

DRAFT COLLECTIVE INVESTMENT FUNDS (AMENDMENT No. 2) (JERSEY) LAW 200-

**Lodged au Greffe on 8th February 2000
by the Finance and Economics Committee**



STATES OF JERSEY

STATES GREFFE

180

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Explanatory Note

The object of the amendments contained in this draft Law is to introduce in the Collective Investment Funds (Jersey) Law 1988 standard provisions dealing with -

- (a) the giving of false or misleading information to the Jersey Financial Services Commission;
- (b) the responsibility of members of limited liability partnerships and officers of companies and other bodies corporate for offences under that Law committed by those partnerships or bodies; and
- (c) aiding and abetting the commission of offences.

The provisions replace provisions that already exist in different form.

The draft Law also makes amendments for the sake of textual revision.

Draft Laws, in similar terms, amending four other Laws administered by the Jersey Financial Services Commission on behalf of the Finance and Economics Committee have also been lodged "au Greffe" (P.4/2000 to P.8/2000). A detailed Report setting out the background to all five Laws accompanies P.4/2000.

COLLECTIVE INVESTMENT FUNDS (AMENDMENT No. 2) (JERSEY) LAW 200-

A LAW to amend further the Collective Investment Funds (Jersey) Law 1988, sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 200-)

STATES OF JERSEY

The day of 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

In the Collective Investment Funds (Jersey) Law 1988, ^[1] as amended ^[2] -

- (a) in paragraph (5) of Article 6^[3] for the words “the the Commission or the Committee as the case may be” there shall be substituted the words “the Commission or the Committee, as the case may be,”;
- (b) in paragraph (1) of Article 13^[4] for the words “Commission,, by Order,” there shall be substituted the words “Commission, by Order,”;
- (c) there shall be substituted for paragraph (1) of Article 14^[5] the following paragraphs -

“(1) Any person who knowingly or recklessly provides the Commission or any other person entitled to information under this Law with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided -

- (a) in purported compliance with a requirement imposed under this Law or any Order made thereunder;
- (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Commission for the purpose of carrying out its functions under this Law.

(1A) Any person who knowingly or recklessly provides the Commission or any other person with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application for a permit under this Law.”;

- (d) there shall be substituted for paragraph (1A) of Article 15^[6] the following paragraphs -

“(1A) Where an offence under this Law committed by a limited liability partnership or company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the company; or
- (b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence.

(1B) Where the affairs of a company are managed by its members, paragraph (1A) shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the company.”;

- (e) there shall be substituted for Article 16^[7] the following Article -

“ARTICLE 16

Aiding and abetting

(1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(2) Nothing in this Article affects the operation of paragraph (1), (1A) or (1B) of Article 15.”.

ARTICLE 2

(1) This Law may be cited as the Collective Investment Funds (Amendment No. 2) (Jersey) Law 200-.

(2) This Law shall come into force on such day as the States may by Act appoint and different days may be appointed for different provisions or different purposes of this Law.

[1] Volume 1988-1989, page 133.

[2] Volume 1990-1991, page 1091, Volume 1998, pages 261 and 385, Volume 1999, pages 419 and 525 and R & O 8081.

[3] Volume 1988-1989, page 143 and Volume 1998, pages 263 and 391.

[4] Volume 1988-1989, page 152 and Volume 1998, page 262.

[5] Volume 1988-1989, page 153.

[6] Volume 1988-1989, page 154, Volume 1998, page 404 and Volume 1999, page 419.

[7] Volume 1988-1989, page 155 and Volume 1998, page 405.