

# STATES OF JERSEY



## **DRAFT FINANCIAL REGULATION (DISCLOSURE OF INFORMATION) (AMENDMENTS) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 18th January 2013  
by the Minister for Economic Development**

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**STATES GREFFE**





Jersey

# **DRAFT FINANCIAL REGULATION (DISCLOSURE OF INFORMATION) (AMENDMENTS) (JERSEY) REGULATIONS 201-**

## **REPORT**

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The Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 201- (“the draft Regulations”) make amendments to 4 regulatory laws administered by the Jersey Financial Services Commission (“the JFSC”) –

- Banking Business (Jersey) Law 1991 (“the BB(J)L”)
- Collective Investment Funds (Jersey) Law 1988 (“the CIF(J)L”)
- Financial Services (Jersey) Law 1998 (“the FS(J)L”)
- Insurance Business (Jersey) Law 1996 (“the IB(J)L”)

(together, “the regulatory laws”).

Each of the regulatory laws provides that non-public information that the JFSC obtains in the course of carrying out its functions is to be treated as ‘restricted information’ and may only be disclosed by the JFSC to third parties in certain circumstances prescribed in the regulatory laws. These circumstances are colloquially referred to as ‘information gateways’.

The presence of information gateways in the regulatory laws is in recognition of the fact that there will be circumstances when it is appropriate for the JFSC to pass restricted information to a third party. For example, the JFSC regularly uses information gateways to pass restricted information to –

- an equivalent regulator (such as the United Kingdom’s Financial Services Authority) to assist in the exercise of its supervisory functions;
- the police or the Attorney General to assist in the investigation of a suspected criminal offence;
- a person appointed by the JFSC (such as a lawyer or a forensic accountant) to assist the JFSC with an investigation it is carrying out;
- the public (via the JFSC’s website) to show whether a person is registered (i.e. licensed) by the JFSC to carry on financial services business.

The draft Regulations amend the regulatory laws to enable the JFSC to disclose restricted information, in prescribed circumstances, to –

- supervisors of securities markets (such as the Channel Islands Stock Exchange);
- the European Banking Authority (“EBA”), the European Insurance and Occupational Pensions Authority (“EIOPA”), the European Securities and Markets Authority (“ESMA”) and the European Systemic Risk Board (“ESRB”); and
- Jersey authorities with licensing, registration or consent functions (such as the Population Office).

It is also proposed that the draft Regulations would amend the regulatory laws to allow the JFSC to make public the fact that a person was previously registered (or equivalent) (i.e. supervised by the JFSC) under one of the regulatory laws and what, if any, conditions had been attached to such registration.

In June 2012 the JFSC publicly consulted on a draft of the Regulations. Responses to the consultation were supportive. The JFSC has published a Feedback Paper summarising the comments received (most of which related to how the gateways would be used in practice) and the JFSC’s responses thereto.

#### **Financial and manpower implications**

There are no financial or manpower implications for the States of Jersey that would arise from the adoption of these Regulations.

## Explanatory Note

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These Regulations are divided into 4 Parts and analogously amend 4 Laws as follows –

- Part 1: the Collective Investment Funds (Jersey) Law 1988;
- Part 2: the Banking Business (Jersey) Law 1991;
- Part 3: the Insurance Business (Jersey) Law 1996; and
- Part 4: the Financial Services (Jersey) Law 1998,

collectively known as “regulatory laws”.

The purpose of these amending Regulations is two-fold.

Firstly, to enable the Jersey Financial Services Commission (the “Commission”) to disclose restricted information under the relevant provisions of the regulatory laws, to further specified persons or bodies in prescribed circumstances –

those persons or bodies are –

- the European Banking Authority;
- the European Insurance and Occupational Pensions Authority;
- the European Securities and Markets Authority, collectively known as the “European Supervisory Authorities” (“ESAs”); and
- the European Systemic Risk Board (“ESRB”);
- supervisors of securities markets; and
- authorities established under Jersey law that are discharging licensing, registration or consent functions.

Secondly, the Commission is presently only permitted to disclose restricted information -

- (a) about persons in relation to whom the Commission *currently* exercises statutory functions, for the purpose of assisting other statutory authorities in Jersey in the discharge of their functions; and
- (b) to the public about whether a person is *currently* registered, or holds a certificate or permit (as the case may be) and any conditions so attached, as required under the respective regulatory laws.

Therefore, these Regulations make analogous amendments to the regulatory laws so as to permit the Commission to disclose information about persons in respect of whom it *previously* exercised statutory functions and about whether a person was *previously* registered, or otherwise held a certificate or permit. Those particular amendments are contained in *Regulations 3(b), 4(a), 10(b), 11(a), 15(a)(ii), 16(a) and 20(a)(ii) and (b)*.

*Regulations 1, 7, 13 and 18* are the interpretation provisions which identify the regulatory law that is being amended under each Part of these Regulations.

*Regulations 2, 8, 14, and 19* insert analogous amendments into the interpretation provisions (Article 1) of each of the regulatory laws. The effect in each case is to define each of the European institutions listed above and the expression “supervisor of a securities market” (i.e. stock exchange). The full definition of what constitutes a supervisor of a securities market will be set out in Article 1(1) of the Financial Services (Jersey) Law 1998 as amended by *Regulation 19*. In essence a supervisor of a securities market is a body incorporated, constituted or established under law, anywhere in the world, whose functions include (but not limited to), for example, the listing, admittance to trading, registration and supervision of securities, or persons dealing in securities, and the monitoring and surveillance of trading activities to ensure compliance with trading rules.

*Regulations 3(c) and (d), 10(c) and (d), 15(a)(iii) and (b) and 20(a)(iii) and (1A)* make analogous amendments to each of the regulatory laws to extend the powers of the Commission to enable it to disclose information to Jersey licensing authorities to assist those authorities in the discharge of their functions in relation to persons in respect of whom the Commission does not exercise any statutory functions.

*Regulations 5, 11(b)(ii), 16(b) and 20(e)* make analogous amendments consequential to the amendments relating to the disclosure of information to the Jersey licensing authorities to specify that the Commission may only disclose information provided it is satisfied that those authorities will comply with any conditions that the Commission attaches to the disclosure.

*Regulations 4(b), 9, 15(c) and 20(c) and (d)* make analogous amendments which add the European institutions and supervisors of stock exchanges to the list of existing organizations in the regulatory laws to whom the Commission is permitted to disclose restricted information in prescribed circumstances. In each of the regulatory laws “restricted information” means information relating to the business or other affairs of any person. The effect of the analogous amendments is to enable the Commission to disclose such restricted information to the European institutions and supervisors of stock exchanges provided (a) it assists those organizations in the discharge of their respective functions; (b) that they will treat the disclosed information with confidentiality, and (c) that they agree to comply with any conditions that the Commission attaches to the disclosure. The Commission may refuse to disclose restricted information unless the organizations concerned agree to contribute toward the costs that the Commission incurs in making the disclosure. Before deciding whether to disclose restricted information, the Commission may take certain matters into account including whether the organizations concerned would make corresponding disclosure to the Commission, the seriousness of the case, whether it involves a possible breach of a law which has no equivalent in Jersey and whether the disclosure is in the public interest.

*Regulations 6, 12, 17 and 21* make analogous amendments to the effect that restricted information which has been disclosed to the Commission for the purpose of exercising its functions, by any of the European institutions or supervisors of stock exchanges may only be further disclosed by the Commission in accordance with the relevant disclosure provisions under the respective regulatory laws.

*Regulation 22* amends Article 39A of the Financial Services (Jersey) Law 1998 (which defines terms that are referred to in the definition of “supervisors of securities markets”). This is a consequential amendment as a result of the insertion of the definition “supervisors of securities markets” in Article 1(1) of that Law (as amended by *Regulation 19*).

*Regulation 23* provides for the title of these Regulations and for their coming into force 7 days after they are made.







Jersey

## **DRAFT FINANCIAL REGULATION (DISCLOSURE OF INFORMATION) (AMENDMENTS) (JERSEY) REGULATIONS 201-**

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## **DRAFT FINANCIAL REGULATION (DISCLOSURE OF INFORMATION) (AMENDMENTS) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 1(2), 20 and 30A of the Collective Investment Funds (Jersey) Law 1988<sup>1</sup>, Articles 5, 45A and 51 of the Banking Business (Jersey) Law 1991<sup>2</sup>, Articles 2, 32A and 41 of the Insurance Business (Jersey) Law 1996<sup>3</sup> and Articles 4(2), 38(3) and 42 of the Financial Services (Jersey) Law 1998<sup>4</sup>, have made the following Regulations –

### **PART 1**

#### **AMENDMENTS TO THE COLLECTIVE INVESTMENT FUNDS (JERSEY) LAW 1988**

##### **1 Interpretation**

In this Part, “principal Law” means the Collective Investment Funds (Jersey) Law 1988<sup>5</sup>.

##### **2 Article 1 amended**

In Article 1(1) of the principal Law –

(a) after the definition “court”, there are inserted the following definitions –

“ ‘ESAs’ means the European Supervisory Authorities comprising –

- (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
- (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of

- the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
- (c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

‘ESRB’ means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);” and

- (b) after the definition “subsidiary”, there is inserted the following definition –

“ ‘supervisor of a securities market’ has the meaning given in Article 1(1) of the Financial Services (Jersey) Law 1998<sup>6</sup>;”.

### 3 Article 28 amended

In Article 28 of the principal Law –

- (a) in paragraph (1)(b), for the words “the Commission; or” there are substituted the words “the Commission;”;
- (b) in paragraph (1)(c), for the words “the Commission has statutory functions.” there are substituted the words “the Commission has or had statutory functions; or”;
- (c) after paragraph (1)(c), there is added the following sub-paragraph –
- “(d) any person for the purpose of enabling or assisting that person to exercise that person’s statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions.”; and

- (d) after paragraph (1)(d), there is inserted the following paragraph –

“(1A) In paragraph (1)(d), ‘statutory control functions’ means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.”.

### 4 Article 29 amended

In Article 29 of the principal Law –

- (a) for paragraph (1)(d), there is substituted the following sub-paragraph –
- “(d) to a person by the Commission showing whether or not any person holds or formerly held a permit or certificate under this Law, including any conditions to which that permit or certificate is or was formerly subject under Article 7 or Article 8B as the case may be.”; and

- (b) after paragraph (6), there are added the following paragraphs –
- “(7) Subject to paragraphs (8) to (10), Article 26 does not preclude the disclosure of information by the Commission to any of the following organizations or persons –
- (a) the ESAs;
  - (b) the ESRB; or
  - (c) a supervisor of a securities market.
- (8) The Commission shall not disclose information under paragraph (7) unless satisfied that –
- (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
  - (b) that organization or person will treat the disclosed information with appropriate confidentiality.
- (9) In deciding whether to disclose information under paragraph (7), the Commission may take the following factors (among others) into account –
- (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
  - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
  - (c) the seriousness of the case and its importance in Jersey;
  - (d) whether the information could be obtained by other means; and
  - (e) whether it is otherwise appropriate in the public interest to disclose the information.
- (10) The Commission may refuse to disclose information under paragraph (7) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.”.

## 5 Article 30 amended

In Article 30 of the principal Law, for the words “28(1)(b) or (c) or (2) or 29(5) or (6)” there are substituted the words “28(1)(b), (c) or (d), or (2) or 29(5), (6) or (7)”.

## 6 Article 31 amended

In Article 31 of the principal Law, after the words “relevant supervisory authority” there are inserted the words “, any of the ESAs, the ESRB or a supervisor of a securities market”.

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**PART 2****AMENDMENTS TO THE BANKING BUSINESS (JERSEY) LAW 1991****7 Interpretation**

In this Part, “principal Law” means the Banking Business (Jersey) Law 1991<sup>7</sup>.

**8 Article 1 amended**

In Article 1 of the principal Law –

- (a) after the definition “documents”, there are inserted the following definitions –

“‘ESAs’ means the European Supervisory Authorities comprising –

- (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
- (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
- (c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

‘ESRB’ means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);” and

- (b) after the definition “subsidiary company”, there is inserted the following definition –

“‘supervisor of a securities market’ has the meaning given in Article 1(1) of the Financial Services (Jersey) Law 1998<sup>8</sup>;”.

**9 Article 43 amended**

After Article 43(2) of the principal Law, there are added the following paragraphs –

“(3) Subject to paragraphs (4) to (6), Article 42 does not preclude the disclosure of information by the Commission to any of the following organizations or bodies –

- (a) the ESAs,
- (b) the ESRB, or
- (c) a supervisor of a securities market.

- 
- (4) The Commission shall not disclose information under paragraph (3) unless satisfied that –
    - (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
    - (b) that organization or person will treat the disclosed information with appropriate confidentiality.
  - (5) In deciding whether to disclose information under paragraph (3), the Commission may take the following factors (among others) into account –
    - (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
    - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
    - (c) the seriousness of the case and its importance in Jersey;
    - (d) whether the information could be obtained by other means; and
    - (e) whether it is otherwise appropriate in the public interest to disclose the information.
  - (6) The Commission may refuse to disclose information under paragraph (3) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.”.

#### 10 Article 44 amended

In Article 44 of the principal Law –

- (a) in paragraph (1)(b), for the words “the Commission; or” there are substituted the words “the Commission;”;
- (b) in paragraph (1)(c), for the words “the Commission has statutory functions.” there are substituted the words “the Commission has or had statutory functions; or”;
- (c) after paragraph (1)(c), there is added the following sub-paragraph –
  - “(d) any person for the purpose of enabling or assisting that person to exercise that person’s statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions.”; and
- (d) after paragraph (1)(d), there is inserted the following paragraph –
  - “(1A) In paragraph (1)(d), ‘statutory control functions’ means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.”.

**11 Article 45 amended**

In Article 45 of the principal Law –

- (a) in paragraph (1), for sub-paragraph (e) there is substituted the following sub-paragraph –
  - “(e) to a person by the Commission showing whether or not any person is registered or was formerly registered under this Law, including any conditions which are attached to the registration or were attached to the former registration of that person under Article 11(2).”; and
- (b) in paragraph (7) –
  - (i) for the words “or Article 43(1)(a)”, there are substituted the words “or Articles 43(1)(a) or (3)”; and
  - (ii) for the words “44(1)(b) or (c)” there are substituted the words “44(1)(b), (c) or (d)”.

**12 Article 46 amended**

In Article 46 of the principal Law, after the words “relevant supervisory authority” there are inserted the words “, any of the ESAs, the ESRB or a supervisor of a securities market”.

**PART 3****AMENDMENTS TO THE INSURANCE BUSINESS (JERSEY) LAW 1996****13 Interpretation**

In this Part, “principal Law” means the Insurance Business (Jersey) Law 1996<sup>9</sup>.

**14 Article 1 amended**

In Article 1(1) of the principal Law –

- (a) after the definition “Court”, there are inserted the following definitions –
  - “ ‘ESAs’ means the European Supervisory Authorities comprising –
    - (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
    - (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
    - (c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European



Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

‘ESRB’ means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);” and

- (b) after the definition “subsidiary”, there is inserted the following definition –

“ ‘supervisor of a securities market’ has the meaning given in Article 1(1) of the Financial Services (Jersey) Law 1998<sup>10</sup>;”.

## 15 Article 31 amended

In Article 31 of the principal Law –

- (a) in paragraph (1) –

- (i) in sub-paragraph (b), for the words “the Commission; or” there are substituted the words “the Commission;”;
- (ii) in sub-paragraph (c), for the words “the Commission has statutory functions.” there are substituted the words “the Commission has or had statutory functions; or”, and
- (iii) after sub-paragraph (c), there is added the following sub-paragraph –

“(d) any person for the purpose of enabling or assisting that person to exercise that person’s statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions.”;

- (b) after paragraph (1), there is inserted the following paragraph –

“(1A) In paragraph (1)(d), ‘statutory control functions’ means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.”; and

- (c) after paragraph (2), there are added the following paragraphs –

“(3) Subject to paragraphs (4) to (6), Article 29 does not preclude the disclosure of information by the Commission to any of the following organizations or persons –

- (a) the ESAs;
- (b) the ESRB; or
- (c) a supervisor of a securities market.

(4) The Commission shall not disclose information under paragraph (3) unless satisfied that –

- 
- (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
  - (b) that organization or person will treat the disclosed information with appropriate confidentiality.
- (5) In deciding whether to disclose information under paragraph (3), the Commission may take the following factors (among others) into account –
- (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
  - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
  - (c) the seriousness of the case and its importance in Jersey;
  - (d) whether the information could be obtained by other means; and
  - (e) whether it is otherwise appropriate in the public interest to disclose the information.
- (6) The Commission may refuse to disclose information under paragraph (3) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.”.

## 16 Article 32 amended

In Article 32 of the principal Law –

- (a) in paragraph (1), for sub-paragraph (d) there is substituted the following sub-paragraph –
  - “(d) to a person by the Commission showing whether or not any person holds or formerly held a permit under this Law, including any conditions to which that permit is or was formerly subject under Article 7(1) or 7(5).”; and
- (b) in paragraph (5), for the words “31(1)(b) or (c) or (2)” there are substituted the words “31(1)(b), (c) or (d) or (2) or (3)”.

## 17 Article 34 amended

In Article 34 of the principal Law, after the words “relevant supervisory authority” there are inserted the words “, any of the ESAs, the ESRB or a supervisor of a securities market”.

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## PART 4

### AMENDMENTS TO THE FINANCIAL SERVICES (JERSEY) LAW 1998

#### 18 Interpretation

In this Part, “principal Law” means the Financial Services (Jersey) Law 1998<sup>11</sup>.

#### 19 Article 1 amended

In Article 1(1) of the principal Law the following definitions are inserted, each according to its alphabetical order –

“ ‘ESAs’ means the European Supervisory Authorities comprising –

- (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
- (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
- (c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

‘ESRB’ means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);

‘rules of a securities market’ means rules written and published in a manner that will bring them to the attention of anyone affected by them (whether contained in a legislative instrument or otherwise), of the country or territory, or part of the country or territory, that hosts the securities market that regulate or are recognized as regulating the conduct of the securities market;

‘securities market functions’ means any of the following functions –

- (a) the listing or admittance to trading of securities on a securities market;
- (b) the authorization or registration (as the case may be) and supervision of any person that –
  - (i) deals in securities,
  - (ii) is a professional intermediary, or
  - (iii) is a professional advisor to an issuer,

- in accordance with the rules of a securities market and recognized as so doing under those rules; and
- (c) the monitoring of trading activity on a securities market for the purposes of deterring or detecting one or more of the following activities –
- (i) market manipulation,
  - (ii) misleading information, and
  - (iii) insider dealing;

‘supervisor of a securities market’ means a person other than a relevant supervisory authority that is incorporated, constituted or otherwise established under a legislative instrument of a country or territory that hosts a securities market, and whose functions include (but are not limited to) securities market functions;”.

## 20 Article 38 amended

In Article 38 of the principal Law –

- (a) in paragraph (1)(a) –
- (i) in clause (ii), for the words “the Commission, or” there are substituted the words “the Commission,”,
  - (ii) in clause (iii), for the words “the Commission has statutory functions;” there are substituted the words “the Commission has or had statutory functions, or”, and
  - (iii) after clause (iii), there is added the following clause –
    - “(iv) to any person for the purpose of enabling or assisting that person to exercise that person’s statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions;”;
- (b) for paragraph (1)(d), there is substituted the following sub-paragraph –
- “(d) to a person by the Commission showing whether or not any person is registered or was formerly registered under this Law, including any conditions which are or were formerly attached to the registration of that person under Article 10(2);”;
- (c) after paragraph (1)(l), there is added the following sub-paragraph –
- “(m) subject to paragraphs (1B) to (1D), by the Commission to any of the following organizations or persons –
    - (i) the ESAs,
    - (ii) the ESRB, or
    - (iii) a supervisor of a securities market.”;
- (d) after paragraph (1), there are added the following paragraphs –
- “(1A) In paragraph (1)(a)(iv), ‘statutory control functions’ means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give

consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.

(1B) The Commission shall not disclose information under paragraph (1)(m) unless satisfied that –

- (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
- (b) that organization or person will treat the disclosed information with appropriate confidentiality.

(1C) In deciding whether to disclose information under paragraph (1)(m), the Commission may take the following factors (among others) into account –

- (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
- (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
- (c) the seriousness of the case and its importance in Jersey;
- (d) whether the information could be obtained by other means; and
- (e) whether it is otherwise appropriate in the public interest to disclose the information.

(1D) The Commission may refuse to disclose information under paragraph (1)(m) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.”; and

- (e) in paragraph (2), for the words “paragraphs (1)(a)(ii), or (iii), or (b)(i) or (c), or (k) or (l)” there are substituted the words “paragraph (1)(a)(ii), (iii) or (iv), or (b)(i) or (c), or (k), (l) or (m),”.

## 21 Article 39 amended

In Article 39 of the principal Law, after the words “relevant supervisory authority” there are inserted the words “, any of the ESAs, the ESRB or a supervisor of a securities market”.

## 22 Article 39A amended

In Article 39A(1) of the principal Law, for the words “In this Part and in Schedule 6”, there are substituted the words “In this Part, in Schedule 6 and for the purposes of the definition ‘supervisor of a securities market’ ”.

**23 Citation and commencement**

These Regulations may be cited as the Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- <sup>1</sup> *chapter 13.100*
  - <sup>2</sup> *chapter 13.075*
  - <sup>3</sup> *chapter 13.425*
  - <sup>4</sup> *chapter 13.225*
  - <sup>5</sup> *chapter 13.100*
  - <sup>6</sup> *chapter 13.225*
  - <sup>7</sup> *chapter 13.075*
  - <sup>8</sup> *chapter 13.225*
  - <sup>9</sup> *chapter 13.425*
  - <sup>10</sup> *chapter 13.225*
  - <sup>11</sup> *chapter 13.225*