

STATES OF JERSEY



JERSEY FINANCIAL SERVICES COMMISSION: RE-APPOINTMENT OF COMMISSIONER

Lodged au Greffe on 6th May 2015
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Crown Advocate Cyril Edward Whelan as a Commissioner of the Jersey Financial Services Commission with effect from the date of the States' debate for a period of 5 years.

CHIEF MINISTER

REPORT

Background

1. The appointment of Commissioners to the Jersey Financial Services Commission (the “**Commission**”) is dealt with in Articles 3 and 4 of the Financial Services Commission (Jersey) Law 1998 (the “**Commission Law**”).
2. Paragraph (1) of Article 3 reads as follows –

“(1) The Commission shall consist of –
(a) a Chairman; and
(b) not less than 6 other Commissioners.”

Paragraph (2) reads as follows –

“(2) The States shall appoint –
(a) the Commissioners from persons nominated by the Minister; and
(b) a Commissioner nominated by the Minister to be Chairman of the Commission,
and the appointments shall be debated *in camera*.”

Paragraph (3) states –

“(3) The Commissioners shall include –
(a) persons with experience of the type of financial services supervised by the Commission;
(b) regular users on their own account or on behalf of others, or representatives of those users, of financial services of any kind supervised by the Commission; and
(c) individuals representing the public interest,
and the composition of the Commission shall be such as to secure a proper balance between the interests of persons carrying on the business of financial services, the users of such services and the interests of the public at large.”

3. Pursuant to paragraph (2) of Article 4, the term of appointment of a Commissioner is prescribed by Part 2 of Schedule 1 to the Commission Law, paragraph 1(2) of which reads as follows –

“(2) A Commissioner shall be appointed by instrument in writing for a period not exceeding 5 years¹ and upon expiry of such period shall be eligible for reappointment.”

¹ Amended by the Financial Services Commission (Amendment of Law) (Jersey) Regulations 2011 (R&O.91/2011).

4. By virtue of Article 4(1), all Commissioners are required to take oath before the Royal Court in the form set out in Part 1 of Schedule 1 to the Law before they begin to act in execution of the Commission Law.

Nomination

5. The Chairman of the Commission, Lord Eatwell, has written to the Chief Minister on behalf of the Board of the Commission, recommending the nomination of the following person for re-appointment by the States –

Crown Advocate Cyril Edward Whelan

Crown Advocate Whelan was first appointed as a Commissioner of the Jersey Financial Services Commission on 1st June 2010 and will complete his first term of 5 years on 31st May 2015.

Called to the English bar in 1979 and to the Jersey bar in 1982, Crown Advocate Whelan has spent 28 years as Senior Legal Adviser in the Law Officers' Department in Jersey. He was appointed to the office of Crown Advocate immediately upon the creation of that office in 1987 and remains the Island's Senior Crown Advocate.

As head of the Section within the Law Officers' Department responsible for Serious Crime and International Mutual Legal Assistance, Crown Advocate Whelan has advised on all aspects of public law, including serious crimes such as complex fraud and money laundering.

Crown Advocate Whelan has also acted on behalf of successive Attorneys General in the implementation of major regulatory and mutual assistance legislation in Jersey, and has been involved in high-profile investigative and litigation work relating to asset recovery on behalf of governments worldwide.

Crown Advocate Whelan retired from the Law Officers' Department in 2007 and is currently a Senior Consultant at the local law firm Baker & Partners and, among his other appointments, he has been sworn by the Royal Court to act as one of Jersey's Coroners and is one of the 4 individuals in Jersey who is a qualified MONEYVAL assessor, capable of reviewing international jurisdictions in relation to their defences against money laundering and terrorist financing.

Other Commissioners have been appointed until the following dates –

13th September 2015

Mr. Marcus Ruetimann

20th January 2016

Mr. John Averty (Deputy Chairman)

17th April 2017

Mr. Ian Wright, A.C.A.

17th July 2017
Mr. Stephan Wilcke

28th February 2018
Mr. John Harris (Director General)

29th November 2018
Advocate Debbie Prosser

19th January 2020
Mr. Peter Pichler

19th January 2020
Mr. Simon Morris

21st April 2020
Lord Eatwell of Stratton St. Margaret (Chairman)

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from this proposition.