



Jersey

**BANKING BUSINESS (ACCOUNTS,  
AUDITORS AND REPORTS) (JERSEY)  
ORDER 2023**

**Official Consolidated Version**

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Jersey

## BANKING BUSINESS (ACCOUNTS, AUDITORS AND REPORTS) (JERSEY) ORDER 2023

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Jersey

## **BANKING BUSINESS (ACCOUNTS, AUDITORS AND REPORTS) (JERSEY) ORDER 2023**

**THE CHIEF MINISTER** makes this Order under Articles 33 and 51 of the [Banking Business \(Jersey\) Law 1991](#) and Article 17 of the [Financial Services \(Jersey\) Law 1998](#) on the recommendation of the Jersey Financial Services Commission.

Commencement [[see endnotes](#)]

### **1 Interpretation**

In this Order –

“accounting period” is construed in accordance with Article 7;

“auditor”, unless specified otherwise, means –

- (a) the auditor of a Jersey incorporated bank;
- (b) a Jersey branch auditor;
- (c) the auditor of an overseas incorporated bank required to be appointed under Article 2(6),

but references to the auditor of an overseas incorporated bank do not refer to the Jersey branch auditor;

“Code” means the code of practice entitled Code of Practice for Deposit-taking Business issued under Article 19A of the Law;

“control”, in relation to an entity, means the power to govern the financial and operating policies of another entity so as to obtain benefits from its activities;

“directors’ report” means a report prepared under Article 10;

“entity” means a body corporate, unincorporated body or an individual;

“financial statements” means the financial statements referred to in Article 13;

“group” means a parent and its subsidiary or subsidiaries;

“Jersey branch auditor” means the auditor required to be appointed under Article 2(3);

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

“parent” means an entity which controls one or more other entities;

“principal manager” means the person whose name is given to the Commission under Article 11(2)(b) of the [Banking Business \(General Provisions\) \(Jersey\) Order 2002](#);

“proposed auditor” means the individual, partnership or body corporate notified to the Commission under Article 2(2)(b), (5)(b) or (7)(b);

“registered business” means the deposit-taking business of a registered person carried on in or from within Jersey;

“registered person”, in relation to an auditor, means the registered person who has appointed, or who proposes to appoint, the auditor;

“relevant accounting period” means the accounting period in respect of which a declaration is required under Article 9(1) or 9(2);

“subsidiary” means an entity controlled by a parent;

“ultimate parent” means a parent that is not also a subsidiary.

## **2 Appointment of auditor**

- (1) A Jersey incorporated bank must appoint an auditor in respect of its business.
- (2) Before appointing an auditor under paragraph (1), a Jersey incorporated bank must –
  - (a) take reasonable steps to ensure that the proposed auditor has the skills, resources and experience to perform the functions of an auditor in relation to its business; and
  - (b) notify the Commission of its intention to appoint that proposed auditor and at the same time provided the proposed auditor with a copy of the notification.
- (3) An overseas incorporated bank must appoint an auditor in respect of its registered business.
- (4) A Jersey branch auditor need not be the same person who is appointed as auditor of the overseas incorporated bank.
- (5) Before appointing an auditor under paragraph (3), an overseas incorporated bank must –
  - (a) take reasonable steps to ensure that the proposed auditor has the skills, resources and experience to perform the functions of an auditor in relation to the business or operation undertaken by that Jersey branch; and
  - (b) notify the Commission of its intention to appoint that proposed auditor and at the same time provided the proposed auditor with a copy of the notification.
- (6) An overseas incorporated bank must appoint an auditor in respect of its business.
- (7) Before appointing an auditor under paragraph (6), an overseas incorporated bank must –
  - (a) take reasonable steps to ensure that the proposed auditor has the skills, resources and experience to perform the functions of an auditor in relation its business; and
  - (b) notify the Commission of its intention to appoint that proposed auditor and at the same time provided the proposed auditor with a copy of the notification.
- (8) A notice under paragraph (2)(b), (5)(b) or (7)(b) must contain the name and address and qualifications of the proposed auditor.
- (9) The Commission may require the proposed auditor to provide the Commission with information the Commission considers appropriate relating to that proposed auditor’s skills, resources and experience.

- (10) The proposed auditor must comply with any requirement under paragraph (9) and, at the same time, provide the registered person concerned with a copy of the information.
- (11) A registered person who is also registered under the [Financial Services \(Jersey\) Law 1998](#) in respect of trust company business, investment business or both is not required to appoint an auditor under Article 3 of the [Financial Services \(Trust Company and Investment Business \(Accounts, Audits and Reports\)\) \(Jersey\) Order 2007](#) if the registered person appoints an auditor in compliance with this Order.
- (12) A registered person who is also registered under the [Financial Services \(Jersey\) Law 1998](#) in respect of fund services business is not required to appoint an auditor under Article 4 of the [Financial Services \(Fund Services Business \(Accounts, Audits and Reports\)\) \(Jersey\) Order 2007](#) if the registered person appoints an auditor in compliance with this Order.

### **3 Objection to auditor or proposed auditor**

- (1) References in this Article to an auditor or proposed auditor are to –
  - (a) the appointed auditor of a Jersey incorporated bank or the bank's proposed auditor; or
  - (b) an appointed Jersey branch auditor or the branch's proposed auditor.
- (2) The Commission may serve a notice of objection on the auditor or the proposed auditor and on the registered person if the Commission is not satisfied, on the information before it, that –
  - (a) an auditor or proposed auditor has the skills, resources or experience for the performance of the auditor's functions in relation to the business;
  - (b) in the case of a proposed auditor, the steps required under Article 2(2)(a) or (5)(a) have been taken; or
  - (c) the appointment of an auditor or proposed auditor is in the best interests of persons who have transacted or may transact business with the Jersey incorporated bank or Jersey branch concerned.
- (3) A notice of objection must –
  - (a) be in writing;
  - (b) direct that the auditor must not continue to be, or must not become an auditor in relation to the registered person's business;
  - (c) specify the reasons for the objection;
  - (d) in relation to –
    - (i) an auditor, specify when the notice is to take effect (subject to any appeal under paragraph (6)), or
    - (ii) a proposed auditor, take effect on the date the notice is served on the proposed auditor; and
  - (e) give particulars of the right of appeal conferred by paragraph (6).
- (4) Unless the registered person and the auditor request an earlier effective date, a notice of objection must not take effect under paragraph (3)(b) before the later of –
  - (a) the expiration of one month after the notice is given to the registered person and the auditor; or

- (b) the date on which an appeal under paragraph (6) against the notice is determined by the Court or withdrawn.
- (5) Paragraph (3)(c) does 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 notices to different persons about the same matter.
- (6) A person aggrieved by a notice of objection may appeal to the Court within one month from the date on which the notice was served on that person, on the ground that the decision of the Commission is unreasonable having regard to all the circumstances of the case and the Court may make such order as it thinks fit.

#### **4 Offences relating to appointment and removal of an auditor**

A registered person commits an offence and is liable to a fine if the registered person –

- (a) contravenes Article 2; or
- (b) fails to remove an auditor promptly after receipt of a notice of objection that has taken effect under Article 3.

#### **5 Powers of auditors**

- (1) A registered person must –
  - (a) allow the auditor a right of access at all times to the accounting and other records of the registered person and all other documents relating to its business; and
  - (b) provide to the auditor such information and explanation as the auditor thinks necessary for the performance of the auditor's duties as auditor.
- (2) A registered person who contravenes paragraph (1) commits an offence and is liable to a fine.

#### **6 Termination of appointment**

- (1) A registered person must notify the Commission of the termination of an auditor's appointment without delay after the registered person gives notice to, or receives notice from, an auditor of the termination of the auditor's appointment.
- (2) The notice to the Commission under paragraph (1) must state –
  - (a) the date such termination takes effect; and
  - (b) whether the termination is due to resignation of the auditor or removal by the registered person and, in the case of the latter, the reasons for the removal.
- (3) The auditor must, within 7 days of the date the termination takes effect, or within such longer period as the Commission may allow, send to the Commission –
  - (a) a statement to the effect that there are no circumstances connected with the termination of the appointment which the auditor considers should be brought to the attention of the Commission; or
  - (b) a report of any such circumstances.

- (4) A person who fails to comply with this Article commits an offence and is liable to a fine of level 3 on the standard scale.
- (5) For the purposes of this Article, failure to reappoint an auditor at the end of the auditor's term of office is deemed to be termination of the auditor's appointment and, for the purposes of paragraph (2)(b), removal by the registered person.

## **7 Accounting period**

- (1) A Jersey incorporated bank which applies for registration under Article 9 of the Law must, at the same time, apply to the Commission for approval of –
  - (a) a period, of not more than 18 months, that is proposed in the application to be the first accounting period for the bank; and
  - (b) the period that is proposed in the application to be the accounting period for the bank after the end of the first accounting period.
- (2) The Commission must approve or refuse to approve an accounting period proposed in an application by a Jersey incorporated bank under paragraph (1).
- (3) Following an approval under paragraph (2), a Jersey incorporated bank must not change the accounting period unless the Commission has approved a change following an application under paragraph (4).
- (4) A Jersey incorporated bank may apply to the Commission for approval of a period, proposed in the application, to be the accounting period for the bank in place of the period approved under this Article.
- (5) The Commission must approve or refuse to approve an accounting period proposed in an application under paragraph (4).
- (6) After the end of the first accounting period, the Commission may approve an accounting period that is not 12 months for a Jersey incorporated bank if it is satisfied that there are reasonable grounds for approving another period of not more than 18 months.
- (7) An overseas incorporated bank must notify the Commission of its first accounting period prior to the start of that accounting period and of any change in its accounting period prior to the change taking effect.
- (8) A person who contravenes paragraph (1), (3) or (7) commits an offence and is liable to a fine.

## **8 Accounting records**

- (1) A registered person must keep accounting records that –
  - (a) show and explain each of the registered person's transactions in respect of the business carried on by the registered person;
  - (b) enable financial statements to be prepared in relation to the registered person; and
  - (c) are capable of disclosing at any time with reasonable accuracy the person's –
    - (i) financial position, and
    - (ii) degree of compliance with any financial resources requirements of the Commission that relate to the registered person.
- (2) A registered person must ensure that accounting records kept in accordance with paragraph (1), whether in electronic form or any other form –

- (a) are so stored as to minimise any risk of their loss due to theft, fire, flood, corruption or unauthorised erasure;
  - (b) are so stored as to prevent unauthorised access; and
  - (c) are backed up or otherwise duplicated so that copies are available if the originals are lost, destroyed, corrupted or erased.
- (3) A registered person must ensure that accounting records kept in accordance with paragraph (1) and the backup copy or duplicate made in accordance with paragraph (2)(c) are retained for a period of at least 10 years from the date the records were made.
- (4) A registered person who contravenes this Article commits an offence and is liable to a fine.

## 9 Declaration

- (1) A Jersey incorporated bank must prepare, after each accounting period, a declaration in relation to that period signed by a director of the bank.
- (2) An overseas incorporated bank must prepare, after each accounting period in respect of its Jersey branch, a declaration in relation to that period signed by the principal manager of the Jersey branch.
- (3) A declaration under paragraph (1) or (2) must state whether, throughout the accounting period to which the declaration relates, the Jersey incorporated bank has, in relation to its business, or the Jersey branch has in relation to its registered business –
  - (a) complied with the applicable requirements of the Law and with the requirements of Orders and any codes of practice made or issued under the Law (not being a requirement the Commission has waived);
  - (b) maintained proper accounting records and adequate systems to enable it to comply with the requirements referred to in sub-paragraph (a); and
  - (c) complied with the requirements of all relevant legislation and guidance to counter money laundering and the financing of terrorism.
- (4) If a Jersey incorporated bank or Jersey branch has failed to comply with a requirement referred to in paragraph (3), the declaration under paragraph (1) or (2) must –
  - (a) contain details of all material failures; and
  - (b) specify any measures taken or to be taken by the Jersey incorporated bank or Jersey branch to ensure that the failures are not repeated.

## 10 Directors' report

- (1) A Jersey incorporated bank and an overseas incorporated bank must prepare, after the end of each relevant accounting period, a report in relation to the period.
- (2) If the registered person is a Jersey incorporated bank, the report must be a report of its directors.
- (3) If the registered person is an overseas incorporated bank, the report must be a report of its directors or, if there are no directors, such other persons who are equivalent to directors and who have control and management of the bank (such other persons being included in the reference to “directors” in paragraph (4)).



- (4) The report must contain at least the following information –
- (a) a list of the directors;
  - (b) a list of the directors who were appointed during the relevant accounting period and the dates of their appointments;
  - (c) a list of the directors who ceased to be directors during the relevant accounting period and the dates on which they ceased to be directors;
  - (d) a summary of the activities of the Jersey incorporated bank or Jersey branch during the relevant accounting period;
  - (e) in the case of an overseas incorporated bank, the name of the country or territory in which it is incorporated or established.

## **11 Registered person to provide certain documents to auditor**

- (1) A Jersey incorporated bank, must, as soon as practicable after the end of a relevant accounting period, provide its auditor with the following in respect of that period –
- (a) the financial statements provided to the Commission under Article 13;
  - (b) the declaration under Article 9(1);
  - (c) the directors' report under Article 10(1); and
  - (d) the prudential return under Article 16(1)(b).
- (2) An overseas incorporated bank, must, as soon as practicable after the end of a relevant accounting period –
- (a) provide its auditor with the following in respect of that period –
    - (i) the financial statements provided to the Commission under Article 13, and
    - (ii) the directors' report under Article 10(1); and
  - (b) provide its Jersey branch auditor with the following in respect of that period –
    - (i) the declaration under Article 9(2), and
    - (ii) the prudential return under Article 16(1)(b).
- (3) A registered person, or a person acting or purporting to be acting on behalf of a registered person, commits an offence and is liable to a fine if the registered person knowingly or recklessly makes a statement to the registered person's auditor, including a Jersey branch auditor in the case of an overseas incorporated bank –
- (a) that conveys or purports to convey information or an explanation that the auditor requires, or is entitled to require in the course of the auditor's duties under this Order; and
  - (b) that is misleading, false or deceptive in a material particular.

## **12 Auditor's reports**

- (1) The auditor of a Jersey incorporated bank must prepare separate reports relating to –
- (a) each of the following provided to the auditor under Article 11(1) –
    - (i) the financial statements,
    - (ii) the declaration,
    - (iii) the directors' report; and

- (b) the prudential return provided to the auditor under Article 11(1) including a reconciliation between the balance sheet statement in the prudential return and the profit and loss account in the financial statements.
- (2) The auditor of an overseas incorporated bank must prepare separate reports relating to each of the following provided to the auditor under Article 11(2)(a) –
  - (a) the financial statements; and
  - (b) the directors' report.
- (3) The Jersey branch auditor of an overseas incorporated bank must prepare separate reports provided to the auditor under Article 11(2)(b) relating to each of the following –
  - (a) the declaration; and
  - (b) the prudential return.
- (4) An auditor's report in respect of the financial statements and directors' report referred to in paragraph (1)(a) or (2) must be prepared after conducting an audit and in accordance with –
  - (a) the Auditing Standards issued by the Financial Reporting Council;
  - (b) the International Standards on Auditing issued by the International Auditing and Assurance Standards Board; or
  - (c) such other generally recognised auditing standard that is agreed between the registered person and the Commission for the purpose of that report and audit.
- (5) An auditor's report in respect of the prudential return referred to in paragraph (1)(b) or (3) must be prepared having regard to whether the return reflects the accounting records and transactions to which the records relate taking into account the accounting practices of the registered person concerned and any advice given by the Commission under Article 13 of the [Financial Services Commission \(Jersey\) Law 1998](#).
- (6) An auditor's report in respect of the declaration referred to in paragraph (1)(a) must contain a statement that the report takes account of –
  - (a) the audit under paragraph (4) of the financial statements and directors' report; and
  - (b) the auditor's work under paragraph (5) regarding the prudential return.
- (7) An auditor's report in respect of the declaration referred to in paragraph (3) must contain a statement that the report takes account of the auditor's work under paragraph (5) regarding the prudential return.
- (8) An auditor's report in respect of the declaration and prudential return referred to in paragraph (1) or (3) must include a statement that, in preparing the report –
  - (a) the auditor did not become aware of any matter that could be taken to indicate that any statement in the declaration or prudential return was incorrect or misleading; or
  - (b) the auditor became aware of a matter that could be taken to indicate that a statement in the declaration or prudential return was incorrect or misleading and why the auditor is of that opinion.
- (9) An auditor, including a Jersey branch auditor, must sign each report prepared by the auditor under this Article and provide a copy to the Jersey incorporated bank or overseas incorporated bank.

**13 Financial statements to be provided to Commission**

- (1) A registered person must, after the end of a relevant accounting period, prepare financial statements in relation to the registered person in respect of that period.
- (2) In the case of a Jersey incorporated bank the financial statements must be prepared in accordance with either –
  - (a) subject to paragraph (3), the accounting standards issued by the Financial Reporting Council of the United Kingdom; or
  - (b) the accounting standards issued by the International Accounting Standards Board.
- (3) For the purposes of paragraph (2)(a), in relation to the section in such accounting standards concerning related party disclosures, no account must be taken of the provisions in that section which do not require disclosures to be given of transactions entered into between 2 or more members of a group.
- (4) Financial statements must be signed by –
  - (a) in the case of a Jersey incorporated bank, at least one director; or
  - (b) in the case of an overseas incorporated bank, as many persons as are required, under the laws of the country or territory in which the overseas incorporated bank is incorporated or established, to sign financial statements, but in any case at least one such person.
- (5) The financial statements prepared under this Article must be provided to the Commission –
  - (a) in the case of a Jersey incorporated bank, within 3 months of the end of the accounting period to which the statements relate; or
  - (b) in the case of an overseas incorporated bank, within 4 months of the end of the accounting period to which the statements relate.
- (6) The financial statements in relation to a registered person must show a true and fair view of –
  - (a) the state of affairs of the registered person at the end of the accounting period to which the statements relate; and
  - (b) the registered person's profit or loss for that period.
- (7) A registered person, not being an ultimate parent, must provide to the Commission within 4 months of the end of the year to which the financial statements relate –
  - (a) the audited unconsolidated financial statements of each of the registered person's parents; and
  - (b) the audited consolidated financial statements of its ultimate parent.
- (8) A registered person who fails to comply with a requirement of this Article commits an offence and is liable to a fine.

**14 Declarations and reports to be provided to Commission at same time as financial statements**

- (1) A registered person must ensure that the financial statements provided to the Commission under Article 13 by the registered person are accompanied by, in relation to the period to which the statements relate –
  - (a) the declaration under Article 9;

- (b) the directors' report under Article 10;
  - (c) the auditor's reports under Article 12 in respect of the financial statements, declaration, directors' report and prudential return.
- (2) A Jersey incorporated bank must, at the same time the financial statements are provided to the Commission under Article 13, provide to the Commission any report that –
  - (a) has been prepared during, or in relation to, the period to which the statements relate in relation to the Jersey incorporated bank by an auditor, a person who conducts an audit for the Jersey incorporated bank, an accountant or a consultant;
  - (b) addresses a relevant matter; and
  - (c) is available to the Jersey incorporated bank.
- (3) In paragraph (2)(b) "relevant matter" means –
  - (a) a breakdown or weakness in the Jersey incorporated bank's internal control procedures; and
  - (b) the consequential recommendations for their improvement.
- (4) A registered person who fails to comply with a requirement of this Article commits an offence and is liable to a fine.

## **15 Consolidated financial statements, declarations and reports**

- (1) This paragraph applies to a registered person if –
  - (a) the registered person is the ultimate parent of a group; and
  - (b) the accounting standards in accordance with which, under Article 13(2), the registered person must prepare financial statements allow consolidated financial statements to be prepared in respect of the group.
- (2) A registered person to whom paragraph (1) applies may apply to the Commission for an approval to be granted under paragraph (3).
- (3) Following an application under paragraph (2) the Commission may grant, or refuse to grant, an approval to the person that requires or permits the person to provide under Article 11(1)(a) or (2)(a) and Article 13(1) consolidated financial statements of the group of which the registered person is the ultimate parent, instead of financial statements that relate only to the registered person.
- (4) The Commission may attach conditions to an approval granted under paragraph (3).
- (5) A registered person to whom an approval has been granted under paragraph (3) may if permitted to do so under the approval or must, if required to do so under the approval, subject to any conditions specified under paragraph (4), provide under Article 11(1)(a) or (2)(a) and Article 13(1) consolidated financial statements of the group of which the registered person is the ultimate parent, instead of financial statements that relate only to the registered person.
- (6) A registered person to whom an approval has been granted under paragraph (3) may apply to the Commission to amend the approval.
- (7) The Commission may amend an approval granted to the registered person under paragraph (3) –
  - (a) of its own motion, by notice in writing to a registered person; or

- (b) if it receives an application under paragraph (6) from a registered person, by notice in writing to the registered person.
- (8) If a registered person is permitted or required to provide consolidated financial statements under this Article, the person may provide declarations, directors' reports and auditor's reports under Articles 9, 10 and 12 on a consolidated basis in respect of the group instead of in relation to the registered person only.

## 16 Prudential returns

- (1) A registered person must complete –
  - (a) prudential returns in the form required by the Code with respect to the 3 months ending on each of the following dates in each year –
    - (i) 31st March,
    - (ii) 30th June,
    - (iii) 30th September,
    - (iv) 31st December; and
  - (b) a prudential return in the form required by the Code with respect to the end date of each relevant accounting period of the registered person.
- (2) The prudential returns must be provided to the Commission in the manner required by the Code within 20 working days after the date with respect to which the return was prepared.
- (3) A registered person who fails to comply with a requirement of this Article commits an offence and is liable to a fine.
- (4) In this Article “working day” means a weekday (within the meaning of Part 1 of the Schedule to the [Public Holidays and Bank Holidays \(Jersey\) Act 2010](#)) other than –
  - (a) a day specified in that Schedule as a day which is to be observed as a public holiday; or
  - (b) a day noted in that Schedule as a day which is by custom observed as a general holiday.

## 17 Exemption and variation

- (1) A registered person may apply to the Commission to be exempted from compliance with requirements in all or any part of Articles 2 to 16 or for the requirements to be varied.
- (2) The Commission may, on the application of a registered person, exempt the registered person from compliance with requirements in all or any part of Articles 2 to 16 or allow any of the requirements to be varied.
- (3) The Commission must not grant an exemption or variation under paragraph (2) unless it considers that, by virtue of the relevant business the registered person carries on, or intends to carry on, no customer or client of the registered person is likely to be prejudiced if the exemption is granted.
- (4) An exemption or variation may be granted under paragraph (2) subject to the conditions specified by the Commission.
- (5) An exemption or variation granted under paragraph (2) has no effect if the registered person fails to comply with any condition specified under paragraph (4).

- (6) A registered person to whom an exemption or variation has been granted under paragraph (2) may apply to the Commission to amend the exemption or variation.
- (7) The Commission may amend an exemption or variation granted to the registered person under paragraph (2) –
  - (a) of its own motion, by notice in writing to a registered person; or
  - (b) if it receives an application under paragraph (6) from a registered person, by notice in writing to the registered person.

## **18 Inspection and publication of accounts and financial statements**

- (1) A registered person must, 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 financial statements provided to the Commission under Article 13; and
  - (b) during normal business hours make that copy available for inspection by any person on request.
- (2) In the case of a Jersey incorporated bank, the accounts referred to in paragraph (1) include the auditor's report under Article 12 on the financial statements.
- (3) A registered person who solicits deposits for –
  - (a) its business, in the case of a Jersey incorporated bank; or
  - (b) the business of its Jersey branch, in the case of an overseas incorporated bank, through a website or any other means of electronic communication with the general public, which is either under its control or which is intended or likely to be used by depositors, or potential depositors, must make available, on the websites or through the other means of electronic communication, the documents referred to in paragraph (5).
- (4) A registered person must also make available the documents referred to in paragraph (5) on a website, or by any other means of electronic communication with the general public, that is intended or likely to be used by depositors, or potential depositors, of a Jersey incorporated bank or Jersey branch to access information about the financial status of that Jersey incorporated bank or Jersey branch.
- (5) Those documents are –
  - (a) a copy of the registered person's most recent financial statements provided to the Commission under Article 13; and
  - (b) if applicable, a copy of the most recent audited consolidated financial statements of the registered person's ultimate parent under Article 13(7).
- (6) A registered person who contravenes paragraph (1), (3) or (4) commits an offence and is liable to a fine of level 3 on the standard scale.

## **19 Circumstances in which matters are to be reported directly to Commission**

- (1) In this Article "reporting person" means a person who –
  - (a) is the auditor of a registered person; or
  - (b) has been appointed under Article 26(7) of the Law to make a report.
- (2) In the following paragraphs of this Article references to a "registered person" refers to whichever of the following is applicable in the circumstances –

- (a) a registered person;
  - (b) an associated body of a registered person within the meaning of Article 34(7) of the Law.
- (3) The reporting person must immediately report to the Commission without informing the registered person if the reporting person becomes aware of the probable existence of circumstances in which the interests of depositors in the registered person could be prejudiced if there were to be made known to the management of the registered person the fact that the reporting person was aware of the existence of the circumstances.
- (4) Without limiting the generality of paragraph (3), a report must be made to the Commission under paragraph (3) if the reporting person has reason to believe –
  - (a) that the directors or members of the senior management of a registered person have committed fraud or misappropriated property or intend to do so;
  - (b) that the directors or members of the senior management of the registered person are acting in an irresponsible or reckless manner with respect to the registered person's affairs or intend to do so; or
  - (c) that there has been, or is likely to be, an occurrence of material significance for the exercise in relation to the registered person of the Commission's powers or functions under the Law.
- (5) A reporting person must also report circumstances in respect of a registered person directly to the Commission if, having advised the registered person to inform the Commission of those circumstances within a period specified by the reporting person, the reporting person is not satisfied that the circumstances have been reported or have not been reported fully or in an adequate manner within the specified period.
- (6) The circumstances referred to in paragraph (5) are circumstances, other than those referred to in paragraph (3), that give a reporting person reasonable cause to believe that as a result of a breach of a requirement of a code of practice (including the Code) or of a legal requirement, or of a breach of internal controls or procedures, or both, a customer or client of the registered person has incurred, or is at significant risk of incurring, a material loss.

## 20 Transitional provisions

- (1) An auditor employed or engaged by a registered person immediately before the date this paragraph comes into force is deemed to have been appointed in accordance with the provisions of this Order immediately after that date.
- (2) Any requirement of this Order which corresponds to any requirement under the Code or [Banking Business \(General Provisions\) \(Jersey\) Order 2002](#), from which the registered person was exempt, or in respect of which the registered person was subject to a variation, applies to the registered person subject to the exemption or the variation, provided that the registered person notifies the Commission of that exemption or variation within 3 months after the date that this paragraph comes into force.

## 21 Citation and commencement

- (1) This Order may be cited as the Banking Business (Accounts, Auditors and Reports) (Jersey) Order 2023.

- (2) This Order comes into force one month and 7 days after the Banking Business (Amendment No. 9) (Jersey) Law 2022 comes into force, except for –
  - (a) Article 1, Article 20(2) and this Article, which come into force 7 days after the Banking Business (Amendment No. 9) (Jersey) Law 2022 comes into force; and
  - (b) Article 18(3), which comes into force 3 months and 7 days after the Banking Business (Amendment No. 9) (Jersey) Law 2022 comes into force.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Banking Business (Accounts, Auditors and Reports) (Jersey) Order 2023	<a href="#">R&amp;O.64/2023</a>	8 August 2023 – except Articles 2-19 and 20(1)  8 September 2023 – all remaining provisions except Article 18(3)  8 November 2023 – Article 18(3)	

Project available at [statesassembly.gov.je](https://statesassembly.gov.je)

### Table of Endnote References

*There are currently no endnote references*