

States
of Jersey



JFSC

ANTI-MONEY LAUNDERING/ COUNTERING THE FINANCING OF TERRORISM STRATEGY GROUP

CONSULTATION PAPER NO. 2 2008

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-

**Proposed legislation to oversee business and activities
covered by Schedule 2 of the Proceeds of Crime (Jersey)
Law 1999**

CONSULTATION PAPER

The Anti-Money Laundering/Countering the Financing of Terrorism Strategy Group (“**AML/CFT Strategy Group**”) invites comments on this consultation paper.

Responses should be sent to Andrew Le Brun at the AML/CFT Strategy Group Secretariat. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the AML/CFT Strategy Group Secretariat. The contact details are:

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All comments should reach the AML/CFT Strategy Group by Friday 8 February 2008.

It is the policy of the AML/CFT Strategy Group to make the content of all responses available for public inspection unless specifically requested otherwise.

CONSULTATION PAPER

CONTENTS

	Page
1 Executive Summary	3
2 Consultation	6
3 The AML/CFT Strategy Group	7
4 The draft Law	8
5 Cost Benefit Analysis	10

APPENDICES

A List of Representative and Other Bodies who have been sent this Consultation Paper	11
B Draft Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200-	12

1 - EXECUTIVE SUMMARY

OVERVIEW

- 1.1 To meet recommendations made by the Financial Action Task Force (the “FATF”) - the body for setting international standards for combating money laundering and the financing of terrorism - Jersey must implement a mechanism to enable one or more “supervisory bodies” to effectively monitor, and ensure compliance by, all persons subject to Schedule 2 (“Schedule 2”) of the Proceeds of Crime (Jersey) Law 1999 with legislation in place in Jersey to counter money laundering and the financing of terrorism (“AML/CFT legislation”)¹. (Currently only those persons that are prudentially supervised by the Jersey Financial Services Commission (the “Commission”) under one or more of the four regulatory laws² are overseen for such compliance.)
- 1.2 In May 2007, the Island’s AML/CFT Strategy Group consulted on a proposed legal framework to oversee all persons subject to Schedule 2³. The proposals received general support although respondents did have some comments on points of detail. In August 2007, the AML/CFT Strategy Group published a feedback paper that summarised the responses it had received and set out how it intended to deal with the comments received⁴.
- 1.3 The purpose of this consultation paper is to provide interested parties with an opportunity to review and comment on the detail of the draft law that will provide the necessary legal framework to oversee all persons subject to Schedule 2.

WHAT IS PROPOSED AND WHY?

- 1.4 The Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200- (the “Law”) will provide the legal framework for the oversight mechanism referred to above.
- 1.5 In its May 2007 consultation paper, and its subsequent feedback paper (see 1.2), the AML/CFT Strategy Group set out the legislative proposals in some detail. Save for some limited exceptions, which are described in section 4, the Law provides for an oversight framework and for the granting of powers and controls to supervisory bodies in line with the proposals previously consulted upon (amended as described in the subsequent feedback paper).

¹ The Money Laundering (Jersey) Order 1999 (and subsequent replacement) and Regulatory Requirements set out in the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism - to be issued by the Jersey Financial Services Commission (or similar requirements and guidance issued by a designated supervisory body).

² The Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998 and the Insurance Business (Jersey) Law 1996.

³ Entitled “Overseeing compliance with legislation to detect and prevent money laundering and the financing of terrorism”. See

<http://www.gov.je/ChiefMinister/International+Finance/Consultationonmoneylaunderingandcounterinterrorism.htm>

⁴ See

<http://www.gov.je/ChiefMinister/International+Finance/Consultationonmoneylaunderingandcounterinterrorism.htm>

1.6 The International Monetary Fund (the “IMF”) will visit Jersey in October 2008. The purpose of this visit will be to assess the Island against the international standards set by the FATF, as well as against international standards for the banking, insurance and securities sectors. The IMF will rate Jersey’s AML/CFT framework against the requirements of the FATF Recommendations; any deficiencies in the framework will impact the ratings that Jersey will receive against these international standards. Enactment of the Law – and its subsequent effective practical implementation – should make a significant contribution towards Jersey receiving strong ratings for compliance with FATF Recommendations.

WHO WILL OVERSEE FOR COMPLIANCE?

1.7 The Law will directly provide for the Commission to be the oversight body for all Schedule 2 activities carried on by businesses that are prudentially supervised by the Commission under one or more of the four regulatory laws⁵.

1.8 The Law will further provide for the Minister for Economic Development (the “Minister”) to designate by Order supervisory bodies to oversee other businesses that fall within Schedule 2. It is envisaged that the Commission will be designated as the supervisory body for all of those other businesses in the first instance. However, in the case of the legal and accountancy professions, it is envisaged that the appointment of the Commission would be subject to a "sunset" clause of 18 months to give those professions an opportunity, should they wish to do so, to explore the possible appointment of alternative oversight bodies. Any such alternative body(ies) would need to meet certain criteria set out in the Law (to ensure that Jersey’s compliance with FATF Recommendations would not be compromised).

WHO WILL BE AFFECTED?

1.9 The Law will affect all persons that are currently subject to Schedule 2 and those that are expected to be added to Schedule 2 shortly⁶ (and, potentially, their auditors⁷).

1.10 The Law will be used to supervise all persons that are subject to Schedule 2 for their compliance with AML/CFT legislation. With the exception of persons that are conducting an activity that is prudentially supervised by the Commission under one or more of the four regulatory laws⁸, persons that are subject to Schedule 2 will also need to register with a relevant supervisory body⁹.

1.11 In summary, the Law will affect:

- businesses that are prudentially supervised by the Commission under one or more of the four regulatory laws¹⁰;

⁵ As footnote 2.

⁶ As described in *Projet 127/2007* that is expected to be debated in the States of Jersey on 12 February 2008. See <http://www.statesassembly.gov.je/documents/propositions/20237-31952-2492007.htm>. A further amendment to Schedule 2 to add the operators of casinos is expected to be lodged shortly.

⁷ See Article 37 of the Law (Appendix B).

⁸ As footnote 2.

⁹ Where a prudentially supervised business proposes to carry on a Schedule 2 business or activity that is not prudentially supervised by the Commission, the Law provides a notification and ‘deemed registration’ regime. See Article 11(6).

¹⁰ As footnote 2.

- estate agents when involved in transactions for their clients concerning the buying and selling of real estate;
- high value goods dealers when accepting payment in cash of €15,000 or more;
- lawyers, notaries and other independent legal professionals when participating in or assisting in the planning or execution of financial or property transactions;
- external accountants, auditors, tax advisors and insolvency practitioners;
- operators of casinos;
- persons in the business of providing any of the following services not covered otherwise by one of the above categories: *acceptance of deposits; lending; financial leasing; money transmission services; issuers and administrators of means of payment; guarantees and commitments; trading for the account of third parties in money market instruments, foreign exchange, financial futures and options, exchange, interest rate and index instruments or transferable securities; participation in securities issues and the provision of related services; advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings; money broking; portfolio management and advice; safekeeping and administration of securities; safe custody services; otherwise investing, administering or managing funds or money on behalf of third parties;*
- persons in the business of forming and administering certain legal persons or arrangements; and
- certain persons who can benefit from an exclusion or an exemption from one of the four regulatory laws – and which are therefore not subject to prudential supervision by the Commission¹¹.

¹¹ For more information see the *Projet* referred to in footnote 6.

2 - CONSULTATION

- 2.1 The AML/CFT Strategy Group has issued this consultation paper and invites comments in writing from interested parties on the proposals set out herein. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2 To assist in analysing responses to the consultation paper, respondents are asked to:
- prioritise comments and to indicate their relative importance; and
 - respond as specifically as possible and, where they refer to costs, to quantify those costs.
- 2.3 Any person wishing to comment on the Law should note that the comments must be with the AML/CFT Strategy Group Secretariat **by 5:30pm on 8 February 2008**.
- 2.4 The consultation period on the Law is necessarily limited. This is because it is important that the Island is able to demonstrate that the Law is being effectively implemented by the time that the IMF visit Jersey in October 2008.
- 2.5 Feedback received from this consultation process will be taken into account in the finalisation of the Law by the AML/CFT Strategy Group. So too will the results of a review of the Law for compliance with the Human Rights (Jersey) Law 2000 (to be conducted by the Law Officers' Department) and final review of the Law by the Law Draftsman's Office.
- 2.6 It is intended to lodge the Law au Greffe on 19 February 2008 for debate by the States of Jersey on 1 April 2008. Taking the need for Privy Council approval into account, it is hoped that the Law will be in force by July 2008, and that the registration process will be complete by October 2008.

3 - THE AML/CFT STRATEGY GROUP

- 3.1 The AML/CFT Strategy Group was established in Jersey in early 2007 and is chaired by the Chief Executive of the States. The Commission provides the secretariat for the group.
- 3.2 The group comprises officers from the following Government departments and agencies: the Chief Minister's Department, the Economic Development Department, the Law Officers' Department, the Joint Financial Crimes Unit, the Commission, and the Shadow Gambling Commission.
- 3.3 The purpose of the AML/CFT Strategy Group is to provide a forum for the Island agencies represented on the Group to liaise, discuss and develop coordinated strategies and policies to enhance Jersey's capability to prevent and detect financial crime and terrorist financing.

4 - THE DRAFT LAW

OVERVIEW

4.1 Appendix B contains a copy of the Law. As mentioned earlier, save for some limited exceptions which are described below, the Law provides for an oversight framework and for the granting of powers and controls to supervisory bodies in line with the proposals previously consulted upon (amended as described in the subsequent feedback paper). In view of this, the AML/CFT Strategy Group does not anticipate that respondents should feel it necessary to comment on points of principle concerning the Law although comments on points of detail are welcome.

SUBSTANTIVE CHANGES FROM THE CONSULTATION PROPOSALS

Collection of information

4.2 The original consultation proposals indicated that the Law would provide for information to be collected from an applicant for Level 1 registration on the applicant's business or activity and persons who are to be principal persons¹² in relation to the applicant.

4.3 The Law (Article 13(1)(b)(v)) has extended this information collection provision to encompass information about the 'key persons' of the applicant. Key persons are defined in the Law as the applicant's compliance officer, money laundering compliance officer and money laundering reporting officer.

4.4 This additional provision is considered necessary to ensure that Jersey can meet the requirements of FATF Recommendation 23 that supervisory bodies ensure that criminals do not hold a management function in a Level 1 business.

The Register

4.5 The original consultation proposals indicated that the Law would require supervisory bodies to publish the name, address and nature of all businesses they have registered.

4.6 The draft Law (Article 38) makes such publication discretionary.

The power of intervention

4.7 The original consultation proposals indicated that a power of intervention would be granted to a supervisory body whereby it could apply to the Royal Court for an order making a supervised person subject to such supervision, restraint or conditions as the Royal Court may specify. The proposal was that a designated supervisory authority would be able to petition the Royal Court where the supervised person had contravened, or appeared likely to contravene a requirement imposed under the proposed oversight framework or under AML/CFT legislation.

¹² For the definition of 'principal person' see Article 1 of the Law.

- 4.8 Article 25(1)(c) of the Law goes slightly beyond this whereby it additionally provides for the Royal Court, on the application of a supervisory body, to make an intervention order where the court considers it desirable for the protection of persons with whom a supervised person has transacted or may transact a Schedule 2 business.
- 4.9 This provision is modelled on a similar one in Article 26 of the Financial Services (Jersey) Law 1998 - one of the Commission's regulatory laws. Although unlikely to be used very often, the provision is considered necessary to protect consumers who may transact with businesses that are, for example, clearly supporting the laundering of money or the financing of terrorists.
- 4.10 It is worth noting that in response to a specific question in the original consultation paper the majority of respondents indicated that they were content for the sanctions in the Law to be modelled on those in the Commission's regulatory laws.

Disqualification of individuals

- 4.11 The original consultation proposals indicated that, where it considered it to be in the public interest, a supervisory body would be able to disqualify (ban) a natural person from the ownership of, taking part in the management of, or being employed by, a person conducting a business or activity subject to Schedule 2. The proposal was that the maximum disqualification period would be 15 years.
- 4.12 To ensure consistency with a recent amendment to the Commission's regulatory laws, Article 23 of the Law does not specify a maximum disqualification period. However, a person who has been disqualified will, at any time, be able to request the supervisory body to rescind the disqualification. If the supervisory body refuses to do so, the disqualified person will be able to appeal to the Royal Court to have the disqualification set aside on the grounds that the supervisory body's refusal to rescind the disqualification was unreasonable having regard to all the circumstances of the case.

Supervisory body's report to the Minister

- 4.13 The original consultation proposals indicated that each supervisory body would be required to provide the Minister with a report on its oversight activities as soon as practicable after the end of the financial year to which the report related, but in no case later than 4 months after the end of that year.
- 4.14 Given that the Commission is likely to be, at least in the first instance, the only supervisory body, the period given for the submission of the report has been extended to 7 months to ensure consistency with Article 21(2) of the Financial Services Commission (Jersey) Law 1998.

5 - COST BENEFIT ANALYSIS

5.16 For a cost benefit analysis of the Law please refer to the AML/CFT Strategy Group's May 2007 consultation paper entitled "Overseeing compliance with legislation to detect and prevent money laundering and the financing of terrorism"¹³.

¹³ See

<http://www.gov.je/ChiefMinister/International+Finance/Consultationonmoneylaunderingandcounteringterrorism.htm>

APPENDIX A

LIST OF REPRESENTATIVE BODIES WHO HAVE BEEN SENT THIS CONSULTATION PAPER.

- Institute of Directors
- Jersey Association of English Solicitors
- Jersey Chamber of Commerce and Industry Incorporated
- Jersey Estate Agents Association
- Jersey Finance Limited
- Jersey Motor Trades Federation
- Jersey Notaries Society
- Jersey Society of Chartered and Certified Accountants
- Jersey Taxation Society
- Law Society of Jersey

OTHER BODIES WHO HAVE BEEN SENT THIS CONSULTATION PAPER

- Jersey Business Venture
- Jersey Consumer Council

APPENDIX B

DRAFT OF THE PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-.

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Jersey

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-

Report

Explanatory Note



Jersey

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-

Arrangement

Article

PART 1		5
<hr/>		
	INTERPRETATION	5
1	Interpretation	5
2	Meaning of “supervisory functions”	8
3	Meaning of “anti-money laundering and counter-terrorism legislation”	9
4	Meaning of “level of registration”	9
PART 2		9
<hr/>		
	SUPERVISORY BODIES	9
5	Commission to be supervisory body for all supervised business carried on by regulated persons	9
6	Designation of supervisory bodies	9
7	Guidance, directions and accountability	10
8	General powers of supervisory bodies	11
9	Limitation of liability	11
PART 3		11
<hr/>		
	REGISTRATION	11
10	Prohibition of carrying on unauthorised specified Schedule 2 business	11
11	Application for appropriate level of registration and deemed registration	12
12	Determination of relevant supervisory body	13
13	Application for a level 1 registration	13
14	Grant or refusal of application for a level 1 registration	15
15	Application for a level 2 registration and grant or grounds for refusal	15
16	Notice of refusal to register	16
17	Conditions of registration	16
18	Revocation of registration	17
19	Procedure on refusal or revocation, or new or varied condition	18

PART 4	19
<hr/>	
FEES	19
20 Annual fee	19
21 Determination of fees and late payment	19
PART 5	21
<hr/>	
SUPERVISION OF SCHEDULE 2 BUSINESSES	21
POWERS AND CONTROLS	21
22 Codes of practice.....	21
23 Power to issue directions	22
24 Injunctions and remedial Orders	24
25 Powers of intervention	24
26 Public statements	26
27 Notice of public statement	26
28 Notice period for public statements	27
29 Appeals about public statements.....	27
INFORMATION AND INVESTIGATIONS	28
30 Power to require provision of information and documents.....	28
31 Investigations on behalf of a supervisory body	30
32 Entry and search of premises	32
33 Obstruction of investigations	34
34 Supply of information	35
35 Restricted information	36
36 Permitted disclosures	36
37 Requirement to report certain matters to a supervisory body	38
38 Publication of information about supervised businesses	38
39 Co-operation with relevant overseas supervisory authority	38
PART 6	40
<hr/>	
SUPPLEMENTARY	40
40 Service of notices.....	40
41 Legal proceedings	41
42 Transitional provisions.....	43
43 Consequential amendments of other enactments	43
44 Citation and commencement.....	44
SCHEDULE	46
<hr/>	
LEVEL OF REGISTRATION FOR SPECIFIED SCHEDULE 2 BUSINESSES	46





Jersey

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-

A LAW to

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION

1 Interpretation

In this Law, unless the context otherwise requires –

“anti-money laundering and counter-terrorism legislation” has the meaning in Article 3;

“applicant” has the meaning in Article 11(1);

“associate”, in relation to a person, means –

- (a) the person’s husband, wife, child or stepchild;
- (b) the person’s partner;
- (c) any company of which the person is a director;
- (d) where the person is a company, any director or employee of the company, any company in the same group as the company, and any director or employee of such a company; and
- (e) any person with whom the first mentioned person has an agreement, arrangement or other obligation –

- (i) to act together in exercising voting power,
- (ii) with respect to the acquisition, holding or disposal of shares or other interests in a company, partnership or other association;

“auditor” means a person qualified under Article 113 of the Companies (Jersey) Law 1991 for appointment as an auditor of a company under Article 109 of that Law;

“body” in the term “supervisory body” includes any legal structure, whether incorporated or not, other than an individual;

“Code of Practice” means a Code of Practice issued under Article 22;

“Commission” means the Jersey Financial Services Commission;

“Court” means the Royal Court;

“deemed registration” and “deemed registered person” shall be construed in accordance with Article 11(9);

“formerly registered person” means a person who has been a registered person but is no longer a registered person;

“formerly regulated person” means a person who has been a regulated person but is no longer a regulated person;

“formerly supervised person” means a formerly registered person or a formerly regulated person;

“key person” means a person employed or otherwise engaged by a supervised person as an officer of any one or more of the following classes in relation to the conduct of the supervised business by that supervised person –

- (a) compliance officer;
- (b) money laundering compliance officer;
- (c) money laundering reporting officer;

“Minister” means the Minister for Economic Development;

“money laundering compliance officer” means a person employed or otherwise engaged by a supervised person to be in charge of monitoring whether the law of Jersey relating to money laundering is being complied with in the conduct of the supervised business of the supervised person;

“money laundering reporting officer” means a person employed or otherwise engaged by a supervised person to receive reports from employees of the supervised person in relation to activities that may constitute money laundering and come to the attention of the employees in the conduct of the supervised business of the supervised person;

“prescribed” means prescribed by Order;

“prescribed person” means the person or the class of person carrying on a specified Schedule 2 business prescribed in an Order under Article 6(1);

“principal person” means –

- (a) in relation to a person being a sole trader, the proprietor,
- (b) in relation to a person being a company –

- (i) a person who, either alone or with any associate or associates –
 - (A) directly or indirectly holds 10% or more of the share capital issued by the company,
 - (B) is entitled to exercise or control the exercise of not less than 10% of the voting power in general meeting of the company or of any other company of which it is a subsidiary, or
 - (C) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company,
- (ii) a director,
- (iii) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity);
- (c) in relation to a person being a partnership –
 - (i) a partner,
 - (ii) where a partner is a company, any person who, in relation to that company, falls within sub-paragraph (b)(i), (ii) or (iii),

and includes –

- (i) in relation to a person whose registered office and principal place of business is outside Jersey, a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person's supervised business in Jersey, and
- (ii) in relation to a person who has become bankrupt, a person who has been appointed as liquidator or administrator of the person's affairs;

“publish” means publish in a manner that is likely to bring it to the attention of those affected;

“registered person” means a deemed registered person or a person who is registered under Article 14 or 15;

“regulated business” means a Schedule 2 business for which a person must be –

- (a) registered under the Banking Business (Jersey) Law 1991;
- (b) hold a permit [or certificate *when Collective Investment Funds (Amendment No. 4) (Jersey) Law 200- comes into force*] under the Collective Investment Funds (Jersey) Law 1998;
- (c) registered under the Financial Services (Jersey) Law 1998; or
- (d) authorized by a permit under the Insurance Business (Jersey) Law 1996;

“regulated person” means a person, other than a registered person, carrying on a regulated business ;

“relevant overseas supervisory authority” means a body discharging any function that is the same as, or similar to, a function of a supervisory body in relation to a country or territory outside Jersey;

“relevant supervisory body” means any of the following –

- (a) the Commission in accordance with Article 5;
- (b) the body described as such in Article 12(1), (3) or (6);

“Schedule 2 business” means a business described in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 except those things described in Part A of that Schedule as an exclusion or exception from a business;

“shareholder controller” has the meaning given by sub-paragraph (b)(i) of the definition of “principal person”;

“specified Schedule 2 business” means a business specified in column 2 of the Table in the Schedule;

“subsidiary” has the same meaning as in Article 2 of the Companies (Jersey) Law 1991;

“suitable supervisory body” in relation to a person means a supervisory body that has functions or powers under this Law in relation to a category, class or description of person within which that person falls;

“supervised business” means –

- (a) specified Schedule 2 business; and
- (b) Schedule 2 business not included in paragraph (a);

“supervised person” means a registered person or a regulated person;

“supervisory body” means –

- (a) the Commission in accordance with Article 5; or
- (b) a body designated for the time being under Article 6;

“supervisory functions” means the functions described in Article 2.

2 Meaning of “supervisory functions”

- (1) “Supervisory functions” shall mean any of the following –
 - (a) monitoring compliance by a supervised person with –
 - (i) any requirement to which that person is subject under this Law,
 - (ii) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999, and
 - (iii) any Code of Practice that applies to that person or the Schedule 2 business carried on by that person;
 - (b) carrying out the functions, powers and duties conferred under this Law for the purpose of compliance by a supervised person with the things described in sub-paragraph (a).
- (2) The States may by Regulations amend the functions listed in paragraph (1).

3 Meaning of “anti-money laundering and counter-terrorism legislation”

- (1) In this Law, “anti-money laundering and counter-terrorism legislation” means any of the following enactments –
- (a) the Drug Trafficking Offences (Jersey) Law 1988;
 - (b) the Proceeds of Crime (Jersey) Law 1999;
 - (c) the Terrorism (Jersey) Law 2002;
 - (d) the Terrorism (United Nations Measures) (Channel Islands) Order 2001;
 - (e) the Al-Qa’ida and Taliban (United Nations Measures) (Channel Islands) Order 2002;
 - (f) the Community Provisions (Wire Transfers) (Jersey) Regulations 2007;
 - (g) any Regulations or Order made under any of the enactments specified in sub-paragraphs (a) to (c).
- (2) The Minister may by Order amend the list of enactments in paragraph (1).

4 Meaning of “level of registration”

In this Law –

- (a) “level 1 registration” means the registration of a person under Article 14;
- (b) “level 2 registration” means the registration of a person under Article 15.

PART 2

SUPERVISORY BODIES

5 Commission to be supervisory body for all supervised business carried on by any person carrying on a regulated business

- (1) The Commission shall be the supervisory body to exercise supervisory functions in respect of any person carrying on a regulated business.
- (2) The Commission shall exercise its supervisory functions in respect of any supervised business carried on by such a person.

6 Designation of supervisory bodies

- (1) The Minister may by Order on the recommendation of the Commission designate one or more supervisory bodies to exercise supervisory functions in respect of any person, other than a person mentioned in Article 5, carrying on a specified Schedule 2 business.
- (2) For the avoidance of doubt, the Minister may designate the Commission under paragraph (1).

-
- (3) The Minister shall not designate a supervisory body under paragraph (1) unless he or she is satisfied that the body –
 - (a) has the appropriate governance, skills and resources to exercise its functions under this Law, and
 - (b) is not prevented under its constitution (in whatever form that takes) or under any enactment (whether of Jersey or a country or territory outside Jersey) to exercise such functions.
 - (4) An Order under paragraph (1) –
 - (a) shall prescribe the person or class of person carrying on a specified Schedule 2 business in respect of whom the designated supervisory body shall exercise supervisory functions;
 - (b) shall prescribe one or more supervisory functions which the designated supervisory body shall have in relation to that prescribed person or class of person;
 - (c) may make such other provision as is reasonably necessary for or incidental to the purposes of the Order.
 - (5) The States may make Regulations modifying any enactment to the extent necessary to enable any body to meet the criteria in paragraph (3) and to exercise any supervisory functions.

7 Guidance, directions and accountability

- (1) The Minister may, after consulting the appropriate supervisory body and where the Minister considers that it is expedient in the public interest to do so, give to any supervisory body written guidance and written general directions in respect of policies in relation to the supervision of Schedule 2 business in Jersey and the manner in which supervisory functions of that body are to be exercised.
- (2) For the purposes of paragraph (1) the appropriate supervisory body is the supervisory body to which such guidance or general directions would apply, and, where there is more than one such body, each of them.
- (3) The Minister shall publish any guidance or directions he gives under paragraph (1).
- (4) When exercising its functions a supervisory body shall –
 - (a) take into account any guidance; and
 - (b) follow any directions,given to it under this Article.
- (5) Each supervisory body shall make a report to the Minister on its activities under this Law in each of its financial years.
- (6) Such report shall be provided to the Minister as soon as practicable after the end of the financial year to which it relates, but in any event shall be provided no later than 7 months after the end of that year.
- (7) The Minister shall lay before the States a copy of each report provided to him or her under paragraph (5) as soon as practicable after having received it.

8 General powers of supervisory bodies

- (1) A supervisory body shall have the power to do anything –
 - (a) that is calculated to facilitate; or
 - (b) that is incidental or conducive to,
the performance of any of its functions under this Law.
- (2) That power includes a general power to conduct reasonable routine examinations of a supervised person in relation to whom the supervisory body exercises supervisory functions.
- (3) A supervisory body may, as part of its general power under paragraph (2) –
 - (a) require a supervised person to supply information in a format and at times specified by that body;
 - (b) require the supervised person to provide answers to questions; and
 - (c) require the supervised person to allow officers or agents of the supervised body to enter the supervised person's premises.

9 Limitation of liability

- (1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any function under, or authorized by or under, this Law unless it is shown that the act or omission was in bad faith.
- (2) This Article applies to –
 - (a) each supervisory body, any member of that body or any person who is, or is acting as, an officer, servant or agent of that body or who is performing any duty or exercising any power on behalf of that body; and
 - (b) the States or any Minister in respect of any delegation of functions to that body.

PART 3

REGISTRATION

10 Prohibition of carrying on unauthorised specified Schedule 2 business

- (1) Subject to paragraph (2) –
 - (a) a person shall not carry on a specified Schedule 2 business in or from within Jersey; and
 - (b) a person being a company incorporated in Jersey shall not carry on such business in any part of the world,
unless the person is for the time being a registered person under this Law, and acting in accordance with the terms of his or her registration.

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- (2) This Law shall not apply to –
 - (a) the doing of anything by or on behalf of –
 - (i) the States, the Viscount, the Judicial Greffier or a Jurat of the Royal Court when acting in such capacity, or
 - (ii) any other prescribed person or institution, subject to such conditions or restrictions as may be prescribed;
 - (b) any prescribed transaction subject to such conditions or restrictions as may be prescribed.
 - (3) Any person who holds himself or herself out as carrying on a specified Schedule 2 business in or from within Jersey, and any company incorporated in Jersey which holds itself out as carrying on specified Schedule 2 business shall, for the purposes of this Article, be treated as carrying on such business.
 - (4) A person who contravenes this Article shall be guilty of an offence and liable to [imprisonment for a term of 7 years and a fine].

11 Application for appropriate level of registration and deemed registration

- (1) Subject to paragraph (6), a person who intends to carry on a specified Schedule 2 business (an “applicant”) shall make an application to the relevant supervisory body to be registered under Article 13 or 15.
- (2) An application under paragraph (1) shall be for the appropriate level of registration.
- (3) The appropriate level of registration shall be the level specified in the Table in the Schedule opposite the description of the specified Schedule 2 business that the applicant, or the person giving the notification under paragraph (6), as the case may be, intends to carry on.
- (4) The States may by Regulations amend –
 - (a) the level of registration specified in column 1 of the Table in the Schedule, and
 - (b) the descriptions of specified Schedule 2 business described in column 2 of the Table in the Schedule.
- (5) Where the applicant intends to carry on more than one specified Schedule 2 business subject to different registration levels, the appropriate level of registration shall be level 1.
- (6) A person carrying on a regulated business who intends to carry on a specified Schedule 2 business is not required to make an application under paragraph (1) provided that person has previously notified the Commission that he or she intends to carry on that specified Schedule 2 business.
- (7) A notification under paragraph (6) shall be in such form as the Commission may determine and shall include –
 - (a) the person’s name;
 - (b) the description of the specified Schedule 2 business that the person intends to carry on;

- (c) the principal address (stating that it is the principal address) and any other address from which the person intends to carry on that business;
 - (d) such other particulars as the Commission may require.
- (8) A notification under paragraph (6) shall be accompanied by a fee determined in accordance with Article 21.
- (9) Upon receiving a notification under paragraph (6) from a person, the Commission shall give that person written notice that the person is deemed to have the appropriate level of registration with or without conditions under Article 17(3) in respect of the specified Schedule 2 business that is the subject of the notification.

12 Determination of relevant supervisory body

- (1) Where there is only one supervisory body that has been designated under Article 6 to exercise supervisory functions in respect of the specified Schedule 2 business which an applicant intends to carry on, the relevant supervisory body shall be that body.
- (2) Where more than one supervisory body has been designated under Article 6 to exercise supervisory functions in respect of the specified Schedule 2 business which an applicant intends to carry on, the applicant shall notify each supervisory body in writing of each specified Schedule 2 business that he or she intends to carry on before making an application under Article 13 or 15.
- (3) Upon receipt of a notice under paragraph (2), the supervisory bodies shall seek to agree with each other which body shall be the relevant supervisory body in respect of all of the applicant's specified Schedule 2 business for the purpose of this Law.
- (4) If the supervisory bodies reach agreement under paragraph (3), the relevant supervisory body shall notify the applicant in writing that it is the relevant supervisory body.
- (5) If no agreement can be reached under paragraph (3), one or more of the supervisory bodies shall notify the Minister.
- (6) Upon receiving notification under paragraph (5), the Minister shall decide which of the supervisory bodies shall be the relevant supervisory body and shall notify those supervisory bodies of that fact.
- (7) Upon receiving notification under paragraph (6), the relevant supervisory body shall notify the applicant in writing that it is the relevant supervisory body in respect of all of the specified Schedule 2 business that the applicant intends to carry on.

13 Application for a level 1 registration

- (1) An application for a level 1 registration shall –
 - (a) be in such form as the relevant supervisory body may from time to time determine;

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- (b) contain or be accompanied by such information and documents as the relevant supervisory body may require, relating to any of the following –
- (i) the applicant,
 - (ii) the applicant's business,
 - (iii) any person employed by the applicant,
 - (iv) any person who is an associate of the applicant to the extent relevant to the applicant's business,
 - (v) any person who is a principal person or key person in relation to the applicant,
- verified in such manner as the relevant supervisory body may require; and
- (c) be accompanied by the fee for the application, determined in accordance with Article 21.
- (2) Without prejudice to the generality of paragraph (1)(b) such information and documents may relate to whether or not any of the persons mentioned in Article 14(3) has been convicted of any of the offences mentioned in sub-paragraphs (a) and (b) of Article 14(4).
- (3) At any time after receiving an application and before determining it the relevant supervisory body may, at its discretion, by written notice direct the applicant or any person who is or is to be a principal person or key person in relation to the applicant to provide such additional information or documents as the relevant supervisory body reasonably requires for the determination of the application, verified in such manner as the relevant supervisory body may require, and such requirements may differ as between different applications.
- (4) The relevant supervisory body may by written notice require the applicant or any person who is to be a principal person or key person in relation to the applicant to provide a report by an auditor or accountant, or other qualified person approved by the relevant supervisory body, on such aspects of any information and documents required by or under paragraph (1) or (2) as the relevant supervisory body may specify.
- (5) An applicant who, while his or her application is awaiting determination by the relevant supervisory body under Article 14 –
- (a) determines to bring about any alteration in; or
 - (b) becomes aware of any event which may affect in any material respect,
- any information or documents supplied by the applicant to the relevant supervisory body in connection with the application shall forthwith give written notice of that matter to that body.
- (6) An applicant may, by written notice to the relevant supervisory body, withdraw his or her application under this Article at any time before it is granted or refused.

14 Grant or refusal of application for a level 1 registration

- (1) On an application under Article 13 for a level 1 registration the relevant supervisory body may either register the applicant with or without attaching conditions under Article 17(3) or refuse to register the applicant.
- (2) Whenever a relevant supervisory body registers an applicant it shall issue to that applicant a registration certificate.
- (3) The relevant supervisory body may refuse to register an applicant for a level 1 registration on the ground that –
 - (a) the applicant;
 - (b) a principal person in relation to that applicant; or
 - (c) a key person in relation to that applicant,is not a fit and proper person.
- (4) For the purposes of paragraph (3), a person is not a fit and proper person if that person –
 - (a) has been convicted of an offence under anti-money laundering and counter-terrorism legislation or any offence under the law of a country or territory outside Jersey similar to one that falls within that legislation;
 - (b) has been convicted of –
 - (i) an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty,
 - (ii) an offence under any enactment (whether of Jersey or of a country or territory outside Jersey), other than those described in sub-paragraph (a), relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing, or
 - (iii) an offence (whether under the law of Jersey or of a country or territory outside Jersey) of perjury or conspiracy to pervert the course of justice;
 - (c) is otherwise considered not to be fit and proper by the relevant supervisory body for reasons related to the risk of money laundering or the financing of terrorism;
- (5) The relevant supervisory body may refuse to register a person for a level 1 registration if the fee for the application has not been paid.

15 Application for a level 2 registration and grant or grounds for refusal

- (1) An application for a level 2 registration shall –
 - (a) be in such form as the relevant supervisory body may from time to time determine;

- (b) include –
 - (i) the applicant's name,
 - (ii) the description of specified Schedule 2 business that the applicant intends to carry on,
 - (iii) the principal address (stating that it is the principal address) and any other addresses in Jersey from which the applicant intends to carry on that business,
 - (iv) such other particulars as the relevant supervisory body may require;
 - (c) be accompanied by the fee for the application, determined in accordance with Article 21.
- (2) An applicant who, while his or her application is awaiting determination by the relevant supervisory body under this Article –
- (a) determines to bring about any alteration in; or
 - (b) becomes aware of any event which may affect in any material respect,
- any information or documents supplied by the applicant to the relevant supervisory body in connection with the application shall forthwith give written notice of that matter to that body.
- (3) If an application is made in accordance with paragraph (1) the relevant supervisory body may register the applicant for level 2 registration with or without conditions under Article 17(3) and issue to that applicant a registration certificate.
- (4) The relevant supervisory body may refuse to register an applicant for level 2 registration if an application is not made in accordance with paragraph (1).
- (5) An applicant may, by written notice to the relevant supervisory body, withdraw his or her application under this Article at any time before it is granted or refused.

16 Notice of refusal to register

- (1) If a supervisory body refuses to register an applicant under Article 14 or 15, it shall give notice to the applicant with reasons.
- (2) The requirement to give reasons under paragraph (1) shall not require the supervisory body to specify any reason that would, in the supervisory body's opinion, involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party.
- (3) Where paragraph (2) applies, the supervisory body shall include in its reasons a statement of the fact that it relied upon such information when coming to its decision.

17 Conditions of registration

- (1) The Minister may, on the recommendation of the appropriate supervisory body –

- (a) prescribe conditions which shall apply to registered persons and to the carrying on of specified Schedule 2 business by registered persons; and
 - (b) in like manner, and from time to time, amend, vary, substitute or revoke any such condition, or prescribe new conditions,
- and such conditions may make different provision for different classes of persons, or for different classes of specified Schedule 2 business.
- (2) For the purposes of paragraph (1), the appropriate supervisory body is the supervisory body carrying out supervisory functions in respect of persons or businesses to whom or to which the prescribed conditions would apply, and, if there is more than one such body, each of them.
 - (3) A supervisory body may attach conditions to any particular grant of registration under Article 14 or 15 or, in the case of the Commission, to a deemed registration and the supervisory body may from time to time amend, vary, substitute or revoke any such condition or attach new conditions.
 - (4) Where, under paragraph (3), a supervisory body attaches a condition to a registration, amends, varies, substitutes or revokes a condition attached to a registration, or attaches a new condition, it shall give notice in writing to the registered person concerned with reasons.
 - (5) If any registered person fails to comply with any condition prescribed under paragraph (1) or attached under paragraph (3), the registered person shall for each such contravention be liable to [imprisonment for a term of 2 years and a fine].
 - (6) The record of the conviction of any person for an offence under paragraph (5) shall be admissible in any civil proceedings as evidence of the fact of the breach of a condition prescribed or attached under this Article.
 - (7) Conditions prescribed under paragraph (1) or attached under paragraph (3) may indicate that a Code of Practice is to be wholly or partly disregarded for the purposes of Article 22(6).

18 Revocation of registration

- (1) A supervisory body may revoke a registration that it has granted under Article 14 or 15 of this Law –
 - (a) at the request of the registered person;
 - (b) if the registered person has not commenced a specified Schedule 2 business in or from within Jersey within one year of the date of the person's registration;
 - (c) if the registered person ceases to conduct a specified Schedule 2 business in or from within Jersey;
 - (d) in the case of a level 1 registration on one or more of the grounds set out in Article 14(3) and in the case of a level 2 registration on the ground set out in Article 15(4), with the substitution for references to the applicant of references to a registered person;

- (e) if the registered person has not complied with any Code of Practice that applies to that person; or
 - (f) if the registered person fails to pay any fee for which that person is liable under Article 20.
- (2) If a supervisory body revokes a registration under this Article it shall give notice in writing with reasons to the registered person concerned.
 - (3) The requirement to give reasons under paragraph (2) shall not require the supervisory body to specify any reason that would, in the supervisory body's opinion, involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party.
 - (4) Where paragraph (3) applies, the supervisory body shall include in its reasons a statement of the fact that it relied upon such information when coming to its decision.

19 Procedure on refusal or revocation, or new or varied condition

- (1) Where a supervisory body acting under Article 17 attaches a new condition to the registration of a particular person or amends, varies, substitutes or revokes any condition so attached, or under Article 18, revokes a registration, such revocation, new condition or amendment, variation, substitution or revocation of a condition shall not take effect, subject to paragraph (3), before the expiration of –
 - (a) a period of one month from the date on which notice in writing was given to the registered person under Article 17(4) or Article 18(2), as the case may be;
 - (b) the date on which any appeal against the revocation, new condition or amendment, variation, substitution or revocation of a condition is determined by the Court or withdrawn,whichever is later, unless the registered person requests that it should take effect at an earlier date.
- (2) Any person aggrieved by a refusal to register an applicant under Article 16 or by revocation of a registration or by the conditions attached to the person's registration, or by any new condition so attached or by any amendment, variation, substitution or revocation of such conditions, may appeal to the Court within one month from the date on which notice in writing has been given to the person under Article 16(1), Article 17(4) or Article 18(2), as the case may be, on the ground that the decision of the supervisory body was unreasonable having regard to all the circumstances of the case.
- (3) If, on the application of a supervisory body, the Court is satisfied that it is desirable in the best interests of persons with whom a registered person has transacted or may transact a specified Schedule 2 business that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period suggested in paragraph (1)(a) should be reduced, the Court may so order.
- (4) An order under paragraph (3) may be made without prior notice to and without hearing the registered person concerned.

- (5) An order under paragraph (3) shall have immediate effect but any person aggrieved by the order may apply to the Court to vary or set aside the order on the ground only that the order was unreasonable having regard to all the circumstances of the case.
- (6) In respect of an application under paragraph (3), the Court may make such order as it thinks fit and in respect of an application under paragraph (5), the Court may make such order in respect of the relevant order under paragraph (3) as it thinks fit.
- (7) Nothing in paragraph (1) or (2) derogates from or otherwise affects a condition prescribed under Article 17(1).

PART 4

FEES

20 Annual fee

- (1) A supervisory body may charge an annual fee payable by each person registered by it under this Law.
- (2) The Commission may charge an annual fee payable by each deemed registered person and each regulated person.
- (3) If a registered person fails to pay any fee charged under paragraph (1) or (2) there shall be payable by that person a late payment fee of such amount as the supervisory body concerned may determine.

21 Determination of fees and late payment

- (1) The fee for each of the following shall be the fee for the time being published and in effect in accordance with this Article –
 - (a) notification under Article 11(6);
 - (b) an application under Article 13 or Article 15;
 - (c) an annual fee under Article 20.
- (2) The fees mentioned in paragraph (1) are to be retained by the supervisory body to whom they are paid and must be set at such a level as is necessary that, in aggregate they –
 - (a) raise sufficient income to enable the supervisory body to carry out its functions under this Law; and
 - (b) provide a reserve of such amount as the supervisory body considers necessary for carrying out such functions.
- (3) A supervisory body may set different fees for-
 - (a) each level of registration;
 - (b) each of the things mentioned in paragraph (1); and
 - (c) specified cases falling within sub-paragraph (a), (b) or (c) of paragraph (1) as the case requires.

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- (4) Supervisory bodies may set different fees from each other.
- (5) A supervisory body may determine that no fee shall be charged for any of the things mentioned in paragraph (3).
- (6) Before publishing a fee mentioned in paragraph (1), the supervisory body must first publish a report that must include –
- (a) details of the proposed fee (including if it is proposed to levy no fee);
 - (b) a request for comments on the level of the proposed fee; and
 - (c) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the supervisory body.
- (7) If, by that date or any later date agreed by the supervisory body, a body that appears to the supervisory body to be representative of the interests of those who would be required to pay the fee, is unable to agree with the supervisory body –
- (a) a fee for anything mentioned in paragraph (3) for which there is no published fee under this Article; or
 - (b) an increase in an existing fee where the percentage increase in the fee is greater than the percentage increase in the RPI since the fee last took effect in accordance with paragraph (8),
- the supervisory body must request the Bailiff to appoint 3 Jurats to consider if the fee proposed by the supervisory body is unreasonable having regard to all the circumstances of the case and, in particular, the requirement of paragraph (2).
- (8) Where –
- (a) paragraph (7) does not apply to a proposed fee; or
 - (b) Jurats appointed under that paragraph have agreed a fee proposed by the supervisory body or have proposed some other fee,
- the supervisory body shall publish a notice giving details of the fee proposed by it or, in the case where some other fee has been proposed by the Jurats, that fee, which shall have effect from the date specified in the notice.
- (9) In this Article “RPI” means the Retail Prices Index published by the Statistics Unit of the Chief Minister’s Department of the States.
- (10) Except as provided by this Article, nothing in this Article otherwise limits any right or power the relevant supervisory body has to charge, recover and receive any fees, charges, costs, proceeds and other amounts.

PART 5
SUPERVISION OF SCHEDULE 2 BUSINESSES
POWERS AND CONTROLS

22 Codes of practice

- (1) A supervisory body may, after consultation with such persons or bodies as appear to be representative of the interests concerned –
 - (a) prepare and issue Codes of Practice for the purpose of establishing sound principles for compliance with this Law and anti-money laundering and counter-terrorism legislation by persons in relation to whom that body has supervisory functions;
 - (b) revise any such Code of Practice by revoking, varying, amending or adding to its provisions; and
 - (c) indicate in any such Code of Practice if and to what extent it is or is not to apply to any class or description of supervised business carried on by persons in relation to whom that body has supervisory functions.
- (2) A supervisory body shall cause any Code of Practice issued under this Article to be published, and may make such arrangements as it thinks fit for such distribution, including causing copies of the Code of Practice to be put on sale to the public at such price as that body considers to be reasonable.
- (3) A supervisory body may issue different Codes of Practice for different categories or descriptions of person in respect of whom that supervisory body has supervisory functions.
- (4) Subject to paragraphs (5) and (6), a failure on the part of any person to follow any provision in a Code of Practice shall not of itself render any person liable to proceedings of any kind or invalidate any transaction but such a Code shall be admissible as evidence in any proceedings.
- (5) In determining whether a person's conduct amounts to a contravention of any requirement in this Law –
 - (a) non-compliance by the person with any relevant provision of a Code issued under this Article may be relied on as tending to establish liability; and
 - (b) compliance by the person with any relevant provision of such a Code may be relied on as tending to negative liability.
- (6) In any proceedings under this Law or otherwise, any Code of Practice issued under this Article shall be admissible in evidence if it appears to the court conducting the proceedings to be relevant to any question arising in the proceedings, and shall be taken into account in determining any such question.
- (7) A copy, certified in writing on behalf of a supervisory body to be an accurate copy –
 - (a) of a Code; or

(b) of any part of such a Code,

shall be admissible in evidence in all legal proceedings as of equal validity with the original and as evidence of any fact stated in it of which direct oral evidence would be admissible.

- (8) Where a document purports on its face to be a copy of a Code or part of a Code, certified in accordance with paragraph (7), it shall be unnecessary for the purposes of paragraph (7) to prove the official position or handwriting of the person signing on behalf of the relevant supervisory body that issued that Code.

23 Power to issue directions

- (1) If it appears to a supervisory body in relation to a supervised person in relation to whom it exercises supervisory functions that –

(a) any requirements in relation to the registration, including deemed registration, of a registered person are no longer satisfied;

(b) a person has failed to comply with –

(i) any requirement of this Law or Regulations or an Order made under this Law;

(ii) any requirement of any Order made under Article 37 of the Proceeds of Crime (Jersey) Law 1999; or

(iii) any Code of Practice that applies to that person;

(c) it is in the best interests of –

(i) creditors of a person carrying on a supervised business, or

(ii) persons with whom a person has transacted or may transact a supervised business,

(d) it is desirable in order to protect the reputation and integrity of Jersey in financial and commercial matters; or

(e) it is in the best economic interests of Jersey,

that body may, whenever it considers it necessary, give, by notice in writing, such directions as it may consider appropriate in the circumstances.

- (2) For the purposes of this Article references to a supervised person include a formerly supervised person.

- (3) Without prejudice to the generality of paragraph (1), a direction under this Article may –

(a) require anything to be done or not done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;

(b) require that any principal person, key person, or person having functions, in relation to a person carrying on a supervised business be removed or removed and replaced by another person acceptable to the supervisory body;

(c) require that any individual –

- (i) not perform a specified function (or any function at all) for,
 - (ii) not engage in specified employment (or any employment at all) by, or
 - (iii) not hold a specified position (or any position at all) in the business of,
a person carrying on a supervised business;
 - (d) require a person carrying on a supervised business to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the direction, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the person carrying on a supervised business.
- (4) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.
 - (5) The power to give directions under this Article shall include the power by direction to vary or withdraw any direction, as well as the power to issue further directions.
 - (6) A notice of a direction under this Article shall –
 - (a) specify the reasons for the giving of the direction;
 - (b) specify when the direction is to have effect;
 - (c) give particulars of the provisions of paragraphs (7) and (8); and
 - (d) give particulars of the rights of appeal conferred by paragraph (9).
 - (7) Any person to whom a direction is given under paragraph (1) may apply to the supervisory body that issued the direction to have it withdrawn or varied and that body shall withdraw or vary the direction in whole or in part if it considers that there are no longer any grounds under paragraph (1)(a) to (e) which justify the direction or part of the direction concerned.
 - (8) If the supervisory body refuses an application under paragraph (7), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.
 - (9) Any person aggrieved by a direction given to the person under paragraph (1), or a refusal to grant an application under paragraph (7), or the granting of such an application only in part, may appeal to the Court.
 - (10) Such an appeal may be made only on the ground that the decision to give the direction, to make the refusal or to grant the application only in part (as the case requires) was unreasonable having regard to all the circumstances of the case.
 - (11) A person's appeal under paragraph (9) shall be lodged with the Court no later than the day that is one month after the day on which notice was served on the person of the direction, refusal or grant (as the case requires).

- (12) On the appeal, the Court may make such interim or final order as it thinks fit.
- (13) If an appeal is made under paragraph (9) with respect to a direction that makes a requirement referred to in paragraph (3)(c) or (d), the direction shall have no effect until the appeal is determined by the Court or withdrawn.
- (14) In other cases, an appeal made under paragraph (9) with respect to a direction shall not suspend the operation of the direction.
- (15) An appeal made under paragraph (9) in relation to an application under paragraph (7) shall not suspend the operation of the direction in connection with which the application was made.
- (16) A person who fails to comply with any of the provisions of a direction given under this Article shall be guilty of an offence and liable to [imprisonment for a term of 2 years and to a fine].
- (17) The record of the conviction of any person for an offence under paragraph (16) shall be admissible in any civil proceedings as evidence of the facts constituting the offence.

24 Injunctions and remedial Orders

- (1) Where, on the application of a suitable supervisory body, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) –
 - (a) Article 10;
 - (b) any condition prescribed or attached under Article 17;
 - (c) any direction given under Article 23;
 - (d) any provision of Article 34;
 - (e) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999;

the Court may if it thinks fit issue an injunction restraining that person from committing (or, as the case may be, continuing or repeating) the contravention.

- (2) Where, on the application of a suitable supervisory body, the Court is satisfied that there are steps which could be taken to remedy the contravention, the Court may make an order requiring that person, or any other person who appears to the Court to have been knowingly concerned, to take such steps as the Court may direct to remedy the contravention.

25 Powers of intervention

- (1) Where, on the application of a suitable supervisory body, the Court is satisfied in relation to a supervised person that –
 - (a) the supervised person is not, in terms of Article 14(4), a fit and proper person to carry on the supervised business that the

supervising person is purporting to carry on, or is not fit to carry it on to the extent which the supervised person is purporting to do; or

- (b) the supervised person is likely to commit a contravention of a type referred to in Article 24(1); and
- (c) it is desirable for the protection of persons with whom a supervised person has transacted or may transact supervised business,

the Court may, as it thinks just, make an order making the person carrying on a supervised business subject to such supervision, restraint or conditions, from such time, and for such periods, as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

- (2) For the purposes of this Article, references to a supervised person include a formerly supervised person.

- (3) If, on an application made under paragraph (1), the Court is satisfied that a person, by entering into any transaction, has contravened Article 10 the Court may order that person and any other person who appears to the Court to have been knowingly concerned in the contravention to take such steps as the Court may direct for restoring the parties to the position in which they were before the transaction was entered into.

- (4) Without prejudice to the generality of paragraph (1) or (3), an order made under either of those paragraphs may include a requirement that all assets, or all assets of a specified description which, at any time while the requirement is in force –

- (a) belong to the person carrying on a supervised business; or
- (b) belong to persons with whom the person carrying on a supervised business is transacting such business and are held by or to the order of that person carrying on the supervised business,

shall be transferred to and held by a person whose appointment is approved by the Court (in this Article referred to as an “appointed person”).

- (5) Where a requirement of a type referred to in paragraph (4) is imposed under this Article, it shall be the duty of the person carrying on the supervised business to transfer the assets to the appointed person and to give the appointed person all such other assistance as may be required to enable the appointed person to discharge his or her functions in accordance with the requirement.
- (6) Assets held by an appointed person in accordance with a requirement of a type referred to in paragraph (4) shall not be released or dealt with except in accordance with directions given by the Court or in such circumstances as may be specified by it.
- (7) An order including a requirement of a type referred to in paragraph (4) may relate to assets outside Jersey.
- (8) The provisions of this Article shall be without prejudice to any right of any aggrieved person to bring proceedings directly in respect of any right such person may otherwise have independently of a supervisory body.

26 Public statements

A suitable supervisory body may issue-

- (a) a public statement with respect to, or setting out, any direction that that body has given under Article 23;
- (b) a public statement concerning a person if that person appears to the body to have committed a contravention of any of the following -
 - (a) Article 10;
 - (b) any condition prescribed or attached under Article 17;
 - (c) any direction given under Article 23;
 - (d) any provision of Article 34;
 - (e) any Code of Practice that applies to that person;
 - (f) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999;
- (c) a public statement concerning a person if it appears to that body that the person is carrying on a supervised business, whether in Jersey or elsewhere, and it appears to that body to be desirable to issue the statement –
 - (i) in the best interests of persons who have transacted or may transact supervised business with that person, or
 - (ii) in the best interests of the public.

27 Notice of public statement

- (1) If a public statement identifies any supervised person, the supervisory body responsible for issuing that statement shall serve notice on the person.
- (2) If a public statement identifies any person who is not a supervised person and at any time before the supervisory body issues the public statement it is reasonably practicable for that body to serve notice on the person, that body shall do so.
- (3) A notice under paragraph (1) or (2) shall –
 - (a) give the reasons for issuing the statement;
 - (b) give the proposed or actual date of issue of the statement;
 - (c) contain a copy of the statement;
 - (d) give particulars of the right of appeal under Article 29 in respect of the statement; and
 - (e) if the statement is issued, in accordance with a decision under Article 28 (3), before the day specified in Article 28 (1) in relation to the statement, give the reasons for issuing it before that day.
- (4) Paragraph (3) shall not require the relevant supervisory body –
 - (a) to specify any reason that would in that body'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 the case of notices to different persons about the same matter.
- (5) In this Article and Articles 28 and 29 a reference to the identification of a person in a public statement does not include the identification, in the statement, of a supervisory body or of any other person in their capacity of exercising functions or powers under this Law.

28 Notice period for public statements

- (1) If service is required under Article 27(1) or (2) in relation to a public statement, the relevant supervisory body shall not issue the public statement earlier than the expiration of one month from the date of that service.
- (2) Paragraph (1) shall not apply if –
 - (a) each of the persons identified (within the meaning of Article 27) in the relevant public statement agrees with the supervisory body that the statement may be issued on a date earlier than the date that would apply under that paragraph; and
 - (b) the statement is in fact issued on or after the earlier date.
- (3) Paragraph (1) shall not apply if –
 - (a) the supervisory body decides on reasonable grounds that the interest of the public in the issue of the relevant public statement on a date earlier than the date that would apply under that paragraph outweighs the detriment to the persons identified in the statement, being the detriment attributable to that earliness; and
 - (b) the statement is in fact issued on or after the earlier date.
- (4) In making a decision under paragraph (3), the supervisory body is not prevented from choosing as the date of issue of a public statement the date of service (if any) of notice of the statement.
- (5) Despite this Article, if an appeal is made to the Court under Article 29(1), and the Court orders that the statement not be issued before any specified date or event, the supervisory body shall not issue the statement before the date or event so specified.
- (6) In a case to which paragraph (1) applies, if an appeal is made under Article 29(2) to the Court against a decision to issue a public statement, the supervisory body shall not issue the statement before the day on which that appeal is determined by the Court or withdrawn.

29 Appeals about public statements

- (1) A person aggrieved by a decision of the supervisory body under Article 28(3) may appeal to the Court, in accordance with this Article, against the decision.
- (2) A person aggrieved by a decision of the supervisory body to issue a public statement that identifies the person may appeal to the Court, in accordance with this Article, against the decision.

- (3) An appeal under paragraph (2) may be made only on the ground that the decision of the relevant supervisory body was unreasonable having regard to all the circumstances of the case.
- (4) A person's appeal under this Article shall be lodged with the Court no later than –
 - (a) if notice is served on the person under Article 27 in relation to the public statement, the day that is one month after the date of such service; or
 - (b) if no such notice is served on the person, the day that is one month after the issue of the public statement.
- (5) Nothing in paragraph (4) prevents the lodging of an appeal before a notice is served or a public statement is issued.
- (6) On an appeal under this Article, the Court may make such interim or final order as it thinks fit, including an order that the supervisory body not issue the relevant public statement or, if the public statement has been issued, that the supervisory body issue a further public statement to the effect set out in the order or stop making the statement available to the public.

INFORMATION AND INVESTIGATIONS

30 Power to require provision of information and documents

- (1) This paragraph applies to –
 - (a) a person carrying on a supervised business;
 - (b) a person who is or was a principal person or key person in relation to that person;
 - (c) an associate of such a principal person.
- (2) This Article is without prejudice to the general power in Article 8.
- (3) In this Article references to a person carrying on a supervised business include persons who formerly carried on a supervised business.
- (4) A suitable supervisory body or any duly authorized officer or agent of that body may by notice in writing served on a person to whom paragraph (1) applies, require the person on whom the notice is served –
 - (a) to provide to it or any duly authorized officer or agent of the supervisory body, at such time and place as may be specified in the notice, information and documents of a specified description;
 - (b) to attend at such place and time as may be specified in the notice and answer questions which the supervisory body or any duly authorized officer or agent of that body reasonably requires the person to answer.
- (5) For the purposes of paragraph (4), such information, documents or questions may relate to –
 - (a) the supervised business concerned;

- (b) any matter relevant to whether a person who has or has had a level 1 registration is a fit and proper person with respect to that registration; or
- (c) the compliance by any person to whom this Article applies with this Law and any Regulations, Order or Code of Practice made, or a condition of any grant of registration, or a direction given under this Law,

which the relevant supervisory body, or a duly authorized officer or agent of that body, reasonably requires, or requires the person to answer, for the performance of that body's functions under this Law.

- (6) Where by virtue of paragraph (4) the supervisory body or any duly authorized officer or agent has power to require the provision of any information or documents from any person to whom paragraph (1) applies, that supervisory body, duly authorized officer or agent shall have the like power to require the provision of such information or documents from any person who appears to be in possession of them.
- (7) Where a suitable supervisory body has reasonable grounds for suspecting that a person is contravening Article 10, the supervisory body or any duly authorized officer or agent may, by notice in writing served on that person or on any other person appearing to be in possession of the information or documents described in this paragraph, require the person to do any of the following –
 - (a) to provide to it forthwith or at such time and place as may be specified, information or documents specified in the notice being information or documents which the relevant supervisory body reasonably requires for the purpose of investigating the suspected contravention;
 - (b) to attend at such place and time as may be specified in the notice and answer questions which the relevant supervisory body or any duly authorized officer or agent of that body reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (8) Where notice has been served under paragraph (4) or (7) by or on behalf of a supervisory body or its duly authorized officer or agent, that body, officer or agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom such a notice has been served or any other premises where information or documents are kept by such person for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (4)(b) or (7)(b) or of exercising the powers conferred by paragraph (11) as the case may be.
- (9) A notice under paragraph (4) may –
 - (a) require the person concerned to provide to the supervisory body a report by an accountant or other person with relevant professional skill nominated or approved by that body, on, or on any aspect of –
 - (i) any of the matters mentioned in paragraph (5); or
 - (ii) any of the matters mentioned in Article 31(1);

- (b) require such a report to be in such form as specified in the notice.
- (10) Where any person from whom provision of documents is required under paragraph (6) or (7) claims a lien on any such document, the provision shall be without prejudice to the lien.
- (11) The power under this Article to require documents to be provided includes power –
 - (a) if the documents are provided, to retain or take copies of them or extracts from them and to require the person providing them, or any person who appears to be in possession of relevant information, or is or has been an officer, shareholder controller or auditor or employee of the supervised person in question, as appropriate, to provide an explanation of them; and
 - (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (12) Any documents retained under paragraph (11)(a) may be retained –
 - (a) for a period of one year; or
 - (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
- (13) A person who requires any documents retained under paragraph (11)(a) for the purpose of the person's business and who requests such documents shall be supplied with copies as soon as practicable.
- (14) Any person who without reasonable excuse fails to comply with a requirement imposed on the person under this Article or obstructs a person exercising powers conferred by paragraph (8) shall be guilty of an offence and liable to [imprisonment for a term of 6 months and a fine].
- (15) Nothing in this Article shall require the disclosure or production by a person to a supervisory body or to a person authorized by it of information or documents which he or she would in an action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.
- (16) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (14) or Article 33.

31 Investigations on behalf of a supervisory body

- (1) If it appears to a suitable supervisory body desirable to do so for the purpose of its supervisory functions that body may appoint one or more competent persons to investigate and report to it on –
 - (a) the compliance by a person with any of the following –
 - (i) Article 10,
 - (ii) any condition prescribed or attached under Article 17,

- (iii) any direction given under Article 23,
 - (iv) any provision of Article 34,
 - (v) any Code of Practice that applies to that person,
 - (vi) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999;
 - (b) any other matter that might impact on whether a person with or who has had a level 1 registration is a fit and proper person with respect to that registration.
- (2) A person appointed under paragraph (1) may include a member of the supervisory body's staff or that body's agent.
- (3) The supervisory body shall give written notice of any such appointment to the person concerned.
- (4) This paragraph applies to –
- (a) a person who is under investigation under paragraph (1);
 - (b) any of the following who is or was at any material time –
 - (i) a principal person or key person in relation to that person.
 - (ii) an officer, employee, banker, auditor of that person,
 - (iii) subject to paragraph (11), a legal adviser of that person,
 - (iv) any person appointed to make a report under Article 30(9),
 - (v) any other person who appears to be in possession of relevant information.
- (5) It shall be the duty of every person to whom paragraph (4) applies –
- (a) to provide to the persons appointed under paragraph (1), within such time and at such place as they may require, all documents relating to that person which are in his or her custody or power;
 - (b) to attend before them at such time and place as they may require and to answer questions which they reasonably require the person to answer for the purposes of the investigation; and
 - (c) otherwise to give them all assistance in connection with the investigation which the person is reasonably able to give,
- and the persons appointed under paragraph (1) may retain or take copies of or extracts from any documents provided to them under sub-paragraph (a).
- (6) For the purposes of this Article, “supervised person” includes any person who appears to a suitable supervisory body to have acted in contravention of the provisions of Article 10.
- (7) For the purpose of exercising the person's power under this Article a person appointed by a supervisory body under paragraph (1) may enter any premises occupied by a supervised person or formerly supervised person or a person who is or was a principal person in relation to him or her or any associate of such a principal person being investigated by the person under this Article or any other premises where information is kept by such a person.

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- (8) A person may not enter premises under paragraph (7) without prior notice in writing unless he or she has reasonable cause to believe that if such notice were given any documents whose provision might be required under this Article would be removed, tampered with or destroyed.
- (9) A person exercising powers by virtue of an appointment under this Article shall, if so required, produce evidence of his or her authority.
- (10) Any person who –
- (a) without reasonable excuse fails to provide any document which it is his or her duty to provide under paragraph (5);
 - (b) without reasonable excuse fails to assist or attend before a person appointed under paragraph (1) when required to do so;
 - (c) without reasonable excuse fails to answer any question which is put to him or her by a person so appointed with respect to a person under investigation; or
 - (d) obstructs a person in the exercise of the powers conferred by paragraph (7),
- shall be guilty of an offence and liable to [imprisonment for a term of 6 months and a fine].
- (11) Nothing in this Article shall require the disclosure or production by a person of information or documents which the person would in any action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.
- (12) Where any person by whom documents are required to be provided under paragraph (5) claims a lien on any such document, the provision shall be without prejudice to the lien.
- (13) A person who is convicted on a prosecution instituted following an investigation under this Article may in the same proceedings be ordered to pay the expenses of the investigation to such extent as may be specified by the Court.
- (14) For the purposes of paragraph (13) the expenses of the investigation shall include such sums as the supervisory body on whose behalf the investigation is carried out may determine in respect of the cost of staff and overheads.
- (15) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (10) or Article 33.

32 Entry and search of premises

- (1) If the Bailiff is satisfied by information on oath that there is reasonable cause to suspect that –
- (a) there has been a contravention of a type referred to in Article 30(7) and that –

- (i) a specified person has failed in any respect to comply with a notice served on him or her under that paragraph,
 - (ii) there are reasonable grounds for suspecting the completeness of any information or documents provided by him or her in response to such a notice,
 - (iii) if a notice were served under that paragraph, it would not be complied with, or
 - (iv) documents to which such a notice might relate would be likely to be removed, tampered with or destroyed;
- (b) if notice were served under Article 30(4) it would not be complied with;
- (c) documents to which a notice under Article 30(4) might relate would be likely to be removed, tampered with or destroyed;
- (d) a person to whom a notice has been served under Article 30(4) has failed in any respect to comply with that notice;
- (e) a person on whom a notice has been served under Article 30(4) has failed to provide complete information or documents in response to that notice;
- (f) a notice served under Article 23(1) has not been complied with in any respect; or
- (g) any officer or agent of the supervisory body or person appointed under Article 31(1) has been or may be obstructed in exercising a power of entry under Article 30(8) or 31(7), as the case may be,
- the Bailiff may grant a warrant under this paragraph.
- (2) A warrant under paragraph (1) may authorize any police officer, together with any other person named in the warrant –
- (a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;
 - (b) to search the premises and obtain information or take possession of any documents appearing to be information or documents of a type referred to in any of the Articles referred to in paragraph (1) or information in relation to matters referred to therein or which otherwise appear to be relevant to the investigation of an offence under this Law, or to take, in relation to any such information or documents, any other steps which may appear to be necessary to preserve them or prevent interference with them;
 - (c) to take copies of, or extracts from such documents and to require the person who had possession of them, or any person who appears to be in possession of relevant information, or is or has been an officer, shareholder controller or auditor or employee of the supervised person, or other person concerned, as the case may be, to provide an explanation of them;
 - (d) to require any person named in the warrant to answer questions relevant for determining any matter arising in connection with this Law; and

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- (e) if the information or documents are not provided, to require any person appearing to be in possession of relevant information, to state, to the best of the person's knowledge and belief, where they are and how they may be retrieved.
 - (3) A warrant under paragraph (1) shall continue in force until the end of the period of one month beginning with the date on which it was issued.
 - (4) Any documents of which possession is taken under paragraph (2) may be retained –
 - (a) for a period of one year; or
 - (b) if, within that period, proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.
 - (5) A person who requires any documents of which possession is taken under paragraph (2) for the purpose of his or her business and who requests such documents shall be supplied with copies as soon as practicable.
 - (6) Any person who obstructs the exercise of any power conferred by a warrant issued under this Article or fails to comply with a requirement imposed on him or her by virtue of paragraph (2)(c) to (e) shall be guilty of an offence and liable to [imprisonment for a term of 2 years and a fine].
 - (7) Where any person from whose premises documents are taken under paragraph (2) claims a lien on any such documents, the possession of such documents by the officer or person concerned and by anyone to whom he or she passes them shall be without prejudice to the lien.
 - (8) Nothing in this Article shall require the disclosure or production by a person of information or documents which the person would in an action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.
 - (9) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (6) or Article 34.

33 Obstruction of investigations

- (1) A person who knows or suspects that an investigation is being or is likely to be carried out under Article 31 or that information or documents are being or are likely to be required under Article 30 shall be guilty of an offence if he or she falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction of or disposal of, information or documents which he or she knows or suspects are or would be relevant to such an investigation or are or would be required, unless the person proves that he or she had no intention of concealing facts disclosed by the information or documents from persons carrying out such an investigation or requiring such information or documents.

- (2) A person guilty of an offence under this Article shall be liable to [imprisonment for a term of 2 years and a fine].

34 Supply of information

- (1) A registered person shall notify the supervisory body exercising functions in respect of that person as soon as possible –
- (a) of any change in the information given to that body under Article 13 or 15;
 - (b) if that person has stopped carrying on a specified Schedule 2 business in respect of which that supervisory body registered that person;
 - (c) of any change in any information given to that body under sub-paragraph (a).
- (2) Where a person has a level 1 registration, that person shall notify the supervisory body exercising functions in respect of that person as soon as possible –
- (a) of any changes in the identity of any key person or principal person (including where a person ceases to be a key person or principal person);
 - (b) whether that key person or principal person has been convicted of any offence described in paragraphs (a) and (b) of Article 14(4).
- (3) A person who has notified the Commission under Article 11(6) shall notify the Commission as soon as possible if that person ceases to carry on the business in respect of which that notification was made.
- (4) A person who fails to give a notice required under paragraph (1), (2) or (3) without reasonable excuse shall be guilty of an offence and liable to [imprisonment for a term of six months and a fine].
- (5) Upon receiving a notification from a person under paragraph (3), the Commission shall give that person written notice that the person is no longer a deemed registered person under this Law and the person shall cease to be such a person from the date such notice is given.
- (6) A person who knowingly or recklessly provides a supervisory body or its duly authorized officer or agent entitled to information under this Law with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided –
- (a) in purported compliance with a requirement imposed under this Law or any Regulations or Order made under it;
 - (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the supervisory body for the purpose of exercising its functions under this Law.
- (7) A person who knowingly or recklessly provides the supervisory body or any other person with information which is false or misleading in a material particular shall be guilty of an offence if the information is

provided in connection with an application for registration under this Law.

- (8) A person shall be guilty of an offence if he or she fails to provide a supervisory body with any information in his or her possession, knowing or having reasonable cause to believe that or being reckless as to whether –
 - (a) the information is relevant to the exercise by the supervisory body of its functions under this Law; and
 - (b) the withholding of the information is likely to result in the supervisory body being misled as to any matter which is relevant to and of material significance for the exercise of those functions.
- (9) A person guilty of an offence under paragraph (6) or (7) shall be liable to [imprisonment for a term of 5 years and a fine].
- (10) A person guilty of an offence under paragraph (8) shall be liable to [imprisonment for a term of 2 years and a fine].

35 Restricted information

- (1) Subject to paragraph (2) and to Article 36, a person who receives information relating to the business or other affairs of any person –
 - (a) under or for the purposes of this Law; or
 - (b) directly or indirectly from a person who has so received it,shall be guilty of an offence and liable to [imprisonment for a term of 2 years and a fine] if he or she discloses the information without the consent of the person to whom it relates and (where sub-paragraph (b) applies) the person from whom it was received.
- (2) This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

36 Permitted disclosures

- (1) Article 35 does not preclude the disclosure of information –
 - (a) by a relevant supervisory body or any person acting on its behalf, to the Viscount or to any person exercising a statutory function in Jersey;
 - (b) for the purpose of enabling or assisting a supervisory body or any person acting on its behalf to discharge its function under this Law or similar functions under any other enactment;
 - (c) by a supervisory body or any person acting on its behalf to a relevant overseas supervisory authority pursuant to Article 39;
 - (d) to a person by a supervisory body showing whether or not any person is registered under this Law including any conditions which are attached to the registration under Article 17;

- (e) with a view to the investigation of a suspected offence, or institution of, or for the purposes of, any criminal proceedings, whether under this Law or not;
- (f) in connection with any other proceedings arising out of this Law;
- (g) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of professional duties by –
 - (i) an auditor of a supervised person or formerly supervised person;
 - (ii) an auditor, accountant or other qualified person approved under Article 13(4);
 - (iii) an accountant or other person nominated or approved under Article 30 or Article 31;
- (h) by a supervisory body or any person acting on its behalf to the Attorney General or to a police officer being information obtained under any of Articles 30, 31 and 32 or being information in the possession of a supervisory body as to any matter in relation to which the powers conferred by those Articles are exercisable, but any information so disclosed may only be disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence or a prosecution in Jersey or, at the discretion of the Attorney General, elsewhere;
- (i) without prejudice to the generality of sub-paragraph (b), by a supervisory body to the auditor of –
 - (i) a supervised person or formerly supervised person; or
 - (ii) a person who appears to the relevant supervisory body to have acted in contravention of Article 10,
if it appears to the supervisory body that disclosing the information would enable or assist that body to discharge the functions mentioned in sub-paragraph (b) or would otherwise be in the interests of persons who have transacted or may transact supervised business with such a person;
- (k) without prejudice to the generality of sub-paragraph (b) if, in order to enable or assist a supervisory body to discharge any of its functions under this Law, that body considers it necessary to seek advice from any qualified person on any matter requiring the exercise of professional skill and the disclosure appears to that body to be necessary to ensure that the qualified person concerned is properly informed with respect to the matters on which the person's advice is sought;
- (l) by a relevant supervisory body or any person acting on its behalf to a person appointed under Article 31 of this Law, or to an inspector appointed under Article 15 of the Company Securities (Insider Dealing) (Jersey) Law 1988 or Article 128 of the Companies (Jersey) Law 1991 or under any other enactment under which they exercise a supervisory function.

- (2) No information shall be disclosed under paragraph (1)(c) unless the supervisory body or any person acting on its behalf is satisfied that the relevant overseas supervisory body complies with or will comply with any conditions to which that supervisory body or person acting on its behalf may, in their discretion, subject such disclosure.

37 Requirement to report certain matters to a supervisory body

- (1) If an auditor knows or becomes aware of prescribed matters in, or in connection with, discharging any of his or her functions whether under this Law or otherwise in relation to a supervised person the auditor shall report those matters to the appropriate supervisory body.
- (2) The Minister may make an Order for the purpose of prescribing matters mentioned in paragraph (1) on the recommendation of the appropriate supervisory body and after consultation with such other body or bodies as appear to the Minister to represent the interests of auditors in Jersey.
- (3) The appropriate supervisory body for the purposes of paragraph (1) is the body carrying out supervisory functions in relation to the supervised person in respect of whom the auditor is appointed.
- (4) The appropriate supervisory body for the purposes of paragraph (2) is the supervisory body carrying out supervisory functions in relation to those supervised persons in respect of whom auditors are appointed who would be affected by the Order, and, if there is more than one such body, each of them.

38 Publication of information about supervised businesses

- (1) The relevant supervisory body may publish the following information about each person carrying on a supervised business in relation to whom it exercises supervisory functions –
 - (a) that person's name;
 - (b) the description of the supervised business that person carries on;
 - (c) the principal address in Jersey from which the person carries on that business.
- (2) The relevant supervisory body may offer for sale copies of information published under this Article and may, if it thinks fit, make a reasonable charge for such information.

39 Co-operation with relevant overseas supervisory authority

- (1) The following powers may be exercised (by the officer or person specified in the relevant provision) in order to assist a relevant overseas supervisory authority –
 - (a) the power to refuse or revoke a registration under Articles 14, 15 and 18;
 - (b) the power to attach, amend, vary, substitute or revoke any conditions pursuant to Article 17;

- (c) on the application of a suitable supervisory body, the powers under Article 25;
 - (d) the powers relating to information and documents under Article 30;
 - (e) the powers under Article 31;
 - (f) the powers under Article 32;
 - (g) communication by a supervisory body to the relevant overseas supervisory authority of information that is in the possession of that body, whether or not as a result of the exercise of any of the above powers.
- (2) The supervisory body shall not exercise the power referred to in paragraph (1)(g) unless it is satisfied that the relevant overseas supervisory authority will treat the information communicated with appropriate confidentiality and that –
- (a) the power is exercised in order to assist the relevant overseas supervisory authority in the exercise of its overseas supervisory functions; or
 - (b) the exercise of the power has been requested by the relevant overseas supervisory authority and requested only for the purposes of obtaining assistance for that authority in the exercise of one or more of its overseas supervisory functions.
- (3) The other powers referred to in paragraph (1) shall not be exercised by virtue of this Article unless the supervisory body is satisfied that the exercise has been requested by the relevant overseas supervisory authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its overseas supervisory functions.
- (4) In deciding whether to exercise a power by virtue of this Article, the following factors (among others) may be taken into account –
- (a) whether corresponding assistance would be given in that country or territory to a supervisory body;
 - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;
 - (c) the seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means;
 - (d) whether it is otherwise appropriate in the public interest to give the assistance.
- (5) The exercise of powers by virtue of this Article may be refused unless the relevant overseas supervisory authority undertakes to make such contribution towards the costs of its exercise as the supervisory body considers appropriate.
- (6) For the purposes of this Article –
- (a) a reference –
 - (i) in Article 30(7) or Article 31(6) to a contravention of Article 10, or

- (ii) in Article 32(1) to a contravention of a type referred to in Article 30(7),
- shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 10 as in force at the latter time; and
- (b) a reference in Article 30(12) or 32(4) to proceedings shall include a reference to proceedings outside Jersey.
- (7) For the purposes of this Article, a reference (however expressed or implied) in Article 10 (or in any provision necessary for the interpretation of that Article) to Jersey, or to any class of person, any qualification or any provision, shall be construed, in the application of that Article to a contravention of a law of a country or territory outside Jersey, as a reference to that country or territory, or to an equivalent class of person, qualification or provision, in terms of the law of that country or territory.
- (8) The exercise of a power under any provision shall be no less an exercise of that power under that provision because it is exercised by virtue of this Article, and this Law (and any other law that applies when a power is exercised directly under that provision) applies also when that power is exercised by virtue of this Article.

PART 6

SUPPLEMENTARY

40 Service of notices

- (1) No notice or other document required by this Law to be given to a supervisory body shall be regarded as so given until it is received.
- (2) Subject to paragraph (1), any notice or other document required or authorized by or under this Law to be given to a supervisory body may be given by facsimile, electronic transmission or by any similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (3) Any notice, direction or other document required or authorized by or under this Law to be given to or served on any person other than a supervisory body may be given to or served on the person in question –
- (a) by delivering it to the person;
 - (b) by leaving it at the person's proper address;
 - (c) by sending it by post to the person at that address; or
 - (d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document

containing the text of the communication in legible form or is capable of doing so.

- (4) Any such notice, direction or other document may –
 - (a) in the case of a company incorporated in Jersey, be served by being delivered to its registered or principal office;
 - (b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on a person who is a principal person in relation to it, or on the secretary or other similar officer of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the partnership business, as the case may be, or by being served on the person or delivered to the person's registered or administrative office.
- (5) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954 in its application to this Article, the proper address of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –
 - (a) in the case of a company incorporated in Jersey, or its secretary, clerk or other similar officer or person, it shall be the address of the registered or principal office of the company in Jersey; and
 - (b) in the case of a partnership, or a person who is a principal person in relation to a partnership, it shall be that of its principal office in Jersey.
- (6) If the person to or on whom any notice, direction or other document referred to in paragraph (3) is to be given or served has notified a supervisory body of an address within Jersey other than the person's proper address within the meaning of paragraph (5), as the one at which the person or someone on the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person's proper address.

41 Legal proceedings

- (1) In any proceedings, a certificate purporting to be signed on behalf a supervisory body and certifying any of the following –
 - (a) that a particular person is or is not an applicant or a supervised person or was or was not an applicant or a supervised person at a particular time;
 - (b) the date on which a particular applicant or supervised person or formerly supervised person made an application or became a supervised person or ceased to be a supervised person, as the case may be;
 - (c) the scope of a particular person's application or nature of that person's supervised business;

- (d) that conditions set out in the certificate were, at the relevant time, prescribed under Article 17 in relation to registered persons, or attached under that Article to a particular person's registration,
- shall be admissible in evidence in all legal proceedings as evidence of any fact stated in it of which direct oral evidence would be admissible.
- (2) In any proceedings, a certificate purporting to be signed on behalf of the Commission and certifying any of the following –
- (a) that a particular person is or is not a deemed registered person or was or was not a deemed registered person at a particular time;
- (b) the date on which a particular person notified the Commission under Article 11(6) or Article 34(3),
- shall be admissible in evidence in all legal proceedings as evidence of any fact stated in it of which direct oral evidence would be admissible.
- (3) A certificate purporting to be signed in accordance with paragraph (1) or (2) shall be deemed to have been duly signed unless the contrary is shown.
- (4) Where an offence under this Law committed by a person is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a person who is or was, a principal person in relation to that person, that principal person shall be guilty of the offence and liable in the same manner to the penalty provided for that offence.
- (5) Where an offence under this Law committed by a limited liability partnership or company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the company; or
- (b) any person purporting to act in any such capacity,
- the person shall also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence.
- (6) Where the affairs of a company are managed by its members, paragraph (5) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the company.
- (7) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (8) Nothing in paragraph (7) affects the operation of paragraph (4), (5) or (6).
- (9) No proceedings for an offence under this Law shall be instituted except by or with the consent of the Attorney General.

42 Transitional provisions

- (1) Notwithstanding anything in this Law, a person who carried on a specified Schedule 2 business immediately before Article 10 comes into force (“the commencement day”) shall not be taken to have committed any offence against this Law by virtue of any action that is taken, or not taken, by the person in the course of carrying on that business during the period –
 - (a) on and from the commencement day until the day 3 months after that day; or
 - (b) if the person applies, before 3 months after the commencement day, for registration under this Law on and from the commencement day until the application is finally determined (including as a result of an appeal to the Court under Article 19) or is withdrawn.
- (2) In relation to the period for which, in accordance with paragraph (1), a person is to be taken not to have committed any offence against this Law, the provisions of this Law shall apply (with the necessary modifications) to and in relation to the person as they apply to a supervised person.

43 Consequential amendments of other enactments

- (1) In Article 155(2) of the Companies (Jersey) Law 1991 after the word “Commission” there shall be added the words “or by a supervisory body within the meaning of the Proceeds of Crime Supervisory Bodies (Jersey) Law 200 -”.
- (2) In Article 5(1)(d) of the Financial Services Commission (Jersey) Law 1998 for the words “or such incidental or ancillary matters” there shall be substituted the words “, or such other services, businesses or incidental or ancillary matters”.
- (3) For paragraphs (8) and (9) of Article 37 of the Proceeds of Crime (Jersey) Law 1999 there shall be substituted the following paragraphs –
 - “ (8) In determining whether a person has complied with a requirement that is contained in any Order made under this Article, the court –
 - (a) shall take account of any relevant Code of Practice or guidance that applies to that person or the business carried on by that person and is issued by the supervisory body exercising supervisory functions in respect of that person; or
 - (b) if no Code of Practice or guidance applies, shall take into account any Code of Practice or guidance that is issued by another supervisory body; or
 - (c) if there is no such Code of Practice or guidance, may take account of any other relevant guidance issued by a body that is representative of that person or any supervised business carried on by that person.
 - (9) For the purposes of paragraph (8), “Code of Practice”; “supervisory body” and “supervised business” have the same

meaning as in the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200.”.

- (4) For paragraph (6) of Article 23 of the Terrorism (Jersey) Law 2002 there shall be substituted the following paragraphs –

“(6) In deciding whether a person has committed an offence under this Article, the court –

- (a) shall take account of any Code of Practice or relevant guidance that applies to that person or the business carried on by that person and is issued by the supervisory body exercising supervisory functions in respect of that person; or
- (b) if no Code of Practice or guidance applies, shall take into account any relevant Code of Practice or guidance that is issued by another supervisory body; or
- (c) if there is no such relevant Code of Practice or guidance, may take account of any other relevant guidance issued by a body that is representative of that person or any supervised business carried on by that person.

(6A) For the purposes of paragraph (6), “Code of Practice”; “supervisory body” and “supervised business” have the same meaning as in the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200.”.

44 Citation and commencement

- (1) This Law may be cited as the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200-
- (2) This Law shall come into force on such day or days as the States may by Act appoint, and different days may be appointed for different provisions.

SCHEDULE

(Article 11(3))

LEVEL OF REGISTRATION FOR SPECIFIED SCHEDULE 2 BUSINESSES

Level of registration	Description of specified Schedule 2 business*
1	sub-paragraphs (a) (b), (c), (d) (e), (f), (g), (h), (k), (l) and (n) of paragraph 5 of Part B (certain financial services) and paragraph 6 of Part B(forming legal persons or arrangements)
1	[Casinos]
2	Any business or activity described in paragraph 4(a) of Part A except those activities mentioned in clauses (i) to (iv).
2	paragraph 5(i), (j) and (m) of Part B (certain financial services)
2	paragraph 1 of Part B (lawyers)
2	paragraph 2 of Part B (accountants)
2	paragraph 3 of Part B (estate agency services)
2	paragraph 4 of Part B (services by high value dealers)

* Note

A reference to a Part and a paragraph number in this column is a reference to a paragraph number in that Part of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999. [*Note: as substituted by the Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200-.*]



