

# STATES OF JERSEY



Jersey

## **DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 2) (JERSEY) LAW 202-**

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**Lodged au Greffe on 9th March 2022  
by the Minister for External Relations and Financial Services  
Earliest date for debate: 25th April 2022**

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**STATES GREFFE**





Jersey

## **DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 2) (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for External Relations and Financial Services has made the following statement –

In the view of the Minister for External Relations and Financial Services, the provisions of the Draft Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

*Minister for External Relations and Financial Services*

Dated: 8th March 2022



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## REPORT

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### 1. Introduction

- 1.1 The [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#) and the [Sanctions and Asset-Freezing \(Implementation of External Sanctions\) \(Jersey\) Order 2021](#) (the “Jersey Sanctions Order”), which is made under the Sanctions Law, are the Island’s key pieces of sanctions legislation, under which it implements all United Nations sanctions and autonomous UK sanctions.
- 1.2 The draft Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 202- (the “draft Law”) to the Sanctions Law forms part of the preparation for the Island’s assessment by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The MONEYVAL assessment will evaluate the Island’s compliance with and effectiveness against the FATF Recommendations. The Island will be assessed both against its “Technical Compliance” (“TC”) with the 40 FATF Recommendations, and its effectiveness in implementing the recommendations against 11 “Immediate Outcomes” (“ICs”).
- 1.3 The Sanctions Law has been reviewed against the current FATF methodology for assessing the Technical Compliance (“TC”) requirements of Recommendation 6 (“R.6”) and Recommendation 7 (“R.7”), which concern targeted financial sanctions related to terrorism, and targeted financial sanctions related to the financing of weapons of mass destruction proliferation, respectively.
- 1.4 Most of the changes that would be introduced by the draft Law would improve Jersey’s compliance with the TC requirements of R.6 and R.7, either through amendments to existing provisions or by adding new provisions. Other changes, such as expanding the scope of reporting obligations, may also help the Island in demonstrating its effectiveness against IC 10 and IC 11 by generating information that would provide evidence for effective sanctions implementation in Jersey.

### 2. The Draft Law

#### 2.1 *Owned, held, controlled, direction and indirectly*

- 2.1.1 The Sanctions Law currently relies on a link to Council Regulation (EC) 2580/2001 for its definitions of “owned”, “held”, “controlled”, “directly” and “indirectly”. The draft Law would remove this reference, replacing it with updated and expanded definitions of these terms in a new Article 2A.
- 2.1.2 A new schedule, Schedule 2, would also be added to the Sanctions Law, which sets out in detail the rules for interpreting Article 2A(6): this provision is one of the conditions for determining whether a legal person is owned, held or controlled (directly or indirectly) by another person (natural or legal). The new Schedule 2 broadly reflects the equivalent provisions that are made in most UK sanctions Regulations, such as in Schedule 1 to the ISIL (Da’esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019.

#### 2.2 *Proposals for terrorist asset-freeze designations*

- 2.2.1 To implement obligations under UN Security Council Resolutions (UNSCRs), including UNSCR 1267(1999), UNSCR 1373(2001), UNSCR 1988(2011), and UNSCR 1989(2011), jurisdictions must be able to respond to a request from

another jurisdiction to designate a person for a terrorist asset-freeze designation; make a request to another jurisdiction to designate a person for a terrorist asset-freeze designation, and; make proposals to the UN for listing and de-listing in respect of certain asset-freeze designations. In compliance with FATF requirements this must be set out in legislation, and the draft Law would do this by inserting Articles 43A, 45A, and 45B.

- 2.2.2 Article 37A is also inserted, which would require the Minister to publish procedures setting out how these functions would work in practice, and to seek a Memorandum of Understanding (“MoU”) with the UK government outlining how these functions would be coordinated with the UK. An MoU is required, as proposals to the UN for asset-freeze listings and de-listings must be done via the UK, as the UN member state, and UK assistance may be required to send intelligence to other jurisdictions, and to receive intelligence from other jurisdictions, to support a terrorist asset-freezing designation.
- 2.2.3 An MoU is already in place between Jersey and the UK in respect of UN listing and delisting proposals. However, this would need to be updated and expanded to take account of statutory requirements that would be introduced by Articles 43A, 45A, and 45B. Article 37A would also introduce a requirement for the Minister to publish the MoU, in addition to the procedures referred to above.

### 2.3 *Civil Immunity*

- 2.3.1 A new Article 46A would be inserted, which protects persons acting in good faith to comply with a sanction’s obligation or prohibition from civil proceedings. These provisions are needed to comply with R.6 and R.7, which require explicit protections for third parties implementing their sanctions obligations.

### 2.4 *Powers to amend by Ministerial Order*

- 2.4.1 A power would be added to enable the Minister to amend the definitions contained in Articles 2 and 2A by Order. The Ministerial Order making powers described above replace the existing power under Article 2 of the Sanctions Law for the Assembly to make these changes by Regulations. However, these Order making powers would be limited to making changes required to give effect to UK legislation, UN sanctions resolutions, or standards of the FATF or other international body.
- 2.4.2 The draft Law would also amend Article 3 of the Sanctions Law to expand the Ministerial Order making power in that Order to enable amendments to other Laws (except the Sanctions Law or the [Human Rights \(Jersey\) Law 2000](#)), if required to give effect to sanctions regimes implemented by Order under the Sanctions Law. Any amendments made under this provision would be subject to existing limitations on the Order making power: they cannot be retrospective, increase tax, or set criminal penalties at over 7 years of imprisonment (which is the maximum penalty under the Sanctions Law).
- 2.4.3 Sanctions regimes and the international standards set to ensure their effective implementation are regularly updated. This amendment would enable Jersey more swiftly to keep pace with these changes.

### 2.5 *Implementation of exceptions and grounds for sanctions licences*

- 2.5.1 All UK sanctions regulations contain ‘exceptions and ‘licensing’ provisions. An ‘exception’ provision provides for an exception to an otherwise prohibited action or transaction, without requiring a person to apply for a sanctions licence, whereas a ‘licensing’ provision sets out a ground on which a person can apply for a sanctions licence to permit an otherwise prohibited action or transaction.

2.5.2 Amendments to Articles 3, 15, and 16 would enable the Minister to specify by an Order made under the Sanctions Law that a UK exception to an asset-freezing designation can be relied on by a Jersey person without a sanctions licence, or as a ground for a licence application. In the of case exceptions, the Minister can also introduce additional requirements, such as requiring the person relying on an exception without a licence to report to the Minister. The amendments would also provide for the Minister to specify by Order that a licencing ground for an asset-freezing designation contained in one or more UK sanctions Regulations, can be used as the basis for a sanction licence application in Jersey under the relevant sanctions regime.

2.5.3 It is already possible for the Minister to do this in respect of non-asset-freeze prohibitions (e.g. financial services restrictions). These amendments would enable the Minister to do the same in respect of asset-freezing designations.

## 2.6 *Meaning of terrorism and related terms*

2.6.1 The draft Law would amend Article 18 of the Sanctions Law to insert a new definition of “involved person”. The new definition includes elements that are similar to some of those in regulation 6 of the UK’s Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 and regulation 6 of the UK’s Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019. The amended provisions would set out in more detail what is considered terrorism and terrorist activity for the purposes of an interim or final terrorist asst-freezing designation by the Minister.

## 2.7 *Automatic terrorist asset-freeze designations*

2.7.1 Article 19 in the Sanctions Law would be amended to remove references to a list provided for Council Regulation (EC) 2580/2001, and a list maintained by the UN Counter Terrorism Committee (the “UNCTC”), respectively. These provisions provided for certain terrorist asset-freezing designations to be given automatic effect in Jersey.

2.7.2 However, the link to Council Regulation (EC) 2580/2001 is no longer required as the same terrorist asset-freeze designations that are implemented under this regulation, are now implemented in Jersey through the link to the UK’s Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019. The link to the UNCTC list is not required as no such list is maintained.

2.7.3 These provisions are therefore redundant and their removal would have no material effect on which persons and entities are subject to an asset-freezing designation in Jersey.

## 2.8 *De-designation terrorism asset-freeze by Ministerial Order*

2.8.1 Article 10 of the draft Law would amend Article 19 of the Sanctions Law to remove the power of the Minister to de-designate UN terrorist asset-freeze designations by Order. It is not permitted under international law to de-designate a person who has been listed by the UN for the purpose of an asset-freeze. This power has been replaced by the provision outlined above, which provides for the Minister to make a proposal, via the UK, to the UN for de-listing.

2.8.2 The power to de-designate UK terrorist asset-freeze designations by Order is retained but would be limited to cases where the person is resident or established in Jersey, and the Minister is not satisfied that the person could be listed for the purpose of a terrorist asset-freeze designation in Jersey.

## 2.9 *Expanded reporting obligations in respect of attempts to breach or circumvent sanctions*

2.9.1 The reporting obligations set out in Article 32 of the Sanctions Law would be expanded to make clearer the obligation to report to the Minister any attempts to breach or circumvent sanctions prohibitions. It is a FATF requirement that such attempts are covered by the obligation to report.

### **3. Financial and manpower implications**

3.1 There are no financial and manpower implications for the States arising from the adoption of the Amendment.

### **4. Human Rights**

4.1 The Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues. The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.



**APPENDIX TO REPORT****Human Rights Notes on the Draft Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 202-**

These notes have been prepared in respect of the Draft Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department.

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law has been reviewed by the Law Officers’ Department to ensure compliance with the European Convention on Human Rights. Subject to the following observations, it has been determined that, due to the nature of the amendments made, the draft Law does not give rise to any additional human rights issues above and beyond those that exist under the current version of the Sanctions and Asset-Freezing (Jersey) Law 2019 (the “**Principal Law**”).

Notwithstanding that the Law Officers’ Department’s view is that the draft Law does not give rise to additional human rights concerns *per se*, it is considered prudent to highlight the following new or amended provisions in the context of the previous human rights notes relating to the Principal Law:

1. Amended Article 20:

Article 20, under which the Minister can make interim terrorism designations, will be amended by replacing the test for making such a designation. The new test will require that the Minister must reasonably suspect that a person counts as an “involved person” under the new definition introduced in Article 18. It also expands the purposes for which the designation may be made, to cover protecting the public from terrorism in Jersey or elsewhere, preventing terrorism in Jersey or elsewhere or otherwise complying in other ways with the relevant UN Security Council resolution. In addition, it also provides that the Minister must consider that financial restrictions are “appropriate” for these purposes (rather than “necessary” in the current version of the Principal Law).

2. Amended Article 22:

Article 22, under which the Minister can make final terrorism designations, will be amended in the same way as Article 20.

3. New Article 45A:

This new Article requires the Minister to take action on receipt of a request from an overseas country or territory for the Minister to designate a person under Part 4 of the Principal Law, in relation to terrorism. The Minister must promptly consult the financial intelligence unit, decide whether it appears appropriate to designate the person and inform the overseas country or territory of the decision.

4. New Article 45B:

This new Article applies if the Minister reasonably believes that a person should be a UN-listed person in relation to terrorism. Under this new Article, the Minister must request the UK government to use its best endeavours to secure that the UN lists the person under the relevant terror-related resolution. The Minister must

also consult the financial intelligence unit and have regard to various things including any relevant FATF recommendations. The Minister is not limited by whether or not any criminal proceedings have been taken or by whether or not the Minister intends to designate the person.

From an Article 8(2) ECHR perspective, and as per the previous human rights notes on the Principal Law, the above provisions are considered to be justifiable by being both necessary in a democratic society and proportionate to the legitimate aims.

## EXPLANATORY NOTE

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This Law, if passed, will amend the Sanctions and Asset-Freezing (Jersey) Law 2019.

*Article 1* states that this Law amends the Sanctions and Asset-Freezing (Jersey) Law 2019 (“SAFL”).

*Article 2* amends Article 1 of SAFL, which is the general interpretation provision. It adds a definition of “FATF” as the international body known as the Financial Action Task Force. It adds a new paragraph (2)(b) to provide that where there is a reference to a UK or EU enactment, and that UK or EU enactment is repealed and replaced by the UK or EU, then the reference is treated as being to the replacement provision (as happens in relation to repealed and replaced Jersey provisions). It also adds provision in paragraph (3) to ensure that references in SAFL to offences (such as in Article 32(1)(b)(ii) which imposes reporting obligations on financial institutions) also cover attempting those offences, or aiding, abetting, counselling, procuring, conspiring in or inciting the commission of those offences. It removes a spent provision that applied before the commencement of the UK’s Sanctions and Anti-Money Laundering Act 2018. It also makes other amendments to Article 1 that flow from the substantive amendments described here.

*Article 3* amends Article 2 of SAFL so that it just provides for the meanings of “financial services”, “funds” and “economic resources”. It separates out provisions on the meanings of “owned”, “held”, “controlled”, “directly” and “indirectly”, which are the subject of a new Article 2A (see note below). It also replaces the current paragraph (8), which enables the Assembly to amend the definitions by Regulations, so that the amendments can be made by the Minister by Order, but only to give effect to UK legislation, UN Security Council resolutions, FATF standards or standards from other international bodies.

*Article 4* inserts a new Article 2A in SAFL which replaces and expands on the current provisions on the meanings of “owned”, “held”, “controlled”, “directly” and “indirectly” and inserts a new Schedule 2 on interpreting expressions about control of a company (or other legal person). It also provides for indirect control through another individual (acting on behalf of someone else, or under an arrangement, or in other circumstances) and through chains of individuals or legal persons. It enables the Minister to amend these definitions by Order, but again only to give effect to UK legislation, UN Security Council resolutions, FATF standards or standards from other international bodies. It also makes other amendments that flow from the addition of the new Schedule 2.

*Article 5* amends Article 3 of SAFL, which provides for implementation of UK and EU sanctions provisions through Orders. It expands on the existing provision for an Order to people or entities designated by the UK or EU as designated for the asset-freeze under Part 3 of SAFL. In particular it provides for cases where UK or EU sanctions Regulations impose an asset-freeze that include exceptions or licence provisions which do not match those in Part 3 of SAFL. The new provisions mean that the Order, made to implement UK Regulations, can provide that a UK exception applies as an exception in Jersey under Article 15 of SAFL, or that it applies as a ground for the grant of a licence in Jersey under Article 16 of SAFL. The Order can also provide that a UK licence provision applies as a ground for the grant of a licence in Jersey. Article 16 of SAFL does not require any particular grounds to be met to grant a licence, but these provisions clarify that the existence of a UK exception or UK licence provision is a sound basis on which to grant a licence in Jersey. The Order can implement the

exceptions and licence provisions subject to adaptations, modifications and conditions. The conditions can include requiring a person to give information to the Minister before or after relying on a UK exception. The Order can provide that if the conditions are not met then the exception does not apply or that the court can order compliance under Article 15(5) of SAFL.

The amendments also provide that an Order can amend other Jersey legislation (but not SAFL or the Human Rights (Jersey) Law 2000). SAFL already provides that Orders cannot be retrospective, increase tax, or set criminal penalties at over 7 years of imprisonment, and these limitations are not changed by the amendment.

*Article 6* amends Article 5 of SAFL which concerns general provisions Orders. The amendment clarifies that general provisions can also be included in a single Order that implements several UK or EU sanctions Regulations.

*Article 7* amends Article 15 of SAFL (which provides exceptions to asset-freezes) to reflect the new provisions on exceptions in UK Regulations inserted in Article 3 (see notes above).

*Article 8* similarly amends Article 16 of SAFL (which provides for licences in relation to asset-freezes) to reflect the new provisions inserted in Article 3 (see notes above).

*Article 9* amends Article 18 of SAFL, which gives definitions of “terrorism” and related terms for terrorism-related designations under Part 4 of SAFL. It adds a new definition of “involved person”, which is then made the basis of the Minister’s designation powers under Articles 20 and 22 of SAFL (see notes below). The definition includes involvement in terrorism in any way (and in any place, in Jersey or overseas), such as by being involved in providing financial services, making economic resources available, procuring funds, facilitating travel, attempting recruitment, pledging allegiance, or using abduction, enslavement, forced marriage, rape or sexual violence (all regardless of whether there are any criminal proceedings).

*Article 10* amends Article 19 of SAFL, which makes automatic terror-related designations for persons listed by the UK, EU or UN. It removes a spent reference to UK legislation from before the commencement of the UK’s Sanctions and Anti-Money Laundering Act 2018. It removes the references to the EU’s Regulation on terrorism and to UN resolution 1373 (2001). It also limits the Minister’s power to make an Order disapplying an automatic designation, so that it does not apply unless the person or entity has been designated by the UK or EU on their own initiative (rather than in response to a UN listing), the person is resident in Jersey (or the entity is established here), and there are no grounds for the Minister to designate the person under Article 20 or 22.

*Article 11* amends Article 20 of SAFL, under which the Minister can make interim terrorism designations. It replaces the test for making a designation so that the Minister must reasonably suspect that the person counts as an “involved person” under the new definition in Article 18 (see notes above). It also expands the purposes for which the designation may be made, to cover protecting the public in Jersey or overseas, preventing terrorism in Jersey or overseas or complying in other ways with the relevant UN Security Council resolution. It also provides that the Minister must consider that financial restrictions are “appropriate” for these purposes (rather than “necessary” in the current Law).

*Article 12* makes the same amendments to Article 22 of SAFL, under which the Minister can make a final terrorism designation (which is based on a reasonable belief that the person is an involved person, as opposed to a reasonable suspicion for an interim designation).

*Article 13* amends Article 29 of SAFL, which provides for interim designation of a UN-listed person when a UN resolution is implemented by the UK or EU. It removes the Minister's current power to make an Order to provide that a particular person is not subject to the interim designation for an asset-freeze in relation to terrorism, when that person has been listed by the UN for reasons other than terrorism and the UK or EU has not yet designated that person but has implemented the relevant UN resolution as it stood before the UN listed the person. Because these Orders can no longer be made, the amendment also removes the reference to them from Article 40 of SAFL as there is nothing against which to appeal.

*Article 14* amends Article 32(1) of SAFL, under which relevant financial institutions must report to the Minister if they suspect they have come across a designated person or a relevant offence in the course of their business. The amendment means that the duty applies in relation to ongoing or intended offences, as well as those already committed. See also the notes above on the amendments to Article 1 of SAFL, under which the institution's knowledge, or reason for suspicion, only needs to relate to an attempt to commit an offence or to other involvement such as conspiracy or incitement (under Article 1(3) of SAFL this also already applies to offences under any Order under SAFL).

*Article 15* amends Article 36(1)(j) of SAFL, which allows the Minister to disclose information to the UN, UK, EU or a foreign government for the purpose of giving assistance or co-operation under a UN sanctions resolution. It expands the purposes to include the Minister's new functions under the new Articles 43A, 45A and 45B (see notes below) and generally to include the purpose of countering terrorism.

*Article 16* inserts a new Article 37A in SAFL. It requires the Minister to publish a statement of procedure for the functions under each of the new Articles 43A, 45A and 45B (see notes below), starting no later than the end of 2022 and then publishing any subsequent changes. The Minister must also seek to agree a memorandum of understanding with the UK government about coordinating the Minister's activities under the new Articles 43A, 45A and 45B with the UK's activities under their equivalent functions. If a memorandum is agreed, the Minister must publish it and any subsequent changes.

*Article 17* inserts a new Article 43A in SAFL. It requires the Minister to consider requests (and decide whether to comply with them) from UN-listed persons for the Minister to request the UK government to use its best endeavours to have the UN delist the person. The obligation does not apply if the person is repeating a request without adding any significant matter.

*Article 18* inserts new Articles 45A and 45B in SAFL.

The new Article 45A requires the Minister to take action on receipt of a request from an overseas country or territory for the Minister to designate a person under Part 4 of SAFL, in relation to terrorism. The Minister must promptly (and in any event within 7 days) consult the financial intelligence unit, decide whether it appears appropriate to designate the person, and inform the overseas country of the decision.

The Article also provides that, if the Minister requests an overseas country or territory to designate a person under their legislation relating to terrorism, then the Minister must give a reason for the request and any information the Minister can disclose in support.

The new Article 45B applies if the Minister reasonably believes that a person should be a UN-listed person in relation to terrorism. The Minister must request the UK government to use its best endeavours to secure that the UN lists the person under the relevant terror-related resolution. The Minister must consult the financial intelligence unit and have regard to the UN's designation criteria and procedures (if any) and to any relevant FATF recommendations (and the Minister is not limited by whether any

criminal proceedings have been taken or by whether the Minister intends to designate the person). The Minister must give the reason for the request and any information the Minister can disclose in support.

*Article 19* inserts a new Article 46A in SAFL to provide immunity from civil proceedings for a person's act or omission if the person reasonably believed it was necessary to comply with an obligation or prohibition imposed by or under SAFL.

*Article 20* amends Article 48 of SAFL to remove a spent provision that kept in force the Orders made under the provisions that SAFL repealed. Those Orders have all now been repealed and replaced by an Order under SAFL.

*Article 21* gives the name of this Law and enables the Minister to make an Order (or Orders) specifying when the amendments come into force.

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### **Re-issue Note**

This Projet has been re-issued to clarify some wording in the report by inserting a new paragraph 2.2.3, and to correct an error in the explanatory note.



Jersey

## DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 2) (JERSEY) LAW 202-

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Jersey

## DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 2) (JERSEY) LAW 202-

A LAW to further amend the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

### 1 Amendment of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#)

This Law amends the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

### 2 Article 1 (interpretation) amended

In Article 1 –

- (a) in paragraph (1), after the definition “EU sanctions provision” there is inserted –
  - ““FATF” means the international body known as the Financial Action Task Force;”;
- (b) in paragraph (1), in the definition “UK sanctions provision”, “, subject to paragraph (5),” is deleted;
- (c) for paragraph (2) there is substituted –
  - “(2) In relation to a reference to an enactment of the UK or EU in this Law, or in an Order under this Law, unless otherwise provided –
    - (a) Article 9(3) of the [Interpretation \(Jersey\) Law 1954](#) applies to that reference as it applies to a reference to a Law; and
    - (b) Article 6 of the [Legislation \(Jersey\) Law 2021](#) applies in relation to that enactment of the UK or EU, and to any enactment of the UK or EU that repeals that enactment, as it applies in relation to Jersey legislation.”;

- (d) in paragraph (3) after “Order under this Law” there is inserted “, and a reference to an offence includes a reference to an offence under Article 1 of the [Criminal Offences \(Jersey\) Law 2009](#) in relation to that offence”;
- (e) paragraphs (5) and (6) are deleted.

### **3 Article 2 (meaning of “financial services”, “funds”, “economic resources” and related expressions) amended**

In Article 2 –

- (a) paragraphs (5), (6) and (7) are deleted;
- (b) for paragraph (8) there is substituted –
  - “(8) The Minister may, by Order, amend this Article to make alternative or supplementary provision as to the meaning of “financial services”, “funds”, “economic resources” and related expressions used in Part 3 (including expressions that are also used elsewhere) if the Minister is satisfied that it is appropriate to do so to give effect to any enactment of the UK, to any UN sanctions resolution or to any standard promoted by FATF or by any other international body.”.

### **4 Article 2A (meaning of “owned”, “held”, “controlled”, “directly” and “indirectly”) and Schedule 2 (rules for interpretation of Article 2A) inserted**

(1) After Article 2 there is inserted –

#### **“2A Meaning of “owned”, “held”, “controlled”, “directly” and “indirectly”**

- (1) A reference in this Law to an account, funds or economic resources “owned, held or controlled” by a person includes a reference to –
  - (a) an account, funds or economic resources owned, held or controlled directly or indirectly by that person;
  - (b) an account, funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the account, funds or economic resources;
  - (c) any tangible property (other than immovable property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.
- (2) The fact that funds or economic resources are owned, held or controlled by a person (“P”) jointly with another person or otherwise does not prevent those funds being treated as being owned, held or controlled by P for the purposes of this Law (regardless of whether P is a designated person).

- (3) A reference in this Law to an account, funds or economic resources (an “item”) being owned, held or controlled “indirectly” by a person (“P”) includes a reference to the item being owned, held or controlled by another person (“T”), who is an individual, if –
  - (a) T acts in relation to the item as the employee, agent or nominee of P, at the direction of P or otherwise on behalf of P; or
  - (b) by virtue of any other arrangement (as defined in Schedule 2) between T and P, it is reasonable to believe that T will act in relation to the item –
    - (i) in accordance with P’s directions or instructions, or
    - (ii) with P’s consent or concurrence.
- (4) In this Law, a person who is not an individual (“C”) is owned, held or controlled “directly or indirectly” by another person (“P”) if any or all of the following conditions are met.
- (5) The first condition is that P is –
  - (a) the holding body of C, as defined by Article 2 of the [Companies \(Jersey\) Law 1991](#), but disregarding the requirement of that Article for P to be a body corporate; or
  - (b) the beneficial owner of C, as defined by Article 2 of the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 2020](#), but disregarding the requirement of that Article for C to be an entity.
- (6) The second condition is that P –
  - (a) holds directly or indirectly more than 50% of the shares in C;
  - (b) holds directly or indirectly more than 50% of the voting rights in C; or
  - (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.
- (7) The third condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes.
- (8) Schedule 2 contains provision applying for the purpose of interpreting paragraph (6).
- (9) For the purposes of this Law a relevant item is also owned, held or controlled “directly or indirectly” by a person (“P”) if the relevant item is owned, held or controlled by another person who is owned, held or controlled directly or indirectly by P, or by a chain of such other persons.
- (10) In paragraph (9) “relevant item” means –
  - (a) an account, funds or economic resources; or
  - (b) a person who is not an individual.
- (11) The Minister may, by Order, amend this Article and Schedule 2 to make alternative or supplementary provision as to the meaning of

“owned”, “held”, “controlled”, “directly”, “indirectly” and related expressions used in Part 3 (including expressions that are also used elsewhere) if the Minister is satisfied that it is appropriate to do so to give effect to any enactment of the UK, to any UN sanctions resolution or to any standard promoted by FATF or by any other international body.”.

- (2) The Schedule to the Law is renumbered as Schedule 1 and the Schedule 2, contained in the Schedule to this Law, is inserted after the re-numbered Schedule 1.
- (3) Accordingly –
  - (a) in the definition “special counsel” in Article 1(1) for “the Schedule” there is substituted “Schedule 1”;
  - (b) in Article 42(1) for “The Schedule” there is substituted “Schedule 1”;
  - (c) in Article 42(2) for “the Schedule” there is substituted “Schedule 1”.

## 5 Article 3 (implementation of UK and EU sanctions provisions through Orders) amended

In Article 3 –

- (a) for paragraph (4)(c) there is substituted –
  - “(c) provide that a person is a designated person for the purpose of Part 3 if the person is –
    - (i) a person against whom a prohibition is imposed by the EU sanctions provision for a purpose falling within paragraph (6), or
    - (ii) a UK financial sanctions target, within the meaning of paragraph (7);”;
- (b) in paragraph (5) for “under paragraph (1) does not include” there is substituted “under paragraph (1) includes an amendment of any enactment other than this Law or the [Human Rights \(Jersey\) Law 2000](#), but does not include”;
- (c) in paragraph (6) for “mentioned in paragraph (4)(c) are” there is substituted “mentioned in paragraph (4)(c)(i) are”;
- (d) after paragraph (6) there is inserted –
  - “(7) For the purpose of paragraph (4)(c)(ii) a person is a “UK financial sanctions target” if –
    - (a) a UK sanctions provision imposes financial sanctions; and
    - (b) the person is designated under that provision, or under another UK sanctions provision in relation to that provision.
- (8) In paragraph (7) “imposes financial sanctions” and “designated” have the same meanings as they have in Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK.
- (9) If an Order makes provision described in paragraph (4)(c)(ii) in relation to a UK sanctions provision, the Order may provide, for the purpose of any of the prohibitions in Part 3 –

- (a) that a UK exception provision has effect –
  - (i) as an exception under Article 15(3A) to that prohibition in Part 3, or
  - (ii) as a ground for the grant of a licence under Article 16(3A)(b) in relation to that prohibition in Part 3; and
- (b) that a UK licence provision has effect as a ground on which the Minister may grant a licence under Article 16(3A)(b) in relation to that prohibition in Part 3.

(10) For the purpose of paragraph (9) –

- (a) a “UK exception provision” is an exception, in the UK sanctions provision, to a prohibition in the UK sanctions provision corresponding to the prohibition in Part 3;
- (b) a “UK licence provision” is a power or duty, in the UK sanctions provision, to grant a licence in relation to a prohibition in the UK sanctions provision corresponding to the prohibition in Part 3;
- (c) a UK exception provision or UK licence provision may be given effect with or without adaptations and modifications under paragraph (4)(b);
- (d) a UK exception provision may be given effect subject to a condition, which may include a condition as to giving information to the Minister before or after relying on the exception; and
- (e) an Order imposing a condition under sub-paragraph (d) may provide –
  - (i) that the exception does not apply unless the condition is met, or
  - (ii) that Article 15(5) applies to a failure to comply with the condition.

(11) Paragraphs (9) and (10) do not limit paragraph (1) or (4).”.

## 6 Article 5 (general provisions Orders) amended

After Article 5(4) there is inserted –

- “(5) Nothing in this Article prevents an Order under Article 3(1) that implements more than one UK sanctions provision from combining provisions that could otherwise be separated between a general provisions Order and a number of separate special Orders.”.

## 7 Article 15 (exceptions) amended

In Article 15 –

- (a) after paragraph (3) there is inserted –
  - “(3A) An act does not contravene a provision of this Part in relation to a designated person if –

- (a) an Order under Article 3(9)(a)(i) gives effect to an exception in relation to that designated person and to that provision;
  - (b) the conditions, if any, specified in that Order for that purpose are met; and
  - (c) the exception applies to the act.”;
- (b) in paragraph (4) for “with a payment referred to in paragraph (1)(b)” there is substituted “as described in paragraph (1)”.

## 8 Article 16 (licences) amended

After Article 16(3) there is inserted –

- “(3A) In deciding whether to grant or refuse a licence, and whether to impose conditions, the Minister –
- (a) must seek to ensure that the grant of a licence will not lead to –
    - (i) a UN sanctions resolution being contravened, or
    - (ii) the purpose of the person’s designation being frustrated; and
  - (b) may rely on a ground given effect by an Order under Article 3(9)(a)(ii) or (b).”.

## 9 Article 18 (meaning of “terrorism” and related terms) amended

In Article 18 –

- (a) in paragraph (1)(a) for “ “terrorism” has the same meaning” there is substituted “ “terrorism”, “act of terrorism” and “terrorist entity” have the same meanings”;
- (b) paragraph (1)(b) is deleted;
- (c) after paragraph (1) there is inserted –

“(1A) In this Part “involved person” means a person who –

- (a) is or has been involved in terrorist activity;
- (b) is owned or controlled (directly or indirectly) by a terrorist entity or by a person who is or has been involved in terrorist activity;
- (c) is acting on behalf of or at the direction of a terrorist entity or a person who is or has been involved in terrorist activity; or
- (d) is a member of, or has pledged allegiance in any way to or is otherwise associated with, a terrorist entity or a person who is or has been involved in terrorist activity.

(1B) A reference in this Part to being involved in an activity includes being involved in whatever way and wherever any act constituting the involvement takes place.

(1C) In this Article “terrorist activity” means –

- (a) engaging in, or being responsible or providing support for, the commission, preparation or instigation of an act of terrorism;

- (b) facilitating, promoting or encouraging terrorism;
  - (c) providing or receiving training for the purpose of terrorism;
  - (d) travelling or attempting to travel from or into the British Islands for the purpose of terrorism;
  - (e) recruiting for terrorism;
  - (f) soliciting funds, or otherwise procuring funds, for the purpose of financing the travel of a person recruited for terrorism;
  - (g) organising, providing support for or otherwise facilitating the travel of a person recruited for terrorism;
  - (h) being responsible for a coercive action against a person on behalf of, or in the name of, a terrorist entity or a person who is involved in an activity mentioned in any of sub-paragraphs (a) to (d);
  - (i) supporting or assisting another person, knowing or believing that other person to be a terrorist entity or to be involved in an activity mentioned in any of sub-paragraphs (a) to (f);
  - (j) providing financial services, or making available funds or economic resources, for the purpose of terrorism or for an activity mentioned in any of sub-paragraphs (a) to (h); or
  - (k) being involved in assisting the contravention or circumvention of –
    - (i) Part 3 in relation to a person designated under this Part, or
    - (ii) a provision of the law of a country or territory other than Jersey that corresponds to a provision of Part 3 in relation to terrorism or in relation to a power corresponding to any of the powers in this Part.
- (1D) In paragraph (1C)(e) to (g) “recruiting for terrorism” means soliciting another person (who is “recruited for terrorism” whether the soliciting is successful or not) to –
- (a) become a member of a person, other than an individual, involved in an activity mentioned in any of sub-paragraphs (a) to (d) of that paragraph; or
  - (b) participate in an act by, in conjunction with, in the name of, on behalf of or in support of, a person involved in an activity mentioned in any of those sub-paragraphs (a) to (d).
- (1E) In paragraph (1C)(h) –
- (a) “being responsible for” includes engaging in, being complicit in, providing support for, or promoting; and
  - (b) “coercive action” means abduction, enslavement, forced marriage, rape or sexual violence.
- (1F) Nothing in any sub-paragraph of paragraph (1C) limits the meaning of any of the other sub-paragraphs of that paragraph.
- (1G) For the purpose of any provision requiring a suspicion that a person is an involved person, nothing in this Article is to be read as

requiring that the person who has the suspicion is aware of any criminal proceedings.”.

## **10 Article 19 (designation by virtue of UK, EU or UN listing related to terrorism) amended**

In Article 19 –

- (a) paragraph (1)(aa) is deleted;
- (b) paragraph (1)(b) is deleted;
- (c) paragraph (1)(c)(iii) is deleted;
- (d) for paragraph (4)(a) there is substituted –
  - “(a) provide that a particular person falling within paragraph (1)(a), but not within paragraph (1)(c), is not a designated person for the purpose of this Law if the Minister is satisfied that the person –
    - (i) is resident in, or established in, Jersey, and
    - (ii) is not a person who could be designated by the Minister under Article 20 or 22; or”;
- (e) paragraph (4)(b)(ii) is deleted;
- (f) in paragraph (4)(b)(iii) for “(1)(c)(i), (ii) or (iii)” there is substituted “(1)(c)(i) or (ii)”.

## **11 Article 20 (power of Minister to make interim terrorism designation) amended**

For Article 20(2) there is substituted –

- “(2) The Minister may make an interim terrorism designation of a person if –
  - (a) the Minister reasonably suspects that the person is an involved person; and
  - (b) the Minister considers that it is appropriate that financial restrictions should be applied in relation to the person for purposes connected with –
    - (i) protecting members of the public (whether in Jersey or elsewhere) from terrorism,
    - (ii) preventing terrorism (whether in Jersey or elsewhere), or
    - (iii) otherwise complying with resolution 1373 (2001) of the UN Security Council.”.

## **12 Article 22 (power of Minister to make final terrorism designation) amended**

For Article 22(2) there is substituted –

- “(2) The Minister may make a final terrorism designation of a person if –



- (a) the Minister reasonably believes that the person is an involved person; and
- (b) the Minister considers that it is appropriate that financial restrictions should be applied in relation to the person for purposes connected with –
  - (i) protecting members of the public (whether in Jersey or elsewhere) from terrorism,
  - (ii) preventing terrorism (whether in Jersey or elsewhere), or
  - (iii) otherwise complying with resolution 1373 (2001) of the UN Security Council.”.

**13 Article 29 (interim designation of UN-listed person when UNSCR is implemented by UK or EU) amended**

- (1) Article 29(2)(a) is deleted.
- (2) Accordingly Article 40(1)(g) is deleted.

**14 Article 32 (reporting obligations of relevant financial institutions and statutory authorities) amended**

In Article 32(1)(b)(ii) for “has committed” there is substituted “has committed, is committing or intends to commit”.

**15 Article 36 (general power to disclose information) amended**

In Article 36(1)(j) after “under a UN sanctions resolution” there is inserted “or in connection with a function under Article 43A, 45A or 45B or otherwise for the purpose of countering terrorism”.

**16 Article 37A (publication of procedures and memorandum of understanding) inserted**

After Article 37 there is inserted –

**“37A Publication of procedures and memorandum of understanding**

- (1) The Minister must publish a statement of the Minister’s procedures for the performance of the Minister’s functions under Articles 43A, 45A and 45B.
- (2) The first statement for each of those Articles must be published no later than the end of 2022, and the Minister must publish any subsequent change to the statement.
- (3) The Minister must seek to agree a memorandum of understanding with Her Majesty’s Government in the UK as to the coordination of the performance of the Minister’s functions under Articles 43A, 45A and 45B with the performance of the equivalent functions of that Government.

- (4) The Minister must publish the memorandum of understanding, if any, agreed from time to time under paragraph (3).”

## 17 Article 43A (requests for assistance with UN de-listing) inserted

After Article 43 there is inserted –

### “43A Requests for assistance with UN de-listing

- (1) If the Minister receives a request falling within paragraph (2), the Minister must consider the request and decide whether or not to comply with it.
- (2) A request falls within this paragraph if it –
  - (a) is from a UN-listed person who is a designated person;
  - (b) is for the Minister to request Her Majesty’s Government in the UK to use its best endeavours to secure that the person ceases to be a UN-listed person; and
  - (c) it does not fall within paragraph (3).
- (3) A request falls within this paragraph if –
  - (a) the designated UN-listed person has made a previous request under this Article or under section 25 of the Sanctions and Anti-Money Laundering Act 2018 of the UK; and
  - (b) the grounds on which the current request is made do not include a significant matter that has not previously been considered by the Minister or by Her Majesty’s Government in the UK.”

## 18 Articles 45A (request from or to another country for terrorism designation) and 45B (request to UN for terrorism designation) inserted

After Article 45 there is inserted –

### “45A Request from or to another country for terrorism designation

- (1) Paragraph (2) applies if the Minister receives a request from a territory or country other than Jersey (an “overseas country”) for a person to be designated under Part 4.
- (2) The Minister must promptly, and in any event within 7 days of receiving the request –
  - (a) consult the financial intelligence unit established under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#);
  - (b) make a decision as to whether it appears appropriate to designate the person under Part 4; and
  - (c) inform the overseas country of the decision.

- (3) Paragraph (4) applies if the Minister makes a request to an overseas country for that overseas country to take a measure that corresponds to designation under Part 4.
- (4) The Minister must give to the overseas country –
  - (a) a reason for the request; and
  - (b) any information that the Minister is able to disclose to support the request.

#### **45B Request to UN for terrorism designation**

- (1) This Article applies if the Minister reasonably believes that a person, who is not a UN-listed person, should be a UN-listed person in relation to, or should otherwise be subject to measures under, any one or more of the following (the “relevant resolution”) –
  - (a) any of the UN Security Council resolutions mentioned in Article 19(1)(c);
  - (b) UN Security Council resolution 1373 (2001);
  - (c) any other UN sanctions resolution, as adopted from time to time, that states that its purposes include countering terrorism.
- (2) The Minister must request Her Majesty’s Government in the UK to use its best endeavours to secure that the person becomes a UN-listed person under the relevant resolution.
- (3) For the purpose of paragraph (1), in considering whether a person should be a UN-listed person, the Minister must in particular –
  - (a) have regard to any designation criterion or procedure established by any organ of the United Nations for the purpose of the relevant resolution;
  - (b) have regard to any recommendation adopted by FATF in relation to the relevant resolution; and
  - (c) consult the financial intelligence unit established under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#).
- (4) When making a request under paragraph (2), the Minister must give to Her Majesty’s Government in the UK –
  - (a) the reason for the request; and
  - (b) any information that the Minister is able to disclose to support the request.
- (5) Paragraph (2) applies –
  - (a) whether or not any criminal proceedings have been taken against the person; and
  - (b) whether or not the Minister decides to designate the person under this Law.”.

#### **19 Article 46A (civil immunity) inserted**

After Article 46 there is inserted –

**“46A Civil immunity**

- (1) A person is not liable to any civil proceedings to which that person would, in the absence of this Article, have been liable in respect of an act, if at the time of the act the person reasonably believed that the act was necessary to comply with an obligation or prohibition imposed –
  - (a) by this Law;
  - (b) by an enactment under this Law; or
  - (c) by a direction or other instruction given under this Law or under an enactment under this Law.
- (2) Nothing in paragraph (1) limits any other ground on which, in the absence of this Article, the person may claim not to be liable for an act.”.

**20 Article 48 (savings, transitional and consequential provisions) amended**

In Article 48, paragraphs (1) and (2) are deleted.

**21 Citation and commencement**

This Law may be cited as the Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 202- and comes into force on a day to be specified by the Minister by Order.

**SCHEDULE**

(Article 4(2))

**SCHEDULE 2 ADDED TO LAW****“SCHEDULE 2**

(Article 2A(8))

**RULES FOR INTERPRETATION OF ARTICLE 2A(6)****1 Application of Schedule 2**

- (1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting Article 2A(6).
- (2) They also apply –
  - (a) for the purpose of interpreting this Schedule; and
  - (b) as mentioned in Article 2A(3)(b).

**2 Joint interests**

If 2 or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

**3 Joint arrangements**

- (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 12.

**4 Calculating shareholdings**

- (1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.
- (2) In relation to a person who does not have a share capital –
  - (a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person; and

- (b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

## **5 Voting rights**

- (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.
- (2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights –
  - (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company; and
  - (b) a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

## **6 Rights held by person itself**

In applying Article 2A(6) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

## **7 Rights to appoint or remove members of the board**

A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

## **8 Board of directors**

A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

## **9 Shares or rights held “indirectly”**

- (1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person –
  - (a) holds the share in question; or
  - (b) is part of a chain of persons –
    - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of whom holds the share.

- (2) A person holds a right “indirectly” if the person has a majority stake in another person and that other person –
  - (a) holds that right; or
  - (b) is part of a chain of persons –
    - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of whom holds that right.
- (3) For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if –
  - (a) A holds a majority of the voting rights in B;
  - (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B;
  - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B; or
  - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if –
  - (a) any person’s appointment as director follows necessarily from that person’s appointment as director of A; or
  - (b) the directorship is held by A itself.

## **10 Shares held by nominees**

A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

## **11 Rights treated as held by person who controls their exercise**

- (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only –
  - (a) by that person;
  - (b) in accordance with that person’s directions or instructions; or
  - (c) with that person’s consent or concurrence.

## **12 “Arrangement”**

“Arrangement” includes –

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable; and
- (b) any convention, custom or practice of any kind.

**13 Rights exercisable only in certain circumstances**

- (1) Rights that are exercisable only in certain circumstances are to be taken into account only –
  - (a) when the circumstances have arisen, and for so long as they continue to obtain; or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.
- (3) “Relevant insolvency proceedings” means –
  - (a) proceedings for bankruptcy;
  - (b) proceedings under the insolvency law of another country or territory during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

**14 Rights attached to shares held by way of security**

Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person –

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions; and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.”.