



## Guide to Registration of Banks in Jersey

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## PREFACE

Jersey has a well established reputation as an international banking centre and the number of banks registered in the Island remains stable. The authorities, whilst keen to promote the banking industry, are anxious to preserve Jersey's reputation for financial probity. Any bank wishing to establish a presence in the Island must register under the Banking Business (Jersey) Law 1991 (the "Banking Law") and the associated Banking Business (General Provisions) (Jersey) Order 2002. Applications for registration are carefully screened in accordance with the Jersey Financial Services Commission (the "Commission") Licensing Policy in respect of deposit-taking business issued in June 2009. Virtually all of the 46 banks registered in Jersey as at March 2009 belong to the largest 500 banking groups in the world by reference to their Tier 1 capital base, or financial services conglomerates of equivalent size.

It is recognised that this Guide will not completely answer detailed questions which clients and their advisers may have. It is intended to provide a sketch of the subject matter covered. The Guide is, therefore, designed as a starting-point for a more detailed and comprehensive discussion of the issues.

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## 1. WHO MUST REGISTER?

The Banking Law requires that every person carrying on “deposit-taking business” in or from Jersey must be registered (which registration is renewed annually). The requirement applies regardless of whether a bank’s presence in Jersey is through a branch or subsidiary or as a “managed bank”, that is where the bank has no premises or staff of its own in Jersey but is represented by another bank. A Jersey company or Jersey limited liability partnership carrying on deposit-taking business outside Jersey must also be registered.

The Banking Law defines “deposit-taking” business in terms of retail banking, where deposits received are used to make loans or to finance any other activity of the business in the course of the deposit-taker’s business. Activities involving the receipt of monies only from banks or money lenders are not caught. A deposit is defined as a sum paid on terms that it will be repaid at some time in the future, but sums paid pursuant to a contract for the purchase of goods or services or as security are not included. A number of activities which involve the taking of deposits are specifically exempt from the requirements of the Banking Law. Principal amongst these are investment dealing, the activities of a professional trustee in the course of his business and the activities of a lawyer in the course of his profession.

Special registration arrangements may be made for banks licensed overseas wishing to utilise business continuity facilities in the island in the event of any disruption of normal operations in their home jurisdictions.

## 2. ELIGIBILITY

Application for registration must be made to the Commission. The Commission has discretion to refuse and revoke registration and to attach conditions to registration. Current policy is to grant registration only where (amongst other detailed criteria used to establish whether or not the applicant is a “fit and proper person to be registered”):

- the applicant is a financial institution of international stature and reputation within the global “top 500” banking groups, or financial conglomerates of equivalent size;
- the applicant belongs to banking groups which are considered by the Commission to be of systemic importance in their home jurisdictions such that, in a crisis, the home jurisdiction would look to actively support the group and the home jurisdiction is capable of so doing;
- the applicant is subject to satisfactory supervision in its home jurisdiction and the supervising authority confirms that it has approved the establishment of a banking presence in Jersey;
- the applicant must have sufficient management oversight and control of its activities including comprehensive operational records and financial information readily accessible in Jersey together with a majority of Jersey resident directors and relevantly qualified and experienced staff;
- the applicant is able to demonstrate its ability to fully adhere to the Commission’s Codes of Practice for deposit-taking business (the “Banking Codes”);
- the applicant, if it is to be a Jersey incorporated subsidiary, will have the full backing of its parent company and sufficient capital and reserves to maintain a risk asset ratio of at least 10 per cent calculated in accordance with Basel guidelines, with a minimum capitalisation of £5 million (or equivalent in another currency).

- Other key considerations are set out in detail in the Commission’s Licensing Policy in respect of deposit-taking business that requires registration under the Banking Law (the “Licensing Policy”) under the following headings: general, home jurisdiction, competence, organisation and systems, and ownership and control. A detailed examination of each of these key considerations is outside the scope of this guide.

### **3. REFUSAL TO REGISTER**

The Commission is obliged under the Banking Law to refuse registration where the applicant would have no physical presence, which includes meaningful mind and management, and would not be subject to adequate consolidated supervision in the home jurisdiction.

The grounds upon which the Commission may refuse to register (or renew) an applicant are set out in the Banking Law and include:

- the failure to comply with previous conditions or directions given by the Commission or the Banking Codes;
- the conviction of the applicant or its employees or associates of certain offences in connection with financial services in Jersey or elsewhere;
- it appears not to be in the best interests of depositors that the applicant be registered;
- it is not in the best economic interests of Jersey or the reputation and integrity of Jersey in financial matters that the applicant be registered.

### **4. APPLICATION PROCEDURE**

This involves submitting an application form available on the Commission’s website ([www.jerseyfsc.org](http://www.jerseyfsc.org)) to the Commission together with:

- a business plan including three year forecasts and all resource requirements;
- copies of the applicant’s last three year’s audited financial statements and all parent companies;
- the latest management accounts of the applicant;
- all relevant organisation charts including details of the applicant’s ultimate beneficial ownership and any intermediate ownership; and
- the application fee, currently £10,000.

In addition, any individuals wishing to become a director, controller, manager or key person of an applicant (such as compliance officer) are required to complete and submit to the Commission a personal questionnaire. This is also available from the Commission’s website.

The Commission, however, encourages potential applicants to make early contact with it for initial discussions prior to submission of the application, at which time any necessary clarifications of the Commission’s policy and approach can be provided.

## 5. CONDITIONS TO REGISTRATION

Certain specified general conditions apply either to all registered banks or to all those which come within a particular description under the Banking Business (General Provisions) (Jersey) Order 2002. Under the Banking Law, the Commission may attach additional specific conditions to the registration of a particular bank.

The following conditions are applicable to all registered banks:

- a registered bank must not commence any new activity in Jersey which may have a significant effect on its business or profitability without the prior consent of the Commission;
- the Commission can require the removal of any director, controller or manager of a registered bank if it considers that person not to be a fit and proper person;
- a registered bank must comply promptly with any notice issued by the Commission under the Banking Law requiring the production of documents and information.

The following conditions are applicable to registered banks carrying on business through a branch:

A registered bank which establishes a Jersey branch must appoint:

- a senior officer outside Jersey to fulfil the bank's obligations under the Banking Law; and
- a branch auditor.

Both appointments are subject to the Commission's approval. The senior officer must provide the Commission with the names of the principal and deputy branch manager and must notify the Commission of all changes.

The following conditions are applicable to registered banks which are subsidiaries:

- the registered bank must not establish or acquire a presence outside Jersey, whether through a representative office, branch or subsidiary or by means of a joint venture, without the prior consent of the Commission;
- the registered bank must not, without the Commission's prior consent, enter into an exposure to any one person or group of connected persons which exceeds 25 per cent of its agreed capital resources;
- the registered bank must provide the Commission with accounts complying with the requirements of the Banking Law and the Companies (Jersey) Law 1991;
- the registered bank must publish either summary or full accounts for the use of depositors and potential depositors within three months of the date of its balance sheet.

## 6. CONCLUSION

Once granted, registration is renewable annually on payment of a fee based on various components prescribed by the Commission and set out in detail on its website ([www.jerseyfsc.org](http://www.jerseyfsc.org)). Following registration, all registered banks must observe and comply with the requirements of the Banking Law and associated

legislation and the Banking Codes and are subject to on-going supervision by the Commission. For details, please see our client guide on the Regulation of Banks in Jersey.

For more specific advice on the Registration of Banks in Jersey, we invite you to contact one of the following:

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