



Jersey

# **FINANCIAL SERVICES (ADVERTISING) (JERSEY) ORDER 2008**

## **Official Consolidated Version**

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to Current



Jersey

# FINANCIAL SERVICES (ADVERTISING) (JERSEY) ORDER 2008

## Contents

### Article

1	Interpretation .....	3
2	Application of Order .....	3
3	Altered advertisement.....	4
4	Publishers .....	4
5	Identification of issuer .....	4
6	General principles.....	5
7	Details and copies of advertisements to be retained .....	5
8	Articles do not apply to certain advertisements by overseas persons .....	5
9	Unsolicited material .....	6
10	Twelve-month exemption for pre-existing advertising material .....	6
11	Citation .....	6

### ENDNOTES 7

Table of Legislation History.....	7
Table of Endnote References .....	7



Jersey

## FINANCIAL SERVICES (ADVERTISING) (JERSEY) ORDER 2008

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 31 and 42 of the [Financial Services \(Jersey\) Law 1998](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

---

### 1 Interpretation

(1) In this Order –

“broadcast” means published whether by radio, television, internet or otherwise electronically, and whether to the public or to a section of the public;

“Law” means the [Financial Services \(Jersey\) Law 1998](#);

“provider”, in relation to a financial service advertisement, means the person who (as provider and not as client) transacts or would transact the financial service business to which the advertisement relates;

“written”, in relation to a financial service advertisement, includes printed or in such electronic form that the advertisement can, by the use of a program that is readily available, be easily rendered in a form that may be read by the human eye.

(2) For the purposes of this Order, a written or broadcast financial service advertisement is taken to be issued on each occasion on which it appears.

### 2 Application of Order

(1) This Order applies in relation to financial service advertisements that relate to the transaction of any financial service business other than money service business.

(2) This Order does not apply in relation to any of the following –

(a) an advertisement that consists only of the communication of either or both of the following –

(i) the name of a business,

(ii) a brief reference to a business without any invitation, suggestion or reference to a specific service;

- (b) an advertisement that consists only of a statement that a business named in the statement has sponsored a specified event, organization or person;
- (c) an advertisement that consists only of a prospectus –
  - (i) for an unregulated fund, within the meaning of the [Collective Investment Funds \(Unregulated Funds\) \(Jersey\) Order 2008](#),
  - (ii) that satisfies the requirements in Article 4(1) of the 2012 Order,
  - (iii) that, in the case of a certified fund to which the [Collective Investment Funds \(Unclassified Funds\) \(Prospectuses\) \(Jersey\) Order 1995](#) (the “1995 Order”) continues to apply by virtue of Article 12(4) of the 2012 Order, complies with the Schedule to the 1995 Order,
  - (iv) that, in the case of a certified fund to which Part 3 of the [Companies \(General Provisions\) \(Jersey\) Order 2002](#) (the “2002 Order”) continues to apply by virtue of Article 12(5) of the 2012 Order, complies with Part 3 of the 2002 Order, or
  - (v) in relation to which, or the issue of which, the consent of the Commission has been obtained.<sup>1</sup>
- (3) In paragraph (2), “2012 Order” means the [Collective Investment Funds \(Certified Funds – Prospectuses\) \(Jersey\) Order 2012](#).<sup>2</sup>

### 3 Altered advertisement

For the purposes of this Order, if an advertisement is altered, the resulting advertisement is taken to be a new advertisement.

### 4 Publishers

For the purposes of this Order, a person whose business it is to publish, or to arrange the publication of, advertisements (whether written or broadcast) shall not be taken to issue a financial service advertisement merely because he or she publishes it or arranges its publication if –

- (a) he or she receives the advertisement for publication in the ordinary course of his or her business; and
- (b) the matters contained in the advertisement are not devised or selected (whether wholly or in part) by him or her or by any person under his or her direction or control.

### 5 Identification of issuer

For the purposes of Article 31(3)(b) of the Law, a requirement in respect of a written or broadcast financial service advertisement is that the advertisement shall specify –

- (a) in every case, the name of the person who issues it;
- (b) in a case where the provider is different from the person referred to in paragraph (a), the name of that provider; and
- (c) in every case either or both of the following –

- (i) a geographical address for the provider to receive postal correspondence in relation to the transaction of the financial service business to which the advertisement relates,
- (ii) an address for the provider to receive electronic communications in relation to the transaction of such business.

## **6 General principles**

For the purposes of Article 31(3)(b) of the Law, a requirement in respect of a written or broadcast financial service advertisement is that the advertisement shall –

- (a) make it clear (whether expressly or by necessary implication) that it is a financial service advertisement;
- (b) be clear, fair and not misleading;
- (c) name the authority that has given authorization (if any) to the provider in relation to the financial service business to which the advertisement relates, whether that authority is the Commission, a relevant supervisory authority or another authority;
- (d) not claim to have itself been approved by the Commission; and
- (e) not claim that any service provided in the course of the financial service business to which the advertisement relates has been approved by the Commission.

## **7 Details and copies of advertisements to be retained**

For the purposes of Article 31(3)(c) of the Law, a requirement in respect of a written or broadcast financial service advertisement is that the person who issues the advertisement shall keep, for 10 years after the last date on which the advertisement was issued –

- (a) a copy or recording of the advertisement;
- (b) a record of the occasions on which the advertisement was issued;
- (c) a record of the identity of the person who approved the form and content of the advertisement;
- (d) a record of the date on which that approval was given;
- (e) a record of the identity of the person who approved the issue of the advertisement;
- (f) a record of the date on which that approval was given; and
- (g) a record of where and how the advertisement was disseminated.

## **8 Articles do not apply to certain advertisements by overseas persons**

- (1) Articles 5 to 7 do not apply to a written financial service advertisement issued to a person in Jersey, being an advertisement that consists of a response by an overseas person to an unsolicited approach to the overseas person by the first person.
- (2) Articles 5 to 7 do not apply to a written financial service advertisement that –
  - (a) is issued (whether in person, by post or otherwise) in Jersey by an overseas person personally to a client of the overseas person;

- (b) relates to a type or class of service that the overseas person has previously provided for the client –
    - (i) before this Order came into force, or
    - (ii) after this Order came into force and in response to an unsolicited approach to the overseas person by the client; and
  - (c) has for its subject matter such subject matter as the client would reasonably expect to be contacted about by the overseas person.
- (3) In this Article “overseas person” means a person who –
- (a) has no place of business in Jersey from which he or she carries on financial service business in or from within Jersey; and
  - (b) is not a company incorporated in Jersey.

## **9 Unsolicited material**

For the purposes of Article 31(3)(c) of the Law, it is a requirement of this Order that a financial service advertisement not be issued unsolicited personally to a person (whether in person or by post or otherwise) if he or she has indicated to the person who carries on the financial service business to which the advertisement relates that the first person does not want financial service advertisements to be issued to him or her by, or on behalf of, the second person.

## **10 Twelve-month exemption for pre-existing advertising material**

This Order shall not apply to a written or broadcast financial service advertisement that is issued –

- (a) before the first anniversary of the day when this Order comes into force; and
- (b) only in or as part of sales material, or marketing material, that has been prepared in its final form before the day when this Order comes into force.

## **11 Citation**

This Order may be cited as the Financial Services (Advertising) (Jersey) Order 2008.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Financial Services (Advertising) (Jersey) Order 2008	<a href="#">R&amp;O.70/2008</a>	13 June 2008
Collective Investment Funds (Certified Funds – Prospectuses) (Jersey) Order 2012	<a href="#">R&amp;O.65/2012</a>	17 November 2012

### Table of Endnote References

- 
- <sup>1</sup> Article 2(2)                      amended by R&O.65/2012  
<sup>2</sup> Article 2(3)                      added by R&O.65/2012