



# Jersey Financial Services Commission

## Public Statement

Trustcorp Services Limited and affiliated members, namely:  
Trustcorp Secretaries Limited; Trustcorp Nominees Limited; Trustcorp Limited;  
Catot Limited; T&B Limited; TCD 1 Limited; TCD2 Limited;  
(together, "TSL")

Michael Julian Kenney-Herbert;  
David William Roberts;  
David Henry Christopher Hill  
William Thomas Davies; and  
William Henry Kenneth Simpson.  
(together, the "Principals")

Financial Services (Jersey) Law 1998, as amended (the "FS(J)L")

The Jersey Financial Services Commission (the "**Commission**") issues this public statement pursuant to Article 25 of the FS(J)L.

## **1. Introduction**

- 1.1. TSL is presently authorised by the Commission to conduct Trust Company Business as defined in the FS(J)L. Following concerns over compliance by TSL, through the conduct of the Principals, with applicable laws and the Codes of Practice for Trust Company Business (the "**Codes**"), the Commission commenced an investigation into TSL and the Principals (the "**Investigation**"). The Investigation focussed, albeit not solely, on business introduced to TSL by intermediaries based in the Far East.
- 1.2. The Principals and TSL have co-operated with the Commission throughout the course of the Investigation.

## **2. Summary of Findings**

- 2.1. Corporate governance exercised by the Principals, with particular reference to the trust company business services that were provided to those entities that were subject to the Commission's Investigation, was seriously deficient: there was no effective span of control. The lack of effective corporate governance was a significant factor, resulting in a number of key failings, including, but not limited to, breaches of the FS(J)L and the Codes, as outlined below:



## 2.2. Key failings:

- 2.2.1. There was a failure to maintain appropriate accounting records for certain structures under administration.
- 2.2.2. Excessive reliance was placed on intermediaries providing instructions on behalf of TSL's customers. On numerous occasions, TSL acted on such instructions without undertaking any assessment of the rationale or purpose behind the instruction.
- 2.2.3. Serious conflicts of interest arose and were not managed appropriately or at all. Such conflicts were not documented or acknowledged to exist.
- 2.2.4. Transactions were executed without reference to the constitutive documents governing certain customer structures.
- 2.2.5. There was a lack of transparency in respect of fees charged by TSL on behalf of itself and certain intermediaries.
- 2.2.6. TSL's Compliance and Anti-Money Laundering functions for the period 31 December 2005 - 25 November 2009 were ineffective.
- 2.2.7. On certain occasions, TSL failed to maintain proper systems and controls sufficient to demonstrate compliance with the requirement to keep adequate financial resources.

## 3. Breaches of the FS(J)L

- 3.1. Certain non-regulated entities in the TSL group were providing trust company business services to TSL's customers without having the appropriate registration under the FS(J)L which constituted unauthorised financial service business pursuant to Article 7 of the FS(J)L.

## 4. Breaches of the Codes

- 4.1. The Codes were first issued by the Commission on 27 November 2000 and have been subject to revision. The Codes establish 7 core principles for the conduct of Trust Company Business. Those identified by the Commission as having been breached in this case were as follows:-
  - 4.1.1. Principle 1: A registered person must conduct its business with integrity.
  - 4.1.2. Principle 2: A registered person must have the highest regard for the interests of its customers.



4.1.3. Principle 3: A registered person must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.

4.1.4. Principle 4: A registered person must be transparent in its business arrangements.

4.1.5. Principle 5: A registered person must maintain, and be able to demonstrate, the existence of adequate financial resources and adequate insurance.

## 5. The Principals

5.1. The Investigation has concluded the Principals failed to act with fitness and propriety in the management and control of TSL. Each of the Principals have been issued with directions under Article 23(1) of the FS(I)L (and the equivalent provisions of the other regulatory laws<sup>1</sup>), which prevents them from performing any function, engaging in any employment or holding any position in the business of a registered person without first obtaining the prior consent of the Commission. The Principals are further prohibited from performing any function or service which falls within the definition of financial service business under Article 2 of the FS(I)L.

## 6. Cessation of Business

6.1. TSL is not fit and proper to be registered for the conduct of Trust Company Business under the FS(I)L and has submitted a cessation of business plan to the Commission which will result in the orderly wind-up of the business, after which TSL's authorisation to conduct Trust Company Business under the FS(I)L will be revoked.

## 7. Trustcorp (Jersey) Limited

7.1. The Investigation did not concern affiliated entities Trustcorp (Jersey) Limited, Roanne Trust Company (Jersey) Limited, Roanne Secretaries Limited, Roanne Securities Limited, Roanne (Nominees) Limited or Roanne Limited, all of which continue to be authorised by the Commission.

7.2. As at the date of this public statement, the Commission considers there to be no reason to require it to investigate Trustcorp (Jersey) Limited and its subsidiary companies, its business comprising a separate book of customers.

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<sup>1</sup> The Banking Business (Jersey) Law 1991, as amended  
The Collective Investment Funds (Jersey) Law 1988, as amended  
The Insurance Business (Jersey) Law 1996, as amended



## **8. Conclusion**

- 8.1. The Commission regards effective corporate governance as key for a regulated entity to be able to demonstrate compliance with applicable legislation and Codes of Practice.

### **Jersey Financial Services Commission**

14-18 Castle Street

St. Helier

Jersey Financial Services Commission JE4 8TP

Contact: Barry Faudemer, Director, Enforcement Division

Telephone: 01534 822137, or Email: [b.faudemer@jerseyfsc.org](mailto:b.faudemer@jerseyfsc.org)

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