



Jersey

BANKING BUSINESS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

Official Consolidated Version

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THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Articles 37A and 51 of the [Banking Business \(Jersey\) Law 1991](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Order –

“customer”, in respect of a person carrying on a deposit-taking business means –

- (a) a person who has money deposited with the person carrying on the business;
- (b) a person who has borrowed money from the person carrying on the business that has not been repaid;
- (c) a person who owes to the person carrying on the business interest or any other obligation on money borrowed from the person carrying on the business; or
- (d) a person who receives, whether or not for a consideration, a service from the person carrying on the business that is relevant to that business;

“Law” means the [Banking Business \(Jersey\) Law 1991](#).

(2) In this Order a note contained in a paragraph of the Schedule to this Order forms part of that paragraph.

2 Prescribed circumstances in which the Commission may appoint a manager

- (1) The Schedule sets out the prescribed circumstances for the purposes of Article 37A of the Law.
- (2) The Commission may appoint a person to manage the affairs, or any part of the affairs, of a person in so far as those affairs relate to the carrying on of deposit-taking business where it is satisfied that there is sufficient evidence to show the existence of any of the cases set out in the Schedule.

3 Citation

This Order may be cited as the Banking Business (Appointment of Manager) (Jersey) Order 2008.

SCHEDULE¹

(Article 2)

PRESCRIBED CIRCUMSTANCES

Case 1

There has been inadequate management of the affairs of the deposit-taking business carried on by a person (“the person”).

Note Such inadequate management may be evidenced, in particular, by –

- (a) the dishonesty of a controller of the person;
- (b) the person having insufficient resources to continue to carry on the deposit-taking business effectively;
- (c) a serious failure by the person to maintain proper records;
- (d) the existence of a conflict of interests that may prevent the interests of the person’s business or the interests of a customer or potential customer of the person being properly protected;
- (e) the person committing serious and persistent breaches of –
 - (i) the Drug Trafficking Offences (Jersey) Law 1988, the [Proceeds of Crime \(Jersey\) Law 1999](#), the [Terrorism \(Jersey\) Law 2002](#), the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#), the [Money Laundering \(Jersey\) Order 2008](#) or an Order made under the European Communities Legislation (Implementation) (Jersey) Law 1996 and relating to the freezing of funds,
 - (ii) any other enactment of Jersey relating to money laundering or the financing of terrorism,
 - (iii) any code of practice made under an enactment referred to in subparagraph (i) or (ii) or adopted by or under such an enactment,
 - (iv) the Law or any code of practice made under the Law or adopted by or under the Law, or
 - (v) an enactment made under the Law;
- (f) the death or incapacity or prolonged absence of a controller of the person to the detriment of the deposit-taking business of the person.

Case 2

The person carrying on the deposit-taking business appears to have ceased to do so but has failed to wind up, liquidate, close or transfer the business in an orderly manner or at all.

Case 3

The person carrying on the deposit-taking business has persistently failed to examine claims or complaints of customers.

Case 4

The person carrying on the deposit-taking business is not registered under the Law to carry on such business.

Case 5

There is a need to appoint a manager to collect, protect or preserve the assets or records of the deposit-taking business or the property of the customers of the business, or both.

Case 6

There is a need to appoint a manager to avoid circumstances arising that could provide grounds for a forced closure of the deposit-taking business.

Case 7

There is a need to appoint a manager to promote or implement a compensation scheme established specifically for customers of the deposit-taking business.

Case 8

The person carrying on the deposit-taking business has failed to comply with any of the following –

- (a) a condition under Article 11 of the Law;
- (b) a notice of objection under Article 14, 15 or 24 of the Law;
- (c) a direction under Article 21 of the Law,

and there is therefore a need to appoint a manager of the business to ensure its independent management.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Banking Business (Appointment of Manager) (Jersey) Order 2008	R&O.148/2008	11 November 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Order 2014	R&O.32/2014	4 April 2014

Table of Renumbered Provisions

Original	Current
3(1)	3
3(2)	Spent, omitted

Table of Endnote References

¹ *Schedule* *amended by R&O.32/2014*