



Jersey

**COLLECTIVE INVESTMENT FUNDS  
(APPOINTMENT OF MANAGER) (JERSEY)  
ORDER 2008**

**Official Consolidated Version**

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Jersey

## COLLECTIVE INVESTMENT FUNDS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

### Contents

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#### Article

1	Interpretation .....	3
2	Prescribed circumstances in which the Commission may apply to the Court for appointment of a manager.....	3
3	Citation .....	4

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<b>SCHEDULE</b>	<b>5</b>
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PRESCRIBED CIRCUMSTANCES	5
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<b>ENDNOTES</b>	<b>7</b>
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Table of Legislation History.....	7
Table of Renumbered Provisions .....	7
Table of Endnote References .....	7



Jersey

## **COLLECTIVE INVESTMENT FUNDS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008**

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 20 and 34A of the [Collective Investment Funds \(Jersey\) Law 1988](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

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### **1 Interpretation**

- (1) In this Order –
  - “fund person” means –
    - (a) any person granted a permit or a certificate;
    - (b) any person whom the Commission reasonably believes to be in breach of Article 5 or Article 8 of the Law;
  - “Law” means the [Collective Investment Funds \(Jersey\) Law 1988](#).
- (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 apply to the Court for appointment of a manager**

- (1) The Schedule sets out the prescribed circumstances for the purposes of Article 34A of the Law.
- (2) The Commission may apply to the Court for the appointment by the Court of a person to manage the affairs, or any part of the affairs, of any fund person, in so far as those affairs relate to a collective investment fund, where the Commission 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 Collective Investment Funds (Appointment of Manager) (Jersey) Order 2008.

## SCHEDULE<sup>1</sup>

(Article 2)

### PRESCRIBED CIRCUMSTANCES

#### Case 1

There has been inadequate management of the affairs of a fund person in so far as they relate to a collective investment fund.

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

- (a) the dishonesty of a principal person in relation to the fund person;
- (b) any person committing a serious breach of a fiduciary duty in relation to the collective investment fund;
- (c) insufficient resources being held by the fund person in relation to the collective investment fund;
- (d) a serious failure by the fund person to maintain proper records;
- (e) the existence of a conflict of interests that may prevent the interests of participants or potential participants in the fund being properly protected;
- (f) the fund 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;
- (g) the death or incapacity or prolonged absence of a principal person in relation to the fund person to the detriment of the collective investment fund.

#### Case 2

The fund person appears to have ceased to carry on that person's business relating to a collective investment fund, but that person has failed to wind up, liquidate, close or transfer the business in an orderly manner or at all.

**Case 3**

The fund person has persistently failed to examine claims or complaints of participants in the collective investment fund.

**Case 4**

The fund person does not hold a permit or certificate, as the case requires, in relation to the collective investment fund.

**Case 5**

There is a need to appoint a manager to collect, protect or preserve the assets or records of the collective investment fund or the property of participants in the fund, or both.

**Case 6**

There is a need to appoint a manager to avoid circumstances arising that could provide grounds for a forced winding up of the collective investment fund.

**Case 7**

There is a need to appoint a manager to promote or implement a compensation scheme established specifically for participants in the collective investment fund.

**Case 8**

The fund person has failed to comply with any of the following –

- (a) a condition under Article 7 or Article 8B of the Law;
- (b) a notice of objection under Article 12A or 12B of the Law;
- (c) a direction under Article 13 of the Law,

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

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Collective Investment Funds (Appointment of Manager) (Jersey) Order 2008	<a href="#">R&amp;O.150/2008</a>	11 November 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Order 2014	<a href="#">R&amp;O.32/2014</a>	4 April 2014

### Table of Renumbered Provisions

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

### Table of Endnote References

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<sup>1</sup> *Schedule*                      *amended by R&O.32/2014*