



Jersey

# **FINANCIAL SERVICES (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008**

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Jersey

## FINANCIAL SERVICES (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

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Jersey

## **FINANCIAL SERVICES (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008**

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 12 and 42 of the [Financial Services \(Jersey\) Law 1998](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

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### **1 Interpretation**

(1) In this Order –

“customer”, in respect of a person (the “first person”), includes a client of the first person or, if the first person is carrying on trust company business, a person who has entered into an agreement for the provision of services to be provided by the first person when carrying on trust company business, or a person who has received or may receive the benefit of services to be provided or arranged by the first person when carrying on trust company business;

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

(2) In this Order a note contained in a paragraph of the Schedule to this Order forms part of that paragraph.

### **2 Prescribed circumstances in which the Commission may apply to the Court for appointment of a manager**

- (1) The Schedule sets out the prescribed circumstances for the purposes of Article 12 of the Law.
- (2) The Commission may apply to the Court for the appointment by the Court of a person to manage the affairs of a person in so far as those affairs relate to the carrying on of financial service business where it is satisfied that there is sufficient evidence to show the existence of any of the cases set out in the Schedule.

**3 Citation**

This Order may be cited as the Financial Services (Appointment of Manager) (Jersey) Order 2008.

**SCHEDULE<sup>1</sup>**

(Article 2)

**PRESCRIBED CIRCUMSTANCES****Case 1**

There has been inadequate management of the affairs of a financial service business carried on by a person (“the person”).

**Note** Such inadequate management may be evidenced, in particular, by –

- (a) the dishonesty of a principal person of the person;
- (b) any person committing a serious breach of a fiduciary duty in respect of the person’s financial service business;
- (c) the person having insufficient resources to continue to carry on the financial service business effectively;
- (d) a serious failure by the person to maintain proper records;
- (e) the existence of a conflict of interests that may prevent the interests of the person’s financial service business or customers or potential customers being properly protected;
- (f) the person committing serious and persistent breaches of –
  - (i) the Drug Trafficking Offences (Jersey) Law 1988, the [Proceeds of Crime \(Jersey\) Law 1999](#), the [Terrorism \(Jersey\) Law 2002](#), the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#), the [Money Laundering \(Jersey\) Order 2008](#) or an Order made under the European Communities Legislation (Implementation) (Jersey) Law 1996 and relating to the freezing of funds,
  - (ii) any other enactment of Jersey relating to money laundering or the financing of terrorism,
  - (iii) any code of practice made under an enactment referred to in sub-paragraph (i) or (ii) or adopted by or under such an enactment,
  - (iv) the Law or any Code of Practice made under the Law or adopted by or under the Law, or
  - (v) an enactment made under the Law;
- (g) the death or incapacity or prolonged absence of a principal person of the person to the detriment of the financial service business of the person.

**Case 2**

The person carrying on the financial service business appears to have ceased to do so but has failed to wind up, liquidate, close or transfer the business in an orderly manner or at all.

**Case 3**

The person carrying on the financial service business has persistently failed to examine claims or complaints of customers.

**Case 4**

The person carrying on the financial service business is not registered under the Law to carry on financial service business of that type.

**Case 5**

There is a need to appoint a manager to collect, protect or preserve the assets or records of the financial service business or the property of the customers of the business, or both.

**Case 6**

There is a need to appoint a manager to avoid circumstances arising that could provide grounds for a forced closure of the financial service business.

**Case 7**

There is a need to appoint a manager to promote or implement a compensation scheme established specifically for customers of the financial service business.

**Case 8**

The person carrying on the financial service business has failed to comply with any of the following –

- (a) a condition under Article 10 of the Law;
- (b) a notice of objection under Article 13 of the Law;
- (c) a direction under Article 23 of the Law,

and there is therefore a need to appoint a manager of the business to ensure its independent management.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Financial Services (Appointment of Manager) (Jersey) Order 2008	<a href="#">R&amp;O.149/2008</a>	11 November 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Order 2014	<a href="#">R&amp;O.32/2014</a>	4 April 2014

### Table of Renumbered Provisions

Original	Current
3	Spent, omitted
4(1)	3
4(2)	Spent, omitted

### Table of Endnote References

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<sup>1</sup> *Schedule* *amended by R&O.32/2014*