



Consultation Paper No. 13 2020

Bank Financial Reporting and Audit

A consultation on proposals regarding the enactment of a Banking Business (Accounts, Auditors and Reports) (Jersey) Order containing new and varied requirements concerning financial reporting by banks, declarations of compliance, the prudential return and the role of their auditors

Issued: December 2020

Consultation Paper

The Jersey Financial Services Commission ([JFSC](#)) invites comments on this consultation paper by **31 March 2021**. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the [JFSC](#).

The [JFSC](#) contact is:

David Fisher

Senior Adviser

Jersey Financial Services Commission

PO Box 267

14-18 Castle Street

St Helier

Jersey

JE4 8TP

Telephone: +44 (0) 1534 822106

Email: d.fisher@jerseyfsc.org

Alternatively, Lisa Springate at Jersey Finance Limited ([JFL](#)) is coordinating an Industry response that will incorporate any matters raised by local businesses. Comments should be submitted to [JFL](#) by **31 March 2021**.

The [JFL](#) contact is:

Lisa Springate

Head of Legal and Technical

Jersey Finance Limited

4th Floor, Sir Walter Raleigh House

48-50 Esplanade

St Helier

Jersey

JE2 3QB

Telephone: +44 (0) 1534 836029

Email: Lisa.Springate@jerseyfinance.je

Content from responses will be used in feedback papers. Respondents will be listed in the feedback paper unless requested otherwise.

It is the policy of [JFL](#) (unless otherwise requested or agreed) to collate all responses and share them verbatim with the [JFSC](#) on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.). This collated, anonymised response will, typically, be placed in [JFL's](#) permanent electronic archive which is currently open to all [JFL](#) members.

Glossary of Terms

Defined terms are indicated throughout this document as follows:

Accounts Orders	Orders issued under other Jersey regulatory laws concerning accounting and auditing
Amendment 7	Banking Business (Amendment No. 7)(Jersey) Law 2011, available at: https://www.jerseylaw.je/laws/enacted/Pages/L-25-2011.aspx , the text of which is set out in Appendix H
AoA Code	‘Banking Code: Appointment of auditors’, a draft of which is set out in Appendix D
Auditor	Used herein to refer to any of the JIB Auditor , OIB Auditor or Branch Auditor
Banking Code: Main Body	The Code of Practice for Deposit-taking Business: Main Body
Banking Code	The Code of Practice for Deposit-taking Business, comprising five parts, being: <ul style="list-style-type: none"> › Banking Code: Main Body; › AoA Code; › DoC Code; › FS Code; and › PR Code.
Banking Law	Banking Business (Jersey) Law 1991
BCBS Audit Paper	‘External audits of banks’, published by the Basel Committee on Banking Supervision in March 2014, available at: https://www.bis.org/press/p140331a.htm
Branch Auditor	Auditor appointed in relation to an OIB’s Jersey business
CIF Order	Collective Investment Funds (Recognized Funds) (Permit Conditions for Functionaries) (Jersey) Order 1988, available at: https://www.jerseylaw.je/laws/revised/Pages/13.100.70.aspx
Commission Law	Financial Services Commission (Jersey) Law 1998
Declaration of Compliance	Declaration required to be produced by a registered person, in accordance with the New Order, regarding its compliance with laws and regulations
DoC Code	‘Banking Code: Declaration of Compliance’, a draft of which is set out in Appendix G
Exceptional Circumstances	Situations that must be reported by Reporting Persons directly to the JFSC , being those where the interests of depositors could be prejudiced if the management of the Registered Person was informed that the Reporting Person was aware of the existence of the circumstances. See

	Paragraph 10.6 for more details and see Article 19 of the New Order , broadly in-line with current GPO provisions (Article 13)
FS Code	‘Banking Code: Financial statements’, a draft of which is set out in Appendix E
FSB Order	Financial Services (Fund Services Business (Accounts, Audits and Reports)) (Jersey) Order 2007, available at: https://www.jerseylaw.je/laws/revised/Pages/13.225.95.aspx
FSJL Orders	Accounts Orders issued under the Financial Services (Jersey) Law 1998, i.e. FSB Order , GIMB Order and TCB/IB Order .
GIMB Order	Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005, available at: https://www.jerseylaw.je/laws/revised/Pages/13.225.06.aspx
GPO	Banking Business (General Provisions) (Jersey) Order 2002
IFRS	Accounting standards issued by the International Accounting Standards Board
JFL	Jersey Finance Limited
JFSC	Jersey Financial Services Commission
JIB	Jersey Incorporated Bank: a Registered Person incorporated in Jersey
JIB Auditor	Auditor appointed in relation to a JIB’s business
New Order	Banking Business (Accounts, Auditors and Reports) Order, set out in Appendix B
OIB	Overseas Incorporated Bank: a Registered Person incorporated overseas
OIB Auditor	Auditor appointed in relation to an OIB’s business
PR Code	‘Banking Code: Prudential reporting’, a draft of which is set out in Appendix F
Registered Person	A person registered under the Banking Law
Reporting Person	An auditor or a person appointed under Article 26(7) of the Banking Law to make a report
TCB/IB Order	Financial Services (Trust Company and Investment Business (Accounts, Audits and Reports)) (Jersey) Order 2007, available at: https://www.jerseylaw.je/laws/revised/Pages/13.225.92.aspx

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1 Executive Summary

1.1 Overview

- 1.1.1 This consultation paper seeks feedback on proposals to bring into force new and varied requirements relating to accounts, auditors and reports for persons registered under the Banking Business (Jersey) Law 1991 ([Banking Law](#)).

1.2 What is proposed and why?

- 1.2.1 It is proposed to enact new legislation – the Banking Business (Accounts, Auditors and Reports) (Jersey) Order ([New Order](#)) - that would establish new and varied requirements, with the key aspects addressed being:
- 1.2.1.1 The appointment of auditors ([Section 5](#));
 - 1.2.1.2 Financial Statements ([Section 6](#));
 - 1.2.1.3 Prudential Return ([Section 7](#));
 - 1.2.1.4 Declaration of Compliance ([Section 8](#)); and
 - 1.2.1.5 Publication of Financial Statements ([Section 9](#)).
- 1.2.2 A draft of the New Order is provided as **Appendix B**.
- 1.2.3 This work is intended to:
- 1.2.3.1 bring together existing requirements and provide an appropriate statutory underpinning, in line with similar Orders issued for other classes of financial services business; and
 - 1.2.3.2 ensure that depositors have access to audited financial statements through relevant websites.
- 1.2.4 By way of background, the [JFSC](#) has previously consulted on many of the relevant principles in year 2010, with the consultation being available at:
- 1.2.4.1 https://www.jerseyfsc.org/media/3980/consultation_paper_no_4_2010_banking_reporting_and_disclosures.pdf
- 1.2.5 Feedback at the time was broadly supportive, available at:
- 1.2.5.1 https://www.jerseyfsc.org/media/3977/feedback_to_cp_no_4_2010.pdf
- 1.2.6 However, progress on implementation has been limited to only certain deposit protection disclosure related changes being completed, though an Amendment has been enacted to the Banking Law Banking Business (Amendment No. 7)(Jersey) Law 2011 ([Amendment 7](#)) to create the necessary Order making powers (but is not in force).
- 1.2.7 This consultation therefore addresses both the principles and detailed implementation, so that familiarity with the earlier work is not necessary.
- 1.2.8 In addition to the [New Order](#) itself, it is intended to add to the the Code of Practice for Deposit-taking Business ([Banking Code](#)) new Code requirements regarding related processes that must be followed by persons registered under the Banking Law ([Registered Persons](#)).

- 1.2.9 Specifically, it is intended to revise the current [Banking Code](#) so that it provides the main body of the Banking Code ([Banking Code: Main Body](#)) (**Appendix C**) and issue four new parts of the [Banking Code](#) in separate documents to address the matters raised in this paper. These will provide: (1) a summary of the relevant legal requirements (i.e. the [New Order](#)) (2) the new Code requirements and (3) guidance on how [Registered Persons](#) can meet the requirements. These documents will be:
- 1.2.9.1 Banking Code: Appointment of auditors ([AoA Code](#));
 - 1.2.9.2 Banking Code: Financial statements ([FS Code](#));
 - 1.2.9.3 Banking Code: Prudential reporting ([PR Code](#)); and
 - 1.2.9.4 Banking Code: Declaration of Compliance ([DoC Code](#)).
- 1.2.10 The [Banking Code: Main Body](#) amendments (vs the current [Banking Code](#)) are limited to the removal of superseded requirements (including Sections 6.4 to 6.6 and the Schedule concerning prudential reporting and the [Declaration of Compliance](#)), although the opportunity has been taken to make some minor formatting/layout changes.
- 1.2.11 Within each new document, there are separate sections for [JIBs](#) and [OIBs](#). In each, legal requirements will be explained at the start, followed by the Codes requirements and then guidance, each within a separate sub-section.
- 1.2.12 Drafts of these four documents form Appendices D to G.
- 1.2.13 Most proposals are intended to reinforce current provisions in the [Banking Code](#), either by providing a legal underpinning or through greater specificity of the requirements.
- 1.2.14 Perhaps the principal change is with respect to the publication of financial statements for the use of depositors, with the intention being to reflect the increased use of the internet both generally and by [Registered Persons](#) to solicit deposits.
- 1.2.15 A copy of [Amendment 7](#) has been provided as **Appendix H**.
- 1.2.16 Consequential changes will be made to the Banking Business (General Provisions) (Jersey) Order 2002 ([GPO](#)). A draft of the changes to the [GPO](#) is provided as **Appendix I**.

1.3 Who would be affected?

- 1.3.1 The proposals in this consultation paper have the potential to affect:
- 1.3.1.1 [Registered Persons](#), who will be directly impacted by the new requirements;
 - 1.3.1.2 Auditors, who will be impacted directly and via [Registered Persons'](#) compliance with the new requirements; and
 - 1.3.1.3 Depositors, who may benefit from improved access to [Registered Persons'](#) published Financial Statements.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The [JFSC](#) has issued this consultation paper in accordance with:
 - 2.1.1.1 Article 8(3) of the [Commission Law](#), as amended, under which the [JFSC](#) may, in connection with the carrying out of its functions, consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate.
 - 2.1.1.2 Article 19A(1) of the [Banking Law](#) that requires it, before revising any [Banking Code](#), to, consult persons or bodies the [JFSC](#) considers are representative of the interests concerned.

2.2 Responding to the consultation

- 2.2.1 The [JFSC](#) invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 A response form has been published alongside this consultation, available at:
 - 2.2.2.1 <https://www.jerseyfsc.org/media/3979/response-form-cp-no-13-bank-financial-reporting-and-audit.docx>
- 2.2.3 Respondents are requested to use this form when providing feedback, either directly or via [JFL](#). For the avoidance of doubt, all responses received, in whatever fashion, will be considered, with the response form intended only to ease processing by the [JFSC](#).
- 2.2.4 Comments should be received by the [JFSC](#) no later than **28 February 2021**.

2.3 Next steps

- 2.3.1 Following this consultation, the [JFSC](#) intends to publish feedback to this Consultation Paper before the end of H1 2021.
- 2.3.2 The [JFSC](#) will seek amendments where necessary to take into account feedback provided and will then proceed with the measures necessary to enact the [New Order](#) and issue the revised [Banking Code](#) documents. It being anticipated that this work would be completed before the end of Q3 2021 and hence impact on reporting produced for year-end 2021.

3 The JFSC

3.1 Overview

- 3.1.1 The [JFSC](#) is a statutory body corporate established under the [Commission Law](#). It is responsible for the supervision and development of financial services provided in or from within Jersey.

3.2 JFSC's functions

- 3.2.1 The [Commission Law](#) prescribes that the [JFSC](#) shall be responsible for:
- 3.2.1.1 the supervision and development of financial services provided in or from within Jersey;
 - 3.2.1.2 providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
 - 3.2.1.3 preparing and submitting to the Minister for External Relations recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;
 - 3.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:
 - › as are required or authorised by or under any enactment, or
 - › as the States may, by Regulations, transfer; and
 - 3.2.1.5 such other functions as are conferred on the [JFSC](#) by any other Law or enactment.

3.3 Guiding principles

- 3.3.1 The [JFSC's](#) guiding principles require it to have particular regard to:
- 3.3.1.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence, malpractice, or the financial unsoundness of persons carrying on the business of financial services in or from within Jersey;
 - 3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
 - 3.3.1.3 the best economic interests of Jersey; and
 - 3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

4 General issues

4.1 Multiple Banking Code documents

- 4.1.1 The current [Banking Code](#) establishes a range of Financial Reporting and Audit Code requirements in the one document.
- 4.1.2 The new requirements are set out in the four **Appendices D to G**, with the existing [Banking Code](#) retained as the [Banking Code: Main Body \(Appendix C\)](#) but amended to remove superseded requirements and consequential amendments. It is intended that the financial reporting and audit Code requirements in the four new parts will be accessed through a link in the Code of Practice section of the [JFSC's](#) website.
- 4.1.3 This is intended to make it easier to view the new financial reporting and audit Code requirements and also, where necessary, to amend them in the future, particularly as changes made may be needed to address matters or for consistency purposes across multiple financial services businesses' licences.

4.2 Banks with multiple licences

- 4.2.1 Article 17 'Exemptions and variation' of the [New Order \(Appendix B\)](#) and the [Banking Code](#) both allow a degree of flexibility in application.
- 4.2.2 Requests for variances will be looked on favourably where strict adherence would produce anomalous results or where there are legal or regulatory barriers.
- 4.2.3 The [New Order](#) addresses matters that are also the subject of Orders concerning accounts and auditing issued under other regulatory laws ([Accounts Orders](#)), which might impact [Registered Persons](#) that are registered to conduct other classes of financial services business.
- 4.2.4 The [Accounts Orders](#) are:
 - 4.2.4.1 Three [Accounts Orders](#) issued under the Financial Services (Jersey) Law 1998 ([FSJL Orders](#)):
 - › Financial Services (Fund Services Business (Accounts, Audits and Reports)) (Jersey) Order 2007 ([FSB Order](#))
 - › Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005 ([GIMB Order](#))
 - › Financial Services (Trust Company and Investment Business (Accounts, Audits and Reports)) (Jersey) Order 2007 ([TCB/IB Order](#)); and
 - 4.2.4.2 The Collective Investment Funds (Recognized Funds) (Permit Conditions for Functionaries) (Jersey) Order 1988 ([CIF Order](#))
- 4.2.5 The [FSJL Orders](#) contain provisions enabling variances to be granted.
- 4.2.6 The [CIF Order](#) creates conditions of registration which may be varied by the [JFSC](#) by establishing varied conditions on a case-by-case basis, which has a similar effect.
- 4.2.7 The legal requirements are broadly similar across the various [Accounts Orders](#). Where differences are significant, it is proposed to establish standard procedures to vary the relevant requirements under the other Orders.
- 4.2.8 This would involve each [Registered Person](#) completing a single form to request the relevant variance in the circumstances contemplated for its use in order to secure approval for the relevant variances.
- 4.2.9 In each of the following **Sections**, the relevant areas are identified.

- 4.2.10 As noted in the [JFSC's](https://www.jerseyfsc.org/media/2175/cp-code-amendments-no10-02-november-2018.pdf) consultation CP No. 10 2018 'Amendments to Codes of Practice', available at <https://www.jerseyfsc.org/media/2175/cp-code-amendments-no10-02-november-2018.pdf>, it is intended to further align the Codes, which it is anticipated, over time, will reduce the need for variances in this respect but will also require alignment of the various Orders or even amalgamation of them, to the extent possible.
- 4.2.11 In the longer term, it is intended to address unnecessary differences in order to reduce the potential for confusion arising from overlapping similar requirements. This has not been done at this time in order to enable the immediate work to be progressed with respect to [Registered Persons](#) under the Banking Law without incurring further delay that would be entailed by carrying out this work.

4.2.12 Question 1: Are there any particular issues relating to multiple licences held by Registered Persons under the Banking Law that should be further addressed?

5 Appointment of auditors

5.1 Overview

- 5.1.1 The legal requirements are set out in Articles 2 to 4 and 6 of the [New Order \(Appendix B\)](#):
 - 5.1.1.1 Article 2 ‘Appointment of auditor’
 - 5.1.1.2 Article 3 ‘Objection to auditor or proposed auditor’
 - 5.1.1.3 Article 4 ‘Offences relating to appointment and removal of an auditor’
 - 5.1.1.4 Article 6 ‘Termination of appointment’
- 5.1.2 Article 17 ‘Exemptions and variation’ of the [New Order](#) allows the [JFSC](#), on the request of a [Registered Person](#), to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption is granted.
- 5.1.3 The [AOA Code \(Appendix D\)](#) will outline the legal requirements, as per the text below, specify all relevant Code requirements and provide associated guidance.
- 5.1.4 The current provisions in the [Banking Law](#) and the [GPO](#) concerning the appointment of auditors (including the appointment of a [Branch Auditor](#)) will be removed.
- 5.1.5 The requirements for [JIBs](#) are broadly similar to those applying under other [Accounts Orders](#) except that [JFSC](#) approval is not required, although the [JFSC](#) can object.
- 5.1.6 [OIBs](#) must appoint a [Branch Auditor](#) in respect of their business in Jersey, who will be responsible for reports on the prudential return ([Section 7](#)) and [Declaration of Compliance \(Section 8\)](#), in line with the process for [JIBs](#). They are also required to notify the [JFSC](#) of changes to the auditor of their financial statements, though approval is not required.
- 5.1.7 These proposals draw on the existing [Banking Law](#) provisions (which will be removed once superseded by the [New Order](#), see [Appendix J](#)) and those applying under other [Accounts Orders](#). The [New Order](#) dis-applies certain requirements of other [Accounts Orders](#) governing the appointment of auditors of [Registered Persons](#) to reduce the opportunity for conflicting requirements.

5.2 New Order requirements

- 5.2.1 Every [JIB](#) must appoint an auditor in relation to its business ([JIB Auditor](#)) and notify the [JFSC](#) of the appointment; and
- 5.2.2 Every [OIB](#) must appoint (and notify the [JFSC](#) of the appointment of) both:
 - 5.2.2.1 an auditor in respect of its entire business ([OIB Auditor](#)), i.e. of the company as a whole; and
 - 5.2.2.2 a ‘[Branch Auditor](#)’ in respect of its Jersey business
- 5.2.3 In all three of the above cases with respect to 5.2.1, 5.2.2.1 and 5.2.2.2, it is required that the [auditor](#) (used herein to refer to any of the [JIB Auditor](#), [OIB Auditor](#) or [Branch Auditor](#)) appointed has the skill, resources and experience to perform its functions.
- 5.2.4 The [JFSC](#) may:
 - 5.2.4.1 object to the appointment, or proposed appointment, of a [JIB Auditor](#) or a [Branch Auditor](#) (but not [OIB Auditor](#)); and
 - 5.2.4.2 require a proposed [JIB Auditor](#) or [Branch Auditor](#) to provide it with such information as the [JFSC](#) considers appropriate regarding its skill,

resources and experience and that any information provided to the [JFSC](#) in this respect must also be provided to the relevant bank.

- 5.2.5 A [Registered Person](#) must notify the [JFSC](#) upon terminating an [auditor's](#) appointment and the [auditor](#) is required to make a statement to the [JFSC](#) concerning the termination, including any matters that it considers should be brought to the attention of the [JFSC](#).
- 5.2.6 Contravention of the above requirements under the [New Order](#) would be an offence and be subject to a fine.
- 5.2.7 The [Banking Law](#) (Article 22) makes it an offence to knowingly or recklessly provide information which is false or misleading in purported compliance with all requirements imposed under the [New Order](#).
- 5.2.8 The [New Order](#) contains provisions that are intended to address the overlap with the [TCB/IB Order](#) and the [FSB Order](#) by exempting [Registered Persons](#) from the appointment of auditors provisions in those Orders, provided they have appointed an auditor under the [New Order](#).
- 5.2.9 The superseded [GPO](#) requirement to appoint a [Branch Auditor](#) will be removed – see **Appendix J**, as will the [Banking Law](#) requirements regarding the appointment of [auditors](#) – see **Appendix J**.

5.3 AOA Code

- 5.3.1 The [AOA Code](#) would require each [JIB](#) to:
 - 5.3.1.1 have a robust process for approving, or recommending for approval, the appointment, reappointment, removal and remuneration of the [JIB Auditor](#);
 - 5.3.1.2 monitor and assess the independence of its [JIB Auditor](#);
 - 5.3.1.3 monitor and assess the effectiveness of the [JIB Auditor](#);
 - 5.3.1.4 have effective communication with the [JIB Auditor](#) to enable the [JIB](#) to carry out its oversight responsibilities and to enhance the quality of the work carried out by the [JIB Auditor](#);
 - 5.3.1.5 require the [JIB Auditor](#) to report to it on all relevant matters to enable the [JIB](#) to carry out its oversight responsibilities; and
 - 5.3.1.6 maintain records relating to the above as business records.
- 5.3.2 Guidance is provided on good practice, including involvement of the [JIB's](#) audit committee, where this exists, principally through drawing a JIB's attention to the paper published in March 2014 by the Basel Committee on Banking Supervision on 'External audits of banks' ([BCBS Audit Paper](#)).
- 5.3.3 The [AOA Code](#) would require each [OIB](#) to:
 - 5.3.3.1 have a robust process for approving, or recommending for approval, the appointment, reappointment, removal and remuneration of its [Branch Auditor](#);
 - 5.3.3.2 monitor and assess the independence of its [Branch Auditor](#);
 - 5.3.3.3 monitor and assess the effectiveness of its [Branch Auditor](#);
 - 5.3.3.4 have effective communication with its [Branch Auditor](#) to enable the [OIB](#) to carry out its oversight responsibilities and to enhance the quality of the work carried out by the [Branch Auditor](#);

- 5.3.3.5 require its [Branch Auditor](#) to report to it on all relevant matters to enable the [OIB](#) to carry out its oversight responsibilities; and
- 5.3.3.6 maintain records relating to the above as business records.
- 5.3.4 Limited guidance (compared to that provided to [JIBs](#)) is provided to [OIBs](#) on good practice.
- 5.3.5 No Code requirements or guidance are proposed with respect to the appointment of an [OIB Auditor](#) – only the legal requirements apply.
- 5.3.6 Regulatory sanctions would apply in the case of any requirement not being met, which could include civil penalties in the case of a breach of a Code requirement.
- 5.3.7 The [AoA Code](#) includes standard templates for seeking a waiver from the relevant [GIMB Order](#) and [CIF Order](#) requirements and outlines in guidance a general approach to addressing other situations where the [Registered Person](#) considers that a waiver or variance may be appropriate.

5.3.8 Question 2: Are the proposals clear regarding the appointment of auditors? Are there any other matters that you wish to raise in relation to the proposals?
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6 Financial statements

6.1 Overview

- 6.1.1 The principal legal requirements are set out in Articles 10 to 14 of the [New Order \(Appendix B\)](#):
 - 6.1.1.1 Article 10 'Directors' report'
 - 6.1.1.2 Article 11 'Registered person to provide certain documents to auditor'
 - 6.1.1.3 Article 12 'Auditor's reports'
 - 6.1.1.4 Article 13 'Financial statements to be provided to Commission'
 - 6.1.1.5 Article 14 'Declarations and reports to be provided to Commission at same time as financial statements'
- 6.1.2 Article 17 'Exemptions and variation' of the [New Order](#) allows the [JFSC](#), on the request of a [Registered Person](#), to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption is granted.
- 6.1.3 The [FS Code \(Appendix E\)](#) will outline the legal requirements, as per the text below, specify all relevant code requirements and provide associated guidance.
- 6.1.4 In summary, [Registered Persons](#) will be required to submit audited financial statements to the [JFSC](#) within 3 months ([JIBs](#)) or 4 months ([OIBs](#)), as well as the accounts of parent companies within 4 months (in both cases), after the end of the relevant accounting period, broadly in line with current [Banking Code](#) requirements.
- 6.1.5 This is not significantly different to existing [Banking Code](#) requirements.
- 6.1.6 One consequential impact could be that late filing fees will apply, as set out in the Deposit-Taking Fees Notice. This would be a fee of £100 for each complete month or part thereof that a filing is late unless the person has given the [JFSC](#) prior written notice of the reasons for the delay and the [JFSC](#) has agreed in writing that the filing may be late.

6.2 New Order requirements

- 6.2.1 A [Registered Person](#) must prepare financial statements in respect of each accounting period.
- 6.2.2 A [JIB's](#) financial statements must show a true and fair view of its state of affairs and profit or loss and must be prepared in accordance with either:
 - 6.2.2.1 accounting standards issued by the (U.K.) Accounting Standards Board, except regarding related party disclosures; or
 - 6.2.2.2 accounting standards issued by the International Accounting Standards Board ([IFRS](#)).
- 6.2.3 Accounting standards require require a firm to disclose transactions with related parties but may exempt those with other members of its groups from this requirement. The [New Order](#) does not permit use of such exemptions, having the effect of requiring the disclosure of related party transactions to include those entered into with members of its group.
- 6.2.4 A [JIB's](#) financial statements must be signed by at least one director.
- 6.2.5 An [OIB's](#) financial statements must be signed by as many persons as are required, under the laws of the country or territory in which the overseas incorporated bank is

- incorporated or established, to sign financial statements, but in any case not less than one such person.
- 6.2.6 Every [Registered Person](#) must produce a directors' report and the [New Order](#) describes what the report must contain.
- 6.2.7 The [New Order](#) sets out the documents that a [Registered Person](#) must provide to its auditor. With respect to financial statements, the documents are as follows:
- 6.2.7.1 a [JIB](#) must provide its [JIB Auditor](#) a copy of its financial statements and its directors' report; and
- 6.2.7.2 an [OIB](#) must provide its [OIB Auditor](#) a copy of its financial statements and its directors' report
- 6.2.8 The [New Order](#) would require:
- 6.2.8.1 the [JIB Auditor](#) to prepare reports on the [JIB's](#) financial statements and directors' reports
- 6.2.8.2 the [OIB Auditor](#) to prepare reports on the [OIB's](#) financial statements and directors' reports,
- after conducting an audit in accordance with either:
- 6.2.8.3 the Auditing Standards issued by the Financial Reporting Council;
- 6.2.8.4 the International Standards on Auditing issued by the International Federation of Accountants; or
- 6.2.8.5 such other generally recognized auditing standard that is agreed between the [Registered Person](#) and the [JFSC](#).
- 6.2.9 The [New Order](#) would require each report to be signed and a copy provided to the [JIB](#) or [OIB](#), as the case may be.
- 6.2.10 The financial statements must be provided to the [JFSC](#):
- 6.2.13.1 in the case of a [JIB](#), within 3 months of the end of the accounting period; and
- 6.2.13.2 in the case of an [OIB](#), within 4 months of the end of the accounting period.
- 6.2.11 The financial statements provided to the [JFSC](#) must be accompanied by:
- 6.2.11.1 the directors' report; and
- 6.2.11.2 the auditor's reports in respect of the financial statements and the directors' report.
- 6.2.12 A [JIB](#) must, at the same time the financial statements are provided to the [JFSC](#), provide any other report that:
- 6.2.12.1 has been prepared during, or in relation to, the financial year by the [JIB Auditor](#), any other person who conducts an audit for the [JIB](#), an accountant or a consultant,
- 6.2.12.2 addresses a relevant matter, and
- 6.2.12.3 is available to the [JIB](#).
- 6.2.13 A [Registered Person](#), must also (unless they are the ultimate parent in their Group) provide:
- 6.2.13.1 the audited unconsolidated financial statements of each of its parents; and

- 6.2.13.2 the audited consolidated financial statements of its ultimate parent, within 4 months of the end of the year to which the financial statements relate.
- 6.2.14 Contravention of the above requirements under the [New Order](#) would be an offence and be subject to a fine, excepting those relating to the requirement for the production of (1) directors' reports and (2) auditor's reports.
- 6.2.15 The [Banking Law](#) (Article 22) makes it an offence to knowingly or recklessly provide information which is false or misleading in purported compliance with all requirements imposed under the [New Order](#).

6.3 FS Code

- 6.3.1 The proposed [FS Code](#) would require each [JIB](#) to:
 - 6.3.1.1 have robust, documented processes for the production of its financial statements and its directors' report
 - 6.3.1.2 as part of those processes, establish responsibility for sign off and for oversight of the processes;
 - 6.3.1.3 ensure that documentation is produced to enable its [JIB Auditor](#) to carry out its audit;
 - 6.3.1.4 establish responsibility for addressing any issues arising from auditors reports or any other relevant reports received; and
 - 6.3.1.5 maintain records relating to the above as business records.
- 6.3.2 Guidance is provided on good practice, principally through drawing JIB's attention to the [BCBS Audit Paper](#).
- 6.3.3 No Code requirements or guidance are proposed with respect to the auditing of [OIB's](#) financial statements – only the legal requirements apply.
- 6.3.4 Regulatory sanctions would apply in the case of any requirement not being met, which could include civil penalties in the case of a breach of a Code requirement.

6.3.5 **Question 3: Are the proposals clear regarding the production and submission to the JFSC of financial statements? Are there any other matters that you wish to raise in relation to the proposals?**

7 Prudential Return

7.1 Overview

- 7.1.1 The principal legal requirements are set out in Articles 11, 12, 14 and 16 of the [New Order](#) (**Appendix B**):
 - 7.1.1.1 Article 11 ‘Registered person to provide certain documents to auditor’
 - 7.1.1.2 Article 12 ‘Auditor’s reports’
 - 7.1.1.3 Article 14 ‘Declarations and reports to be provided to Commission at same time as financial statements’
 - 7.1.1.4 Article 16 ‘Prudential return’
- 7.1.2 Article 17 ‘Exemptions and variation’ of the [New Order](#) allows the [JFSC](#), on the request of a Registered Person, to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption is granted.
- 7.1.3 The [PR Code](#) (**Appendix E**) will outline the legal requirements, as per the below text, specify all relevant Code requirements and provide associated guidance.
- 7.1.4 In summary, [Registered Persons](#) will be required to provide quarterly prudential returns and a year-end prudential return. An auditor’s report on the year-end prudential return must be provided along with financial statements to the [JFSC](#) within 3 months ([JIBs](#)) or 4 months ([OIBs](#)) of the year-end.
- 7.1.5 This is not significantly different to existing [Banking Code](#) requirements, except that the current deadline for the provision of the auditor certified prudential return is 3 months from the year-end for both [JIBs](#) and [OIBs](#). The relaxation for [OIBs](#) is intended to enable work to be combined with work on the [Declaration of Compliance](#) (**Section 8**) and with work on financial statements (**Section 6**).
- 7.1.6 One consequential impact could be that late filing fees will apply, as set out in the Deposit-Taking Fees Notice – see <https://www.jerseyfsc.org/industry/fees/>. This would be a fee of £100 for each complete month or part thereof that a filing is late unless the person has given prior written notice of the reasons for the delay and the [JFSC](#) has agreed in writing that the filing may be late.
- 7.1.7 No material changes are proposed regarding the requirements in the existing [Banking Code](#) (sections 6.4 and 6.5 and the Schedule) or completion guidance in respect to the prudential return, save that they will be moved to the [PR Code](#) to the extent that they have not been superseded by the [New Order](#).

7.2 New Order requirements

- 7.2.1 A [Registered Person](#) must complete –
 - 7.2.1.1 Quarterly prudential returns in the form required by the Code (the [PR Code](#)) with respect to each of the following dates in each year:
 - › 30th March,
 - › 30th June,
 - › 30th September, and
 - › 31st December; and
 - 7.2.1.2 A year-end prudential return in the form required by the Code (specifically, the [PR Code](#)).

- 7.2.2 The prudential returns must be provided to the JFSC in the manner required by the [PR Code](#) within 20 working days of the date with respect to which the return was prepared.
- 7.2.3 A [JIB](#) must provide its [JIB Auditor](#) with a copy of year-end prudential return.
- 7.2.4 An [OIB](#) must provide its [Branch Auditor](#) with a copy of its year-end prudential return.
- 7.2.5 The [New Order](#) would require:
 - 7.2.5.1 the [JIB Auditor](#) to prepare reports on the [JIB's](#) prudential return; and
 - 7.2.5.2 the [Branch Auditor](#) to prepare reports on the [OIB's](#) prudential return.
- 7.2.6 The report in respect of the prudential return must be prepared having regard to whether the return reflects the accounting records and transactions to which the records relate taking into account:
 - 7.2.6.1 the accounting practices of the [Registered Person](#); and
 - 7.2.6.2 any advice given by the [JFSC](#).
- 7.2.7 The report must include a statement that, in preparing the report –
 - 7.2.7.1 the [auditor](#) became aware of nothing that could be taken to indicate that any statement in the declaration or prudential return was incorrect or misleading; or
 - 7.2.7.2 the [auditor](#) became aware of a matter that could be taken to indicate that a statement in the declaration or prudential return was incorrect or misleading and why the [auditor](#) is of that opinion.
- 7.2.8 Each report must be signed and a copy provided to the [Registered Person](#).
- 7.2.9 The report on the prudential return must be provided to the [JFSC](#), together with financial statements, directors' report and the auditor's reports in respect of the financial statements and the directors' report (see **Section 6**)
- 7.2.10 Contravention of the above requirements under the New Order would be an offence and be subject to a fine, excepting those relating to the requirement for the production of the auditor's report.
- 7.2.11 The [Banking Law](#) (Article 22) makes it an offence to knowingly or recklessly provide information which is false or misleading in purported compliance with all requirements imposed under the [New Order](#).

7.3 PR Code

- 7.3.1 In connection with the quarterly prudential return, the proposed [PR Code](#) would require each [Registered Person](#) to:
 - 7.3.1.1 have robust, documented processes for the production of its prudential return; and
 - 7.3.1.2 as part of those processes, establish responsibility for sign off and for oversight of the processes.
- 7.3.2 The [PR Code](#) also contains requirements that maintain existing requirements regarding the prudential return process, consistent with the Sections 6.4 and 6.5 and the Schedule to the [Banking Code: MainBody](#) (which will be removed).
- 7.3.3 In connection with the audited year-end prudential return, the proposed [PR Code](#) would require each [Registered Person](#) to:

- 7.3.3.1 Ensure that in respect of the year-end prudential return, full documentation is produced to enable its [JIB Auditor](#) / [OIB Auditor](#) (as applicable) to carry out the work necessary to produce its audit report; which should include:
- › working papers showing how the return was extracted from the [Registered Person's](#) books and records
 - › copies of relevant procedures for the production and sign-off of the prudential return;
 - › changes made since the last year-end;
 - › changes made to the [JFSC's](#) prudential guidance since the last year-end;
 - › any issues identified during the year concerning the prudential return process or in the prior year-end audit report, together with a description of how these have been addressed; and
 - › in the case of a [JIB](#) only, a copy of its financial statements.
- 7.3.3.2 Instruct its [JIB Auditor](#) or [Branch Auditor](#), as applicable, to address:
- › review of the adequacy and maintenance of the control framework relating to the production process of the prudential returns in order to prevent material mis-statement and ensure adherence to relevant JFSC guidance.
 - › consideration of the adequacy of knowledge and experience of staff involved in the production process, the submission process and the approval process. Comment on what training on the revised forms and guidance was given.
 - › description of, and comment on any identified shortcomings of, IT applications involved in the production process, for example manual workarounds and areas identified for future development, with expected timeframes.
 - › overview, and sign off of the Report on the prudential return, to include completeness, accuracy and accessibility of key documentation which supports the process.
 - › backups and contingencies – both systems and key person reliance in relation to the prudential reporting.
 - › details of any audit, compliance monitoring and action plans that may have been produced following the changes detailed in the background section above.
- 7.3.3.3 In the case of a [JIB](#), in addition to the above:
- › the scope should include daily liquidity calculations; and
 - › the report must include a reconciliation of reporting within the prudential return to relevant material in the financial statements, including the balance sheet and profit and loss.
- 7.3.3.4 Establish responsibility for addressing any issues arising from relevant prior reports.
- 7.3.3.5 Maintain records relating to the above as business records.
- 7.3.4 Guidance is provided on good practice, which for [JIBs](#) includes guidance on the involvement of any audit committee.
- 7.3.5 Regulatory sanctions would apply in the case of any requirement not being met, which could include civil penalties in the case of a breach of a Code requirement.

7.3.6 Question 4: Are the proposals clear regarding the production and submission to the JFSC of prudential returns? Are there any other matters that you wish to raise in relation to the proposals?

8 Declaration of compliance

8.1 Overview

- 8.1.1 The principal legal requirements are set out in Articles 9, 11, 12 and 14 of the [New Order](#) (**Appendix B**):
 - 8.1.1.1 Article 9 ‘Declarations’
 - 8.1.1.2 Article 11 ‘Registered person to provide certain documents to auditor’
 - 8.1.1.3 Article 12 ‘Auditor’s reports’
 - 8.1.1.4 Article 14 ‘Declarations and reports to be provided to Commission at same time as financial statements’
- 8.1.2 Article 17 ‘Exemptions and variation’ of the [New Order](#) allows the [JFSC](#), on the request of a Registered Person, to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption is granted.
- 8.1.3 The [DoC Code](#) (**Appendix G**) will outline the legal requirements, as per the below text, specify all relevant Code requirements and provide associated guidance.
- 8.1.4 The [Banking Code: Main Body](#) will be amended to remove the existing requirements relating to the [Declaration of Compliance](#) (Section 6.6 in the current [Banking Code](#)).

8.2 New Order requirements

- 8.2.1 A [JIB](#) must prepare a [Declaration of Compliance](#) in relation to each accounting period signed by a director.
- 8.2.2 An [OIB](#) must prepare a [Declaration of Compliance](#) in relation to each accounting period signed by the principal manager of its Jersey Branch.
- 8.2.3 The [Declaration of Compliance](#) must state whether the [JIB](#) / Jersey Branch of the [OIB](#) (as applicable) has:
 - 8.2.3.1 complied with the applicable requirements of the [Banking Law](#) and with the requirements of Orders and any codes of practice made or issued under the [Banking Law](#) (not being a requirement the [JFSC](#) has waived);
 - 8.2.3.2 maintained proper accounting records and adequate systems to enable it to comply with the above; and
 - 8.2.3.3 complied with the requirements of all relevant legislation and guidance to counter money laundering and the financing of terrorism.
- 8.2.4 If a [Registered Person](#) has failed to comply with a relevant requirement, the [Declaration of Compliance](#) must:
 - 8.2.4.1 contain details of all material failures; and
 - 8.2.4.2 specify any measures taken or to be taken to ensure that the failures are not repeated.
- 8.2.5 A [JIB](#) must provide its [JIB Auditor](#) with a copy of its [Declaration of Compliance](#).
- 8.2.6 An [OIB](#) must provide its [Branch Auditor](#) with a copy of its [Declaration of Compliance](#).
- 8.2.7 The [New Order](#) would require:
 - 8.2.7.1 the [JIB Auditor](#) to prepare a report on the JIB’s [Declaration of Compliance](#); and

- 8.2.7.2 the [Branch Auditor](#) to prepare a report on the OIB's [Declaration of Compliance](#).
- 8.2.8 The report on the [Declaration of Compliance](#) must take account of work carried out for the purpose of the report on the year-end prudential return and, in the case of a [JIB](#), the audit of its financial statements and directors' report.
- 8.2.9 A report must include a statement that, in preparing the report:
- 8.2.9.1 the [auditor](#) became aware of nothing that could be taken to indicate that any statement in the declaration or prudential return was incorrect or misleading; or
- 8.2.9.2 the [auditor](#) became aware of a matter that could be taken to indicate that a statement in the declaration or prudential return was incorrect or misleading and why the [auditor](#) is of that opinion.
- 8.2.10 Each report must be signed and a copy provided to the [Registered Person](#).
- 8.2.11 The report on the prudential return must be provided to the [JFSC](#), together with (1) the [Registered Person's](#) financial statements (2) directors' report and (3) the auditor's reports in respect of the financial statements and the directors' report (see [Section 6](#))
- 8.2.12 Contravention of the above requirements would not be an offence directly under the New Order but the [Banking Law](#) (Article 22) makes it an offence to knowingly or recklessly provide information which is false or misleading in purported compliance with a requirement imposed under the [New Order](#).

8.3 DoC Code

- 8.3.1 In connection with the [Declaration of Compliance](#), the [DoC Code](#) would require each [Registered Person](#) to:
- 8.3.1.1 have robust, documented processes for the production of its [Declaration of Compliance](#);
- 8.3.1.2 as part of those processes, establish responsibility for sign off and for oversight of the processes;
- 8.3.1.3 ensure that full documentation is produced to enable its [JIB Auditor](#) / [Branch Auditor](#) (as applicable) to carry out the work necessary to produce its report on the [Declaration of Compliance](#); which should include:
- › working papers showing how the declaration was produced, including supporting compliance reports and/ or internal audit reports that have been relied upon;
 - › copies of relevant procedures for the production and sign-off of the [Declaration of Compliance](#);
 - › changes in procedures since the last year-end;
 - › changes made to the [JFSC's](#) requirements and any other relevant regulations and law; and
 - › any issues identified during the year concerning compliance, whether identified by compliance, the [JFSC](#) and/ or internal audit together with a description of how these have been addressed.
- 8.3.1.4 instruct its auditor ([JIB Auditor](#) or [Branch Auditor](#), as applicable) to address:

- › review of the adequacy and maintenance of the control framework relating to the production process of the [Declaration of Compliance](#) in order to prevent material mis-statement and ensure adherence to relevant [JFSC](#) requirements, taking into account relevant guidance;
- › consideration of the adequacy of knowledge and experience of staff involved in the process;
- › overview, and sign off of the Report on the [Declaration of Compliance](#) to include completeness, accuracy and accessibility of key documentation which supports the process;
- › details of any compliance monitoring, internal audit and action plans that may have been produced following the changes detailed in the background section above.

8.3.1.5 establish responsibility for addressing any issues arising from auditors reports; and

8.3.1.6 maintain records relating to the above as business records.

8.3.2 Guidance is provided on good practice, which for [JIBs](#) includes guidance on the involvement of any audit committee.

8.3.3 More generally, guidance is provided on disclosure of issues that are not material, issues already identified to the [JFSC](#) (which must be included, where relevant) and an appropriate layout.

8.3.4 Regulatory sanctions would apply in the case of any requirement not being met, which could include civil penalties in the case of a breach of a Code requirement.

8.3.5 **Question 5: Are the proposals clear regarding the production and submission to the JFSC of the Declaration of Compliance? Are there any other matters that you wish to raise in relation to the proposals?**

9 Publication of Financial Statements

9.1 Overview

- 9.1.1 The principal legal requirements are set out in Article 18 of the [New Order \(Appendix B\)](#) 'Inspection and publication of accounts and financial statements'.
- 9.1.2 Compared to current requirements, the central proposed change is to require [Registered Persons](#) to publish financial statements on websites they use as part of their Banking business, being those of the [Registered Person](#) and its group.
- 9.1.3 This is intended to increase depositors' access to such information, reflecting the increased use of electronic banking and decrease in branch activity.
- 9.1.4 It is proposed to retain existing requirements regarding making financial statements available in each office in Jersey.
- 9.1.5 The relevant current provisions in the [GPO](#) (those that relate to the publication and provision to the [JFSC](#) of financial statements) will be removed - see **Appendix I** - including those relating to publication of 'summarized accounts'. The [Banking Code: Main Body](#) will be amended (new paragraph 7.16) to clarify that, where summarised financial information is distributed to depositors in any form, it must contain a disclosure that sets out how depositors may access the audited financial statements of the [Registered Person](#).

9.2 New Order requirements

- 9.2.1 [Registered Persons](#) must, at each of its offices in Jersey at which it holds itself out as accepting deposits –
 - 9.2.1.1 keep a copy of its most recent audited financial statements provided to the [JFSC](#); and
 - 9.2.1.2 during normal business hours make that copy available for inspection by any person on request.
- 9.2.2 In the case of a [JIB](#), this include the auditors' report.
- 9.2.3 Where a [Registered Person](#) solicits deposits through a website or any other means of electronic communication with the general public, which is either under its control or which is intended or likely to be used by depositors, or potential depositors, it must make available on those websites:
 - 9.2.3.1 a copy of its most recent financial statements, as provided to the [JFSC](#); and
 - 9.2.3.2 a copy of the most recent audited consolidated financial statements of its ultimate parent.
- 9.2.4 A [Registered Person](#) must also make available these documents referred on a website or by any other means of electronic communication with the general public, that is intended or likely to be used by depositors, or potential depositors, to access information about the [Registered Person's](#) financial status.
- 9.2.5 Contravention of the above requirements under the New Order would be an offence and be subject to a fine.

9.3 Code amendments

9.3.1 Section 7 of the [Banking Code: Main Body](#) will be amended to permit the provision to customers of information extracted from financial accounts in all other circumstances provided that the extract is not misleading, false or deceptive and that an appropriate disclosure is made. This would apply, for example, to the distribution by post of ‘summarized accounts’ but also to any use of extracted information within advertisements.

9.3.2 The proposed text is:

“7.1.6 Any advertisement or promotional literature that states it includes financial information extracted from the Registered Person’s financial statements (including, but not limited to, summarised financial statements) must also contain the following disclosure:

- › *The financial information given here is a summary extracted from [bank name]’s audited financial statement for the year ended [year]. This might not contain sufficient detail to allow for a full understanding of [bank name]’s financial affairs. The full annual financial statements, including the auditor’s report on those financial statements, can be obtained from [list of offices and relevant websites].*

Note: Any document that is distributed to customers that sets out a summary of the registered person’s financial position is considered to be a form of financial promotion. As such, it must conform to the requirements set out in Section 7 and in the Banking Law, including not being false, misleading or deceptive, and must contain the disclosure set out in 7.16.”

9.3.3 **Question 6: Are the proposals clear regarding the publication of financial statements? Are there any other matters that you wish to raise in relation to the proposals?**

10 Other requirements

10.1 Overview

- 10.1.1 Several other elements of other [Accounts Orders](#) have been transposed with minor revision into the New Order.

10.2 Auditors Powers

- 10.2.1 Article 5 of the [New Order \(Appendix B\)](#) 'Powers of auditors' requires [Registered Persons](#) to provide access to the accounting and other records and all other documents relating to its business and to provide such information and explanation as an [auditor](#) thinks necessary for the performance of the [auditor's](#) duties.

10.3 Accounting period

- 10.3.1 Article 7 of the [New Order \(Appendix B\)](#) 'Accounting period' sets out how accounting periods for a [Registered Person](#) must be set. This is relevant for a new registration or on a change of accounting period and in the case of a [JIB](#) requires [JFSC](#) approval.

10.4 Accounting Records

- 10.4.1 Article 8 of the [New Order \(Appendix B\)](#) 'Accounting records' describes the accounting records that must be kept by a [Registered Person](#) and describes how they are to be stored.

10.5 Consolidated financial statements, declarations and reports

- 10.5.1 Article 15 of the [New Order \(Appendix B\)](#) 'Consolidated financial statements, declarations and reports' enables [Registered Persons](#) that are the parent of a group of companies and produce consolidated financial statements for that group under the relevant accounting standards to request permission from the [JFSC](#) to submit those rather than financial statements of the company only.
- 10.5.2 The [JFSC](#) may attach conditions to the granting of such a request and there are provisions for these to be varied or the consent revoked.
- 10.5.3 If such a request is granted, the [Declaration of Compliance](#), directors' reports and auditor's reports must be prepared on a consolidated basis as well.
- 10.5.4 Conditions or refusal would be contemplated where the consolidated accounts or consolidated reports would not provide adequate information in respect of the [Registered Person](#). A request might usefully suggest relevant conditions where the [Registered Person](#) considers that such concerns might exist.

10.6 Circumstances in which matters are to be reported directly to the JFSC

- 10.6.1 Article 19 of the [New Order \(Appendix B\)](#) 'Circumstances in which matters are to be reported directly to the Commission' establishes a responsibility for '[Reporting Persons](#)' (auditors or persons appointed under Article 26(7) of the [Banking Law](#) to make a report) to directly report matters to the [JFSC](#), broadly in-line with current [GPO](#) provisions (Article 13) but expanded with the intention of providing additional clarity, particularly regarding the reporting of non-exceptional matters.
- 10.6.2 The Reporting Person must immediately report to the [JFSC](#) (without informing the Registered Person) if it becomes aware of the probable existence of '[Exceptional](#)

Circumstances’ being those where the interests of depositors could be prejudiced if the management of the [Registered Person](#) was informed that the [Reporting Person](#) was aware of the existence of the circumstances.

- 10.6.3 Without limiting the generality of [Exceptional Circumstances](#), these are defined to include where the [Reporting Person](#) has reason to believe:
- 10.6.3.1 that the directors or members of the senior management of a [Registered Person](#) have committed fraud or misappropriated property or intend to do so;
 - 10.6.3.2 that the directors or members of the senior management are acting in an irresponsible or reckless manner with respect to the [Registered Person’s](#) affairs, or intend to do so; or
 - 10.6.3.3 that there has been, or is likely to be, an occurrence of material significance for the exercise in relation to the [Registered Person](#) of the [JFSC’s](#) powers or functions under the Law.
- 10.6.4 A [Reporting Person](#) must also report non-exceptional circumstances directly to the [JFSC](#) if, having advised the [Registered Person](#) to inform the [JFSC](#) of those circumstances within a specified period, the [Reporting Person](#):
- 10.6.4.1 is not satisfied that the circumstances have been reported or have not been reported fully or in an adequate manner, within the specified period; and
 - 10.6.4.2 has reasonable cause to believe that:
 - › a breach of a requirement of a code of practice or of a legal requirement, or a breach of internal controls or procedures has occurred; and, as a result,
 - › a customer or client of the Registered Person has incurred, or is at significant risk of incurring, a material loss.

10.7 Transitional provisions and commencement

- 10.7.1 Article 20 the [New Order \(Appendix B\)](#) ‘Transitional provisions’ addresses two matters:
- 10.7.1.1 An [auditor](#) employed or engaged by a Registered Person immediately before the [New Order](#) comes into force is deemed to have been appointed in accordance with the [New Order](#); and
 - 10.7.1.2 If a Registered Person has been granted an exemption or variation from a [Banking Code](#) or [GPO](#) requirement that corresponds to a requirement of the [New Order](#) requirement, then that will continue provided it notifies the [JFSC](#) of that exemption or variation within 3 months of this provision coming into force.
- 10.7.2 Article 21 of the [New Order \(Appendix B\)](#) ‘Citation and commencement’ provides that most provisions come into force after one month. The principal exceptions are:
- 10.7.2.1 The requirement to notify the [JFSC](#) in respect of exemption and variations comes into force after one week; and
 - 10.7.2.2 The requirement to publish financial statements on websites comes into force after 3 months.

10.8 Questions

10.8.1 **Question 7: Are there any matters that you wish to raise regarding the provisions of the New Order described in Section 10?**

11 Summary of Questions

Page	Text of question
12	Question 1: Are there any particular issues relating to multiple licences held by Registered Persons under the Banking Law that should be further addressed?
15	Question 2: Are the proposals clear regarding the appointment of auditors? Are there any other matters that you wish to raise in relation to the proposals?
18	Question 3: Are the proposals clear regarding the production and submission to the JFSC of financial statements? Are there any other matters that you wish to raise in relation to the proposals?
22	Question 4: Are the proposals clear regarding the production and submission to the JFSC of prudential returns? Are there any other matters that you wish to raise in relation to the proposals?
25	Question 5: Are the proposals clear regarding the production and submission to the JFSC of the Declaration of Compliance? Are there any other matters that you wish to raise in relation to the proposals?
27	Question 6: Are the proposals clear regarding the publication of financial statements? Are there any other matters that you wish to raise in relation to the proposals?
30	Question 7: Are there any matters that you wish to raise regarding the provisions of the New Order described in Section 10?

Appendices

A. List of representative bodies and other persons who have been sent this consultation paper

- › Jersey Bankers' Association
- › Jersey Finance

Appendices B to J

Nine documents have been published alongside this document.

- B.** [Draft New Order](#)
- C.** [Draft Banking Code](#)
- D.** [Draft Banking Code: Appointment of auditors](#)
- E.** [Draft Banking Code: Financial statements](#)
- F.** [Draft Banking Code: Prudential reporting](#)
- G.** [Draft Banking Code: Declaration of Compliance](#)
- H.** [Amendment 7 to the Banking Law](#)
- I.** [Draft Changes to the Banking Business \(General Provisions\) \(Jersey\) Order 2002](#)
- J.** [Draft Changes to the Banking Law \(Amendment 9\)](#)