

STATES OF JERSEY



DRAFT EUROPEAN UNION (FINANCIAL SERVICES – MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 28th January 2019
by the Chief Minister

STATES GREFFE



Jersey

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REPORT

Background

On 29th March 2018 the United Kingdom will leave the European Union. Jersey operates financial services legislation independent to the UK and EU systems, but nevertheless certain amendments are needed to ensure the continued functioning of Jersey legislation.

Draft Regulations

The Draft European Union (Amendment – Withdrawal Agreement) (Jersey) Regulations 201- (“the draft Regulations”) make miscellaneous amendments to certain financial services Laws having regard to the United Kingdom’s exit from the European Union (Brexit). They ensure the continued function of the following Laws –

- [Banking Business \(Jersey\) Law 1991](#)
- [Companies \(Jersey\) Law 1991](#)
- [Companies \(Takeovers and Mergers Panel\) \(Jersey\) Law 2009](#); and
- [Financial Services \(Jersey\) Law 1998](#).

Banking Business (Jersey) Law 1991

The draft Regulations amend the Banking Business (Jersey) Law 1991 –

- (a) in Article 8, to include the Bank of England in the list of central banks to which the requirement to register to carry on deposit-taking business does not apply;
- (b) in Article 38, to include the Bank of England in the list of central banks to the restriction on use of certain names and descriptions does not apply; and
- (c) in Article 43, to include the Bank of England, Prudential Regulation Authority and Financial Conduct Authority in the list of persons that the Jersey Financial Services Commission is not precluded from sharing information with to facilitate discharge of functions of the Commission and those persons.

Companies (Jersey) Law 1991

The draft Regulations amend Article 102 of the Companies (Jersey) Law 1991 to include the London Stock Exchange in the definition “regulated market”.

Companies (Takeovers and Mergers Panel) (Jersey) Law 2009

The draft Regulations amend the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 to ensure the continued jurisdiction of the City's Takeovers and Mergers Panel in Jersey. Specifically they substitute a new definition for the term "takeover bid", and make other minor consequential changes in keeping with the Brexit changes being made to the Companies Act 2006, c. 46 of the United Kingdom.

Financial Services (Jersey) Law 1998

The draft Regulations amend Article 39A to include international organizations in which the United Kingdom is a member in the definition "public sector body", rather than simply referring to EU Member States.

Financial and manpower implications

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

Explanatory Note

These Regulations make miscellaneous amendments to certain financial services Laws having regard to the United Kingdom's exit from the European Union.

Regulation 1 amends the Banking Business (Jersey) Law 1991, to amend references to member states of the European Union. The amendments ensure that the treatment of the United Kingdom will not change when the United Kingdom ceases to be a member state of the European Union. The effect of the amendments is –

- (a) in Article 8 of the Banking Business (Jersey) Law 1991, to include the Bank of England in the list of central banks that are not required to register to carry on deposit-taking business;
- (b) in Article 38 of that Law, to include the Bank of England in the list of central banks to which the restriction on use of certain names and descriptions does not apply; and
- (c) in Article 43 of that Law, to include the Bank of England, and the Prudential Regulation Authority and Financial Conduct Authority of the United Kingdom, in the list of persons that the Jersey Financial Services Commission is not precluded from sharing information with (when doing so to facilitate the discharge of the Commission's functions and of those persons' functions).

Regulation 2 amends Article 102 of the Companies (Jersey) Law 1991 to include, in the definition "regulated market", a "UK regulated market" within the meaning of the relevant United Kingdom legislation (preserving European Union legislation on exit). This Regulation also updates the definitions of "Directive" and "transferable securities" to reflect the most recent relevant Directive.

Regulation 3 amends the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 to substitute a new definition for the term "takeover bid" and to make other minor consequential changes in keeping with the changes made to the Companies Act 2006 of the United Kingdom.

Regulation 4 amends Article 39A of the Financial Services (Jersey) Law 1998 to amend a reference to member states of the European Union, to ensure that the treatment of the United Kingdom will not change when the United Kingdom ceases to be a member state of the European Union. The amendment includes, in the definition "public sector body" in that Article, international organisations of which the United Kingdom is a member (as well as those of which European Union member states are members).

Regulation 5 gives the title by which these Regulations may be cited and provides for them to come into force on a date and time, or dates and times, to be appointed by the Minister for External Relations by Order.



Jersey

**DRAFT EUROPEAN UNION (FINANCIAL
SERVICES – MISCELLANEOUS AMENDMENTS)
(JERSEY) REGULATIONS 201-**

Arrangement

Regulation

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Jersey

DRAFT EUROPEAN UNION (FINANCIAL SERVICES – MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

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

THE STATES, in pursuance of Articles 2 and 5A of the European Union Legislation (Implementation) (Jersey) Law 2014¹, have made the following Regulations –

1 Banking Business (Jersey) Law 1991 amended

In the Banking Business (Jersey) Law 1991² –

- (a) in Article 8(2), after sub-paragraph (a), there is inserted –
“*(aa)* the Bank of England;”;
- (b) in Article 38(1) and (2), for “the States, the central bank of a member State of the European Union or” there is substituted “the States, the Bank of England, the central bank of a member State of the European Union or”;
- (c) in Article 43(3), after sub-paragraph (b) there is inserted –
“*(ba)* the Bank of England;
(bb) the Prudential Regulation Authority or Financial Conduct Authority of the United Kingdom; or”.

2 Companies (Jersey) Law 1991 amended

In the Companies (Jersey) Law 1991³, in Article 102(1) –

- (a) for the definition “Directive” there is substituted –
““Directive” means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 (OJ L 173, 12.6.2014. p. 349) on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time;”;
- (b) for the definition “regulated market” there is substituted –

- ““regulated market” means –
- (a) a UK regulated market, within the meaning given, in the United Kingdom, by Article 2.1(13A) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 as substituted by regulation 26(2)(a) of the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 of the United Kingdom (S.I. 2018/1403); or
 - (b) a regulated market within the meaning given by Article 4.1(21) of the Directive;”;
- (c) in the definition “transferable securities”, for “(see Article 4.1(18) of the Directive)” there is substituted “(see Article 4.1(44) of the Directive)”.

3 Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 amended

In the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009⁴ –

- (a) in Article 1(1), for the definitions “takeover bid” and “Takeovers Directive” there is substituted –
 - ““takeover bid” includes a public offer made to the holders of the securities of a company to acquire some or all of those securities, whether mandatory or voluntary, which follows or has as its objective the acquisition of control of that company, but does not include cases where the offer is made by the company itself.”;
- (b) Article 1(2) is deleted;
- (c) for Article 3(1) there is substituted –
 - “(1) The Panel may make rules giving effect to any general principles that are to be followed by the United Kingdom body equivalent to the Panel in making equivalent rules under section 943 of the Companies Act 2006.”;
- (d) in Article 8(6)(a), for “an authority within paragraph (7)” there is substituted “the Commission”;
- (e) Article 8(7) is deleted;
- (f) Article 10(1)(b) is deleted.

4 Financial Services (Jersey) Law 1998 amended

In the Financial Services (Jersey) Law 1998⁵, in Article 39A(1), in the definition “public sector body” in paragraph (c), for “include Jersey or a member state of the EU” there is substituted “include Jersey, the United Kingdom, or a member state of the EU”.

5 Citation and commencement

These Regulations may be cited as the European Union (Financial Services – Miscellaneous Amendments) (Jersey) Regulations 201- and come into force on such day or days, and time or times, as the Minister for External Relations may by Order appoint.

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- 1* chapter 17.245
2 chapter 13.075
3 chapter 13.125
4 chapter 13.145
5 chapter 13.225