

STATES OF JERSEY



Jersey

DRAFT FINANCIAL SERVICES OMBUDSMAN (BOARD – AMENDMENT) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 7th December 2020
by the Minister for Economic Development, Tourism, Sport and Culture**

STATES GREFFE

REPORT

Summary

Financial Services Ombudsman (Jersey) Law 2014: amendment to appointments

The Channel Islands Financial Ombudsman (“CIFO”) provides an independent dispute resolution service for unresolved complaints involving financial services.

CIFO comprises the Office of the Financial Services Ombudsman (“OFSO”) in both Jersey and the Bailiwick of Guernsey and operates as the Channel Islands Financial Ombudsman (“CIFO”), under an arrangement entered into by the Minister for Economic Development, Tourism, Sport and Culture with the States of Guernsey under Article 6(1) of the [Financial Services Ombudsman \(Jersey\) Law 2014](#) (the “2014 Law”).

CIFO’s operation is overseen by the OFSO boards, appointed jointly by the Minister for Economic Development, Tourism, Sport and Culture and the Guernsey Committee for Economic Development. CIFO acts as one entity, effectively with a single combined board of directors (the “Board”) empowered through legislation in both Jersey and Guernsey. CIFO’s operation is funded by industry through levies and case fees so that no taxpayer funding is required. CIFO’s legislation in Jersey and Guernsey establishes CIFO’s independence and sets out the various requirements it must fulfil.

There is currently no ability for an appointment or reappointment to the Board to be for a period shorter than 3 years. The Draft Financial Services Ombudsman (Board – Amendment) (Jersey) Regulations 202- (the “draft Regulations”) make provision to allow, in exceptional circumstances, the re-appointment of a Board member for a period shorter than 3 years, subject to the agreement of the Chair of CIFO.

This follows a request by the Chair of CIFO to extend the term of existing Board members by one year in order to ensure board continuity and appropriate succession planning. This request has been supported by the Guernsey Committee for Economic Development, and Guernsey legislation is soon to be amended accordingly.

This proposal would only allow Board reappointments shorter than 3 years where proposed by the Chair, and the Chair and Minister are in agreement. Any such reappointment would be required to be for 1 year, recognising that use of such an exemption would be in exceptional circumstances and not materially amend the existing governance arrangements of CIFO. Further, the power could only be used once for any particular individual, preventing the power being used on a rolling basis.

This proposition does not affect the procedures governing the appointment of new Board members, which would be bound by the requirement that Board appointments must be for a period between 3-5 years. The proposed new power is only available for reappointments, where the Chair and Minister consider that exceptional circumstances render it impracticable to make an appointment of at least 3 years.

This proposition ensures that the Minister is able to commence the reappointment of relevant CIFO Board members in January 2021, as requested by CIFO’s Chair and legislation is being approved in Guernsey. This is subject to the oversight of the Appointments Commission, who are engaged in the relevant reappointment.

Financial and manpower implications

There are no financial and manpower implications for the States arising from the adoption of these draft Regulations.

EXPLANATORY NOTE

These Regulations, if passed, would amend paragraph 1 of Schedule 1 to the Financial Services Ombudsman (Jersey) Law 2014, which requires the Minister for Economic Development, Tourism, Sport and Culture to appoint members to the board of the Office of the Financial Services Ombudsman.

Currently the Minister must appoint members for between 3 and 5 years. The amendment allows an appointment to be made instead for one year, but only if it is a re-appointment of a member who has not previously been re-appointed under this power, and the Minister and the Chairman of the board agree that exceptional circumstances render it impracticable to appoint for the longer period.

The amendment also takes the opportunity to correct a faulty cross-reference in paragraph 1(4) of the Schedule.



Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2(5) of the Financial Services Ombudsman (Jersey) Law 2014¹ –

1 Amendment of paragraph 1 (appointment of board members) of Schedule 1 to Financial Services Ombudsman (Jersey) Law 2014

In Schedule 1 to the Financial Services Ombudsman (Jersey) Law 2014² –

(a) in paragraph 1(4) for “complied with sub-paragraph (6)” there is substituted “complied with sub-paragraph (7)”;

(b) after paragraph 1(8) there is inserted –

“(8A) Despite sub-paragraph (8), the Minister may, in an instrument re-appointing a board member, specify a period of one year for that re-appointment, if –

(a) the Minister and the Chairman agree that exceptional circumstances render it impracticable to make an appointment of at least 3 years; and

(b) the board member being re-appointed has not previously been re-appointed for one year under this sub-paragraph.”.

2 Citation and commencement

These Regulations may be cited as the Financial Services Ombudsman (Board – Amendment) (Jersey) Regulations 202-, and come into force on the day after they are made.

ENDNOTES

Table of Endnote References

1	<i>chapter 13.255</i>
2	<i>chapter 13.255</i>