



Jersey

**COLLECTIVE INVESTMENT FUNDS
(APPOINTMENT OF MANAGER)
(JERSEY) ORDER 2008**

Official Consolidated Version

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COLLECTIVE INVESTMENT FUNDS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

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THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Articles 20 and 34A of the [Collective Investment Funds \(Jersey\) Law 1988](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Order –

“fund person” means –

- (a) any person granted a permit or a certificate;
- (b) any person whom the Commission reasonably believes to be in breach of Article 5 or Article 8 of the Law;

“Law” means the [Collective Investment Funds \(Jersey\) Law 1988](#).

(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 34A of the Law.
- (2) The Commission may apply to the Court for the appointment by the Court of a person to manage the affairs, or any part of the affairs, of any fund person, in so far as those affairs relate to a collective investment fund, where the Commission 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 Collective Investment Funds (Appointment of Manager) (Jersey) Order 2008.

SCHEDULE¹

(Article 2)

PRESCRIBED CIRCUMSTANCES

Case 1

There has been inadequate management of the affairs of a fund person in so far as they relate to a collective investment fund.

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

- (a) the dishonesty of a principal person in relation to the fund person;
- (b) any person committing a serious breach of a fiduciary duty in relation to the collective investment fund;
- (c) insufficient resources being held by the fund person in relation to the collective investment fund;
- (d) a serious failure by the fund person to maintain proper records;
- (e) the existence of a conflict of interests that may prevent the interests of participants or potential participants in the fund being properly protected;
- (f) the fund 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 subparagraph (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 in relation to the fund person to the detriment of the collective investment fund.

Case 2

The fund person appears to have ceased to carry on that person's business relating to a collective investment fund, but that person has failed to wind up, liquidate, close or transfer the business in an orderly manner or at all.

Case 3

The fund person has persistently failed to examine claims or complaints of participants in the collective investment fund.

Case 4

The fund person does not hold a permit or certificate, as the case requires, in relation to the collective investment fund.

Case 5

There is a need to appoint a manager to collect, protect or preserve the assets or records of the collective investment fund or the property of participants in the fund, or both.

Case 6

There is a need to appoint a manager to avoid circumstances arising that could provide grounds for a forced winding up of the collective investment fund.

Case 7

There is a need to appoint a manager to promote or implement a compensation scheme established specifically for participants in the collective investment fund.

Case 8

The fund person has failed to comply with any of the following –

- (a) a condition under Article 7 or Article 8B of the Law;
- (b) a notice of objection under Article 12A or 12B of the Law;
- (c) a direction under Article 13 of the Law,

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

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Collective Investment Funds (Appointment of Manager) (Jersey) Order 2008	R&O.150/2008	11 November 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Order 2014	R&O.32/2014	4 April 2014

Table of Renumbered Provisions

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

Table of Endnote References

¹ *Schedule* *amended by R&O.32/2014*