



Jersey

# **BANKING BUSINESS (JERSEY) LAW 1991**

## **Official Consolidated Version**

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Showing the law from 31 January 2022 to 13 February 2023



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# BANKING BUSINESS (JERSEY) LAW 1991

## Contents

### Article

<b>PART 1</b>	<b>5</b>
PRELIMINARY	5
1 Interpretation .....	5
2 Meaning of “deposit” .....	9
3 Meaning of “deposit-taking business” .....	10
4 Meaning of “holding company”, “subsidiary company” and “wholly owned subsidiary” .....	10
5 Power to amend definitions .....	11
<b>PART 2</b>	<b>12</b>
FUNCTIONS OF FINANCIAL SERVICES COMMISSION AND CONTROL OF DEPOSIT-TAKING BUSINESSES	12
6 Functions of the Commission .....	12
7 Limitation of liability .....	12
8 Prohibition of unregistered deposit-taking business .....	12
9 Applications for and grant and extent of registration.....	13
10 Refusal or revocation of registration.....	14
11 Conditions of registration.....	16
12 Certificates of registration.....	17
13 Display of registration certificate and conditions .....	17
14 Notification of new or increased control .....	17
15 Objection to existing shareholder controller .....	18
16 Contravention by controller .....	19
17 Restrictions on sales of shares .....	19
17A Notice of acts and reasons .....	20
18 Delay in taking effect.....	21
18A Appeals .....	22
19 Powers of intervention .....	23
19A Codes of practice .....	24
20 Control of advertising .....	25
21 Power to issue directions .....	26
22 False statements.....	27

23	Fraudulent inducement to make a deposit .....	28
24	Notification of change of director etc. ....	29
25	Notification of acquisition of significant shareholding .....	30
26	General power to require information and documents .....	31
27	.....	35
28	Investigations on behalf of the Commission .....	35
29	.....	37
30	Powers of entry in cases of suspected contraventions .....	37
31	Obstruction of investigations .....	38
32	Audited accounts to be open to inspection .....	38
33	Notification in respect of auditors.....	38
34	Communication with Commission by auditors and approved professionals.....	39
35	Repayment of unauthorized deposits .....	40
36	Profits from unauthorized deposits .....	40
37	Compensation schemes.....	41
37A	Commission may appoint a manager in prescribed circumstances.....	44
37B	Injunctions and remedial orders .....	44
<b>PART 3</b>		<b>45</b>
BANKING NAMES AND DESCRIPTIONS		45
38	Restriction on use of certain names and descriptions .....	45
39	Applications for and grant, etc. of permission for the use of certain names by companies and businesses .....	45
40	Registration and change of name of companies .....	46
41	Registration of business names.....	46
<b>PART 4</b>		<b>46</b>
RESTRICTION ON DISCLOSURE OF INFORMATION		46
42	Restricted information .....	46
43	Disclosure for facilitating discharge of functions of Commission and specified persons	47
44	Disclosure for facilitating discharge of functions by other supervisory authorities ....	48
45	Other permitted disclosures.....	49
45A	Regulation making power to amend disclosure provisions .....	50
46	Information supplied to Commission by relevant overseas authority.....	51
47	Co-operation with relevant supervisory authority.....	51
48	Public statement.....	52
48A	Notice of public statement.....	53
48B	Notice period .....	53
48C	Appeals and orders about public statements .....	54
<b>PART 5</b>		<b>55</b>
MISCELLANEOUS AND SUPPLEMENTAL		55
48D	Transfer of deposit-taking business and any other business .....	55
48E	Fees.....	55
49	Service of notices.....	55
50	Evidence.....	56
51	Regulations and Orders .....	56

52	Criminal liability of officers; aiders and abettors, etc. ....	57
53	Citation .....	57

<b>SCHEDULE</b>	<b>58</b>
-----------------	-----------

TRANSFER OF DEPOSIT-TAKING BUSINESS AND ANY OTHER BUSINESS	58
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<b>ENDNOTES</b>	<b>61</b>
-----------------	-----------

Table of Legislation History.....	61
Table of Renumbered Provisions .....	63
Table of Endnote References .....	65



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](#)]

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### **PART 1**

#### **PRELIMINARY**

#### **1 Interpretation<sup>2</sup>**

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 civil partner 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](#) 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](#);

“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, other than a person holding shares giving rise to that voting power only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means),

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;

“Directive 2013/36/EU” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms,

amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC;

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

“ESAs” means the European Supervisory Authorities comprising –

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

“ESRB” means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);

“former registered person” means a person –

- (a) who was formerly a registered person under the [Investors \(Prevention of Fraud\) \(Jersey\) Law 1967](#) 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(19);

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 Union;

“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 External Relations and Financial Services;

“money laundering compliance officer” means a person appointed as ‘compliance officer’ under the [Money Laundering \(Jersey\) Order 2008](#);

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

“pension supervisor” means any entity (whether in Jersey or elsewhere) responsible in whole or in part for the supervision of pension funds, plans, schemes or arrangements;

“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](#);

“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;

“supervisor of a securities market” has the meaning given in Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#);

“vary” includes amend, replace and revoke;

“wholly-owned subsidiary” has the meaning given in Article 4.<sup>3</sup>



## 2 Meaning of “deposit”

- (1) Unless the context otherwise requires, “deposit” means a sum of money (including a sum of money subject to bail-in) paid on terms –
- (a) under which it will be repaid, with or without interest (including negative 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.<sup>4</sup>
- (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 or civil partner;
- (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 or civil partner of any person within sub-paragraph (b).<sup>5</sup>

### 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 2017](#),carries on business from within Jersey within the meaning of this Law.<sup>6</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>7</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>8</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>9</sup>

#### 6 Functions of the Commission<sup>10</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.
- (1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).<sup>11</sup>
- (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>12</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;
  - (aa) the Bank of England;
  - (b) the central bank of a member State of the European Union;
  - (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>13</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 deposit or the frequency with which the person carries out transactions of any particular description.<sup>14</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>15</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>16</sup> of the [Financial Services Commission \(Jersey\) Law 1998](#), the Commission shall register the person.<sup>17</sup>
- (2) <sup>18</sup>
- (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>19</sup>

## **10 Refusal or revocation of registration<sup>20</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](#).
- (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](#),
    - (C) the [Financial Services \(Jersey\) Law 1998](#),
    - (D) the [Insurance Business \(Jersey\) Law 1996](#),
    - (E) any Regulation or Order made under any of those Laws,
    - (F) the [Alternative Investment Funds \(Jersey\) Regulations 2012](#),
  - (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 person A has at some time contravened a code of practice;
  - (fa) person A has failed to pay any part of a penalty imposed by the Commission under Article 21A of the [Financial Services Commission \(Jersey\) Law 1998](#) (including any surcharge imposed under Article 21E(1) of that Law);
  - (g) person A has failed to comply with a direction given to the person at any time under Article 17 or 21;
  - (h) person A has failed to pay any fee published in accordance with Article 48E that is payable under Article 48E.<sup>21</sup>
- (4) The Commission may also revoke a registration at the request of the registered person.<sup>22</sup>

## 11 Conditions of registration<sup>23</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 sub-paragraph (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>24</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>25</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.
- (3AA) Notice under paragraph (3) may include a requirement that the person concerned provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.<sup>26</sup>
- (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>27</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>28</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>29</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>30</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>31</sup>
- (3) <sup>32</sup>

**16 Contravention by controller<sup>33</sup>**

- (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 imprisonment for a term of 2 years and to a fine.<sup>34</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>35</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>36</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>37</sup>

## **17A Notice of acts and reasons<sup>38</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 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>39</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, 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>40</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 relevant person transacted or may transact deposit-taking business, or of the public, that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (1) should be reduced, the Court may so order.<sup>41</sup>
- (3A) In paragraph (3), “relevant person” means –
- (a) in the case of a direction under Article 21(2)(c) in respect of functions for, employment by, or the business of, a specified registered person, that registered person;
  - (b) in the case of a direction under Article 21(2)(c) in respect of functions for, employment by, or the business of, any registered person at all, any registered person at all;
  - (c) in the case of an act under Article 10, 11(2), 13(2) or (3) or 15, or of a direction under Article 21(2)(d), in respect of a registered person, the registered person; or
  - (d) in the case of a direction under Article 21(2)(d) in respect of a former registered person, the former registered person.<sup>42</sup>
- (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>43</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.
- (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>44</sup>

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

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

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

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

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

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

## **19A Codes of practice<sup>45</sup>**

- (1) The Commission may, after consulting any persons or bodies the Commission considers are representative of the interests concerned –
  - (a) prepare and issue a code of practice setting out the principles and detailed requirements that must be complied with in 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>46</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) The contravention of a code of practice –
  - (a) may lead the Commission to exercise its powers under this Law or any other enactment applicable to such contravention; but
  - (b) otherwise does not of itself render a person liable to proceedings of any kind or invalidate any transaction.<sup>47</sup>
- (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>48</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 person's membership of a class whose membership is determined otherwise than by the Minister or the Commission.<sup>49</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>50</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, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, 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.<sup>51</sup>
- (3) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.
  - (4) The power to give directions under this Article shall include the power by direction to vary or withdraw any direction, as well as the power to issue further directions.<sup>52</sup>
  - (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>53</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>54</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>55</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>56</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>57</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>58</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>59</sup>**

- (1) A person shall not become a director, controller, key person of any class or manager of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, 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, such a manager or such a liquidator or administrator; and
  - (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, such a manager or such a liquidator or administrator.<sup>60</sup>
- (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, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, as referred to in paragraph (1).<sup>61</sup>
- (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, or a liquidator of the registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs.<sup>62</sup>
- (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, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, 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, manager, liquidator or administrator, shall be guilty of an offence.<sup>63</sup>
- (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, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs.<sup>64</sup>
- (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, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, within 14 days of becoming aware of that fact.<sup>65</sup>
- (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<sup>66</sup>**

- (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, other than a person holding shares giving rise to that voting power only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means).<sup>67</sup>
- (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.<sup>68</sup>

**26 General power to require information and documents<sup>69</sup>**

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
  - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission's functions under this Law;
  - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the Commission's functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 8 or 23, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
  - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
  - (b) to attend at such times and places as are specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.
- (4) The Commission, an officer or an agent may, by notice in writing served on any person who is, or is to be, a director, controller or manager of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, require the person to provide the Commission, an officer or an agent, at such times as may be specified in the notice, with such information or documents as the Commission, an officer or an agent may reasonably require for determining whether the person is a fit and proper person to be a director, controller, manager, liquidator or administrator (as the case may be) of that registered person.<sup>70</sup>
- (5) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (9), as the case may be.

- (6) If the Commission, an officer or an agent serves notice on a person under paragraph (1), (2) or (4), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1), (2) or (4) (as the case may be).
- (7) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (16) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and appointed by the person served with the notice under this paragraph, being a report –
- (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
  - (b) in such form (if any) as the notice under this paragraph may specify.
- (8) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
- (9) The power under this Article to require documents to be provided includes power –
- (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
  - (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (10) If documents provided under this Article are retained under paragraph (9)(a) the documents may be so retained –
- (a) for a period of one year; or
  - (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings,
- whichever is the later.<sup>71</sup>
- (11) If the person providing a document that is retained under paragraph (9)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.
- (12) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or an agent, exercising powers under paragraph (5), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (13) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.



- (14) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (12) or Article 22.
- (15) In this Article –
- “agent” means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;
- “defined person” means any of the following persons –
- (a) a registered person;
  - (b) a person who was a registered person at any time;
  - (c) a person who is a director, controller, manager, or key person, in relation to another person who is a registered person or was a registered person at any time;
  - (d) a person who was at any time a director, controller, manager, or key person, in relation to another person who is a registered person or was a registered person at, before or after that time;
  - (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
  - (f) a person who is an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at any time;
  - (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a registered person or was a registered person at, before or after that time;
  - (h) a person who is an employee of a person who is a party to a contract for services with another person who is a registered person;
  - (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a registered person at that time;
  - (j) a company that is or has at any relevant time been –
    - (i) a holding company, subsidiary or related company of a registered person,
    - (ii) a subsidiary of a holding company of a registered person,
    - (iii) a holding company of a subsidiary of a registered person, or
    - (iv) a company in the case of which a shareholder controller in relation to a registered person, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50% of the voting power at a general meeting;
  - (k) a partnership of which a registered person is or has at any relevant time been a member;
  - (l) a significant shareholder (within the meaning of Article 25) in relation to a registered person;

- (m) any person who at any time has been appointed a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs;

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

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

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

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

"relevant time" means, in relation to a registered person, a time at which the conduct or other thing occurred that is the subject of the information, documents or questions referred to in paragraph (1), (2) or (3).<sup>72</sup>

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

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

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

- (18) Where –

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

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

- (19) In paragraph (15), sub-paragraphs (j), (k) and (l) of the definition of "defined person", and the definition of "relevant time", apply to a former registered person as they apply to a registered person.

- (20) For the avoidance of doubt –

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

- (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.

**27** <sup>73</sup>

## **28 Investigations on behalf of the Commission<sup>74</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>75</sup>
- (1A) The Commission shall give written notice of the appointment to the registered person concerned.<sup>76</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

as referred to in Article 26(7), any liquidator or administrator 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).<sup>77</sup>

- (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 of 6 months and to a fine.<sup>78</sup>

- (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>79</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.

**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 has contravened Article 8 or 23 and –
  - (a) that that person has failed to comply with a notice served on the person under Article 26(2);
  - (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 Article 26(2) 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.<sup>81</sup>
- (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 has contravened Article 8 or 23.<sup>82</sup>
- (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 contravention of Article 8 or 23, until the conclusion of those proceedings.<sup>83</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>84</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>85</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.<sup>86</sup>

### **33 Notification in respect of auditors<sup>87</sup>**

- (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.<sup>88</sup>

### **34 Communication with Commission by auditors and approved professionals<sup>89</sup>**

- (1) No duty to which an auditor of a registered person or an approved professional may be subject is contravened by reason of his or her 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.
- (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 –
- (a) the registered person or former registered person, or any associated body of such a person;
  - (b) a director, controller or manager, or former director, controller or manager, of a registered person or former registered person; or
  - (c) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs.<sup>90</sup>
- (3) In relation to an approved professional, this Article relates to any matter of which that person becomes aware in his or her capacity as the person making the report and which relates to the business or affairs of –
- (a) a registered person, former registered person or applicant for registration, or any associated body of such a person;
  - (b) a director, controller or manager, or a proposed director, controller or manager of a registered person or applicant for registration;
  - (c) a former director, controller, or manager of a registered person or former registered person; or

- (d) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, in relation to whom the report is made.<sup>91</sup>
- (4) The Minister may by Order specify circumstances in which an auditor or an approved professional is required to communicate any information or opinion to the Commission on a matter to which this Article applies, and which is relevant to any function of the Commission under this Law.
- (5) Orders under this Article may be made only –
- (a) on the recommendation of the Commission; and
  - (b) after consultation with such bodies as appear to the Commission to represent the interests of auditors, approved professionals and registered persons.
- (6) A person who contravenes an Order made under this Article is guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (7) In this Article –
- “approved professional” means a person appointed to make a report as referred to in Article 9(7) or Article 26(7);
- “associated body”, in relation to a registered person or an applicant for registration, means any body mentioned in paragraph (j), (k) or (l) of the definition ‘defined person’ in Article 26(15);
- “auditor” includes a person who was an auditor of a registered person or former registered person at any time during the period of the person's registration.

### **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>92</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>93</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>94</sup>
- (2) Without prejudice to the generality of paragraph (1), Regulations may in particular make provision in respect of any scheme so established –
- (a) for the determination and regulation of matters relating to the scheme, whether by any specified person or otherwise;
  - (b) for appointing or constituting a person who is to have any function in relation to the scheme, whether or not any bank is insolvent, or any other event has occurred, or is expected to occur, that would give rise to any right to compensation;
  - (c) conferring on a person so appointed or constituted, or on any other person, any function in relation to the scheme, including the power to delegate any such function to any other person;
  - (d) for determining entitlement to compensation, including provision as to –
    - (i) classes of depositor entitled or not entitled to compensation, and priorities in entitlement as between entitled classes,
    - (ii) postponement or cancellation of all compensation rights in relation to a particular bank, if an alternative means of protecting its depositors appears more effective in the circumstances, and
    - (iii) limits on the amount payable, whether by reference to a specified maximum amount or to a maximum amount calculated in a specified manner, or by reference to the effects of the number of banks involved or to the effects of any shortfall in funds available for compensation, or otherwise;
  - (e) for the procedure for assessing eligibility for compensation, whether requiring the making of an application or providing for the processing of compensation without application or otherwise;
  - (f) for the procedure for paying compensation, including –
    - (i) interim payment before entitlement is finally determined,
    - (ii) payment by instalments or otherwise,
    - (iii) payment to or through a person other than the depositor, and

- (iv) the application, to payment of compensation in respect of a deposit, of any prohibition, restriction or postponement applying to payment of the deposit to the depositor;
    - (v) postponement, restriction or cancellation of payment of compensation in respect of a deposit, on any grounds related to the particular deposit or depositor, including whether a solvent bank might postpone, restrict or refuse payment of that deposit to a person claiming to be entitled to it;
  - (g) as to the effect of the scheme in relation to rights or obligations arising out of a deposit in respect of which compensation is payable –
    - (i) whether by way of subrogation of those rights or obligations or otherwise, and
    - (ii) whether on the occurrence of any event in relation to a bank or on an application for compensation being made or accepted or on payment of compensation being made or otherwise;
  - (h) for levies to be imposed on registered persons for the purpose of meeting expenses incurred, or expected to be incurred in relation to the scheme, whether related to establishing the scheme, to maintaining it, to any person having any function under the scheme, to payment of compensation, or otherwise;
  - (i) conferring on a scheme manager a right of recovery in respect of levies, overpaid compensation or any other matter relating to the finances of the scheme, whether against a bank, a liquidator, a person applying for or receiving compensation or any other person having a connection with the scheme;
  - (j) for the establishment and operation of compensation funds or other funds in relation to the scheme, including provision as to what may be paid into or out of such a fund;
  - (k) for such treatment of a body, fund or other money in connection with a scheme as is provided for by any reference to an “enactment” in any definition in Article 1 of the [Public Finances \(Jersey\) Law 2019](#) or in Article 3 of that Law;
  - (l) for appeals against decisions on any matter relating to the scheme.<sup>95</sup>
- (3) Regulations under this Article may provide –
- (a) that a person who contravenes a provision of the Regulations commits an offence, for which the person is liable, unless the Regulations provide for a lesser penalty, to imprisonment for 2 years and a fine;
  - (b) that Article 52 applies to that offence as it applies to an offence under this Law, subject to any modification provided for in the Regulations.<sup>96</sup>
- (4) Regulations under this Article may provide for any of Articles 7, 22(1), (2) and (5), 26(1) to (3), (5) and (13) to (15), 27 and 42 to 45 to apply in relation to a scheme under this Article –
- (a) with the substitution, for references to the Commission, of references to a scheme manager; and

- (b) with any other modification appearing to the States to be necessary or expedient for the purposes of the scheme.<sup>97</sup>
- (5) Without prejudice to the generality of paragraphs (3) and (4) the provision that may be made under those paragraphs includes provision –
  - (a) rendering any act an offence by the application of any provision in those Articles that relates to offences;
  - (b) applying to a bank any duty to provide information or give access to information relevant to the operation of the scheme –
    - (i) whether or not that bank is insolvent,
    - (ii) whether in response to a demand, at regular intervals, on the occurrence of an event, or otherwise,
    - (iii) including the imposition of any requirement as to the format in which such information is to be kept by the bank in readiness for prompt provision, and
    - (iv) including a power, in exceptional cases specified in the Regulations, for a scheme manager to alter the format in which the bank is keeping such information, so that the format meets a requirement referred to in clause (iii); and
  - (c) without prejudice to paragraph (9) and to the generality of Article 45A, to amend any of Articles 42 to 45 to make provision relating to disclosure of information held by a scheme manager under the Regulations.<sup>98</sup>
- (6) The liquidator of a bank shall work with any scheme manager so as to ensure that all compensation under the scheme is paid out as soon as is reasonably practicable, and in particular –
  - (a) shall comply with every reasonable requirement of the scheme manager to provide any assistance in relation to the scheme; and
  - (b) shall give precedence to the duties imposed under this paragraph over any other duties relating to the winding up of the affairs of the bank, but shall begin working towards compliance with both such classes of duty immediately upon appointment.<sup>99</sup>
- (7) Nothing in this Article is to be read as preventing provision being made for a person to be a scheme manager in relation to a bank, by virtue only of that person being the liquidator of the same bank, and paragraph (6) (other than sub-paragraph (a)) applies accordingly in respect of the duties of such a person.<sup>100</sup>
- (8) In this Article –
  - (a) “bank” means a registered person or former registered person;
  - (b) references to bankruptcy include –
    - (i) the winding up of an insolvent bank under Article 155 of the [Companies \(Jersey\) Law 1991](#), and
    - (ii) a state equivalent or similar to bankruptcy under the law of a jurisdiction outside Jersey;
  - (c) “insolvent” means unable, or likely to be unable, to satisfy claims as described in paragraph (1);

- (d) “liquidator” means the person (whether the Viscount or some other person) for the time being charged with the administration of the property of a bank by virtue of its bankruptcy;
- (e) “scheme manager” means a person on whom a function in relation to a scheme has been conferred, or to whom such a function has been delegated.<sup>101</sup>

### **37A Commission may appoint a manager in prescribed circumstances<sup>102</sup>**

- (1) The Minister may, on the recommendation of the Commission, by Order prescribe circumstances in which the Commission may appoint a person 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>103</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<sup>104</sup>**

- (1) Notwithstanding anything contained in any other enactment no person carrying on any business in Jersey other than the States, the Bank of England, the central bank of a member State of the European Union 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.<sup>105</sup>
- (2) No person carrying on any business in Jersey other than a registered person, the States, the Bank of England, the central bank of a member State of the European Union, 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.<sup>106</sup>
- (3) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.<sup>107</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>108</sup>

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

No application made in pursuance of the provisions of the [Companies \(Jersey\) Law 1991](#) 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>109</sup>

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

Notwithstanding Article 13 of the [Registration of Business Names \(Jersey\) Law 1956](#), 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>110</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>111</sup>**

- (1) Subject to paragraph (1AA), 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>112</sup>

- (1AA) Paragraph (1) shall not apply in respect of information held by the Commission that originated from a participant in a college of supervisors established under Article 116 of Directive 2013/36/EU, unless the participant in the college of supervisors consents, in writing, to the disclosure, and if such consent is for a specific purpose, the disclosure must only be made for that specific purpose.<sup>113</sup>

- (1A) Article 42 does not preclude the disclosure of information by the Commission to the Society of Lloyd's (being organs constituted by or under the Lloyd's Act 1982 of the United Kingdom) for the purpose of enabling or assisting that Society to exercise any of its supervisory functions.<sup>114</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>115</sup>

- (3) Subject to paragraphs (4) to (6), Article 42 does not preclude the disclosure of information by the Commission to any of the following organizations or bodies –

- (a) the ESAs;
- (b) the ESRB;
- (ba) the Bank of England;
- (bb) the Prudential Regulation Authority or Financial Conduct Authority of the United Kingdom; or
- (c) a supervisor of a securities market.<sup>116</sup>

- (4) The Commission shall not disclose information under paragraph (3) unless satisfied that –
  - (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
  - (b) that organization or person will treat the disclosed information with appropriate confidentiality.<sup>117</sup>
- (5) In deciding whether to disclose information under paragraph (3), the Commission may take the following factors (among others) into account –
  - (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
  - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
  - (c) the seriousness of the case and its importance in Jersey;
  - (d) whether the information could be obtained by other means; and
  - (e) whether it is otherwise appropriate in the public interest to disclose the information.<sup>118</sup>
- (6) The Commission may refuse to disclose information under paragraph (3) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.<sup>119</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;
  - (c) subject to paragraph (1B), 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 or had statutory functions; or
  - (d) subject to paragraph (1B), any person for the purpose of enabling or assisting that person to exercise that person's statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions.<sup>120</sup>
- (1A) In paragraph (1)(d), "statutory control functions" means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.<sup>121</sup>
- (1B) Paragraph (1)(c) and (d) shall not apply in respect of information held by the Commission that originated from a participant in a college of supervisors



established under Article 116 of Directive 2013/36/EU unless the participant in the college of supervisors consents, in writing, to the disclosure, and if such consent is for a specific purpose, the disclosure must only be made for that specific purpose.<sup>122</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>123</sup>
- (2A) Article 42 does not preclude the disclosure of information by the Commission to a pension supervisor for the purpose of enabling or assisting a pension supervisor to exercise any of its supervisory functions.<sup>124</sup>
- (3) Without prejudice to the generality of paragraph (1)(c), Article 42 does not preclude the disclosure of information by the Commission to the Office of the Financial Services Ombudsman or to an Ombudsman, within the meaning of the [Financial Services Ombudsman \(Jersey\) Law 2014](#) –
  - (a) to comply with a duty of the Commission under Article 20 of that Law; or
  - (b) for the purpose of enabling or assisting that Office or Ombudsman to exercise any function under that Law (including the raising of a levy).<sup>125</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 or was formerly registered under this Law, including any conditions which are attached to the registration or were attached to the former registration of that person under Article 11(2).<sup>126</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 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>127</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>128</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>129</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>130</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 (whether in Jersey or elsewhere) responsible for setting standards of conduct for any profession and having powers to discipline persons who fail to meet those standards for the purpose of enabling or assisting that person or body to exercise any of its supervisory functions.<sup>131</sup>
- (7) No information shall be disclosed under or by virtue of paragraph (5) or (6) or Article 43(1)(a), (1A) or (3), 44(1)(b), (c) or (d) or (2), 44(2A) 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>132</sup>
- (8) Paragraphs (1)(c) and (e), (2), (3), (4), (5), (6) and (7) shall not apply in respect of information held by the Commission that originated from a participant in a college of supervisors established under Article 116 of Directive 2013/36/EU unless the participant in the college of supervisors consents, in writing, to the disclosure, and if such consent is for a specific purpose, the disclosure must only be made for that specific purpose.<sup>133</sup>

#### **45A Regulation making power to amend disclosure provisions<sup>134</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<sup>135</sup>**

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, any of the ESAs, the ESRB or a supervisor of a securities market.

**47 Co-operation with relevant supervisory authority<sup>136</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;
  - (bb) the power to give a direction under Article 21;
  - (c) the powers relating to information and documents under Article 26;
  - (d) the powers under Article 28;
  - (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>137</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 26(2), 30 or 31 to a contravention of Article 8 or 23 shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 8 or 23 (as the case requires), as in force at the latter time; and
  - (b) a reference in Article 30(4) to proceedings shall include a reference to proceedings outside Jersey.<sup>138</sup>
- (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>139</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 with respect to the serving of a final notice on a registered person, or a person who is or was a director, controller or manager of a registered person, under Article 21C(3) of the [Financial Services Commission \(Jersey\) Law 1998](#) imposing a penalty following the contravention of a code of practice by that registered person; 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>140</sup>

#### **48A Notice of public statement<sup>141</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>142</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>143</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>144</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 and any other business<sup>145</sup>**

- (1) The Schedule may have effect to regulate any transfer of deposit-taking business and any other business carried on by a registered person, whether or not that other business is integral to the deposit-taking business.
- (2) The Minister may by Order amend the Schedule.

#### **48E Fees<sup>146</sup>**

The Commission may, in accordance with Article 15 of the [Financial Services Commission \(Jersey\) Law 1998](#), publish fees that shall be payable by registered persons at such intervals and upon the occurrence of such events as the Commission may determine.

#### **49 Service of notices<sup>147</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](#) 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>148</sup>

## 51 Regulations and Orders<sup>149</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>150</sup>
- (2A) <sup>151</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>152</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>153</sup>

## **52 Criminal liability of officers; aiders and abettors, etc.** <sup>154</sup>

- (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, or by a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person's affairs, 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.

## **53 Citation**

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

**SCHEDULE<sup>155</sup>**

(Article 48D)

**TRANSFER OF DEPOSIT-TAKING BUSINESS AND ANY OTHER BUSINESS**

- 1 Where it is proposed to carry out a scheme under which the whole or part of the deposit-taking business and any other business carried on, or to be carried on, in or from within Jersey by a person (the “transferor”) is to be transferred to another body whether incorporated or not (the “transferee”) the transferor or the 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](#) 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 and employee 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 the extent required in Jersey or the jurisdiction in or from which it will carry on the business) to carry on the deposit-taking business and any other 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 3 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 (including duties as an employer, fiduciary or trustee);

“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

Legislation	Year and No	Commencement	Project No (where applicable)
Banking Business (Jersey) Law 1991	<a href="#">L.19/1991</a>	1 October 1991 ( <a href="#">R&amp;O.8272</a> )	
Banking Business (Amendment) (Jersey) Law 1993	<a href="#">L.2/1993</a>	8 January 1993	
Finance (No.4) (Jersey) Law 1995	<a href="#">L.21/1995</a>	6 December 1994	
Limited Liability Partnerships (Jersey) Law 1997	<a href="#">L.3/1997</a>	9 September 1998 ( <a href="#">R&amp;O.9233</a> )	
Financial Services Commission (Jersey) Law 1998	<a href="#">L.11/1998</a>	1 July 1998 ( <a href="#">R&amp;O.9238</a> )	
Banking Business (Amendment No. 2) (Jersey) Law 1998	<a href="#">L.40/1998</a>	11 December 1998	<a href="#">P.95/1998</a>
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	<a href="#">L.23/1999</a>	23 July 1999	<a href="#">P.34/1999</a>
Fees (Miscellaneous Amendments and Validation) (Jersey) Law 1999	<a href="#">L.30/1999</a>	5 November 1999	<a href="#">P.88/1999</a>
Banking Business (Amendment No. 3) (Jersey) Law 2002	<a href="#">L.3/2002</a>	1 March 2002 ( <a href="#">R&amp;O.9/2002</a> )	<a href="#">P.156/2001</a>
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	<a href="#">R&amp;O.101/2003</a>	14 October 2003	<a href="#">P.122/2003</a>
Banking Business (Amendment No. 4) (Jersey) Law 2004	<a href="#">L.16/2004</a>	3 September 2004	<a href="#">P.110/2004</a> (re-issue)
States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005	<a href="#">R&amp;O.44/2005</a>	9 December 2005	<a href="#">P.58/2005</a>
Banking Business (Amendment No. 5) (Jersey) Law 2007	<a href="#">L.12/2007</a>	9 March 2007	<a href="#">P.159/2006</a>
Financial Services Commission (Amendment No. 4) (Jersey) Law 2007	<a href="#">L.33/2007</a>	24 January 2008	<a href="#">P.35/2007</a>
Banking Business (Amendment No. 6) (Jersey) Law 2008	<a href="#">L.13/2008</a>	4 April 2008	<a href="#">P.136/2007</a>
Financial Regulation (Miscellaneous Provisions) (Jersey) Law 2009	<a href="#">L.4/2009</a>	9 January 2009	<a href="#">P.123/2008</a>
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012	<a href="#">P.85/2011</a>
Banking Business (Amendment No. 8) (Jersey) Law 2012	<a href="#">L.44/2012</a>	28 December 2012	<a href="#">P.76/2012</a>

Legislation	Year and No	Commencement	Projet No (where applicable)
Alternative Investment Funds (Jersey) Regulations 2012	<a href="#">R&amp;O.142/2012</a>	2 April 2013	<a href="#">P.109/2012</a>
Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 2013	<a href="#">R&amp;O.31/2013</a>	13 March 2013	<a href="#">P.7/2013</a>
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	<a href="#">R&amp;O.107/2013</a>	19 July 2013	<a href="#">P.75/2013</a>
Financial Services Ombudsman (Jersey) Law 2014	<a href="#">L.14/2014</a>	25 July 2014	<a href="#">P.9/2014</a>
European Union Legislation (Implementation) (Jersey) Law 2014	<a href="#">L.28/2014</a>	31 October 2014	<a href="#">P.164/2013</a>
Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 2014	<a href="#">L.40/2014</a>	21 November 2014	<a href="#">P.47/2014</a>
Financial Services Commission (Amendment No. 6) (Jersey) Law 2015	<a href="#">L.1/2015</a>	20 March 2015	<a href="#">P.151/2014</a>
Financial Regulation (Miscellaneous Provisions No. 3) (Jersey) Law 2016	<a href="#">L.8/2016</a>	22 April 2016	<a href="#">P.162/2015</a>
Financial Regulation (Miscellaneous Provisions No. 4) (Jersey) Law 2016	<a href="#">L.14/2016</a>	22 August 2016	<a href="#">P.30/2016</a>
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )	<a href="#">P.87/2015</a>
Limited Liability Partnerships (Jersey) Law 2017	<a href="#">L.2/2017</a> ( <a href="#">R&amp;O.74/2018</a> )	1 August 2018	<a href="#">P.95/2016</a>
Financial Services Commission (Amendment No. 7) (Jersey) Law 2018	<a href="#">L.28/2018</a>	26 October 2018	<a href="#">P.74/2018</a>
Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 2019	<a href="#">R&amp;O.3/2019</a>	22 January 2019	<a href="#">P.139/2018</a>
Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 2019	<a href="#">L.7/2019</a>	26 May 2019	<a href="#">P.138/2018</a>
Banking Business (Amendment of Law) (Jersey) Regulations 2019	<a href="#">R&amp;O.37/2019</a>	28 May 2019	<a href="#">P.36/2019</a>

Legislation	Year and No	Commencement	°Projet No (where applicable)
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to External Relations) Order 2019	<a href="#">R&amp;O.40/2019</a>	31 May 2019	
Public Finances (Jersey) Law 2019	<a href="#">L.10/2019</a>	23 July 2019 ( <a href="#">R&amp;O.67/2019</a> )	<a href="#">P.28/2019</a>
European Union (Financial Services – Miscellaneous Amendments) (Jersey) Regulations 2019	<a href="#">R&amp;O.21/2019</a>	11pm on 31 January 2020 ( <a href="#">R&amp;O.3/2020</a> )	<a href="#">P.11/2019</a>
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	<a href="#">R&amp;O.29/2021</a>	2 March 2021	
Bank (Recovery and Resolution) (Jersey) Law 2017	<a href="#">L.10/2017</a>	31 January 2022 ( <a href="#">R&amp;O.2/2022</a> )	<a href="#">P.134/2016</a>

°Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition
PART II	PART 2
6A	7
7	8
8	9
(2)	repealed by <a href="#">L.11/1998</a>
(3)	9(2)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
(8)	(7)
(9)	(8)
9	10
10	11
11	12
12	13
13	14
14	15
15	16

Original	Current
16	17
17	18
18	19
19	20
20	21
21	22
(1A)	(2)
(2)	(3)
(2A)	(4)
(3)	(5)
22	23
23	24
(A1)	(1)
(1)	(2)
(2)	(3)
(3)	(4)
(4)	(5)
24	25
25	26
26	27
27	28
28	29
29	30
(4A)	(5)
(5)	(6)
(6)	(7)
30	31
31	32
32	33
33	34
34	35
35	36
36	37
PART III	PART 3
37	38
38	39
39	40
40	41
PART IV	PART 4
41	42
42	43
43	44
44	45
45	46
45A	47
45B	48
PART V	PART 5



Original	Current
46	49
47	50
48	51
(1A)	(2)
(2)	(3)
49	52
(4), (5)	repealed by <a href="#">L.23/1999</a>
50	spent, omitted from this revised edition
51	53
SCHEDULE	spent, omitted from this revised edition

### Table of Endnote References

<sup>1</sup> 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

<sup>2</sup> Article 1 amended by R&O.37/2019, R&O.29/2021

<sup>3</sup> Article 1 amended by L.2/1993, L.11/1998, L.12/2007, L.13/2008, L.4/2009, L.4/2012, R&O.31/2013, R&O.107/2013, L.28/2014, L.40/2014, L.8/2016, R&O.3/2019, R&O.40/2019

<sup>4</sup> Article 2(1) amended by L.10/2017

<sup>5</sup> Article 2(5) amended by L.4/2012

<sup>6</sup> Article 3(3) amended by L.3/1997, L.2/2017

<sup>7</sup> Article 4(4) amended by L.40/1998

<sup>8</sup> Article 5 substituted by L.13/2008

<sup>9</sup> Part 2 heading amended by L.11/1998

<sup>10</sup> Article 6 substituted by L.11/1998

<sup>11</sup> Article 7(1) inserted by L.7/2019

<sup>12</sup> Article 7(2) amended by L.11/1998

<sup>13</sup> Article 8(2) amended by L.11/1998, L.28/2014, R&O.21/2019

<sup>14</sup> Article 8(4) amended by L.11/1998

<sup>15</sup> Article 9 amended by L.11/1998

<sup>16</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>17</sup> Article 9(1) substituted by L.16/2004, amended by L.33/2007  
<sup>18</sup> Article 9(2) deleted by L.14/2016  
<sup>19</sup> Article 9(9) inserted by L.4/2009  
<sup>20</sup> Article 10 substituted by L.13/2008  
<sup>21</sup> Article 10(3) amended by R&O.142/2012, L.1/2015, L.7/2019  
<sup>22</sup> Article 10(4) added by L.8/2016  
<sup>23</sup> Article 11 substituted by L.13/2008  
<sup>24</sup> Article 12 substituted by L.40/1998  
<sup>25</sup> Article 13 substituted by L.13/2008  
<sup>26</sup> Article 14(3AA) inserted by L.40/2014  
<sup>27</sup> Article 14(3A) inserted by L.13/2008  
<sup>28</sup> Article 14(4) amended by L.13/2008  
<sup>29</sup> Article 14(5) amended by L.13/2008  
<sup>30</sup> Article 14 amended by L.11/1998  
<sup>31</sup> Article 15(2) substituted by L.13/2008  
<sup>32</sup> Article 15(3) deleted by L.13/2008  
<sup>33</sup> Article 16 amended by L.11/1998  
<sup>34</sup> Article 16(3) amended by L.1/2016  
<sup>35</sup> Article 17(2A) inserted by L.13/2008  
<sup>36</sup> Article 17(4) amended by L.13/2008  
<sup>37</sup> Article 17 amended by L.11/1998  
<sup>38</sup> Article 17A inserted by L.13/2008  
<sup>39</sup> Article 18 substituted by L.13/2008  
<sup>40</sup> Article 18(1) amended by L.4/2009, L.40/2014  
<sup>41</sup> Article 18(3) substituted by L.40/2014  
<sup>42</sup> Article 18(3A) inserted by L.40/2014  
<sup>43</sup> Article 18A inserted by L.13/2008  
<sup>44</sup> Article 19 substituted by L.40/2014  
<sup>45</sup> Article 19A inserted by L.13/2008  
<sup>46</sup> Article 19A(1) amended by L.4/2009, L.1/2015  
<sup>47</sup> Article 19A(3) substituted by L.1/2015  
<sup>48</sup> Article 20(1) amended by L.11/1998  
<sup>49</sup> Article 20(2) amended by L.11/1998  
<sup>50</sup> Article 21 substituted by L.13/2008  
<sup>51</sup> Article 21(3) amended by L.7/2019  
<sup>52</sup> Article 21(4) amended by L.8/2016  
<sup>53</sup> Article 21(7A) inserted by L.4/2009  
<sup>54</sup> Article 21(8) amended by L.4/2009  
<sup>55</sup> Article 22(1) substituted by L.2/1993, amended by L.11/1998  
<sup>56</sup> Article 22(2) inserted by L.2/1993, amended by L.11/1998  
<sup>57</sup> Article 22(4) substituted by L.2/1993  
<sup>58</sup> Article 22(5) amended by L.2/1993  
<sup>59</sup> Article 24 substituted by L.13/2008  
<sup>60</sup> Article 24(1) amended by L.7/2019  
<sup>61</sup> Article 24(3) amended by L.7/2019  
<sup>62</sup> Article 24(4) amended by L.7/2019

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- <sup>63</sup> Article 24(9) *amended by L.7/2019*
- <sup>64</sup> Article 24(10) *amended by L.7/2019*
- <sup>65</sup> Article 24(11) *amended by L.7/2019*
- <sup>66</sup> Article 25 *amended by L.11/1998*
- <sup>67</sup> Article 25(2) *amended by L.8/2016*
- <sup>68</sup> Article 25(5) *amended by L.1/2016*
- <sup>69</sup> Article 26 *substituted by L.40/2014*
- <sup>70</sup> Article 26(4) *substituted by L.7/2019*
- <sup>71</sup> Article 26(10) *amended by L.7/2019*
- <sup>72</sup> Article 26(15) *amended by L.7/2019*
- <sup>73</sup> Article 27 *repealed by L.40/2014*
- <sup>74</sup> Article 28 *amended by L.11/1998*
- <sup>75</sup> Article 28(1) *substituted by L.13/2008*
- <sup>76</sup> Article 28(1A) *inserted by L.13/2008*
- <sup>77</sup> Article 28(5) *amended by L.40/2014, L.7/2019*
- <sup>78</sup> Article 28(9) *amended by L.1/2016*
- <sup>79</sup> Article 28(10) *substituted by L.40/1998*
- <sup>80</sup> Article 29 *repealed by L.40/2014*
- <sup>81</sup> Article 30(1) *amended by L.40/2014*
- <sup>82</sup> Article 30(2) *amended by L.40/2014*
- <sup>83</sup> Article 30(4) *amended by L.40/1998, L.40/2014*
- <sup>84</sup> Article 30(5) *inserted by L.40/1998*
- <sup>85</sup> Article 30(7) *inserted L.40/1998*
- <sup>86</sup> Article 32(3) *amended by L.7/2019*
- <sup>87</sup> Article 33 *amended by L.11/1998*
- <sup>88</sup> Article 33(5) *amended by L.1/2016*
- <sup>89</sup> Article 34 *substituted by L.8/2016*
- <sup>90</sup> Article 34(2) *amended by L.7/2019*
- <sup>91</sup> Article 34(3) *amended by L.7/2019*
- <sup>92</sup> Article 35 *amended by L.11/1998*
- <sup>93</sup> Article 36 *amended by L.11/1998*
- <sup>94</sup> Article 37 *renumbered as paragraph (1) by L.4/2009*
- <sup>95</sup> Article 37(2) *inserted by L.4/2009, amended by L.44/2012, L.10/2019*
- <sup>96</sup> Article 37(3) *added by L.44/2012*
- <sup>97</sup> Article 37(4) *added by L.44/2012*
- <sup>98</sup> Article 37(5) *added by L.44/2012*
- <sup>99</sup> Article 37(6) *added by L.44/2012*
- <sup>100</sup> Article 37(7) *added by L.44/2012*
- <sup>101</sup> Article 37(8) *added by L.44/2012*
- <sup>102</sup> Article 37A *inserted by L.13/2008*
- <sup>103</sup> Article 37B *inserted by L.4/2009*
- <sup>104</sup> Article 38 *amended by L.11/1998*
- <sup>105</sup> Article 38(1) *amended by L.28/2014, R&O.21/2019*
- <sup>106</sup> Article 38(2) *amended by L.28/2014, R&O.21/2019, editorial change, “or” after “European Union” deleted*
- <sup>107</sup> Article 38(3) *amended by L.1/2016*
- <sup>108</sup> Article 39 *amended by L.11/1998*
- <sup>109</sup> Article 40 *amended by L.11/1998*
- <sup>110</sup> Article 41 *amended by L.11/1998, L.40/1998*
- <sup>111</sup> Article 43 *heading substituted by L.4/2009*
- <sup>112</sup> Article 43(1) *substituted by L.4/2009, amended by R&O.37/2019*
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- <sup>113</sup> Article 43(IAA) *inserted by R&O.37/2019*
- <sup>114</sup> Article 43(IA) *inserted by R&O.3/2019*
- <sup>115</sup> Article 43(2) *substituted by L.4/2009*
- <sup>116</sup> Article 43(3) *added by R&O.31/2013, amended by R&O.21/2019, editorial change, “or” at the end of paragraph (b) deleted*
- <sup>117</sup> Article 43(4) *added by R&O.31/2013*
- <sup>118</sup> Article 43(5) *added by R&O.31/2013*
- <sup>119</sup> Article 43(6) *added by R&O.31/2013*
- <sup>120</sup> Article 44(1) *substituted by L.4/2009, amended by R&O.31/2013, R&O.37/2019*
- <sup>121</sup> Article 44(IA) *inserted by R&O.31/2013*
- <sup>122</sup> Article 44(1B) *inserted by L.37/2019*
- <sup>123</sup> Article 44(2) *substituted by L.13/2008*
- <sup>124</sup> Article 44(2A) *inserted by R&O.3/2019*
- <sup>125</sup> Article 44(3) *added by L.14/2014*
- <sup>126</sup> Article 45(1) *amended by L.11/1998, L.13/2008, L.4/2009, R&O.31/2013*
- <sup>127</sup> Article 45(2) *substituted by L.4/2009, amended by L.40/2014*
- <sup>128</sup> Article 45(3) *substituted by L.4/2009*
- <sup>129</sup> Article 45(4) *inserted by L.4/2009*
- <sup>130</sup> Article 45(5) *inserted by L.4/2009*
- <sup>131</sup> Article 45(6) *inserted by L.4/2009, amended by R&O.3/2019*
- <sup>132</sup> Article 45(7) *inserted by L.4/2009, amended by R&O.31/2013, R&O.3/2019*
- <sup>133</sup> Article 45(8) *inserted by R&O.37/2019*
- <sup>134</sup> Article 45A *inserted by L.4/2009*
- <sup>135</sup> Article 46 *substituted by L.4/2009, amended by R&O.31/2013*
- <sup>136</sup> Article 47 *substituted by L.3/2002*
- <sup>137</sup> Article 47(1) *amended by L.13/2008, L.4/2009, L.40/2014*
- <sup>138</sup> Article 47(7) *amended by L.40/2014*
- <sup>139</sup> Article 48 *substituted by L.13/2008*
- <sup>140</sup> Article 48(2) *amended by L.4/2009, L.1/2015, L.28/2018*
- <sup>141</sup> Article 48A *inserted by L.13/2008*
- <sup>142</sup> Article 48B *inserted by L.13/2008*
- <sup>143</sup> Article 48B(3) *amended by L.4/2009*
- <sup>144</sup> Article 48C *inserted by L.13/2008*
- <sup>145</sup> Article 48D *inserted by L.13/2008, substituted by L.10/2017*
- <sup>146</sup> Article 48E *inserted by L.14/2016*
- <sup>147</sup> Article 49 *substituted by L.13/2008*
- <sup>148</sup> Article 50 *amended by L.11/1998*
- <sup>149</sup> Article 51 *heading substituted by L.4/2009*
- <sup>150</sup> Article 51(2) *repealed by L.33/2007*
- <sup>151</sup> Article 51(2A) *substituted by L.13/2008 [replaced by paragraph (3)]*
- <sup>152</sup> Article 51(3) *substituted by L.4/2009*
- <sup>153</sup> Article 51(4) *substituted by L.13/2008 [was formerly paragraph (3)]*
- <sup>154</sup> Article 52 *amended by L.11/1998, L.7/2019*
- <sup>155</sup> Schedule *added by L.13/2008, amended by L.1/2016, L.10/2017*