

DRAFT FINANCIAL SERVICES (EXTENSION) (JERSEY) LAW 200-

**Lodged au Greffe on 11th April 2000
by the Finance and Economics Committee**



STATES OF JERSEY

STATES GREFFE

180

2000

P.55

Price code: D

REPORT

Introduction

The Financial Services (Extension) (Jersey) Law 200- (“the Law”) extends the scope of the Investment Business (Jersey) Law 1998 to trust companies and company service providers. It thereby provides for the regulation of this area of business by the Jersey Financial Services Commission (“the Commission”).

Background

Trust companies and company service providers are an essential part of Jersey’s financial services industry. Many of the services provided by Jersey’s finance centre, including private banking or investment management for individuals, or corporate services, such as debt securitisation or captive insurance, make use of trusts and companies. The draft Law brings them into regulation, so that all principal parts of Jersey’s financial services industry will be regulated by the Commission.

The possibility of bringing this area of business into financial services regulation has been under discussion for some time in Jersey, and was endorsed in the Report on Financial Regulation in the Crown Dependencies by Andrew Edwards published in November 1998. The Island Task Force established to consider the Edwards Report announced its acceptance of this recommendation in its formal response to the Report in November 1999.

Jersey will be one of the first jurisdictions in the world to bring trust companies and company service providers into regulation. The other Crown Dependencies (Guernsey and the Isle of Man) are preparing similar legislation. Moreover, it seems likely that international standard setting bodies will encourage other jurisdictions to follow suit.

The purpose of the Law

The reason for seeking to regulate this area of business is to establish and maintain high standards in the provision of these services, and thereby enhance Jersey’s reputation as a finance centre of high repute. It is because this area of business is so important to the Jersey financial services industry that Jersey is taking a lead in bringing it into regulation. Customers, both in Jersey and elsewhere, will be able to have confidence that certain standards of competence, integrity and solvency are being required and that adherence to such standards are being monitored. The people of Jersey can have greater confidence that the businesses conducted in or from within the Island or associated with the Island have procedures in place which reduce their vulnerability to international money launderers. Those members of the local industry who already impose high standards upon themselves can be confident that all their local competitors are required to meet the same standards.

There is widespread support in the financial services industry for the introduction of the new Law. An industry consultative group has assisted in the development of the draft Law.

By extending the Investment Business (Jersey) Law to this new area of business, the Financial Services (Extension) (Jersey) Law will -

- make it illegal for anyone to carry out the new area of business defined in the Law unless they are authorised to do so by the Commission;
- give the Commission the power to grant or refuse licences, or attach conditions to a licence, depending on whether it judges the businesses to be fit and proper to carry out such business;
- give the Finance and Economics Committee the power to make Orders requiring regulated businesses to pay regulatory fees; produce audited accounts, deal properly with the assets they control (and arrange for proper segregation and security of them), and meet certain standards with respect to advertising;
- give the Commission power to establish Codes of Practice setting out sound principles for the conduct of this area of business and establishing certain standards of competence, integrity and solvency to be maintained by regulated businesses;
- give the Commission the power to require certain information so as to be able to monitor compliance with standards;
- require the Commission to monitor adherence by businesses covered by the Law to the requirements of the Proceeds of Crime (Jersey) Law in respect of record-keeping, reporting and other requirements of that Law designed to deter money laundering;

- give the Commission the power to mount investigations into alleged breaches of the Law, or the Orders or Codes, and to take regulatory action in response to actual breaches;
- give the Commission the ability to co-operate with other regulatory bodies outside the Island.

The Commission is consulting industry representatives about the drafting of the Orders and Codes to be introduced under the Law.

The structure of the Law

It is because the powers given to the Finance and Economics Committee and to the Commission in respect of this area of business are so similar to those given in respect of investment business that the best way forward is to amend the Investment Business (Jersey) Law, rather than to introduce a separate Law. Having a single consolidated Law ensures that the various provisions are consistent and can easily be seen to be so. At the same time, the ability to make Orders and set Codes of Practice separately for each area of business means that detailed regulatory requirements can be tailored to the specific needs of different areas of business.

The effect of the Financial Services (Extension) (Jersey) Law would be to create a new, amended Law covering both investment business and the new area of business (trust companies and company service providers). The new, amended Law would be called the Financial Services (Jersey) Law.

The main provisions of the Law

Proceeding in this way means that the main provision of the Financial Services (Extension) (Jersey) Law is to define the new area of business to be regulated. Defining the area of business to be regulated is made more difficult by the absence of any international models on which to draw. Extensive consultation with the industry has resulted in the approach set out in Article 2 of the draft Law. The new area of business is defined as “trust company business”. The draft Law introduces a two-tier test for determining whether or not any individual entity is covered by this definition -

1. The entity must be carrying out a business which involves the provision of the defined services in Article 2 (3) for the benefit of others;
2. The entity must be undertaking one or more of the defined list of services in Article 2(4).

It is likely that, even with this approach, there will be areas of business caught by the Law which need not be regulated. The Law therefore allows the Finance and Economics Committee, by Order, to exempt such businesses. A draft of the first exemptions Order is currently being prepared and will be available before the States consider the draft Law.

Moreover, it is possible that there will be classes of business, not caught by the definition in the Law, which ought to be covered by the Law. The Law therefore provides for the States, by regulation, to extend the scope of the Law to cover such classes of business.

These areas of flexibility allow either the Finance and Economics Committee or the States themselves, as appropriate, to amend the scope of the Law in the light of experience.

The other main new provision of the Financial Services (Extension) (Jersey) Law enables the Commission to apply to the Court to appoint a manager to manage the affairs of a registered or unregistered person. This may be required, for example, if a business finds itself without sufficient qualified people to run the business (because of the departure of key personnel) or because a business is refused a licence (or a licence is revoked) and it is necessary for an independent manager temporarily to manage the business until it can be transferred to a new licenceholder. In practice, the Court may well appoint the Viscount.

Some provisions of the existing Investment Business (Jersey) Law should not apply to the new area of business, and the Financial Services (Extension) (Jersey) Law therefore does not apply the following provisions to the new area of business -

- the provision that contracts should be unenforceable if made by an unauthorised person (Article 19 of the Investment Business (Jersey) Law) is intended to apply contracts to buy or sell investment products and does not readily translate to the new area of business;
- the enabling provisions to allow the establishment of an investor compensation scheme (Article 24 of the Investment Business (Jersey) Law) have not been used and, since there are no plans to do so, are not being

extended to the new area of business;

- the provision relating to rescission of agreement and withdrawal of offers (Article 26 of the Investment Business (Jersey) Law) again relates to investment business and is not appropriate to the new area of business.

Other consequential amendments to the Investment Business (Jersey) Law are essentially the need to change the name of the business to be regulated from “investment business” to “financial service business” wherever it appears.

Conclusion

The Financial Services (Extension) (Jersey) Law will keep Jersey at the forefront of international regulatory standards. Regulation of this area of business makes more sense for Jersey (and the other Crown Dependencies) than for some other jurisdictions, because of the importance of trust companies and company service providers to Jersey’s finance industry. Others may well follow.

Explanatory Note

The purpose of this Law is to amend the Investment Business (Jersey) Law 1998 to extend its provisions from regulating “investment Business” to include the regulation of “trust company business”.

Article 1 provides that “principal Law” when referred to in this Law means the Investment Business (Jersey) 1998.

Article 2 replaces Articles 1, 2 and 3 of the principal Law with Articles that contain definitions necessary to extend the provisions of the principal Law to cover the regulation of “financial service business”, being both “investment business” and “trust company business”, and to provide for exemptions from the provisions of the principal Law.

Article 3 amends Article 6 of the principal Law to make it an offence to carry on financial service business in or from the Island without being registered under the principal Law.

Article 4 makes a consequential amendment to Article 8 of the principal Law (which relates to registration, refusal of registration and revocation of registration).

Article 5 makes a consequential amendment to Article 10 of the principal Law (which relates to the procedure to be followed on the refusal or revocation of registration or the imposition or variation of conditions of registration).

Article 6 inserts a new Article 10A into the principal Law to allow the Committee to make Orders prescribing circumstances in which the Commission may apply to the Royal Court for a manager to be appointed to manage the affairs of a person in so far as those affairs relate to any financial service business he carries on. It also gives the Royal Court the power to appoint such a manager in the prescribed circumstances on such terms as it considers appropriate.

Article 7 makes a consequential amendment to Article 11 of the principal Law (which relates to objections to the principal person in respect of a financial service business and to changes in the persons carrying on such a business).

Article 8 inserts a new Article 18A in the principal Law to provide for the manner in which trust company business assets are to be safeguarded.

Article 9 makes a consequential amendment to Article 20 of the principal Law (which relates to the Commission’s power to issue directions).

Article 10 makes consequential amendments to Article 23 of the principal Law (which relates to the Commission’s powers of intervention).

Article 11 makes a consequential amendment to Article 30 of the principal Law (which relates to the Commission’s powers of investigation).

Article 12 makes a consequential amendment to Article 33 of the principal Law (which relates to the Commission’s power to co-operate with other relevant supervisory authorities).

Article 13 makes a consequential amendment to Article 35 of the principal Law (which relates to permitted disclosures of information).

Article 14 repeals Article 40 of the principal Law which contains transitional provisions in respect of people carrying on investment business. The provisions of Article 40 will however continue to apply to any person covered by those provisions when this Law comes into force. Provision is also made for a right of appeal where the registration of a person allowed to continue to carry on investment business by virtue of the transitional provisions is subsequently refused.

Article 15 amends the Second Schedule to the principal Law to allow for different exemptions to be made in respect of investment business and trust company business.

Article 16 provides for a number of minor consequential amendments to the principal Law. These amendments are set out in Schedule 1 to the Law and include renaming the principal Law the Financial Services (Jersey) Law 1998.

Article 17 provides for a number of minor consequential amendments to other Laws. These amendments are set out in Schedule 2 to the Law.

Article 18 contains transitional provisions which will allow people carrying on trust company business when the Law comes

into force to continue to carry on that business prior to registration under the principal Law as if they were registered under that Law.

Article 19 provides the citation of the Law and for its commencement.

FINANCIAL SERVICES (EXTENSION) (JERSEY) LAW 200-

ARRANGEMENT OF ARTICLES

1. “Principal Law” defined
2. Articles 1, 2 and 3 of principal Law replaced
3. Article 6 amended
4. Article 8 amended
5. Article 10 amended
6. Article 10A inserted
7. Article 11 amended
8. Article 18A inserted
9. Article 20 amended
10. Article 23 amended
11. Article 30 amended
12. Article 33 amended
13. Article 35 amended
14. Article 40 repealed
15. Second Schedule amended
16. Additional amendments to principal Law
17. Consequential amendments to other enactments
18. Transitional provisions
19. Citation and commencement

SCHEDULE 1 - ADDITIONAL AMENDMENTS TO PRINCIPAL LAW

SCHEDULE 2 - CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS

FINANCIAL SERVICES (EXTENSION) (JERSEY) LAW 200-

A LAW to amend the Investment Business (Jersey) Law 1998 to extend its provisions to include the supervision of providers of services in connection with companies and trusts insofar as those services relate to financial service business, and generally to provide for purposes connected therewith and incidental thereto, 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

“Principal Law” defined

In this Law “principal Law” means the Investment Business (Jersey) Law 1998,^[1] as amended.^[2]

ARTICLE 2

Articles 1, 2 and 3 of principal Law replaced

For Articles 1, 2 and 3 of the principal Law^[3] there shall be substituted the following Articles -

“ARTICLE 1

General interpretation

(1) In this Law, unless the context otherwise requires -

‘address’, in respect of a service provided by a person carrying on trust company business, means an address for the receipt of correspondence or electronic communications (including telephone calls and facsimile communications) or both provided by that person in the course of that business to a third party;

‘applicant’ has the meaning given in Article 7(1);

‘associate’, in relation to a person, means -

(a) the person’s husband, wife, child or stepchild;

(b) his partner;

(c) any company of which he is a director;

(d) where the person is a company, any director or employee of the company, any company in the same group as the company, and any director or employee of such a company; and

(e) any person with whom the first mentioned person has an agreement, arrangement or other obligation -

(i) to act together in exercising voting power;

(ii) with respect to the acquisition, holding or disposal of shares or other interests in a company, partnership or other association;

‘auditor’ means a person qualified under Article 113 of the Companies (Jersey) Law 1991 for appointment as auditor of a company under Article 109 of that Law;

‘buy’ includes to acquire;

‘client’, in respect of a registered person, means a person, whether resident on or off the Island, with or for whom the registered person transacts or has transacted investment business;

‘client asset’ means property belonging to a client and includes money and investments;

‘collective investment fund’ has the meaning given to that expression by Article 2 of the Collective Investment Funds (Jersey) Law 1988;

‘Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;

‘Committee’ means the Finance and Economics Committee;

‘company’ (except for the purposes of paragraph 1 of the First Schedule) means any body corporate incorporated with or without limited liability in any part of the world;

‘Court’ means the Royal Court;

‘director’ means a person occupying the position of director, by whatever name called;

‘dispose’ includes -

(a) in the case of an investment consisting of rights under a contract or other arrangements, to assume the corresponding liabilities under the contract or arrangements;

(b) in the case of any other investment, to issue or create the investment or to grant the rights or interests of which it consists;

(c) in the case of an investment consisting of rights under a contract, to surrender, assign or convert those rights;

‘documents’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;

‘express trust’ means a trust created by the express declaration of a settlor or a trustee made orally, by instrument in writing or by will;

‘financial service advertisement’ means an advertisement containing -

(a) an invitation to transact financial service business; or

(b) information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the transaction of financial service business,

and includes any means of bringing such an invitation or such information to the notice of any person and a reference to an advertisement shall be construed accordingly;

‘financial service business’ has, subject to any Order under Article 4, the meaning given to that expression by Article 2(1);

‘group’ in relation to a company, means that company, any other company which is its holding company or subsidiary and any other company which is a subsidiary of that holding company;

‘holding company’ has the meaning given to that expression by Article 2 of the Companies (Jersey) Law 1991;

‘industrial and provident society’ means a society registered or deemed to be registered under the Industrial and Provident Societies Acts 1965 to 75 of the United Kingdom as applied to the Island by the Industrial and Provident Societies (Channel Islands) Order 1965;

‘investment business’ has, subject to any Order under Article 4, the meaning given to that expression by Article 2(2);

‘investment’ means, subject to any Order under Article 4, an asset, right or interest that falls within a paragraph of the First Schedule and that is not excepted by virtue of a further provision contained in that paragraph;

‘partner’, in respect of a partnership, means a partner or an equivalent position in the partnership howsoever called;

‘partnership’ includes a partnership constituted under the law of a country or territory outside the Island;

‘prescribed’ means prescribed by an Order made by the Committee on the recommendation of the Commission;

‘principal person’ means -

in relation to a person -

(a) being a sole trader, the proprietor;

(b) being a company -

(i) a person who, either alone or with any associate or associates -

(A) directly or indirectly holds ten per cent or more of the share capital issued by the company;

(B) is entitled to exercise or control the exercise of not less than ten per cent of the voting power in general meeting of the company or of any other company of which it is a subsidiary; or

(C) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company;

(ii) a director;

(iii) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity);

(c) being a partnership -

(i) a partner;

(ii) where a partner is a company, any person who, in relation to that company, falls within sub-paragraphs (i), (ii) or (iii) of paragraph (b); and

in relation to a person whose registered office and principal place of business is outside the Island, includes a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person's financial service business in the Island; and

in relation to a person who has become bankrupt, includes a person who has been appointed as liquidator or administrator of the person's affairs;

'registered person' means a person registered by the Commission under Article 8, and "registered" shall be construed accordingly;

'registration' means registration by the Commission under this Law;

'relevant supervisory authority', in relation to a country or territory outside the Island, means an authority discharging in that country or territory supervisory functions corresponding to those of the Commission;

'secretary', in respect of a service provided by a person carrying on trust company business, means a person occupying the position of, and carrying out the duties of a company secretary, howsoever named;

'sell' includes to dispose;

'shareholder controller' has the meaning given by sub-paragraph (i) of paragraph (b) of the definition of 'principal person';

'subsidiary' has the meaning given to that expression by Article 2 of the Companies (Jersey) Law 1991;

'trust' has the same meaning as in the Trusts (Jersey) Law 1984

'trust company business assets', in respect of a registered person, means -

- (a) trust property; or
- (b) any other assets or property not beneficially owned by the registered person;

'trust company business' has, subject to any Order under Article 4, the meaning given to that expression by Article 2(3);

'trust property' has the meaning given to that expression by Article 1 of the Trusts (Jersey) Law 1984.

(2) A reference in this Law to a Part, Article or Schedule by number only and without further identification is a reference to the Part, Article or Schedule of that number in this Law.

(3) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Article or other division of this Law.

(4) Unless the context otherwise requires, a reference in this Law to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.

(5) In this Law a note contained in a paragraph of a Schedule forms part of that paragraph.

ARTICLE 2

'Financial service business' defined

(1) A person carries on financial service business if by way of business he carries on investment business or trust company business.

(2) A person carries on investment business if he -

- (a) deals in investments, that is, he buys, sells, subscribes for or underwrites investments, either as principal or as agent;
- (b) undertakes discretionary investment management, that is, he decides as agent to buy, sell, subscribe for or underwrite investments on behalf of a principal;
- (c) gives investment advice, that is, he gives to persons in their capacity as investors or potential investors advice on the merits of -
 - (i) the purchase, sale, subscription for or underwriting of a particular investment; or
 - (ii) the exercise of a right conferred by an investment to acquire, dispose of, underwrite or convert the investment.

(3) A person carries on trust company business if he carries on a business that involves the provision of company administration services or trustee or fiduciary services for the benefit of other persons and in the course of providing those services he provides any of the services specified in paragraph (4).

(4) Those services are -

- (a) acting as a company or partnership formation agent;
- (b) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of director or alternate director of a company;
- (c) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a partner of a partnership;
- (d) acting or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company;
- (e) providing a registered office or business address for a company or partnership;
- (f) providing an accommodation, correspondence or administrative address for a company, a partnership or for any other person;
- (g) acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust;
- (h) acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person.

(5) In this Article a reference to a company, trust or partnership is a reference -

- (a) to a company, trust or partnership wherever incorporated or otherwise established; and
- (b) to any similar or equivalent structure or arrangement, howsoever named.

(6) For the purposes of this Article a person acts as a company or partnership formation agent if he arranges for the registration or formation, or the sale, transfer or disposal of companies or partnerships.

ARTICLE 3

Exemptions

(1) The activities described in Part I of the Second Schedule shall not be treated as investment business for the purposes of this Law, to the extent which is respectively specified for them in that Schedule.

(2) The activities described in Part II of the Second Schedule shall not be treated as trust company business for the purposes of this Law, to the extent which is respectively specified for them in that Schedule.”.

ARTICLE 3

Article 6 amended

For Article 6(1) of the principal Law^[4] there shall be substituted the following paragraph -

“(1) Subject to paragraph (2) -

- (a) a person shall not carry on financial service business in or from within the Island; and
- (b) a person being a company incorporated in the Island shall not carry on such business in any part of the world,

unless the person is for the time being a registered person under this Law, and acting in accordance with the terms of his registration.”.

ARTICLE 4

Article 8 amended

For Article 8(3)(e)(i) of the principal Law^[5] there shall be substituted the following clause -

- “(i) in the best interest of persons who may transact investment business with the applicant or, if the applicant intends to carry on trust company business, persons who may enter into agreements for the provision of services to be provided by the applicant when carrying on trust company business or persons who may receive the benefit of services to be provided or arranged by the applicant when carrying on trust company business;”.

ARTICLE 5

Article 10 amended

For Article 10(4) of the principal Law^[6] there shall be substituted the following paragraph -

“(4) If, on the application of the Commission, the court is satisfied that it is desirable -

- (a) in the best interests of persons who have transacted or may transact investment business with a registered person; or
- (b) if the registered person is carrying on trust company business, in the best interests of persons who -
 - (i) have entered into or may enter into agreements for the provision of services to be provided by the registered person when carrying on trust company business; or
 - (ii) have received or may receive the benefit of services to be provided or arranged by the registered person when carrying on trust company business,

that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period suggested in sub-paragraph (a) of that paragraph should be increased, the Court may so order.”.

ARTICLE 6

Article 10A inserted

After Article 10 of the principal Law^[7] there shall be inserted the following Article -

“ARTICLE 10A

Commission may apply to Court for appointment of manager in prescribed circumstances

(1) The Committee may, by Order, prescribe circumstances in which the Commission may apply to the Court for the appointment by the Court of a person to manage the affairs of persons in so far as those affairs relate to the carrying on of financial service business.

(2) An Order made under paragraph (1) may contain such incidental or supplementary provisions as the Committee thinks necessary or expedient, and may contain different provisions for different classes of financial service business.

(3) The Court may, on an application made to it by the Commission in circumstances prescribed in an Order made under paragraph (1), appoint, on such terms as it considers to be appropriate, a person to manage the affairs of a person in so far as those affairs relate to the carrying on of financial service business.”.

ARTICLE 7

Article 11 amended

For Article 11(4) of the principal Law^[8] there shall be substituted the following paragraph -

“(4) If, on the application of the Commission the Court is satisfied that it is desirable -

- (a) in the best interests of persons who have transacted or may transact investment business with the registered person; or
- (b) if the registered person is carrying on trust company business, in the best interests of persons who -
 - (i) have entered into or may enter into agreements for the provision of services to be provided by the registered person when carrying on trust business; or
 - (ii) have received or may receive the benefit of services provided or arranged by the registered person when carrying on trust company business,

that paragraph (3) should not have effect, or should cease to have effect in a particular case, or that the period specified in sub-paragraph (a) of that paragraph should be increased, the Court may so order”.

ARTICLE 8

Article 18A inserted

After Article 18 of the principal Law^[9] there shall be inserted following Article -

“ARTICLE 18A

Trust company business assets

(1) Where a registered person has control of or is otherwise responsible for trust company business assets which he is required to safeguard, he shall arrange proper protection for them by way of segregation and identification of the assets or otherwise in accordance with the responsibilities he has accepted.

(2) Without prejudice to the generality of paragraph (1), the Committee may, on the recommendation of the Commission, prescribe the manner in which any classes of trust company business assets are to be protected.

(3) A person who fails to comply with an Order made under paragraph (2) is guilty of an offence and liable to imprisonment for a term not exceeding six months or a fine, or both.”.

ARTICLE 9

Article 20 amended

For Article 20(1)(b) of the principal Law^[10] there shall be substituted the following sub-paragraph -

“(b) it is in the best interests of -

- (i) persons who may transact investment business with the registered person or of creditors of the registered person; or
- (ii) if the registered person is carrying on trust company business, persons who may enter into agreements for the provision of services to be provided by the registered person when carrying on trust company business or persons who may receive the benefit of services to be provided or arranged by the registered person when carrying on trust company business, or, in either case, of creditors of the registered person;”.

ARTICLE 10

Article 23 amended

(1) For Article 23(1)(c) of the principal Law^[11] there shall be substituted the following sub-paragraph -

“(c) it is desirable for the protection of persons transacting investment business with the registered person or, if the registered person is carrying on trust company business, persons who have entered into or may enter into agreements for the provision of services to be provided by the registered person when carrying on trust company business or persons who have received or may receive the benefit of services to be provided or arranged by the registered person when carrying on trust company business.”.

(2) For Article 23(3) of the principal Law¹¹ there shall be substituted the following paragraph -

“(3) Without prejudice to the generality of paragraph (1) or to paragraph (2), an order issued under either of those paragraphs may include a requirement that all assets, or all assets of a specified description which, at any time while the requirement is in force -

- (a) where the registered person carries on investment business -
 - (i) belong to the registered person concerned; or
 - (ii) belong to persons transacting investment business with him and are held by or to his order; or
- (b) where the registered person carries on trust company business -
 - (i) belong to the registered person concerned;
 - (ii) are held on behalf of persons who have entered into an agreement for the provision of services to be provided by the registered person when carrying on trust company business; or
 - (iii) are held on behalf of persons who have received or may receive the benefit of services provided or arranged by the registered person when carrying on trust company business,

shall be transferred to and held by a person whose appointment is approved by the Court (in this Article referred to as an ‘appointed person’).”.

ARTICLE 11

Article 30 amended

For Article 30(1) of the principal Law^[12] there shall be substituted the following paragraph -

“(1) If it appears to the Commission desirable to do so -

- (a) in the interests of persons who have transacted or may transact investment business with a registered person; or

- (b) if the registered person is carrying on trust company business, in the interests of persons who have entered into or may enter into agreements for the provision of services to be provided by the registered person when carrying on trust company business, or in the interests of persons who have received or may receive the benefit of services provided or arranged by the registered person when carrying on trust company business,

the Commission may appoint one or more competent persons to investigate and report to the Commission on -

- (i) the nature, conduct or state of such registered person's financial services business or any particular aspect of it;
- (ii) his integrity, competence, financial standing or organisation;
- (iii) the integrity, competence and financial standing, so far as relevant in the opinion of the Commission, of persons who are principal persons in relation to him, and of associates of such principal persons; or
- (iv) the compliance by those persons with this Law and any Regulation, Order or Code of Practice made, or a condition of any grant of registration, or a direction given under this Law.”.

ARTICLE 12

Article 33 amended

For Article 33(1)(g) of the principal Law^[13] there shall be substituted the following sub-paragraph -

“(g) the power to communicate to the relevant supervisory authority information which is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers, other than information relating to the identity of persons who have transacted investment business with a registered or formerly registered person or, where the registered or formerly registered person carries on or carried on trust company business, the identity of persons who -

- (i) have entered into agreements for the provision of services provided by the registered or formerly registered person when carrying on trust company business; or
- (ii) have received or may receive the benefit of services provided or arranged by the registered or formerly registered person when carrying on trust company business,

unless the persons concerned have consented to such disclosure.”.

ARTICLE 13

Article 35 amended

For Article 35(1)(j)(i) of the principal Law^[14] there shall be substituted the following clause -

“(i) to the auditor of a registered person or formerly registered person if it appears to the Commission that disclosing the information would enable or assist the Commission to discharge the functions mentioned in sub-paragraph (b) or would otherwise be in the interests of persons who have transacted or may transact investment business with a registered person or, in respect of a registered person carrying on trust company business, in the interests of persons who -

- (A) have entered into or may enter into agreements for the provision of services to be provided by the registered person when carrying on trust company business; or
- (B) have received or may receive the benefit of services provided or arranged by the registered person when carrying on trust company business;”.

ARTICLE 14

Article 40 repealed

(1) Subject to paragraph (2), Article 40 of the principal Law^[15] shall be repealed.

(2) On the commencement of this Article the provisions of Article 40 of the principal Law¹⁵ shall continue to apply in respect of any applicant to whom that Article applied immediately before that commencement and shall continue so to apply until the applicant's application is granted or, subject to paragraph (3), is refused by the Commission under Article 8 of the principal Law.^[16]

(3) Where the Commission under Article 8 of the principal Law¹⁶ refuses the application of a person to whom paragraph (2) applies the provisions of Article 10 of the principal Law^[17] shall have effect as if references in that Article to the Commission, acting under Article 8 of the principal Law,¹⁶ revoking a registration were references to the Commission, acting under that Article, refusing the application.

ARTICLE 15

Second Schedule amended

In the Second Schedule to the principal Law^[18] -

- (a) for the heading "*PART I: GENERAL*" there shall be substituted the heading "*PART I: INVESTMENT BUSINESS*";
- (b) the heading "*PART II: INVESTMENT BUSINESS*" shall be omitted; and
- (c) at the end there shall be added the following heading "*PART II: TRUST COMPANY BUSINESS*".

ARTICLE 16

Additional amendments to principal Law

A provision of the principal Law specified in column 1 of Schedule 1 to this Law shall be amended by deleting from it the words specified in column 2 of that Schedule and substituting the words (if any) specified in column 3.

ARTICLE 17

Consequential amendments to other enactments

A provision of an enactment specified in column 1 of Schedule 2 to this Law shall be amended by deleting from it the words specified in column 2 of that Schedule and substituting the words specified in column 3.

ARTICLE 18

Transitional provisions

(1) Subject to paragraph (2), a person who makes an application in compliance with the principal Law under Article 7(1) of that Law^[19] before such day as is appointed by the Committee, on the recommendation of the Commission, by Order for the purposes of this paragraph may, during the period between the date of his application and its being granted or refused by the Commission under Article 8 of the principal Law,^[20] carry on trust company business (as defined by the principal Law) in the same manner as he was doing at the date of his application provided that he continues to carry on that business in accordance with the terms of his application.

(2) The Committee may, on the recommendation of the Commission prescribe, or the Commission may impose by notice in writing, conditions which shall apply to applicants during the period specified in paragraph (1) of this Article in addition to or in substitution for conditions prescribed under Article 9(1) of the principal Law^[21] and may make different provision for different applicants or for different classes of applicants or the provision of different classes of services provided by persons carrying on trust company business and may, in such circumstances as the Commission thinks fit, exclude applicants from carrying on trust company business.

(3) Articles 9(3) to (5) of the principal Law^[22] shall apply in respect of an exclusion order made or conditions imposed under paragraph (2) of this Article as they apply in respect of a refusal of permission or conditions attached (to a registration) under Article 9(2) of the principal Law.²²

(4) The provisions of the principal Law shall apply (with the necessary modifications) to an applicant to whom paragraph (1) of this Article for the time being applies, as they apply to a person registered under the principal Law.

(5) Without prejudice to the generality of paragraph (4) of this Article, the following modifications shall apply in relation to applicants to whom paragraph (1) of this Article for the time being applies-

- (a) a reference in the principal Law to the period during which a person is registered shall be taken to be a reference to the period between the date of the application and the date of its being granted or refused by the Commission;
- (b) a reference in the principal Law to the terms of a registration shall be taken to be a reference to the terms of the application;
- (c) a reference in the principal Law to a “registered person” shall be taken to include an applicant to whom paragraph (1) of this Article applies for the time being, and “registered” shall be construed accordingly;
- (d) a reference in Article 10 of the principal Law^[23] to the Commission, acting under Article 8 of the principal Law,^[24] revoking a registration shall be taken as a reference to the Commission, acting under that Article, refusing an application.

(6) Paragraph (1) of this Article shall not apply to a person who, immediately before the day referred to in that paragraph, was carrying on the business to which the application relates in contravention of the Regulation of Undertakings and Development (Jersey) Law 1973^[25] or the Borrowing (Control) (Jersey) Law 1947.^[26]

ARTICLE 19

Citation and commencement

(1) This Law may be cited as the Financial Services (Extension) (Jersey) Law 200-.

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

SCHEDULE 1

(Article 16)

ADDITIONAL AMENDMENTS TO PRINCIPAL LAW

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of principal Law</i>	<i>Words to be deleted</i>	<i>Words to be substituted</i>
Long title ^[27]	“investment business”	“certain types of financial service business”
Article 4(3) ^[28]	“investment business”	“financial service business”
Article 4(4) ²⁸	“investment business”	“financial service business”
PART II-heading ^[29]	“INVESTMENT BUSINESS”	“FINANCIAL SERVICE BUSINESS”
PART II-heading of first division ²⁹	“ <i>Investment Business</i> ”	“ <i>Financial Service Business</i> ”
Heading of Article 6 ²⁹	“ investment business ”	“ financial service business ”
Article 6(2)(a)(i) ^[30]	“Viscount or the Judicial Greffier”	“Viscount, the Judicial Greffier or a Jurat of the Royal Court”
Article 6(3) ³⁰	“investment business” (where twice occurring)	“financial service business”
Article 7(1) ^[31]	“investment business”	“financial service business”
Article 7(2) ³¹	“investment business”	“financial service business”
Article 7(7) ^[32]	“, but Article 40 shall not apply to any fresh application made by that applicant, except insofar as the Commission so directs in writing”	
Article 8(3)(c) ^[33]	“or prescribed or imposed under paragraph (2) of Article 40”	
Article 8(4)(b) ^[34]	“business”	“financial service business”
Article 8(4)(c) ^[35]	“business”	“financial service business”
Article 8(4)(d) ³⁵	“business in any part of the	“financial service

	world”	business”
Article 9(1) ^[36]	“investment business” (where twice occurring)	“financial service business”
PART III-heading ^[37]	“INVESTMENT BUSINESS”	“FINANCIAL SERVICE BUSINESS”
Article 17(1)(a) ^[38]	“investment business”	“financial service business”
Article 17(1)(c) ³⁸	“investment business”	“financial service business”
Article 20(1) ^[39]	“investment business”	“financial service business”
Article 20(1)(e) ^[40]	“investment advertisement”	“financial service advertisement”
Article 20(2)(d) ⁴⁰	“investment advertisement”	“financial service advertisement”
	“investment advertisements”	“financial service advertisements”
Article 20(2)(e) ^[41]	“investment advertisement” (where twice occurring)	“financial service advertisement”
Article 21(1)(b) ^[42]	“or imposed under paragraph (2) of Article 40	
Article 22(2) ^[43]	“investment business”	“financial service business”
	“interests of investors or potential investors”	“interests of the public”
Article 23(1)(a) ⁴³	“investment business”	“financial service business”
Heading of Article 26 ^[44]	“ recission ”	“ recission ”
Article 27(1)(i) ^[45]	“investment business”	“financial service business”
Article 28(1) ⁴⁵	“investment advertisements”	“financial service advertisements”
Article 28(2)(a) ^[46]	“investment advertisements”	“financial service advertisements”
Article 28(2)(b) ^[47]	“investment advertisements” (where twice occurring)	“financial service advertisements”
Article 28(3) ⁴⁷	“investment advertisement”	“financial service advertisement”
Article 28(4) ^[48]	“investment advertisement” (where thrice occurring)	“financial service advertisement”

Article 28(5)(a) ⁴⁸	“an investment advertisement”	“a financial service advertisement”
Article 28(5)(b) ⁴⁸	“an investment advertisement”	“a financial service advertisement”
	“investment business with”	“investment business with, or the provision of services provided or arranged by a person carrying on trust company business by”
Article 28(6) ⁴⁸	“an investment advertisement”	“a financial service advertisement”
Article 29(1)(i) ^[49]	“investment business”	“financial service business”
Article 29(2) ^[50]	“investment business”	“financial service business”
Article 30(4) ^[51]	“investment business”	“financial service business”
Article 38(1)(d) ^[52]	“or imposed under paragraph (2) of Article 40	
Article 42 ^[53]	“Investment Business (Jersey) Law 1998”	“Financial Services (Jersey) Law 1998”
FIRST SCHEDULE heading ^[54]	“(Article 2)”	“(Article 1)”

SCHEDULE 2

(Article 17)

CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Enactment</i>	<i>Words to be deleted</i>	<i>Words to be substituted</i>
Article 3(1)(c)(ii) of the Bankruptcy (Désastre) (Jersey) Law 1990 ^[55]	“or the Investment Business (Jersey) Law 1998”	“or the Financial Services (Jersey) Law 1998”
Article 155(2)(b)(ii) of the Companies (Jersey) Law 1991 ^[56]	“or the Investment Business (Jersey) Law 1998”	“or the Financial Services (Jersey) Law 1998”

[1] Volume 1998, page 507.

[2] Volume 1999, pages 413, 420 and 527 and R & O 9402.

[3] Volume 1998, pages 511, 517 and 518.

[4] Volume 1998, page 520.

[5] Volume 1998, page 525.

[6] Volume 1998, page 528.

[7] Volume 1998, page 529.

[8] Volume 1998, page 530.

[9] Volume 1998, page 541.

[10] Volume 1998, page 542.

[11] Volume 1998, page 547.

[12] Volume 1998, page 557.

[13] Volume 1998, page 564.

[14] Volume 1998, page 568.

[15] Volume 1998, page 573.

[16] Volume 1998, page 523.

[17] Volume 1998, page 527.

[18] Volume 1998, page 581.

[19] Volume 1998, page 522.

[20] Volume 1998, page 523.

[21] Volume 1998, page 526.

[22] Volume 1998, page 527.

[23] Volume 1998, page 527.

[24] Volume 1998, page 523.

[25] Volume 1973-1974, page 111, Volume 1975-1978, page 1, Volume 1984-1985, page 201, Volume 1986-1987, page 241, Volume 1988-1989, page 167, Volume 1992-1993,

page 89, Volume 1994-1995, page 129, Volume 1996-1997, page 1055 and R & O 7588.

[26] Tome VII, page 386, Volume 1986-1987, page 57, Volume 1994-1995, page 201, Volume 1996-1997, pages 287 and 548, Volume 1998, pages 254 and 383 and Volume 1999, page 418.

[27] Volume 1998, page 511.

[28] Volume 1998, page 519.

[29] Volume 1998, page 520.

[30] Volume 1998, page 521.

[31] Volume 1998, page 522.

[32] Volume 1998, page 523.

[33] Volume 1998, page 524.

[34] Volume 1998, page 525.

[35] Volume 1998, page 525.

[36] Volume 1998, page 526.

[37] Volume 1998, page 529.

[38] Volume 1998, page 539.

[39] Volume 1998, page 542.

[40] Volume 1998, page 543.

[41] Volume 1998, page 544.

[42] Volume 1998, page 545.

[43] Volume 1998, page 546.

[44] Volume 1998, page 550.

[45] Volume 1998, page 551.

[46] Volume 1998, page 552.

[47] Volume 1998, page 552.

[48] Volume 1998, page 553.

[49] Volume 1998, page 554.

[50] Volume 1998, page 555.

[51] Volume 1998, page 558.

[52] Volume 1998, page 571.

[53] Volume 1998, page 575.

[54] Volume 1998, page 576.

[55] Volume 1990-1991, page 49, Volume 1994-1995, page 399 and Volume 1998, pages 264 and 594.

[56] Volume 1990-1991, page 1023, Volume 1994-1995, page 351 and Volume 1998, pages 269 and 594.