered Provisions**

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(4), (5)	repealed by L.23/1999
50	spent, omitted from this revised edition
51	53
SCHEDULE	spent, omitted from this revised edition

### Table of Endnote References

<sup>1</sup>	<i>This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
<sup>2</sup>	<i>chapter 13.125</i>
<sup>3</sup>	<i>chapter 13.250</i>
<sup>4</sup>	<i>chapter 13.450</i>
<sup>5</sup>	<i>chapter 08.780.30</i>
<sup>6</sup>	<i>chapter 13.450</i>
<sup>7</sup> Article 1	<i>amended by L.2/1993, L.11/1998, L.12/2007, L.13/2008, L.4/2009</i>
<sup>8</sup>	<i>chapter 13.475</i>

- 
- <sup>9</sup> Article 3(3) amended by L.3/1997
- <sup>10</sup> Article 4(4) amended by L.40/1998
- <sup>11</sup> Article 5 substituted by L.13/2008
- <sup>12</sup> PART 2 heading amended by L.11/1998
- <sup>13</sup> Article 6 substituted by L.11/1998
- <sup>14</sup> Article 7(2) amended by L.11/1998
- <sup>15</sup> Article 8(2) amended by L.11/1998
- <sup>16</sup> Article 8(4) amended by L.11/1998
- <sup>17</sup> Article 9 amended by L.11/1998
- <sup>18</sup> Article 8 of the Financial Services Commission (Amendment No. 4) (Jersey) Law 2007, which came into force on 2nd November 2007, states—
- “8 Initial publication of fees**
- (1) The Commission must, before [24th January 2008], publish fees for the purpose of the Laws specified in the Schedule to this Law.  
(NOTE: the Schedule includes this Law)
- (2) The fees so published –
- (a) shall be the same fees as those prescribed under those Laws; and
- (b) shall have effect when this Law comes fully into force.
- (3) On this Law coming fully into force, the fees published under this Article shall be taken to have been published under Article 15(5) of the [Financial Services Commission (Jersey) Law 1998].
- (4) In this Article –
- “Commission” means the Jersey Financial Services Commission established by the principal Law;
- “published”, in respect of fees published in accordance with this Article, means published in a manner likely to bring them to the attention of those affected by the fees.”
- <sup>19</sup> Article 9(1) substituted by L.16/2004, amended by L.33/2007; former paragraph amended by L.40/1998
- <sup>20</sup> Article 9(9) inserted by L.4/2009
- <sup>21</sup> Article 10 substituted by L.13/2008; former Article amended by L.11/1998
- <sup>22</sup> chapter 24.750
- <sup>23</sup> chapter 13.100
- <sup>24</sup> chapter 13.225
- <sup>25</sup> chapter 13.425
- <sup>26</sup> Article 11 substituted by L.13/2008; former Article amended by L.11/1998
- <sup>27</sup> Article 12 substituted by L.40/1998; former Article amended by L.11/1998
- <sup>28</sup> Article 13 substituted by L.13/2008; former Article amended by L.11/1998
- <sup>29</sup> Article 14(3A) inserted by L.13/2008
- <sup>30</sup> Article 14(4) amended by L.13/2008
- <sup>31</sup> Article 14(5) amended by L.13/2008
- <sup>32</sup> Article 14 amended by L.11/1998
- <sup>33</sup> Article 15(2) substituted by L.13/2008
- <sup>34</sup> Article 15(3) deleted by L.13/2008
- <sup>35</sup> Article 16 amended by L.11/1998
- <sup>36</sup> Article 17(2A) inserted by L.13/2008
- <sup>37</sup> Article 17(4) amended by L.13/2008
- <sup>38</sup> Article 17 amended by L.11/1998
- <sup>39</sup> Article 17A inserted by L.13/2008
- <sup>40</sup> Article 18 substituted by L.13/2008; former Article amended by L.11/1998
- <sup>41</sup> Article 18(1) amended by L.4/2009
- <sup>42</sup> Article 18A inserted by L.13/2008
- <sup>43</sup> Article 19 substituted by L.4/2009; former Article amended by L.11/1998
- <sup>44</sup> Article 19A inserted by L.13/2008
- <sup>45</sup> Article 19A(1) amended by L.4/2009
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- <sup>46</sup> Article 20(1) amended by L.11/1998  
<sup>47</sup> Article 20(2) amended by L.11/1998  
<sup>48</sup> Article 21 substituted by L.13/2008; former Article amended by L.11/1998  
<sup>49</sup> Article 21(7A) inserted by L.4/2009  
<sup>50</sup> Article 21(8) amended by L.4/2009  
<sup>51</sup> Article 22(1) substituted by L.2/1993, amended by L.11/1998  
<sup>52</sup> Article 22(2) inserted by L.2/1993, amended by L.11/1998  
<sup>53</sup> Article 22(4) substituted by L.2/1993  
<sup>54</sup> Article 22(5) amended by L.2/1993  
<sup>55</sup> Article 24 substituted by L.13/2008; former Article amended by L.11/1998, L.40/1998  
  
<sup>56</sup> Article 25 amended by L.11/1998  
<sup>57</sup> Article 26 amended by L.11/1998  
<sup>58</sup> Article 26(14) substituted by L.40/1998  
<sup>59</sup> Article 27 amended by L.11/1998  
<sup>60</sup> Article 28 amended by L.11/1998  
<sup>61</sup> Article 28(1) substituted by L.13/2008  
<sup>62</sup> Article 28(1A) inserted by L.13/2008  
<sup>63</sup> Article 28(10) substituted by L.40/1998  
<sup>64</sup> Article 29 amended by L.11/1998  
<sup>65</sup> Article 29(5) substituted by L.40/1998  
<sup>66</sup> Article 30(4) amended by L.40/1998  
<sup>67</sup> Article 30(5) inserted by L.40/1998  
<sup>68</sup> Article 30(7) inserted L.40/1998  
<sup>69</sup> Article 33 amended by L.11/1998  
<sup>70</sup> Article 34 heading amended by L.11/1998  
<sup>71</sup> Article 34(1) amended by L.11/1998  
<sup>72</sup> Article 34(5) substituted by L.11/1998  
<sup>73</sup> Article 34(6) substituted by L.11/1998  
<sup>74</sup> Article 34(7) inserted by L.11/1998  
<sup>75</sup> Article 35 amended by L.11/1998  
<sup>76</sup> Article 36 amended by L.11/1998  
<sup>77</sup> Article 37 renumbered as paragraph (1) by L.4/2009  
<sup>78</sup> Article 37(2) inserted by L.4/2009  
<sup>79</sup> Article 37A inserted by L.13/2008  
<sup>80</sup> Article 37B inserted by L.4/2009  
<sup>81</sup> Article 38 amended by L.11/1998  
<sup>82</sup> Article 39 amended by L.11/1998  
<sup>83</sup> chapter 13.125  
<sup>84</sup> Article 40 amended by L.11/1998  
<sup>85</sup> chapter 13.650  
<sup>86</sup> Article 41 amended by L.11/1998, L.40/1998  
<sup>87</sup> Article 43 heading substituted by L.4/2009  
<sup>88</sup> Article 43(1) substituted by L.4/2009  
<sup>89</sup> Article 43(2) substituted by L.4/2009  
<sup>90</sup> Article 43(3) repealed by L.4/2009  
<sup>91</sup> Article 43 former Article amended by L.11/1998  
<sup>92</sup> Article 44(1) substituted by L.4/2009  
<sup>93</sup> Article 44(2) substituted by L.13/2008; former paragraph amended by L.11/1998  
<sup>94</sup> Article 45(1) amended by L.13/2008, L.4/2009  
<sup>95</sup> Article 45(2) substituted by L.4/2009  
<sup>96</sup> Article 45(3) substituted by L.4/2009  
<sup>97</sup> Article 45(4) inserted by L.4/2009  
<sup>98</sup> Article 45(5) inserted by L.4/2009  
<sup>99</sup> Article 45(6) inserted by L.4/2009
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- <sup>100</sup> Article 45(7) inserted by L.4/2009  
<sup>101</sup> Article 45 amended by L.11/1998  
<sup>102</sup> Article 45A inserted by L.4/2009  
<sup>103</sup> Article 46 substituted by L.4/2009; former Article amended by L.11/1998  
<sup>104</sup> Article 47 substituted by L.3/2002; former Article inserted by L.40/1998  
<sup>105</sup> Article 47(1) amended by L.13/2008, L.4/2009  
<sup>106</sup> Article 48 substituted by L.13/2008; former Article inserted by L.40/1998  
<sup>107</sup> Article 48(2) amended by L.4/2009  
<sup>108</sup> Article 48A inserted by L.13/2008  
<sup>109</sup> Article 48B inserted by L.13/2008  
<sup>110</sup> Article 48B(3) amended by L.4/2009  
<sup>111</sup> Article 48C inserted by L.13/2008  
<sup>112</sup> Article 48D inserted by L.13/2008  
<sup>113</sup> Article 49 substituted by L.13/2008; former Article amended by L.11/1998, L.40/1998  
<sup>114</sup> chapter 15.360  
<sup>115</sup> Article 50 amended by L.11/1998  
<sup>116</sup> Article 51 heading substituted by L.4/2009  
<sup>117</sup> Article 51(2) repealed by L.33/2007; former paragraph inserted by L.30/1999  
<sup>118</sup> Article 51(2A) substituted by L.13/2008 [replaced by paragraph (3)]; former paragraph (2A) inserted by L.16/2004  
<sup>119</sup> Article 51(3) substituted by L.4/2009  
<sup>120</sup> Article 51(4) substituted by L.13/2008 [was formerly paragraph (3)]  
<sup>121</sup> Article 52 amended by L.11/1998  
<sup>122</sup> Schedule added by L.13/2008  
<sup>123</sup> chapter 13.125