



Jersey

FINANCIAL SERVICES OMBUDSMAN (EXEMPT BUSINESS) (JERSEY) ORDER 2014

Arrangement

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Made

Coming into force

THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Article 9 of the Financial Services Ombudsman (Jersey) Law 2014, orders as follows –

1 Interpretation

In this Order, unless the context otherwise requires –

“Law” means the Financial Services Ombudsman (Jersey) Law 2014;

“main business” has the meaning given by Article 9(2) of the Law.

2 Exempt business

- (1) Business (“exempt business”) is exempted from being relevant financial services business for the purposes of Article 9 of the Law, if it does not fall within any one or more of the descriptions in the sub-paragraphs of paragraph (2).
- (2) Those descriptions are –
 - (a) deposit-taking business, within the meaning of the Banking Business (Jersey) Law 1991, for which the person carrying on the business must be registered under that Law;
 - (b) business for which the person carrying on the business would be required to be registered under the Banking Business (Jersey) Law 1991, but for the operation of Article 4 of, or Schedule 1 to, the Banking Business (General Provisions) (Jersey) Order 2002;
 - (c) money service business, within the meaning of the Financial Services (Jersey) Law 1998, for which the person carrying on the business must be a registered person under that Law;
 - (d) business for which the person carrying on the business would be required to be a registered person under the Financial Services (Jersey) Law 1998, but for the operation of either or both of Articles 4 and 5 of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007;

- (e) the business of a functionary of a recognized fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988, for which the functionary must hold a permit under that Law;
- (f) general insurance mediation business, within the meaning of the Financial Services (Jersey) Law 1998, for which the person carrying on the business must be a registered person under that Law;
- (g) insurance business for the purposes of the Insurance Business (Jersey) Law 1996, for which the person carrying on the business must be authorized by a permit under that Law;
- (h) business for which the person carrying on the business would be required to be authorized by a permit under the Insurance Business (Jersey) Law 1996, but for Article 5(5)(d) of that Law;
- (i) investment business, within the meaning of the Financial Services (Jersey) Law 1998, for which the person carrying on the business must be a registered person under that Law;
- (j) subject to Articles 3 and 6, relevant pension business, within the meaning of Schedule 3 to the Law;
- (k) subject to Articles 4, 5 and 6, relevant credit business, within the meaning of Schedule 4 to the Law;
- (l) subject to Article 6, relevant ancillary business, within the meaning of Article 9(2) of the Law, in respect of which the main business falls within any one or more of sub-paragraphs (a) to (k).

3 Exempt occupational pension business

- (1) Relevant pension business is exempt business if –
 - (a) it does not fall within any of sub-paragraphs (a) to (i) of Article 2(2); and
 - (b) it is relevant occupational pension business.
- (2) Business is relevant occupational pension business if –
 - (a) it is carried on by an employer as business incidental to that employer's principal business; and
 - (b) the pension scheme to which it relates has, or is held out by the employer as having or as being capable of having, effect so as to provide benefits primarily to or in respect of persons who are or have been employees of that employer.

4 Exempt store credit business

- (1) Relevant credit business is exempt business if –
 - (a) it does not fall within any of sub-paragraphs (a) to (i) of Article 2(2); and
 - (b) it is relevant store credit business.
- (2) Business is relevant store credit business if –

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- (a) it is carried on by a person in the course of, and as being incidental to, that person's principal business of acting as –
 - (i) a seller of goods,
 - (ii) a supplier of goods under hire-purchase agreements, or
 - (iii) a supplier of services, other than services provided by way of relevant credit business;
 - (b) it mainly comprises the provision of credit under a credit agreement, within the meaning of paragraph 1(a) of Schedule 4 to the Law;
 - (c) the credit is provided to the person to whom the goods are sold or let or the services supplied, with a view to facilitating that sale, letting or supply; and
 - (d) it is not specified Schedule 2 business, within the meaning of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 –
 - (i) by virtue of falling within paragraph 7(1)(b) or (e) of Part B of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, and
 - (ii) in respect of which Article 10 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 requires the person carrying on the business to be a registered person within the meaning of that Law.
- (3) In paragraph (2) the expressions “goods”, “hire-purchase agreement”, “seller”, “services”, “supplier”, and related expressions, have the same meanings as in the Supply of Goods and Services (Jersey) Law 2009.

5 Exempt debt advice business

- (1) Relevant credit business is exempt business if –
 - (a) it does not fall within any of sub-paragraphs (a) to (i) of Article 2(2); and
 - (b) it is relevant debt advice business.
- (2) Business is relevant debt advice business if –
 - (a) it constitutes –
 - (i) debt-counselling, as defined by paragraph 6 of Schedule 4 to the Law, or
 - (ii) debt-adjusting that falls within paragraph 5(a) of that Schedule, or within paragraph 5(c) of that Schedule in relation to paragraph 5(a);
 - (b) the person carrying it on does not, in connection with the business or in relation to the complainant –
 - (i) carry on any business falling within paragraph 1(a) of Schedule 4 to the Law, or
 - (ii) carry on any business that is relevant ancillary business, by virtue of Article 9(2)(b) of the Law, in respect of which the

main business falls within paragraph 1(a) of Schedule 4 to the Law; and

- (c) it is carried on –
 - (i) without any charge or fee, and in such a manner that no income is derived from it, or
 - (ii) by a person whose income is exempt from income tax under Article 115(a), (aa) or (ab) of the Income Tax (Jersey) Law 1961, or
 - (iii) by a person whose principal business does not fall within any of sub-paragraphs (a) to (e), (h) and (i) of Article 9(1) of the Law, as wholly incidental to that principal business.

6 Exempt ancillary brokerage business

- (1) Business is exempt business if –
 - (a) it does not fall within any of sub-paragraphs (a) to (i) of Article 2(2); and
 - (b) it is relevant brokerage business.
- (2) Business is relevant brokerage business if it –
 - (a) is carried on, by a person whose principal business does not fall within any sub-paragraph of Article 2(2), as wholly incidental to that principal business; and
 - (b) is relevant ancillary business, by virtue of Article 9(2)(b) of the Law, in respect of which the main business –
 - (i) is carried on by another person, and
 - (ii) falls within any one or more of sub-paragraphs (a) to (k) of Article 2(2).
- (3) Nothing in this Article is to be read, without more, as exempting the business that is the main business in relation to the exempt ancillary business.

7 Citation and commencement

This Order may be cited as the Financial Services Ombudsman (Exempt Business) (Jersey) Order 2014 and comes into force on the commencement of Article 9 of the Law.

Signed.....

Date.....

Minister for Economic Development

