



Jersey

**FINANCIAL SERVICES (TRUST  
COMPANY BUSINESS (EXEMPTIONS))  
(JERSEY) ORDER 2000**

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## FINANCIAL SERVICES (TRUST COMPANY BUSINESS (EXEMPTIONS)) (JERSEY) ORDER 2000

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Jersey

## **FINANCIAL SERVICES (TRUST COMPANY BUSINESS (EXEMPTIONS)) (JERSEY) ORDER 2000**

**THE ECONOMIC DEVELOPMENT COMMITTEE**, in pursuance of Articles 4(1)(a)(i) and 7(2)(a)(ii) 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 –  
“Commission” means the Jersey Financial Services Commission;  
“Law” means the [Financial Services \(Jersey\) Law 1998](#).
- (2) In this Order a note contained in a paragraph of the Schedule forms part of that paragraph.

### **2 Exempt persons**

A person specified in a paragraph of Part 1 or 2 of the Schedule is a prescribed person for the purposes of Article 7(2)(a)(ii) of the Law when carrying on the trust company business specified in that paragraph in the circumstances specified in that paragraph.

### **3 Variation of exemptions**

- (1) In accordance with Article 4(1)(a)(i) of the Law, it is declared that an exemption conferred by Article 2 and specified in a paragraph of Part 1 of the Schedule is amended so that it is limited to Article 7 of the Law.
- (2) Articles 12, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39 and 41 of the Law shall continue to apply to a person exempted from registration by virtue of Article 2 and specified in a paragraph of Part 1 of the Schedule as if the person were a registered person.

- (3) A reference to registered persons in those Articles and the reference to persons registered by the Commission in Article 5 of the Law shall be construed accordingly.

#### **4 Citation**

This Order may be cited as the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000.

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

(Article 2)

### **EXEMPTIONS**

#### **PART 1: LIMITED EXEMPTIONS**

##### **1 Employee pension scheme trustees**

A person who acts as a trustee of an employee pension scheme and who is –

- (a) a director or other officer of the employer; or
- (b) a bona fide employee or former bona fide employee of the employer, when providing fiduciary services to the employee pension scheme.

Note: A person is not a bona fide employee if the person is employed solely to act as a trustee of the employee pension scheme.

##### **2 Employee share or debenture scheme trustees**

A person who acts as a trustee of an employee share or debenture scheme and who is –

- (a) a director or other officer of the employer; or
- (b) a bona fide employee or former bona fide employee of the employer, when providing fiduciary services to the employee share or debenture scheme.

Note:

- (1) A person is not a bona fide employee if the person is employed solely to act as a trustee of the employee share or debenture scheme.
- (2) An employee share or debenture scheme means a scheme of a type referred to in paragraph 9(1) of Schedule 2 to the Law.

##### **3 Executors and administrators**

A person, when acting as the executor or administrator of the estate of a deceased person.

##### **4 Private trust company business**

A person being a company –

- (a) the purpose of which is –

- (i) solely to provide trust company business services in respect of a specific trust or trusts, or
  - (ii) to act for that purpose and to act as a member of the council of a foundation or of foundations (otherwise than as a qualified member, as that term is defined by the [Foundations \(Jersey\) Law 2009](#));
- (b) that does not solicit from or provide trust company business services to the public; and
- (c) the administration of which is carried out by a registered person registered to carry out trust company business,

when providing a service specified in Article 2(4) of the Law where the name of the company is notified to the Commission.

#### **4A Private trust company business in respect of foundations**

A person being a company –

- (a) the purpose of which is –
  - (i) solely to act as a member of the council of a foundation or of foundations (otherwise than as a qualified member, as that term is defined by the [Foundations \(Jersey\) Law 2009](#)), or
  - (ii) to act for that purpose and to provide trust company business services in respect of a specific trust or trusts;
- (b) that does not solicit from or provide trust company business services to the public; and
- (c) the administration of which is carried out by a registered person registered to carry out trust company business,

when providing a service specified in Article 2(4) of the Law in the course of acting as a member of the council of a foundation or of foundations (otherwise than as a qualified member) where the name of the company is notified to the Commission.

#### **5 Manager**

A person appointed by the Court under Article 12(3) of the Law to manage the affairs of a person in so far as those affairs relate to the carrying on of financial service business and the person whose financial service business affairs are being so managed, when the appointed person is managing those affairs in accordance with any directions of the Court.

#### **6 Global custodians**

A person who is subject to consolidated supervision from a relevant supervisory authority and whose business includes safeguarding or administering or arranging for the safeguarding or administering of investments that belong to another person, when providing a service specified in Article 2(4)(g), (h) or (i) of the Law in relation to any investments so safeguarded or administered.



**7 Incidental providers of services**

A person who is carrying on a business or profession the sole or main purpose of which is not trust company business, when carrying out a service specified in Article 2(4) of the Law for which the person is not separately remunerated, which the person does not separately hold himself or herself out as providing and which is carried out as an incident of the person's business or profession.

**8 Address providers**

A person who provides a service specified in Article 2(4)(g) of the Law, when providing that service solely as a place for the service of any process or contractual notice.

Note: The exemption does not extend to the provision of an address to be used as the registered office of a company.

**9 Jersey Post Office**

The Jersey Post Office, when providing a service specified in Article 2(4)(g) of the Law in the course of its business.

**10 Managers of managed banks**

A bank, when providing services specified in Article 2(4) of the Law for a bank it manages.

**11 Connected company**

A company, when providing a service specified in Article 2(4) of the Law to a connected company.

Note: For the purposes of this paragraph a company is connected with another company if –

- (a) they are in the same group;
- (b) one is entitled, either alone or with any other company in the same group, to exercise or control the exercise of a majority of the voting rights, (other than as nominee shareholder) which are attributable to the share capital and are exercisable in all circumstances at any general meeting of the other company or of its holding company; or
- (c) the first-mentioned company holds, or a company in the same group as the first-mentioned company holds, an interest in the equity share capital of the other company carrying rights to vote in all circumstances at general meetings for the purpose of securing a contribution to the activities of the first-mentioned company or the company in the same group as that company respectively by the exercise of control or influence arising from that interest.

## 12 Introducer

A person, when introducing another person to a registered person so that the registered person may provide services under Article 2(4) of the Law to that other person.

Note: In this paragraph “registered person” includes a person who carries on trust company business and would be required to register under the Law but for the fact that the person does not carry on trust company business in or from Jersey in circumstances that require the person to be registered under the Law.

## 13 Director

- (1) A person, when acting as or fulfilling the function of a director of a company, if in relation to that company –
  - (a) the person has neither entered into a contract for services, nor is party to an arrangement for the provision of services, with a registered person or a person carrying on trust company business in any part of the world;
  - (b) the majority of the board of directors is not provided by a registered person or a person carrying on trust company business in any part of the world; and
  - (c) the person does not hold himself or herself out as carrying on a business or profession in any part of the world the sole or main purpose of which is trust company business.
- (2) An individual, when acting as or fulfilling the function of a director of a company, if the individual, in or from within Jersey, acts as or fulfils the function of director of not more than 6 companies (including the first-mentioned company).
- (3) For the purposes of sub-paragraph (2), when determining the number of companies, no account shall be taken of the individual’s acting as, or fulfilling the function of, a director of a company when, in relation to the full extent of the individual’s so acting or so fulfilling the function, the individual is the subject of an exemption under any one or more of the provisions of the following enactments –
  - (a) sub-paragraph (1);
  - (b) paragraph 15;
  - (c) any other paragraph of this Schedule;
  - (d) the [Financial Services \(Trust Company Business \(Exemptions No. 2\)\) \(Jersey\) Order 2000](#);
  - (e) the [Financial Services \(Trust Company Business \(Exemptions No. 3\)\) \(Jersey\) Order 2001](#);
  - (f) the [Financial Services \(Trust Company Business \(Exemptions No. 4\)\) \(Jersey\) Order 2001](#);
  - (g) the [Financial Services \(Trust Company Business \(Exemptions No. 5\)\) \(Jersey\) Order 2001](#);

- (h) the [Financial Services \(Trust Company Business \(Exemptions No. 6\)\) \(Jersey\) Order 2001](#);
- (i) the [Financial Services \(Trust Company Business \(Exemptions No. 7\)\) \(Jersey\) Order 2001](#).

### **13A Liquidators and trustees in bankruptcy of registered persons**

A person appointed to be a liquidator or trustee in bankruptcy of a registered person, when providing a service specified in Article 2(4) of the Law in connection with that appointment.

Note: In this paragraph “registered person” means a person who is registered, authorized, licensed, the holder of a permit or a certificate holder, as the case may be under –

- (a) the [Collective Investment Funds \(Jersey\) Law 1988](#);
- (b) the [Banking Business \(Jersey\) Law 1991](#);
- (c) the [Insurance Business \(Jersey\) Law 1996](#); or
- (d) the [Financial Services \(Jersey\) Law 1998](#).

## **PART 2: UNLIMITED EXEMPTIONS**

### **14 Certain persons engaged in banking, insurance and other investment businesses**

- (1) A registered person, when providing a service specified in Article 2(4) of the Law as part of the business in respect of which the person is registered.
- (2) In sub-paragraph (1), “registered person” means a person who is registered, authorized, licensed or the holder of a permit, as the case may be, under –
  - (a) the [Banking Business \(Jersey\) Law 1991](#);
  - (b) the [Insurance Business \(Jersey\) Law 1996](#); or
  - (c) the [Financial Services \(Jersey\) Law 1998](#) to carry on activities that are within the meaning of “investment business”,and “is registered” shall be construed accordingly.

### **14A Certain persons in relation to collective investment funds**

- (1) A company issuing units that is a recognized fund and that is the holder of a permit under the [Collective Investment Funds \(Jersey\) Law 1988](#), when carrying on under that permit trust company business in relation to that fund.
- (2) A functionary (other than a company issuing units within the meaning of the [Collective Investment Funds \(Jersey\) Law 1988](#)) when carrying on, in relation to a recognized fund, the activities of a functionary, within the

meaning of the Schedule to that Law, under the functionary's permit granted under that Law.

- (3) A company issuing units that is a certified fund within the meaning of the [Collective Investment Funds \(Jersey\) Law 1988](#), when carrying on, in accordance with the certificate granted to the company under that Law, trust company business as part of the business of the fund.

#### **14B Persons registered to carry on fund services business under the Law**

A person who is registered under the [Financial Services \(Jersey\) Law 1998](#) to carry on fund services business, when providing a service specified in Article 2(4) of the Law as part of the fund services business in respect of which the person is so registered.

#### **15 Director – registered person**

A person, when acting as or fulfilling the function of a director of a company if –

- (a) the company for which the person is acting as a director or fulfilling the function of a director is a registered person; or
- (b) the company for which the person is acting as a director or fulfilling the function of a director is a wholly owned subsidiary of a company referred to in sub-paragraph (a) in respect of which the person is also a director or fulfilling the function of a director.

Note: In this paragraph “registered person” means a person who is registered, authorized, licensed, the holder of a permit or a certificate holder, as the case may be under –

- (a) the [Collective Investment Funds \(Jersey\) Law 1988](#);
- (b) the [Banking Business \(Jersey\) Law 1991](#);
- (c) the [Insurance Business \(Jersey\) Law 1996](#); or
- (d) the [Financial Services \(Jersey\) Law 1998](#).

#### **16 Liquidators and trustees in bankruptcy of persons other than registered persons**

A person appointed to be a liquidator or trustee in bankruptcy of a person who is not a registered person, when providing a service specified in Article 2(4) of the Law in connection with that appointment.

Note: In this paragraph “registered person” means a person who is registered, authorized, licensed, the holder of a permit or a certificate holder, as the case may be under –

- (a) the [Collective Investment Funds \(Jersey\) Law 1988](#);
- (b) the [Banking Business \(Jersey\) Law 1991](#);
- (c) the [Insurance Business \(Jersey\) Law 1996](#); or
- (d) the [Financial Services \(Jersey\) Law 1998](#).

**17 Tuteurs, delegates etc.**

A *tuteur*, delegate, *administrateur*, general or special attorney, person on whom authority is conferred by a lasting power of attorney under Part 2 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), or *fideicommissaire* appointed by, and accountable to the Royal Court, when providing a service specified in Article 2(4) of the Law in accordance with that appointment.<sup>2</sup>

**18 Recruitment agents**

A person registered under the [Employment Agencies \(Registration\) \(Jersey\) Law 1969](#) who runs an agency that recruits bona fide long term employees for other persons, when providing a service specified in Article 2(4)(b), (c) or (e) of the Law in connection with the business of that agency.

**19 Guardians of a foundation**

A person being the guardian of a foundation (not being the qualified member of the council of the foundation, as defined by the [Foundations \(Jersey\) Law 2009](#)) when providing to the foundation a service specified in Article 2(4) of the Law in the course of acting as the guardian of the foundation.

## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement
Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000	<a href="#">R&amp;O.124/2000</a>	27 November 2000
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	<a href="#">R&amp;O.101/2003</a>	14 October 2003
Financial Services (Trust Company Business (Exemptions)) (Amendment) (Jersey) Order 2006	<a href="#">R&amp;O.133/2006</a>	3 December 2006
Financial Services (Trust Company Business (Exemptions)) (Amendment No. 2) (Jersey) Order 2007	<a href="#">R&amp;O.155/2007</a>	14 November 2007
Financial Services (Trust Company Business (Exemptions)) (Amendment No. 3) (Jersey) Order 2008	<a href="#">R&amp;O.54/2008</a>	4 April 2008
Financial Services (Trust Company Business (Exemptions Amendment)) (Jersey) Order 2009	<a href="#">R&amp;O.76/2009</a>	17 July 2009
Financial Services (Trust Company Business) (Exemptions Amendment No. 2) (Jersey) Order 2010	<a href="#">R&amp;O.113/2010</a>	24 November 2010
Financial Services (Trust Company Business (Exemptions)) (Amendment No. 4) (Jersey) Order 2014	<a href="#">R&amp;O.124/2014</a>	2 August 2014
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	<a href="#">R&amp;O.49/2018</a>	1 October 2018 ( <a href="#">R&amp;O.51/2018</a> )

### Table of Renumbered Provisions

Original	Current
1(3), (4), (5)	spent, omitted from this revised edition

### Table of Endnote References

<sup>1</sup> *Schedule* amended by *R&O.133/2006*, *R&O.155/2007*, *R&O.54/2008*, *R&O.76/2009*, *R&O.113/2010*, *R&O.124/2014*

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<sup>2</sup> *Paragraph 17*                      *amended by R&O.49/2018*