



Jersey Financial Services Commission

Public Statement

Insurance Business (Jersey) Law 1996, as amended (the "Law")

**Mr Justin Krzysztof Jozef Nicpon ("Mr Nicpon")
(Born 21 June 1961)**

**of: 14 Meadowcroft Close, Otterbourne, Winchester, Hampshire, SO21 2HD
Former Principal Person of Blue Swan Insurance (Jersey) Ltd ("Blue Swan") (dissolved)**

The Jersey Financial Services Commission (the "**Commission**") issues this public statement under Article 43(2)(a) of the Law.

Following a review of the fitness and propriety of Mr Nicpon, in respect of his conduct in relation to Blue Swan and associated companies, the Commission has deemed it necessary and appropriate to issue Mr Nicpon with directions under Article 36(1) of the Law. The directions prohibit him performing any function for, engaging in any employment by, or holding any position in, any permit holder as defined under the Law, without having first applied to and obtained the prior written approval of the Commission. Mr Nicpon has been issued with equivalent directions under each of the other regulatory laws¹. The directions shall remain in force until such time as Mr Nicpon satisfies the Commission there are no longer any grounds justifying the directions, in which case the directions may be withdrawn or varied.

The reasons for the directions arise from Mr Nicpon's conduct and, when considered with reference to the provisions of the regulatory laws, they are as follows: The Commission has determined that Mr Nicpon was principally responsible for:

- 1 causing Blue Swan to breach Article 7 of the Law;
- 2 causing Blue Swan to breach Article 4 of the Insurance Business (Solvency Margin) (Jersey) Order 1996;
- 3 causing the diversion of premium income due to Blue Swan to companies under his ownership and/or control;
- 4 causing ATM Global Limited (Blue Swan's premium collection agent), on numerous occasions and in numerous regards, to breach its fiduciary duties owed to Blue Swan by, *inter alia*:
 - 4.1 between April 2005 and September 2005, causing ATM Global Limited to make unauthorised payments to third parties whilst on notice of insolvency concerns in respect of Blue Swan;

¹ The Collective Investment Funds (Jersey) Law 1988, as amended
The Financial Services (Jersey) Law 1998, as amended
The Banking Business (Jersey) Law 1991, as amended



- 4.2 causing ATM Global Limited to make payments without the required authority of Blue Swan; and
- 4.3 causing ATM Global Limited to fail to pay insurance premium tax on Blue Swan's behalf to HM Revenue and Customs from 31 July 2005 to 31 December 2005.

Further details of Mr Nicpon's conduct in respect of ATM Global Limited can be found in the judgment issued by the UK High Court of Justice dated 25 January 2011. A copy of the judgment is attached hereto at [Appendix A](#).

Mr Nicpon will commit an offence, under Article 36(7) of the Law, in the event he performs any function for, engages in employment by, or holds any position in, a permit holder as defined under the Law without having first obtained the prior written approval of the Commission, or until such time he successfully applies for the withdrawal of, or variation in, the directions. There are similar offences under each of the other regulatory laws. Any person with information indicating any such offence may have been committed is asked to contact the Commission.

Any person who allows Mr Nicpon to perform any function, engage in employment, or hold any position in relation to a permit holder knowing that such function, employment or position is in contravention of the above mentioned directions will commit a criminal offence.

Jersey Financial Services Commission

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3 February 2012