



Guidance Note: Applications under the Insurance Business (Jersey) Law 1996

31 August 2010

1 Introduction

- 1.1 Article 7 of the Insurance Business (Jersey) Law (the **IB(J)L**) provides that the Jersey Financial Services Commission (the **JFSC**) may grant either a Category A permit or a Category B permit authorising a person to carry on insurance business in or from within Jersey.
 - 1.1.1 Category A permits will be granted to persons that are already authorised to carry on insurance business by a jurisdiction outside of Jersey.
 - 1.1.2 All other persons intending to carry on insurance business will be granted a Category B permit.
- 1.2 In addition to the incorporation of traditional forms of insurance company, the Category B permit facility also allows for the formation of captives, and caters for the establishment of Special Purpose Vehicles such as transformer vehicles and companies for the securitisation of insurance risk. A captive insurance company incorporated under the Companies (Jersey) Law 1991, needs to hold a Category B permit even if it does not undertake its insurance business in or from within the Island.
- 1.3 In April 2009, the JFSC published a Policy Statement: Licensing Policy in respect of those activities that require a permit under the IB(J)L (the **Insurance Business Licensing Policy**). Part 1, Section 3 of the Insurance Business Licensing Policy includes information regarding its scope, including the JFSC's "fit and proper" assessment of applicants. Specifically, paragraphs 3.4 to 3.6 provide that the fit and proper assessment is applicable to all Category B applicants and describes the circumstances where such assessment might also be applied to Category A applicants. The fit and proper assessment is covered more fully in Part 2 of the Insurance Business Licensing Policy.
- 1.4 All IB(J)L applicants are recommended to consider the information available from the Insurance Business section of the JFSC's website:
http://www.jerseyfsc.org/insurance_business/insurance_companies/index.asp
- 1.5 This guidance is provided to assist applicants identify the documentation to be supplied in support of IB(J)L Category A and Category B permit applications.
- 1.6 All IB(J)L applicants intending to carry on long-term insurance are also recommended to consider the Anti-Money Laundering and Countering the Financing of Terrorism (**AML/CFT**) section of the JFSC's website:
http://www.jerseyfsc.org/anti-money_laundering/regulated_financial_services_businesses/index.asp

- 1.7 A cheque for the application fee should accompany the formal application. All permits are renewable on 1 October each year and details of the fees can be found on the JFSC's website:

http://www.jerseyfsc.org/the_commission/fees_notices/index.asp

- 1.8 Any applicant, possibly together with their professional advisors, may initially seek to discuss proposed insurance operations with the JFSC prior to a formal application being made.

2 Category A Applications

- 2.1 Category A applicants are recommended to consider the Codes of Practice for Insurance Business (the **Insurance Code**), paying particular attention to the text dealing with compliance with the Insurance Codes.
- 2.2 Should an applicant identify any significant contradictions in the legislative and regulatory requirements, including the AML/CFT requirements, of the home jurisdiction and the Insurance Codes or the AML/CFT Handbook, these should be brought to the attention of the JFSC for discussion and resolution.
- 2.3 All Category A applications should be submitted using the required Application Form, available from the JFSC websiteⁱⁱ, and should be supported by the following documentation:
- 2.3.1 A copy of the latest financial statements and the associated auditor's report;
 - 2.3.2 A copy of the latest regulatory return (including the solvency calculation) submitted to the applicant's home regulator;
 - 2.3.3 Written confirmation, in line with Article 7(2)(c) of the IB(J)L, which states that a Category A permit may be granted if, and only if, "the applicant has provided the JFSC with confirmation from the relevant supervisory authority which satisfies it that the insurance business carried on in or from within Jersey is subject to the authority's supervision."; and
 - 2.3.4 Written details of any significant contradictions identified between the legislative and regulatory requirements of the home jurisdiction and the Insurance Codes.

3 Category A Applications – EU Home Regulator

- 3.1 Paragraph 3.4 of the Insurance Business Licensing Policy provides that where the applicant's home regulator is from an EU countryⁱⁱⁱ, the JFSC will rely upon the "fit and proper" assessment conducted by the home regulator.
- 3.2 Consequently, in such circumstances, the JFSC does not expect to seek any related information, apart from on an exceptions basis.

4 Category A Applications – Non-EU Home Regulator

- 4.1 Where the home regulator of a Category A applicant is not from an EU country, the JFSC expects to receive the information detailed in **Error! Reference source not found.** above. However, in addition, non-EU applicants will need to consider paragraph 3.5 of the Insurance Business Licensing Policy, which states:

- 4.1.1 “Early consultation with the JFSC is advised where the home regulator is from outside of the EU, as this may mean that Part 2 of this policy will then be considered relevant in full for such Category A applicants.”

5 Category B Applications

- 5.1 The broad policy with regard to the capitalisation of Category B permit holders is that the financing of the company is sufficient to support the proposed business for the first five years, and to see the company safely into year six. The guideline minimum capital requirement is £100,000, but the JFSC will adjust this figure, up or down, depending upon the nature of the proposed business and the financial projections contained in the application.
- 5.2 All Category B applications should be submitted using the required Application Form available from the JFSC website^{iv}, and supported by the following documentation:
- 5.2.1 A five-year business plan that details proposed business lines, risk profile, projected establishment costs, capital requirements, financial performance, reinsurance arrangements, and solvency margins;
 - 5.2.2 Projected solvency calculations, in accordance with the Insurance Business (Solvency Margin) (Jersey) Order 1996, in respect of each of the five years detailed in the applicant’s business plan;
 - 5.2.3 Full details of any proposed reinsurance arrangements; and
 - 5.2.4 A completed Personal Questionnaire or Additional Appointments Form⁴, as appropriate, for all directors, shareholder controllers and key persons (as defined under Article 1 of the IB(J)L).

ⁱ http://www.jerseyfsc.org/pdf/PS_Insurance_Business_Licensing_Policy_May_2009.pdf

ⁱⁱ http://www.jerseyfsc.org/insurance_business/insurance_companies/forms/index.asp

ⁱⁱⁱ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, The Irish Republic, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain (but not the Canary Islands), Sweden and The UK (but not the Channel Islands).

^{iv} http://www.jerseyfsc.org/insurance_business/insurance_companies/forms/index.asp