

GUIDE TO CAPTIVE INSURANCE COMPANIES IN JERSEY

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PREFACE

A captive insurance company is a company established within an organisation for the purpose of insuring the risks of that organisation. The purpose of this guide is to explain the regulatory requirements to enable a company to apply for a permit to carry on insurance business in Jersey.

It is recognised that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they should be addressed to any member of the Corporate Department, using the [contact information](#) provided at the end of this Guide.

Appleby

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1. AUTHORISATION

Under the Insurance Business (Jersey) Law 1996, any persons wishing to carry on an insurance business in or from within Jersey must obtain a permit by the Jersey Financial Services Commission (the **Commission**).

There are two categories of permits:

- Category A permits apply to insurance businesses already carried on by companies authorised and supervised in a jurisdiction outside Jersey; and
- Category B permits apply in every other case, normally to companies incorporated under the Companies (Jersey) Law 1991, including captive insurance companies.

When granted, the permit will specify which of the classes of long term business or general business listed in the First Schedule of the Insurance Business (Jersey) Law 1996 the permit holder is authorised to carry on.

It should also be noted that a captive insurance company incorporated under the Companies (Jersey) Law 1991 must hold a Category B permit even if it does not undertake its insurance business in or from Jersey.

2. POLICY OF THE COMMISSION TOWARDS NEW INSURANCE BUSINESS IN JERSEY

The Commission's current licensing policy in respect of those activities that require a permit under the Insurance Business (Jersey) Law 1996 was issued in November 2011. Category B applicants need to consider this policy in full and the Codes of Practice released on 1 January 2008 (revised on 4 July 2008). The Commission intends to restrict successful applications to companies which will contribute to Jersey's standing as an international financial centre and further information may be found on the Commission's website at www.jerseyfsc.org

Therefore, Category B permit holders should:

- have owners which, by the provision of annual audited accounts and/or other information, have shown themselves to be of sufficient stature and reputation to be acceptable to the Commission;
- have produced a business plan covering five years of operations and showing how trading will continue successfully into year six;
- have, in cases where staff are employed in Jersey, provided a projection of economic benefit satisfactory to Jersey;
- be managed in Jersey by persons acceptable to the Commission, and who have the relevant level of knowledge and expertise in insurance business (the fit and proper assessment);
- have made, where relevant, the necessary arrangements regarding re-insurance; and
- insure risks of a nature and type which are reasonable and appropriate.

Generally, all Category B permits carry conditions as listed in the Schedule to the Insurance Business (General Provisions) (Jersey) Order 1996.

3. INFORMATION REQUIREMENTS FOR A CATEGORY B APPLICATION

3.1 Agreement in Principle

The Commission recommends that applicants, together with their professional advisers, discuss proposed insurance operations and seek approval "in principle" of the Commission prior to submission of a formal application. Authorisation would normally follow within four to six weeks thereafter.

3.2 Formal Application

Any applicant seeking to obtain a Category B permit must provide the Commission with the following information:

- personal and professional details;
- copies of the latest audited accounts;
- details of persons who are to be directors, controllers or managers of the business in Jersey;
- name and address of external auditors;
- particulars of the classes of insurance business which the company wishes to include in the permit;
- five year business plan;
- copies of draft re-insurance treaties; and
- details on how the company will be financed and kept solvent (including projected solvency calculations as defined by Insurance Business (Solvency Margin) (Jersey) Order 1996).

For this purpose, the Commission has published an application form. It also requires any prospective applicants to fill out a personal questionnaire regarding their qualifications, experience and legal and regulatory information. A copy of the questionnaire can be found on the Commission's website.

4. FINANCIAL REQUIREMENTS

4.1 Minimum Capital

The stated minimum capital requirement is £100,000. However, in practice, the Commission can be flexible regarding this minimum.

4.2 Margin of Solvency

Category B permit holders are required to maintain a prescribed margin of solvency.

This margin of solvency is the excess of the value of the company's approved assets (see below) over the amount of its liabilities. It must be:

- 17.5% of net premium income for Category B permit holders conducting general business; and
- 2.5% of the value of the long term business fund or £50,000, whichever is the greater, for Category B permit holder conducting long term business.

In order to maintain the margin of solvency, a Category B permit holder carrying on

- general business, must have at any time at least 75% of assets as approved assets, or
- long term business, must have at least 25% of assets as approved assets.

The Commission is able to take action where a permit holder fails to maintain the required level of solvency and any failure to do so should be notified to the Commission.

Approved assets are as follows (see the Insurance Business (Solvency Margin) (Jersey) Order 1996 for further information):

- cash in hand and at bank;
- bank certificates of deposit;
- Eurobonds approved by the Commission;
- government securities quoted on a recognised stock exchange;
- net investment income receivable in relation to the assets listed above including;

- premiums receivable;
- reinsurance balances receivable;
- accounts receivable, net of provisions for bad debts;
- irrevocable Letters of Credit provided by a bank registered under the Banking Business (Jersey) Law 1991, as amended.

NB An amount receivable or balance due from a person with whom the permit holder is associated is not an approved asset, unless agreed otherwise in advance and in writing by the Commission.

5. FEES

Fees must be paid in advance to the Commission and must accompany the application. The application and annual renewal fees for a Category B permit holder are as follows:

- £9,450 if the permit applied for or to be renewed is to include long term business;
- £4,725 in any other case;
- £4,725 if the permit is for a cell company or a cell of a cell company;
- £2,700 if the permit is for a cell of a cell company and is to include long term business of any class; and
- £1,350 if the permit is for a cell of a cell company and is to include general business of any class.

6. RENEWAL OF PERMIT

The permit is renewable annually on the first of October each year on payment of the prescribed fee, which must accompany a Category B Application Form for Renewal of Permit. On that occasion, the Commission is able to review all matters surrounding an applicant, its control and its business.

7. APPOINTMENT OF ACTUARY

A Category B permit holder carrying on long term insurance business must appoint a qualified actuary. This appointment has to be approved by the Commission.

8. APPOINTMENT OF AUDITORS

A Category B permit holder carrying on long term insurance business must appoint qualified auditors.

9. APPROVAL OF DIRECTORS

A Category B permit holder must notify the Commission in writing of any changes in directors and chief executives in their organisation within 14 days of the change taking place.

10. CONDITIONS OF BUSINESS FOR CATEGORY B PERMIT HOLDERS

Generally, standard conditions are set out in the Insurance Business (General Provisions) (Jersey) Order 1996. A Category B permit will typically include the following conditions:

- The permit holder shall be and unless otherwise agreed by the Commission remain wholly owned by the person in whose name application for the permit is made.
- There shall be no change in the directors of the permit holder, as disclosed in the written application to the Commission, without the prior consent of the Commission.
- The permit holder shall not write risks or introduce new products, other than those set out in the application, without the prior consent of the Commission. The auditors must provide to the

Commission at six monthly intervals formal confirmation that there has been compliance with this condition.

- There must be transparency of ownership. The Commission must be able to identify the individuals who ultimately own the business.
- The permit holder shall not have any auditor holding office for the purposes of the Insurance Business (Jersey) Law 1996 who has not been approved by the Commission.
- The permit holder shall furnish to the Commission at six monthly intervals such information relating to its business as may be determined by the Commission.
- The permit holder shall furnish to the Commission at six monthly intervals financial statements (including a balance sheet and profit and loss account in a form to be determined by the Commission) prepared in accordance with International Accounting Standards or the Generally Accepted Accounting Practice (GAAP) of:
 - the United Kingdom;
 - the United States of America; or
 - with the prior approval of the Commission, the country or territory in which the beneficial owner of the permit holder resides or is incorporated.
- The permit holder shall furnish audited accounts to the Commission within three months of the end of the financial period.
- The permit holder shall, unless otherwise agreed in writing by the Commission, restrict the investment of its liquid assets to bank deposits, government securities, certificates of deposit and approved Eurobonds. The auditors must provide to the Commission at six monthly intervals formal confirmation that there has been compliance with this condition.
- The permit holder, when submitting the annual audited financial statements to the Commission, shall also provide the Commission with a five year rolling business plan including appropriate explanations of variances and amendments from year to year.
- There must be adequate risk management systems in place.
- The permit holder must comply with Codes of Practice for Insurance Business (revised 4 July 2008).

Please note that the Commission is able to impose additional conditions.

For more specific advice on captive insurance companies in Jersey, we invite you to contact one of the following:

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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).