



## Policy Statement: Licensing Policy in respect of those activities that require a permit under the Insurance Business (Jersey) Law 1996

11 February 2011

### Glossary of terms:

The following table provides a glossary of terms used in this policy statement:

applicant	the person applying for a permit under the IB(J)L
Category A permit	as defined in Article 5(2) of the IB(J)L
Category B permit	as defined in Article 5(2) of the IB(J)L
the Insurance Codes	Codes of Practice for Insurance Business
the Commission	the Jersey Financial Services Commission
the Commission Law	the Financial Services Commission (Jersey) Law 1998
the FS(J)L	the Financial Services (Jersey) Law 1998
insurance business	as defined in Article 1 of the IB(J)L
key person	as defined in Article 1 of the IB(J)L
the IB(J)L	Insurance Business (Jersey) Law 1996
permit holder	a person who has been granted a permit under Article 7(1) of the IB(J)L
Regulatory Laws	<ul style="list-style-type: none"><li>› the FS(J)L;</li><li>› the IB(J)L;</li><li>› the Collective investment (Jersey) Law 1988; and</li><li>› the Banking Business (Jersey) Law 1991</li></ul>

In addition to this Policy, the Commission has also published the following relevant Policy Statements and Guidance Notes which are available on the Commission's website

[http://www.jerseyfsc.org/the\\_commission/general\\_information/policy\\_statements\\_and\\_guidance\\_notes/index.asp](http://www.jerseyfsc.org/the_commission/general_information/policy_statements_and_guidance_notes/index.asp) :

- › Applications under the Insurance Business (Jersey) Law 1996
- › Applications for Motor Vehicle Liability Insurance
- › The Commission's Decision-Making Process
- › Outsourcing

# Part 1: Introduction, Regulation and Scope

## 1 Introduction

- 1.1 For more than 40 years, Jersey has been involved in the international financial services sector. Over this period, the Island has monitored developments in the international sector and encouraged the breadth and depth of the range of services now offered by Jersey organisations.
- 1.2 Consequently, Jersey remains at the forefront of offshore financial centres, a position which has recently been recognised in the 2008 research conducted by Citywealth, which according to leading advisers and wealth managers, recommends Jersey as one of the top three global financial centres.
- 1.3 Jersey is committed to maintaining its international status and to attracting higher value-added inward investment. The States of Jersey, the Island's government, actively supports the development of international trade and inward investment and the facilitation of new business in the Island.
- 1.4 For those considering carrying on financial services business in Jersey the following websites may be useful:
  - 1.4.1 [States of Jersey](#);
  - 1.4.2 [Jersey Finance Limited](#); and
  - 1.4.3 [The JFSC](#)
- 1.5 Additionally, where an applicant is considering operating in Jersey as a managed insurance business, section 12 of this policy statement on Managed Insurance Businesses will be of particular interest.

## 2 Regulation

- 2.1 In common with many international finance centres, the provision of certain financial services in, or from within, Jersey is subject to regulation and supervision by an independent authority. A regulatory framework has been established which sets requirements for both the independent authority and those providing financial services that are subject to regulation and supervision.
- 2.2 In Jersey, the independent authority is the Jersey Financial Services Commission (the **Commission**) and the financial services subject to regulation and supervision by the Commission are set out in the following primary legislation:
  - 2.2.1 Insurance Business (Jersey) Law 1996 (the **IB(J)L**);
  - 2.2.2 Banking Business (Jersey) Law 1991;
  - 2.2.3 Collective Investment Funds (Jersey) Law 1988; and
  - 2.2.4 Financial Services (Jersey) Law 1998 (the **FS(J)L**), the scope of which is:
    - 2.2.4.1 investment business, (Article 2(2));

- 2.2.4.2 trust company business (Article 2(3) to (6));
- 2.2.4.3 general insurance mediation business (Article 2(7) & (8));
- 2.2.4.4 money service business (Article 2(9)); and
- 2.2.4.5 fund services business (Article 2(10)).

### 2.3 The Jersey regulatory framework comprises the following:

- 2.3.1 Primary legislation – sets legal obligations. It is adopted by the States of Jersey, sanctioned by the Privy Council in the UK, registered in the Royal Court and then brought into force in one of two ways:
  - 2.3.1.1 on a date or dates specified in the Law; or
  - 2.3.1.2 on a date or dates determined by an Appointed Day Act passed by the States of Jersey.
- 2.3.2 Secondary legislation – sets detailed legal obligations in specific areas but can only be enacted when and to the extent permitted by primary legislation:
  - 2.3.2.1 in the form of a Regulation which is made by the States of Jersey; or
  - 2.3.2.2 in the form of an Order which is made by the relevant Minister<sup>i</sup>.
- 2.3.3 Notices – provide detail on specific matters as required by legislation and are issued by the Commission or other government agencies, for example: notices issued in accordance with Article 15 of the Commission Law in respect of fees.
- 2.3.4 Policy statements – record the Commission’s policies in respect of certain aspects of legislation or regulatory approach.
- 2.3.5 Codes of Practice – establish sound principles for the operation of financial services business and minimum requirements in respect of conduct, corporate governance and financial strength. Codes of Practice are issued by the Commission using powers provided in the laws listed in 2.2.
- 2.3.6 Guidance notes – provide guidance on complying with either a legislative or regulatory requirement.

- 2.4 The regulatory framework described in 2.3 includes requirements designed to counter money laundering and the financing of terrorism, including that contained in the [Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Financial Services Business regulated under the Regulatory Laws](#).

## 3 Scope of this policy statement

- 3.1 This policy statement applies to persons wishing to make an application to undertake insurance business that falls within the scope of the IB(J)L and considers the “fit and proper” assessment of an applicant. Information on “fit and proper” criteria for key persons can be found at 13.7.

- 3.2 There are two categories of insurance business permit. Category A permits cover those insurance companies that are already authorised to carry on insurance business by a jurisdiction outside of Jersey; all other insurance businesses intending to carry on insurance business in or from within Jersey require a Category B permit.
- 3.3 For Category A applicants, the Commission will request written confirmation from the applicant's home regulator in respect of:
- 3.3.1 the classes of insurance business that the applicant is authorised to transact in the home jurisdiction;
  - 3.3.2 the applicant being in compliance with all of the home regulatory demands and to which it is subject ; and
  - 3.3.3 the inclusion of the Jersey business by the home regulator in its consolidated supervision of the applicant.
- 3.4 The Commission will, where the home regulator is from an EU country, consider the home regulator's written confirmation for each of the criteria under Section 3.3 as being acceptable for the fit and proper assessment of the applicant. In such circumstances, Part 2 of this policy will not be relevant to Category A applicants unless they are informed to the contrary by the Commission.
- 3.5 Early consultation with the Commission 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.
- 3.6 Category B applicants will need to consider the contents of this policy in full.
- 3.7 An application for a permit should be made to the Commission in accordance with Article 6 of the IB(J)L, using the relevant application form (see Part 3 of this policy statement, page 19). Article 7 of the IB(J)L provides the Commission with the power to either:
- 3.7.1 grant a permit to a person, with or without attaching a condition<sup>ii</sup>; or
  - 3.7.2 refuse to grant a permit.
- 3.8 In determining whether to grant or refuse to grant a permit, the Commission is required to consider a number of specific areas. Article 7(4) of the IB(J)L sets out the grounds that may give the Commission cause to refuse to grant a permit.
- 3.9 Specifically, Article 7(4)(b) of the IB(J)L requires that the Commission satisfies itself that the applicant is a fit and proper person to be licensed, having regard to the information before it as to the:
- 3.9.1 integrity, competence, financial standing, structure and organisation of the applicant;
  - 3.9.2 persons employed by or associated with the applicant for the purposes of his or her business or any shareholder controller of the business; and
  - 3.9.3 description of the business that the applicant proposes to carry on.

- 3.10 Should the Commission consider that, based on the information available to it for consideration, it may not grant a permit to an applicant, the process to be followed in determination of the application is published in the Guidance on the Commission's Decision-Making Process. This process includes a provision for the applicant to comment on the facts underlying the Commission's concerns and to address any misunderstanding.
- 3.11 The remainder of this policy statement is set out as follows:
- 3.11.1 Part 2: the Commission's "fit and proper" assessment in the following areas:
- 3.11.1.1 Integrity (section 5);
  - 3.11.1.2 Competence (section 6);
  - 3.11.1.3 Financial Standing (section 7); and
  - 3.11.1.4 Structure/Organisation (section 8).
- 3.11.2 Part 3: Application for a Permit: provides the general criteria applied by the Commission when assessing an application as well as links to the application forms available on the Commission website.

## Part 2: The Commission's "fit and proper" assessment

### 4 General

- 4.1 It is the Commission's starting point that an applicant be able to demonstrate (either in its own name or in the name of its immediate parent) that it meets all of the criteria set out in 4.1.1 to 4.1.3. However, the criteria should be considered in conjunction with 4.2 to 4.4 and each application is considered on its own merits. The criteria are:-
- 4.1.1 demonstration of a minimum three years relevant and satisfactory track record as an insurance business supervised by a relevant supervisory authority<sup>iii</sup>;
  - 4.1.2 a satisfactory audit history, as demonstrated by the audit reports provided on its, or its immediate parent's, financial statements; and
  - 4.1.3 a well established and stable management team with the necessary developed capability in respect of corporate governance and conduct of business relevant to the proposed insurance activity(ies) and risk profile of the applicant.
- 4.2 With respect to 4.1, where an applicant is unable to demonstrate a corporate track record, either on its own or through its immediate parent, an applicant may provide evidence which demonstrates that the proposed directors, chief executive, employees and shareholder controllers between them meet these requirements.
- 4.3 In the context of an applicant whose ultimate beneficial owner is a person connected with a higher risk jurisdiction<sup>iv</sup>, the applicant will be expected to demonstrate a longer relevant and satisfactory track record and mature relationship with a relevant supervisory authority.

- 4.4 When determining an application, it is the Commission's policy to consider the risk profile of the applicant, including the nature of the activities that are to be provided and the intended customer base, having regard to the requirements of Article 7(4) of the IB(J)L, which include protecting the reputation of Jersey.
- 4.5 The fit and proper determination is both an initial and ongoing assessment in relation to the suitability of the applicant and those persons employed by or associated with the applicant. This means that the criteria set out below will apply to an existing permit holder where there is a material change in its circumstances, e.g. it is anticipating a change of ownership (see 11.8).
- 4.6 For the purposes of this policy statement, the Commission interprets "associated with the applicant" to include both natural persons and bodies corporate that might affect the fitness and propriety of the applicant and therefore may encompass the following persons:
- 4.6.1 those that will perform functions on behalf of the applicant under an outsourcing or service level agreement;
  - 4.6.2 those that meet the definition of a key person set out in Article 1 of the IB(J)L and who are not employed by the applicant, e.g. they are employed by a sister<sup>v</sup> or parent entity of the applicant;
  - 4.6.3 companies that are subsidiary to, or share common ownership with, the applicant;
  - 4.6.4 companies in which the applicant has 20%, or more, of the voting rights; and
  - 4.6.5 parties that have close business links with the applicant, but no legal structural interaction, for example one which acts as a business introducer.
- 4.7 The Commission will only consider applications to carry on either general insurance business or long term insurance business but not both.

## 5 Integrity

- 5.1 To a large extent, the integrity of an applicant, especially where an applicant is a small or medium sized organisation, is a reflection of the individuals employed by or associated with the applicant.
- 5.2 An applicant must be able to demonstrate that it intends to and will ongoing:
- 5.2.1 conduct its business with integrity;
  - 5.2.2 have due regard for the interests of its policyholders; and
  - 5.2.3 provide appropriate supervision and training to those employed by or associated with it.
- 5.3 In assessing the integrity of an applicant and those persons employed by or associated with it, the Commission will consider whether any of their past actions or conduct impact on their ability to meet the expected standards in respect of integrity. Further information in this area may be found in the application form (see section 14).
- 5.4 The Commission considers the provision of information that is both complete and accurate to be an indication that an applicant is acting with integrity. Failure of an applicant to comprehensively

complete any form or supply any information required in respect of an application in an honest manner, or the intentional omission of any relevant material, will be taken into account by the Commission.

## 6 Competence

- 6.1 Competency, with respect to those employed by or associated with an applicant may be evidenced by the attainment of relevant qualifications or by having sufficient relevant experience for the functions they are charged with performing.
- 6.2 An applicant must be able to demonstrate that it is, and will have procedures that will assist it to remain, competent to undertake its regulated insurance activities, including the ability to comply with relevant regulatory requirements.
- 6.3 An applicant must be able to demonstrate that it will be able to undertake appropriate management and training of its staff.
- 6.4 The Commission has a particular interest in the collective competence and experience of those that will govern the entity.
- 6.5 In assessing the competence of an applicant, the Commission will consider the specific activities it proposes to undertake, in particular the volume of each type of business and the jurisdictions in which it will be offering its services.
- 6.6 Further information in respect of competency is provided in the Insurance Codes, which can be found at:  
[http://www.jerseyfsc.org/insurance\\_business/insurance\\_companies/codes\\_of\\_practice/index.asp](http://www.jerseyfsc.org/insurance_business/insurance_companies/codes_of_practice/index.asp).

## 7 Financial Standing

- 7.1 An applicant will be expected to maintain, and be able to demonstrate the existence of, adequate financial resources to meet its insurance liabilities (technical provisions) and the minimum solvency margin requirement<sup>vi</sup>.
- 7.2 The Commission's preference is for applicants to be a body corporate. The issue of preference shares or other forms of capital, such as a subordinated loan, will require the Commission's prior approval.
- 7.3 It is the Commission's policy that, after taking account of contingent liabilities, a permit holder must be, and be likely to remain, a going concern.
- 7.4 The Commission considers that adequate financial standing is not merely a matter of meeting liabilities as they fall due, but of maintaining adequate financial resources to enable a permit holder to survive periods of business slow down or market disruption.
- 7.5 Systems and controls associated with managing the financial risks of the applicant, including liquidity management, are also important considerations.

7.6 Details of financial resource requirements can be found in section 5 of the Insurance Codes.

## 8 Structure / Organisation

8.1 The Commission considers that the structure and organisation of an applicant are essential elements of an applicant's ability to satisfy the Commission that it is a fit and proper person to hold a permit.

8.2 This section has been divided into three separate elements:

8.2.1 Structure, including access to resources (section 9);

8.2.2 Systems and controls (section 10); and

8.2.3 Transparency of ownership (section 11).

## 9 Structure

9.1 An applicant will be expected to restrict its activities to the insurance business activities for which it holds a permit and other activities that are wholly associated with or allied to these activities. When determining an application, the Commission will consider the activities of associated persons (see 4.6) to assess whether they may negatively impact on the applicant.

9.2 An applicant must have the resources, or access to resources, necessary to perform its regulated insurance business activities and to manage its risk profile. In particular, if an applicant intends to provide services to customers who are themselves connected with a higher risk jurisdiction additional specialist resources would be expected to be deployed.

9.3 An applicant must be structured and organised in such a way that will enable the Commission to fulfil its oversight function with respect to the regulatory framework.

9.4 An applicant can demonstrate availability of resources in one of three ways:

9.4.1 operate in Jersey maintaining staff and business premises (see also 9.7 to 9.9);

9.4.2 operate in Jersey as a managed insurance business, utilising the services of a manager that is physically located in Jersey and has been authorised by the Commission to act in the capacity of a manager of an insurance business (see also section 12); or

9.4.3 in the case of a Category A permit holder without a physical presence in Jersey, provide insurance business from its home jurisdiction, either via authorised insurance intermediaries or on a direct basis.

9.5 Whichever of the options set out in 9.4 (other than 9.4.3) is selected, an applicant must be able to demonstrate that it will have, and will be able to maintain:

9.5.1 sufficient management oversight and control of its regulated activities;

9.5.2 comprehensive operational records, relating to its regulated activities, which must be readily accessible in Jersey;

- 9.5.3 comprehensive financial information setting out its financial and solvency position, which must be readily accessible in Jersey.
  - 9.5.4 appropriate systems and controls relating to all activities and risk profile; and
  - 9.5.5 relevantly qualified and experienced staff to competently deliver the insurance business services it offers. This includes third party service providers or relevant entities within the same group<sup>vii</sup>.
- 9.6 Where a Category B insurance business permit holder enters into outsourcing arrangements for the collection or handling of insurance premiums or the payment, management or assessment of insurance claims, the companies carrying out those outsourced services must have no other connection with the beneficial owner of the insurance company (if that owner is a natural person) nor with any of its directors, chief executive, and shareholder controllers.
- 9.7 An applicant must be able to demonstrate local management and control which will normally require the balance of the board to be resident in Jersey and the Jersey element of the board to be actively engaged in the governance of the business.
- 9.8 Where an applicant is a Jersey incorporated subsidiary of an overseas financial services group, the Commission considers it desirable that at least one board member of the Jersey entity should be an individual who also sits on the board of the regulated parent.
- 9.9 The Commission's policy is to accept only natural persons to act in the capacity of director of a permit holder.
- 9.10 In an age of increasing specialism, globalised corporate operations and information technology, the Commission recognises that applicants may wish to utilise group resources outside the Island or outsource certain functions to external third parties able to offer particular expertise. However, it is the Commission's policy that, even where functions have been outsourced, the permit holder remains accountable to the Commission for all regulatory matters.
- 9.11 Where elements of the applicant's systems, controls or functions are to be outsourced, the Commission will consider whether such arrangements are in compliance with the guidelines set out in the Commission's published policy on Outsourcing (see page 3) and whether any conflicts arising from such outsourcing arrangements are addressed in accordance with the Insurance Codes.

## 10 Systems and controls

- 10.1 It is the Commission's policy that an applicant must be able to demonstrate:
- 10.1.1 the existence of adequate risk management systems; and
  - 10.1.2 the existence of systems and controls designed to manage its affairs effectively for the proper performance of its regulated activities, including those that evidence transparency in its business arrangements.

- 10.2 The Commission will look for evidence that the applicant will have adequate systems and controls in place and will be adequately resourced, in terms of both staff and/or service providers and financial resources, to conduct the regulated activities and to manage its risk profile.
- 10.3 If an applicant intends to provide services to customers who are themselves connected with a higher risk jurisdiction it must be able to demonstrate that it has the scale and depth of resources pertinent to the customer base together with sufficiently developed systems and controls which are sophisticated enough to adequately deal with the enhanced risk profile of such customers.
- 10.4 An applicant will also be expected to satisfy the Commission that it will have in place, and will systematically apply, robust systems and controls to enable it to comply with the Insurance Codes (Section 3).
- 10.5 Permit holders that provide insurance to the general public should, where possible, arrange a voluntary membership with the relevant ombudsman or similar independent complaints authority (e.g. the Financial Ombudsman Service in the UK) in each of the jurisdictions in which its customers reside

## 11 Transparency of Ownership

- 11.1 In considering the ownership structure of an applicant, the Commission must be able to identify the individuals who ultimately own the business and who exercise control over the appointment of the management team, as well any individuals who will have significant powers and responsibilities in relation to the permit holder.
- 11.2 The Commission should be able to look through the ownership structure to identify the ultimate owner(s) and, if this is unduly complex and/or lacks transparency, it would expect the applicant to explain and justify the rationale for having such a structure, particularly when the proposed structure falls outside that described in 11.3.
- 11.3 For regulatory purposes, the most desirable ownership structure involves the applicant being directly owned by either natural persons (either subject to relevant regulatory supervision elsewhere, or resident in Jersey) or by an entity or entities that are currently appropriately regulated elsewhere. However, ownership by a natural person will be the subject of additional consideration where the applicant intends to provide insurance to the general public, as commented on in 11.10.
- 11.4 In the case of an applicant which is ultimately owned by persons connected with a higher risk jurisdiction, an applicant's ownership structure will be subject to heightened scrutiny.
- 11.5 Any other ownership structure will be considered on a case by case basis. In reaching its decision, the Commission will assess whether any proposed introduction of additional safeguards at each point in the proposed ownership chain, where it falls outside of the ideal circumstances set out in 11.3, would be sufficient to ensure adequate transparency and risk management.
- 11.6 It is possible that the exercise of a company's share options could have an impact on the controlling interests of that company. Consequently, it is the Commission's policy that an applicant must declare any option arrangements in its application. The Commission will need to consider the terms of these when assessing the structure and organisation of the applicant. On an ongoing basis, the Commission should be notified of the exercise of, proposed pledge of, offer

of, or granting of options over shares in a permit holder, except that this should not stand in the way of any commercial loan arrangements.

- 11.7 Where the share capital of an applicant is held by one or more nominees, the Commission would expect the applicant to disclose the relevant nominee agreement evidencing the identity of the beneficial owner of the shares and the terms of the nominee agreement. Where the nominee holding meets the definition of a shareholder controller under Article 1 of the IB(J)L, then the Commission will apply the fit and proper test to both the nominee shareholders and the beneficial owners of the shares.
- 11.8 Inter alia, the Commission considers an application for a permit on the basis of the ownership structure and persons employed by or associated with the applicant (see 4.6) at the time the application is made. Any subsequent change to that structure may alter the Commission's assessment of the permit holder as a fit and proper person. Consequently, potential amendments to the structure or ownership of the permit holder must be advised to the Commission sufficiently in advance such that it has the opportunity to properly consider the proposals and determine whether to object. Any such structural amendments should be notified in accordance with Article 23 of the IB(J)L.
- 11.9 The Commission can require the removal of any director, chief executive, shareholder controller, key person or actuary in the event that it concludes that their continued involvement is no longer compatible with the permit holder being considered as fit and proper.
- 11.10 Ownership by a natural person.
- 11.10.1 The Commission would not normally accept an application from an insurance company owned directly by a natural person where the intention is to provide insurance to the general public. Any such applicant would need to demonstrate to the Commission that the owner has no direct control or management of the company's finances or business.
- 11.10.2 The Commission may consider an application from an insurance company that is ultimately owned by a natural person where the intention is to provide insurance to the general public if the applicant's parent company is a regulated entity.
- 11.11 Ownership by a Trust.
- 11.11.1 The presence of a trust in the ownership structure may not, of itself, disqualify the applicant from being granted a permit. However, such an arrangement does not sit comfortably with the most desirable ownership structure set out in 11.3. One particular difficulty is that trustees have a duty to act in the best interest of the trust beneficiaries. This duty may at times be in conflict with a trustee's obligations as a director, chief executive or shareholder controller of a permit holder to act in accordance with the regulatory framework. Accordingly, such ownership may present an additional hurdle in obtaining regulatory consent.
- 11.11.2 In considering any such ownership structures, the Commission will need to identify those persons who control and/or exercise significant influence over the applicant.
- 11.11.3 The Commission would ordinarily expect the trustee(s) of a trust that owns an applicant<sup>viii</sup> to be regulated by a relevant supervisory authority for the purposes of preventing and detecting money laundering and the financing of terrorism.

- 11.11.4 In such cases, the Commission will wish to examine the trust deed and any other related documents it considers relevant. In addition, the applicant would be expected to provide full details of the rationale, including the commercial reasons, for using a trust in its ownership structure.
- 11.11.5 In respect of 11.11.2, the Commission expects to be satisfied that all persons that control or exercise significant influence over the applicant meet the fit and proper criteria. In the case of a trust, this includes:
- 11.11.5.1 the trustee(s) of a trust which owns the applicant, whether as holder(s) of shares in the capital of the applicant, or otherwise;
  - 11.11.5.2 any person whose directions or instructions in relation to the applicant, its administration or its ownership, the trustee(s) follows (excluding a person who gives advice in a professional capacity only); and
  - 11.11.5.3 the settlor, protector and beneficiaries of the trust, depending on their formal powers and/or level of influence over the trustees.

## 12 Managed Insurance Businesses

- 12.1 As noted at 9.4.2 of this policy statement, the Commission recognises that there are circumstances in which an applicant may be able to undertake its business in reliance on resources which do not include fully staffed premises of its own in Jersey. This would be where the business of the applicant is to be managed in Jersey by another regulated person, which has been authorised by the Commission to act in the capacity of manager of an insurance business.
- 12.2 Such circumstances will be provided to the managed business under a written agreement with a manager. It is important to note that, once authorised, the managed business is a permit holder in its own right and must comply with the applicable regulatory framework, including the Insurance Codes.
- 12.3 In assessing the fitness and propriety of an applicant that wishes to operate as a managed business, it is the Commission's policy to apply the same standards as with an applicant that maintains staff and business premises in Jersey. However, the Commission will additionally consider carefully the arrangements under which the proposed manager intends to carry out its management function of the managed insurance business. Specifically, in relation to the provision of services to customers connected with higher risk jurisdictions, further explanation is provided at paragraph 12.6 below.
- 12.4 In assessing an applicant that is applying to operate as a managed business, the Commission must satisfy itself that it will be able to exercise sufficient regulatory oversight of the managed entity. Although the managed business may rely to a large extent on the proper exercise of the functions of the manager, the managed business itself will ultimately remain accountable to the Commission for the activities it undertakes.
- 12.5 All records relating to the managed business must be readily accessible in Jersey.
- 12.6 Should a managed business intend to provide services to customers who are themselves connected with a higher risk jurisdiction, the Commission will carefully review its "fit and proper"

assessment of the proposed manager in light of the application. In the context of such an application the Commission will consider such factors as:

- 12.6.1 The number and ratio of executive directors to be provided by the proposed manager;
  - 12.6.2 The quality of the risk assessment undertaken by the proposed manager of the applicant;
  - 12.6.3 The overall framework of systems and controls to be implemented by the proposed manager;
  - 12.6.4 Resources to be deployed by the proposed manager, including specific additional compliance resource with requisite experience and expertise to oversee the managed business; and
  - 12.6.5 The financial resources available to the proposed manager.
- 12.7 In a case where paragraph 12.6 applies, where such an application is successful, the Commission is likely to exercise its power (referred to in 3.7.1) to grant a registration with conditions attached. One likely condition would be not to permit the manager to terminate its appointment without first receiving the prior written consent of the Commission. Such consent would only be granted where the proposed new manager is deemed acceptable to the Commission.

## Part 3: Application for a Permit

### 13 General

- 13.1 The Commission recognises that the particular circumstances of each applicant will not be identical. Notwithstanding this, it is the Commission's policy that all applicants will be assessed against the same standards. In considering an application against the requirements of this policy, the Commission will seek to identify and mitigate any regulatory risks arising either from the nature of the regulated insurance activities to be undertaken, or from the particular circumstances of an applicant.
- 13.2 It is the Commission's policy that each application will be considered on its own merits and that all information relating to an applicant and available to the Commission during the assessment process will be taken into account.
- 13.3 It is the Commission's policy to make all enquiries it considers necessary, such as regulator to regulator enquiries, to determine an application, especially if it appears that a particular applicant poses a risk in terms of the guiding principles<sup>x</sup> the Commission is required to consider in pursuance of its functions<sup>x</sup>.
- 13.4 In circumstances where the applicant is either a subsidiary or branch of an overseas financial services group, the Commission will consider the adequacy of legislation to counter money laundering and terrorist financing that is applicable to that group, and also home supervisor oversight of compliance with that legislation, in determination of the application.

- 13.5 In accordance with Article 7(4) of the IB(J)L, an applicant should satisfy the Commission that it is fit and proper to undertake the proposed regulated insurance activities. It is not for the Commission to prove that it is not fit and proper.
- 13.6 Information supplied to the Commission and statements made by the applicant must not be false or misleading and, in this regard, the provisions of Article 38 of the IB(J)L in respect of false and misleading statements should be noted.
- 13.7 With reference to the statement in 5.1, it is important to note that all individuals wishing to become a director, chief executive, shareholder controller or key person of an applicant are required to complete and submit to the Commission a personal questionnaire. This document can be found on the Commission's website at [http://www.jerseyfsc.org/the\\_commission/general\\_information/forms/index.asp](http://www.jerseyfsc.org/the_commission/general_information/forms/index.asp). Many of the questions asked in section 4 of the personal questionnaire identify the main areas the Commission would, amongst others, consider when determining whether an individual is fit and proper.
- 13.8 When considering financial matters, applicants should refer to Article 19 of the IB(J)L, which requires the submission to the Commission of audited annual financial statements.

## 14 Application forms

- 14.1 Application forms in respect of insurance business may be found on the Commission website using the following link

[http://www.jerseyfsc.org/insurance\\_business/insurance\\_companies/forms/index.asp](http://www.jerseyfsc.org/insurance_business/insurance_companies/forms/index.asp)

## 15 Application supporting documentation

- 15.1 Category A applications should be supported by the following documentation:
- 15.1.1 A copy of the latest audited report and accounts, as submitted to the home regulator;
  - 15.1.2 A copy of the latest regulatory return (including the solvency calculation), as submitted to the home regulator; and
  - 15.1.3 Written advice from the home regulator detailing the classes of business that the applicant is authorised to transact.
- 15.2 Category B applications should be supported with the following:
- 15.2.1 A five-year business plan that details proposed business lines, risk profile, projected establishment costs, capital requirements, financial performance, reinsurance arrangements, and solvency margins;
  - 15.2.2 Projected solvency calculations, as defined by the Insurance Business (Solvency Margin) (Jersey) Order 1996, in respect of each of the five years detailed in an applicant's business plan; and
  - 15.2.3 Full details of any proposed reinsurance arrangements.

## 16 Contacting the Commission

16.1 Having considered this policy statement, should an applicant wish to discuss any aspect of applying for a permit, please contact the JFSC's Authorisations division.

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<sup>i</sup> The Minister for Economic Development has responsibility for regulatory legislation with the exception of (1) legislation relating to the countering of money laundering and the financing of terrorism, which falls under the remit of the Ministers for Treasury & Resources and Home Affairs and (2) the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948, which is the responsibility of the Minister for Transport and Technical Services.

<sup>ii</sup> Standard conditions relating to a Category B permit are contained in the Insurance Business (General Provisions) (Jersey) Order 1996.

<sup>iii</sup> "relevant supervisory authority" is as defined in the Insurance Business (Jersey) Law 1996.

<sup>iv</sup> In assessing which jurisdictions may present a "higher risk", the Commission will have regard to Appendix D (lists 1 and 2) of the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism together with objective data published by such sources as are listed on the [Commission's website](#).

<sup>v</sup> An entity within the same group as the applicant.

<sup>vi</sup> Solvency requirements in respect of Category B permit holders are detailed on the Insurance Business (Solvency Margin) (Jersey) Order 1996.

<sup>vii</sup> Reference should be made to the Commission's policy statement and guidance notes on Outsourcing.

<sup>viii</sup> There may be cases where an applicant can demonstrate a clear rationale for being owned by a trust with an unregulated/non-Jersey trustee. The Commission will consider such situations on a case by case basis and will pay particular regard to the professional background and experience of any nominated trustee and the extent to which the other requirements of this policy are satisfied.

<sup>ix</sup> The guiding principles of the Commission are set out in Article 7 of the Commission Law.

<sup>x</sup> The functions of the Commission are set out in Article 5 of the Commission Law.