

**FINANCIAL SERVICES COMMISSION: APPOINTMENT
OF COMMISSIONERS**

**Lodged au Greffe on 12th May 1998
by the Finance and Economics Committee**



STATES OF JERSEY

STATES GREFFE

PROPOSITION

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

to appoint, in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998, as amended, the undermentioned persons as Commissioners of the Jersey Financial Services Commission, with effect from 4th June 1998 for the periods stated –

For a period of three years, subject to continued membership of the Finance and Economics Committee:

Senator Frank Harrison Walker

Until 30th November 1999:

Mr. Richard Charles Ahier Syvret
Jurat John Claude Tibbo
Mr. Andrew Winckler.

Until 31st May 2001:

Advocate Julian Anthony Clyde-Smith
Mr. Richard John Pirouet
Mr. Geoffrey Colin Powell, OBE

FINANCE AND ECONOMICS COMMITTEE

Report

The appointment of Commissioners to the Jersey Financial Services Commission is dealt with in Article 3 of the Financial Services Commission (Jersey) Law 1998. Paragraph (1) reads as follows –

- “(1) The Commission shall consist of –
- (a) a Chairman who shall be a member for the time being of the Committee (the Finance and Economics Committee); and
 - (b) not less than six other Commissioners.”

Paragraph (1A) reads as follows –

“(1A) The Commissioners shall be appointed by the States from persons nominated by the Committee and such appointments shall be debated *in camera*.”

Paragraph (2) states –

- “(2) 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 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.”

The Finance and Economics Committee wishes to nominate the following persons for appointment by the States –

Senator F.H. Walker

President of the Finance and Economics Committee

Senator Walker is the nominee for appointment as Chairman of the Jersey Financial Services Commission.

Advocate Julian A. Clyde-Smith

Advocate Clyde-Smith is a partner of Ogier & Le Masurier in Jersey in charge of litigation having joined the firm in 1976.

Richard Pirouet

Richard Pirouet was until 31st March 1998 the Managing Partner of Ernst & Young, Jersey.

G. Colin Powell OBE

Chief Adviser to the States of Jersey

Richard C.A. Syvret

Director, States of Jersey Financial Services Department

Jurat John C. Tibbo

Jurat of the Royal Court. Jurat Tibbo retired from Midland Bank in 1996 where he held a number of management positions including Divisional Director, Offshore Islands.

Andrew Winckler

Until recently Chief Executive of the Securities and Investments Board in London.

Full CVs of all the above are attached at Appendix A.

The initial appointment of Commissioners is for a period of up to three years. It is considered appropriate that not all appointments should terminate at the same time and three of the nominees are therefore intended to be appointed for the eighteen months ending 30th November 1999 and the remaining three for the three year period ending 31st May 2001. [The appointment of the Chairman is dependent on his remaining a member of the Finance and Economics Committee as required by the Financial Services Commission (Jersey) Law 1998.]

By virtue of Article 4(1) of the Financial Services Commission (Jersey) Law 199 all Commissioners are required to take oath before the Royal Court in the form set out in Part I of the First Schedule to the Law before they being to act in execution of the Law.

The Jersey Financial Services Commission Organising Committee which was established by the Finance and Economics Committee on 17th July 1997 had the following terms of reference.

“To consider, evaluate, negotiate and recommend, after such consultation as may be deemed necessary or desirable, the draft legislation, policies, working arrangements, structures and resources appropriate for the proposed Jersey Financial Services Commission with a view to their adoption by the relevant bodies and to effecting the smooth transition of powers and responsibilities from the Finance and Economics Committee and the Financial Services Department to the Commission.”

As part of this function the Organising Committee has agreed a statement on conflicts of interest. The statement is set out in Appendix B for the information of Members of the States. [It has been derived from similar documents and procedures within the Securities and Investments Board and the Securities and Futures Authority in London.]

APPENDIX A**JULIAN ANTHONY CLYDE-SMITH**

Advocate Julian Clyde-Smith was born in Jersey on 23rd September 1950 and after Kindergarten School attended St. Michael's Preparatory School until he was thirteen and from there went to Worth Abbey School in Sussex until he was eighteen. Advocate Clyde-Smith then studied law at Christ's College Cambridge obtaining a 2:1 degree in law in 1972 from where he went to London qualifying as a Barrister in 1973.

At that time his father was the sole practitioner in Ogier & Le Cornu and he therefore returned to Jersey in order to assist him, qualifying as an Advocate in 1974. Advocate Clyde-Smith became a partner with his father in 1976 and they were shortly thereafter joined by Michael Birt and followed in 1980 by Malcolm Sinel. The firm then benefited from the enormous growth in the offshore industry experienced in the 1970s and 1980s to a point where now, after a merger with Le Masurier Giffard & Poch, the firm which is now known as Ogier & Le Masurier has 15 partners and over 150 staff together with an associated office in Guernsey.

In the 1970s and 1980s Advocate Clyde-Smith enjoyed a broad practice, embracing both personal and commercial law, but was also involved in the firm's trust company which was sold in 1987.

In the 1990s Advocate Clyde-Smith specialized in litigation and is currently head of the firm's Litigation Group which comprises three partners and ten lawyers. He particularly specializes in trust litigation.

Advocate Clyde-Smith is also a Crown Advocate and involved in Crown prosecution work.

Dealing with his personal situation, he is married with six children and his main recreational interest is boating.

RICHARD J. PIROUET

Richard Pirouet was born into a St. Ouen's farming family in 1947 and was educated at St. Ouen's Primary School, Victoria College Preparatory

School and Victoria College. He left Victoria College in 1964 with three A Levels and winning the Queen's gold medal for science.

In 1964, Mr. Pirouet commenced his articles to train for chartered accountancy with Barton Mayhew & Co. the then auditors to the States of Jersey and one of the predecessor firms of Ernst & Young. He qualified as a chartered accountant in 1969 and then left the Island to work in another accountancy firm in Cape Town, South Africa until his return to Jersey in 1972.

Mr. Pirouet returned to his previous firm and became a partner on 1st January 1974. He was a partner from that date until his retirement on 31st March 1998, during which the firm was involved in successive mergers under the names Turquands Barton Mayhew & Co., Ernst & Whinney and finally Ernst & Young.

During his career as a partner in the firm, Mr. Pirouet has specialized in trustee services for wealthy private clients. The work has covered international tax and estate planning and the provision of trustee and company administration services, mostly to clients with long-standing relationships with the firm. During his period as a partner in the firm, Mr. Pirouet has, at various times, been the partner responsible for the firm's trust company, its information technology department and its human resources function. Mr. Pirouet has, at various times, been the partner responsible for the firm's trust company, its information technology department and its human resources function. Mr. Pirouet became managing partner of Ernst & Young in 1991 and combined this role with acting as senior partner from 1994 to his retirement from the firm on 31st March 1998.

Outside Ernst & Young, Mr. Pirouet has acted as a director of Abbey National Treasury International Limited since the Abbey National Group set up in the Island in 1988 and is due to be appointed as a director of Cater Allen Bank (Jersey) Limited, following its recent acquisition by Abbey National Plc. He has acted as a director of various development capital funds administered by Govett & Company Limited and has been nominated to become a director of the Jersey New Waterworks Company Limited at its Annual General Meeting scheduled for 8th May 1998.

Mr. Pirouet has been a member of various committees of the Jersey Society of Chartered and Certified Accountants and served on the council

of the Jersey Chamber of Commerce for three years. He attended an International Senior Management programme at Harvard Business School in 1992.

Mr. Pirouet is married to Mrs. Sheelah Langlois and has two sons and two stepdaughters. His social activities have largely revolved around his membership of service clubs and sporting activities. He was a member of Jersey Round Table for 12 years and has been a member of the Jersey Rotary Club for the same period. His main sporting activity is now golf.

GEOFFREY COLIN POWELL OBE MA (CANTAB)

Date of Birth:	17th September 1937
Place of Birth:	Carshalton, Surrey
Family:	Married with three daughters
Educated at:	Wallington Country Grammar School Jesus College, Cambridge – 1961 Awarded 1st Class Honours BA Degree in Economics – 1963 Awarded MA
Employment:	1961/63 in the Economic Office of the British Iron and Steel Federation 1963/68 Economic Adviser with the Government of Northern Ireland 1969/92 Economic Adviser to the States of Jersey 1992/ Chief Adviser to the States of Jersey
Other positions:	1981/ Chairman, Offshore Group of Banking Supervisors
Principal Interests:	Squash, gardening and historical research

Former member of the Jersey Round Table and presently a member of the Rotary Club of Jersey and thereby involved in charitable and community projects

Publications: Economic Survey of Jersey (1971)

Annual Report on the Jersey Economy

Various articles on the Jersey economy, Jersey's role as an international finance centre, and Jersey's relationship with the European Union

RICHARD CHARLES AHIER SYVRET

Date of Birth: 12th May 1943

Place of Birth: Jersey

Marital Status: Married with one son and one daughter

Education: De la Salle College The Beeches Jersey

Professional Qualifications: Institute of Chartered Secretaries and Administrators

Associate 1966
Fellow 1973

Association of Chartered and Certified Accountants

Associate 1968
Fellow 1974

Career: States of Jersey Finance and Economics Committee
Financial Services Department: 1979– to date

Chief Executive Officer responsible for the development and supervision of the finance industry, including financial and commercial legislation, banking supervision, insurance company supervision,

collective investment fund authorisation and regulation, registration of Jersey limited liability companies, securities regulation and financial investigations.

States of Jersey Committee for Postal Administration
1970–1979

Finance Director responsible for financial and management information, costing, pricing and information technology functions.

States of Jersey Finance and Economics Committee
States Treasury: 1969–1970

Financial Assistant responsible for States financial accounting and budgeting.

States of Jersey Public Health Committee
Hospitals Group: 1963–1969

Deputy to the Group Secretary/Accountant

Barclays Bank Executor & Trustee Co. (C.I.)
Limited Jersey

1960–1963

Barclays Bank Limited, Jersey

1959–1960

Interests: Reading, walking, Church, boating, surfing, chess.

Deacon, Jersey Baptist Church
Director, Christian Bookshop Mission Limited
Trustee, Tesson Chapel
Trustee, Jersey Evangelical Trust

JOHN CLAUDE TIBBO

Date of Birth:	3rd January 1940
Career:	Positions held within Midland Bank Retired 31st January 1996
1993–1996	Divisional Director, Offshore Islands
1985–1993	Area Manager, Jersey
1983–1985	Manager, Library Place Branch, Jersey
1978–1983	Manager, Hill Street Branch, Jersey

Prior to the above dates, various other Management positions were held within Midland Bank Plc. including at Head Office and Regional Head Office Level.

Joined Midland Bank in Jersey in January 1959 after two years with the then Jersey Savings Bank (now Lloyds TSB Bank (Channel Islands)).

Current Directorships

Channel Islands Development Corporation Limited
 Charles Le Quesne (1956) Limited
 A. De Gruchy Holdings Limited
 Jersey Milk
 Jersey Waterfront Enterprise Board Limited
 Nordar Limited
 Norman Limited
 Norman Holdings Limited
 The Regent Strategy Fund Limited
 Standard Bank Jersey Limited
 Standard Bank Offshore Group Limited
 The British Bank of the Middle East

Other Interests:

Trustee of J.C. Norman No. 2 Trust
 Trustee of Wallbrook Channel Islands Pension Scheme
 Chairman, Audit Committee for Defence Committee
 Vice-Chairman of the Royal National Lifeboat Institution, Jersey Branch
 Member and Past President of the Lions Club of Jersey
 Member of Jersey Humane Society
 Past Captain of the Royal Jersey Golf Club
 Past President of the Old Victorians Association

Personal

Married to Dorothy with two daughters, Heather and Karen. Heather is an Advocate with the firm of Ogier & Le Masurier and Karen works in London with FARM-Africa.

FRANK HARRISON WALKER

Date of Birth: 17th October 1943

Place of Birth: Jersey

Educated: Landsdowne Preparatory School, Jersey
 Victoria College Preparatory School, Jersey
 Victoria College, Jersey

Career Details

1960–65 Management Trainee, Jersey Evening Post, St. Helier, Jersey
 The Jersey Evening Post is Jersey's only daily newspaper.

1965–66 Advertisement Representative, Jersey Evening Post.
 During this time, pro-active advertising selling was introduced and expanded.

- 1966–68 Advertisement Manager, Jersey Evening Post
A new team was created to develop the Evening Post advertising revenues, with considerable success. Classified telephone selling and a creative design service were introduced and the quality of the advertising product enhanced.
- 1968–73 Managing Director, Walker’s Advertising Associates Limited
Walker’s Advertising Associates was a new advertising agency established by three of the Jersey Evening Post advertising team. The company grew to some forty employees with offices in Jersey and Guernsey and a turn-over in excess of £6 million.
- 1973–90 Managing Director, W.E. Guiton & Co. Limited (now The Guiton Group Limited)
During this time, the company diversified into commercial print, retailing, wholesaling and travel. Turnover grew to £22 million and the company became one of the largest employers in the Channel Islands.
- 1990–present Chairman, The Guiton Group Limited.
This is a part-time position, with particular emphasis on long-term planning and strategy. In this period, turn-over has grown to £39 million and profits have increased by 150 per cent.
- Political Career
1990–96 Deputy, St. Helier No. 3, States of Jersey
Elected to the States of Jersey as a Deputy for St. Helier No. 3 District in 1990 and subsequently topped the poll when re-elected in 1993 in the same District. Particular responsibilities during this time were the Presidency of the States of Jersey Establishment Committee, which is the employer of public sector staff, the Presidency of the Jersey Postal Committee, responsible for postal operations in and out of the Island; member of the Finance and Economics Committee, responsible for the Island’s

finance industry and the States of Jersey budget; member of the States of Jersey Housing Committee and the States of Jersey Tourism Committee. In addition, a particular area of interest was the urban regeneration of St. Helier, the Island's principal town.

1996–present

Senator, States of Jersey

Elected Senator of the States of Jersey on an Island-wide mandate and appointed President of the Finance and Economics Committee and Vice-President of the Policy and Resources Committee, the committee responsible for the overall strategic policies of the States of Jersey. Continued as President of the Postal Committee.

ANDREW WINCKLER

146 Dora Road Wimbledon London SW19 7HJ

**Financial Services
Authority/Securities
and Investments
Board
1994–1998**

The SIB was the senior regulatory body in the UK for investment business under the Financial Services Act. The SIB changed its name to the Financial Services Authority in October 1997 to prepare for the merger of other regulatory functions in financial services.

1996–1998

Chief Executive

- Repositioned the organisation and management team in anticipation of current restructuring of City regulation
- Reduced planned costs by 5%
- Initiated statutory enquiries into metals market with multi-disciplinary team
- Improved communication and relationship of SIB within the market place
- Developed government confidence in the SIB to act as the main vehicle for planning structural

change in the regulatory system

- Dealt with media, government and Parliament to raise the organisation's standing to ensure positive communication with these groups
- Responsible for dealings at Board level with wide range of financial institutions (banks, insurance companies, securities houses and exchanges)

1994–1996

Member of SIB Board and Head of Supervision

Recruited to set up new Supervision Group of 50 professionals (following recommendation of Large report to the Chancellor) to supervise some 20 organisations – the self-regulatory organisations, exchanges, clearing houses and other professional bodies under the Financial Services Act. Led project to review transparency of the London equity market, co-ordinated response of exchange and regulatory authorities to collapse of Barings.

European Capital 1990–1994

Deputy Chairman, Founder Director and Head of Corporate Finance

European Capital was established in 1990, specializing in international project, trade and corporate finance. European Capital operates from 3 Lombard Street, London (Chairman, Sir John Caines). Corporate finance department advised utilities on price regulation, conversion to plc. status and advised corporates generally on capital raising in the international markets in London. Advised or structured some £500m of debt issues for The Housing Finance Corporation. Advised Hungarian Government on introducing private capital into the water industry. Advised World Bank mission to Hungary.

Deputy Chairman (non-executive), Securities and Futures Authority and Chairman of Enforcement Committee and International Capital Committee.

- Hoare Govett
1987–1990** Director, Corporate Finance, Hoare Govett and Director, Security Pacific Hoare Govett. Management responsibility for swaps and debt origination. In corporate finance, specialised in utility sector and advised a leading French group on four successful acquisitions in the UK.
- Lloyds Bank
International
1982–1987** Lloyds Bank International, Manager loan syndications: responsible for origination of some US\$1.5 billion syndicated international loans. Director and Head of Business Development, Lloyds Merchant Bank. Expanded product range and client base in series of profitable capital markets transactions.
- HM Treasury
1981–1982** HM Treasury, head of one of the expenditure control units.
- 1978–1981** First Secretary (Financial), British Embassy Washington DC USA. Responsible for dealings with US Administration and Congress on financial and tax matters.
- 1978** Treasury representative on review team to overhaul Exchequer and Audit Department which subsequently led to setting-up of the National Audit Office.
- 1975–1978** HM Treasury: Head of unit responsible for export finance and overseas investment protection policy. Introduced new programme of financing export credit in foreign currencies.
- 1974–1975** Cambridge University (Economics Course).
- 1970–1974** HM Treasury: public expenditure control, foreign exchange control and Chancellor's Office (Private Secretary to Tony Barber and Denis Healy).

PERSONAL DETAILS

Education	Bedford Modern School Christ's College Cambridge (MA Dip Econ) Open Exhibition 1967. Scholarship 1969.
Professional	Member Securities Institute Fellow Royal Geographical Society
Nationality	British
Date of Birth	8th January 1949
Family	Married with three sons
Interests	Bridge, Opera, 20th Century British Art

APPENDIX B**JERSEY FINANCIAL SERVICES COMMISSION
("THE COMMISSION")****CONFLICTS OF INTEREST****INTRODUCTION**

1. Decision-takers in any organization have a range of activities and association. Although breadth of experience is generally an asset in decision-taking it will also often give rise to situations of conflict of interest.
2. Practitioners play a major part in the governance of many regulatory authorities and the Jersey Financial Services Commission ("the Commission") is no exception. The Financial Services Commission (Jersey) Law 199 imposes requirements which build in checks and balances such as the requirement for the composition of the Commission to be structured 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. However, these provisions do not diminish the need for the Commission to have its own internal arrangements to deal adequately with conflicts of interest. Indeed, it must be an essential element in enabling the regulators to command public confidence that regulation involving practitioners is not capable of criticism as self-interested regulation.
4. Regulatory decisions cannot command confidence, and therefore cannot be effectively supported and enforced, unless they are taken, and can be seen to be taken, with full information and free from any suggestion of improper influence.
5. The Commission is entrusted with far reaching powers. These need to be exercised in the interests of good regulation, rather than for any personal purposes of the individuals concerned. In addition, regulatory authorities have access to confidential information. This must similarly be used only in the interests of

good regulation, rather than for the personal purposes of those aware of it.

6. It is therefore important from the viewpoint of the Commission, of the individuals involved, and of those affected by their decisions, that conflicts of interest which do arise should be identified and effectively dealt with.
7. The Commission needs to have in place well-considered arrangements to deal with conflicts of interest. These need to be accompanied by a sound understanding of the need for vigilance in dealing with conflicts.
8. The Code is designed to maintain justified confidence in the regulatory system, by ensuring that:
 - those providing information can be confident that it will be properly handled; and
 - regulatory decisions are not improperly influenced by conflicts of interest.

In setting out these overall standards, this Code of Conduct is designed to encapsulate the standards which would apply under the ordinary law (which sets standards for dealing with conflicts both for fiduciaries and for those exercising public functions), and under the Financial Services Commission (Jersey) Law, Section 2 of the First Schedule of the Law covers disclosure of interest, and states:—

“2.-(1) Where a Commissioner has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter –

- (a) he shall disclose the nature of his interest at a meeting of the Commission in person or by means of a written notice brought to the attention of the Commission;

- (b) the disclosure shall be recorded in the minutes of the Commission; and
- (c) he shall withdraw from any deliberations of the Commission in relation to that matter and not vote upon it.

(2) For the purposes of this paragraph, a general notice given by a Commissioner that he is a member or director of a particular organization and is to be regarded as interested in any matter concerning that organization is sufficient disclosure in relation to any such matter.”.

This Code is also designed to reflect the high standards of integrity expected of professionals.

- 9. An important object of the Code of Conduct is to assist those involved in decision-taking to identify for themselves conflicts of interest which may arise and to be aware of the appropriate action which may need to be taken to deal with them.
- 10. The primary responsibility for ensuring the proper handling of a conflict of interest lies with the individual with the conflict. This Code is designed to reinforce, rather than replace personal integrity.
- 11. Understanding of conflicts, and of ways of dealing with them is, however, only one element in effectively minimising and managing conflicts of interest. It is also intended that the Commission have in place, and operate, certain additional procedures for giving effect to the standards set by the Code. The Code is not an end in itself, but a means to more effective handling of conflicts.
- 12. The Commission therefore not only adopts this Code and its supporting procedures, but also commits to review their operation and effectiveness from time to time and to make any necessary adjustments.

What is a conflict of interest?

Conflicts of interest

13. A conflict of interest arises in a situation where an individual with responsibility to act in the interests of others may be affected in his action by a personal interest (including a business interest) or association of his own.

Impact of conflicts of interest

14. Not all of these will necessarily give rise to a significant conflict of interest in every case. This Code of Conduct applies to conflicts of interest only where an independent third party might reasonably take the view that there is a real risk that the impartiality of the individual's judgement or course of action might be affected by the conflicting interest.

Examples of conflicts

15. Conflicts of interest may arise in various ways, for example, as a result of:
 - the individual's or his spouse's direct or indirect financial interest in the matter;
 - a direct or indirect financial interest held by a commercial undertaking with which the individual has connections;
 - a present or past business or personal association or relationship, whether of warmth or antipathy, with those affected or likely to be affected;
 - a responsibility, for example, as a trustee, to act in the interest of one or more other persons;
 - an expectation of a future interest (for example, future employment);
 - a previous association with the matter;

- an interest arising from membership of a society or of a common interest grouping, such as a trade association;
- sectional interests of a sector with which the individual is connected, for example, of the stockbroking or life assurance sectors.

Tackling conflicts

Problems created by conflicts

16. In deciding how to deal with a conflict of interest, it is important to recognise that different conflicts can give rise to different problems.
17. The main risks are that:
 - the quality, and indeed validity, of regulatory decisions may be adversely affected;
 - the efficiency and speed of regulatory decision-taking may be impeded;
 - regulatory information may be used for private or commercial gain, reducing the willingness of others to supply it.

Main principles

18. In addressing these problems, three main principles should be followed.

Regulatory action

19. Individuals must take effective steps to ensure that regulatory action is, and is seen to be, unaffected by any conflict of interest, and must accordingly ensure that any conflict of interest to which they may personally be subject does not affect the impartiality of regulatory action or create a risk that that action could be called into question.

Organisational structure

20. The Commission's structure will be kept under review so that it can take proper regulatory decisions notwithstanding any conflicts of interest which may arise.

Use of Information

21. Individuals in possession of information received in connection with their regulatory functions must not misuse this information and must do all they can to ensure that it is used only for proper regulatory purposes.

Applying the main principles

Disclosure

22. In dealing with a conflict of interest, the starting point will be to disclose it. This enables others, who are not affected by the conflict, to assist in deciding how it should be managed, and if disclosure is timely, it enables action to be taken to deal with it without affecting the quality or promptness of regulatory action.
23. Where a Commissioner has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter:
 - he shall disclose the nature of his interest at a meeting of the Commission in person or by means of a written notice brought to the attention of the Commission; and
 - he shall withdraw from any deliberations of the Commission in relation to that matter and not vote upon it.
24. Sometimes, it will be desirable for potential conflicts of interest to be covered in a general advance disclosure. This may be the case, for example, where decisions which might be affected by the conflict may be expected to come up regularly, and continuing arrangements are needed to minimise the effect of the

conflict or where it would not be appropriate for a particular Commissioner to be given access to information.

25. However, except where an individual's connection with a particular area of business is well known, disclosure must also be made at any time that the conflict becomes relevant. A general advance disclosure is no substitute for a specific disclosure in such a case.
26. There may, exceptionally, be a case in which it is acceptable for an individual with a conflict simply to withdraw from involvement in the matter concerned, without disclosing the interest. This may be appropriate, for example, where disclosure of the conflict could itself involve breach of the individual's duties (for example, duties of confidentiality relating to a proposed takeover). However, the individual in such a case should ensure that his non-involvement is clearly established.

Safeguards following disclosure

27. Sometimes, the risk posed by a conflict of interest will mean that safeguards beyond disclosure need to be introduced. This will depend on the nature and directness of an individual's interest, and the nature and importance of the problem to which it gives rise.
28. Accordingly, where disclosure alone is insufficient, and the problem concerns the quality or validity of regulatory decision-taking, it will generally be right for the individual concerned not to take part in the decision-taking process. This will mean that he does not vote and takes no active part in discussions, for example, by contributing to them or chairing them. It may also mean that he is not physically present at them, for example, if his presence could inhibit free debate.
29. Likewise, where disclosure alone is insufficient and the problem concerns the use of information, it will generally be right for the individual concerned not to be given access to the information. This will mean excluding him from distribution of documents, or attendance at meetings, on the subject concerned.

30. In some cases, the application of these safeguards may have such a regular and significant impact on an individual's role that effective and prompt decision-taking means that he needs to stand down from a position he holds.

Examples

31. While it is recognised that there will not always be simple answers, it may help to give some illustrations of possible conflicts of interest and ways of dealing with them:
- the individual is an industry practitioner, known for his expertise in a particular sector in the industry, who is called on to take part in rule-making for that sector; his interest as a current practitioner need not disqualify him, but the Commission needs to remember that it is not responsible to practitioners alone;
 - the individual has a close link with an applicant for a waiver of any specific requirements, but without any direct financial interest, for example, because he has been a consultant to its dominant shareholder; he should not take part in the decision;
 - the individual has some form of financial interest in the grant of an application for a licence, for example, because he has a shareholding in the applicant; he should not take part in the decision on its admission or be present at the meeting;
 - the individual has a financial interest in an organisation whose business may be affected significantly by competition from a firm: depending on the closeness of the conflict, it may be right for him not to take part in a decision with regard to the firm or be present at the meeting;
 - the individual has a financial interest in a firm, where confidential information is received about a significant competitor: depending on the nature and the extent of the interest, and the nature of the information, it may be right for him not to be given that information;

- there is a regulatory need for transfer of information to another regulator: the individual should not impede the transfer of the information on the ground that it shows him (or his organisation) in a bad light;
- the individual is aware that intervention action is about to be taken against a firm: he should not disclose that information to market practitioners to enable them to reduce their exposure to the firm or use the information for such a purpose.

Guidance

32. Guidance from at least two Commissioners (including, if appropriate, the Chairman) on the handling of a conflict of interest should be sought when it is disclosed to the Secretary. Those responsible for guidance on the handling of conflicts of interest should always look at the issue from the viewpoint of an outsider. Decisions on handling conflicts of interest must be publicly defensible.

Personal account dealings by Commissioners

Principle

33. Commissioners are required so to manage their personal investment activity as to minimise the possibility of embarrassment to themselves or the Commission, and to that end it is important that the Commission is kept informed of interests in investments which might be perceived as likely to cause a conflict with their duties.

General

34. The Commission recognises that Commissioners who are partners in, directors of or employed by firms regulated by the Commission will be subject to their firm's or employer's rules for personal account transactions. The Commission is confident that such Commissioners will comply with those requirements and attaches the highest importance in their doing so.

Reporting to the Commission

35. In addition the Commission requires Commissioners to report in writing as follows to the Secretary:

- (a) The fact – but not the amount or value – of any interest in the shares or debentures (including options, futures and rights to acquire or dispose)

HELD BY – the individual, his spouse or minor child beneficially;

- the individual or his spouse as trustee of a trust in which the individual, his spouse or minor child has a significant beneficial interest (other than a unit trust or a pension scheme);

- a body corporate in which the individual or his spouse is entitled to exercise or control the exercise of one third or more of the voting power at general meetings;

IN – a body corporate or a branch or agency or partnership or fund regulated by the Commission under the Banking Business (Jersey) Law 1991 or the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996 or the Investment Business (Jersey) Law 199 ;

- a holding company of any business entity so regulated by the Commission;

- a subsidiary of any business entity so regulated by the Commission;

- a subsidiary of any of the Commission’s so regulated business entities’ holding company.
- (b) The fact – but not the amount or value – of any acquisition or disposal including partial additions or reductions of any interest disclosable under (a) above or of any agreement to acquire or dispose thereof.
- (c) A directorship held by the individual, or his spouse, of the Commission’s so regulated business, its holding company, subsidiary or a subsidiary of its holding company.
- (d) All other directorships held by the individual or his spouse save that where the individual or his spouse is a partner in, director of, employed by or in any other way interested in a firm or company the business of which includes the administration of or provision of services for companies (“Companies under Administration”) then the reporting requirements shall not extend to directorships of any of the Companies under Administration by that firm or company. The interest of the Commissioner in the firm or company carrying on such business must be disclosed and he will be regarded as having a conflict of interest in any matter affecting any company, trust or matter administered by that business.

On the basis of this information the Chairman, or in his absence the Deputy Chairman, and one of the other Commissioners, will consider and, when he thinks it appropriate, draw to the attention of a Commissioner the question of whether he should do or abstain from any act in pursuance of his duties.

Disclosure

36. Disclosure shall be made within five business days after the Commissioner first becomes aware of the facts requiring such disclosure.

Personal responsibilities regarding disqualification from the Commission

37. Disclosure

Prospective Commissioners should initially, upon consideration for appointment, disclose all such positions and interests as detailed in Section 35 above to the Chairman of the Commission, who, in conjunction with other Commissioners as appropriate, will decide whether such appointments are acceptable for the recommendation to the States. If not, the prospective Commissioner may have to withdraw, but if agreement is reached, a written note of such agreement together with full details of the partnerships, directorships or offices held, must be disclosed and registered with the Secretary of the Commission.

Subsequently, Commissioners should immediately disclose to the relevant Chairman or Deputy Chairman if any of the following circumstances arise:–

- the Commissioner becomes aware of an actual or potential conflict of interest between the Commission and himself, his firm or his employer, or a person with whom he is associated;
- the Commissioner becomes aware that he, his firm, or his employer is under investigation for a suspected breach of the Law, rules, principles or codes of conduct applicable to their professional conduct, or in the context of financial services, or for any offence involving personal dishonesty, or by Inspectors;
- the Commissioner or his firm or employer is subject to discipline by the Commission or other supervisory or professional body, or is found guilty of any offence which casts doubt on his financial propriety or personal honesty or integrity.

A note of all such disclosure shall be made and lodged with the Secretary of the Commission.

Supplementary

40. Restriction on disclosure of information

Nothing in this statement shall amend or supersede the obligation of a Commissioner to observe the Restrictions on Disclosure of Information contained within the Articles of all relevant legislation enacted currently or in the future – e.g. the Banking Business (Jersey) Law 1991 and the Insurance Business (Jersey) Law 1996.

42. Record keeping

Records will be kept by the Secretary of all disclosures of conflicts of interest and the steps taken to handle them, as well as records of all disclosures of Commissioners' interests.

43. Notes

- (i) For the avoidance of doubt it is declared that if the investments of a Commissioner or his spouse are managed on a fully discretionary basis no report need be made by the individual until he becomes aware of an interest, acquisition or disposal disclosable under the above arrangements. Moreover, these arrangements do not require the Commissioner to give any special instructions to those appointed to manage such investments.
- (ii) These arrangements apply equally to all Commissioners.
- (iii) Unless the context otherwise requires, words importing the masculine gender shall include the masculine and feminine genders, and spouse includes common law partners.

JERSEY FINANCIAL SERVICES COMMISSION (“THE COMMISSION”)

UNDERTAKING REGARDING CONFIDENTIALITY AND INVESTMENT DEALING

Commissioners are required to sign the following undertaking:–

I,

as a Commissioner of the Jersey Financial Services Commission and pursuant to the Commission’s rules on confidentiality, hereby undertake and agree that –

- (a) I shall not, during or after the termination of my term of office, disclose to any person, or make any use of, information of a confidential nature relating to the Commission or any of its members or applicants for membership, their officers, employees or customers, otherwise than in the normal course of my duties as a member of the Commission unless the information in question is already in the public domain;
- (b) I am aware of the criminal sanctions contained within various pieces of legislation concerning the Restriction on Disclosure of Information;
- (c) I shall, upon termination of my appointment, deliver up to the Commission all documents, papers and other property belonging to the Commission or its Commissioners which may be in my possession or under my control and shall not retain any copies thereof;
- (d) I shall not engage, directly or indirectly, in any business or transaction for personal benefit which accrues as a result of confidential information gained as a result of my being a Commissioner either during or after the termination of my term of office;

- (e) I shall comply with such policy as the Commission may formally adopt from time to time with regard to relations with the press and the issue, verbally or in writing, of any public statements.
- (f) I shall not have any direct or indirect financial interest or deal directly in any security or instrument falling within the scope of the Commission which conflicts or appears to conflict with my duties and responsibilities as a Commissioner without giving prior notification of that interest or those dealings to the Secretary of the Commission;
- (g) I shall not deal in any security using information which is confidential to the Commission or which might comprise confidential price sensitive information within the meaning of the Company Securities (Insider Dealing) (Jersey) Law 1988;
- (h) I shall not accept any benefit, gift, reward or any item of material value which is given in such frequency or in such circumstances or is of such value which would either be improper or create the impression of impropriety;
- (i) I have read the rules governing dealings in securities by Commissioners and agree to be bound by those provisions, and the spirit of those provisions, as they may be modified from time to time.
- (j) I have read the Commission's Conduct on Conflicts of Interest which apply to all Commissioners and agree to abide by its terms.

Signed:

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Date: