Jersey Financial Services Commission

Code of Practice
For Deposit-taking Business
Main Body

Banking Business (Jersey) Law 1991

DRAFT

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Glossary

Unless otherwise defined, the following terms when used in the Banking Code shall have the meanings set out below. If not defined below or elsewhere in the Banking Code, terms, where relevant, have the same meanings as are ascribed to them in the Banking Law.

Guidance to the Banking Code in the form of "Notes" has been placed in a box to highlight its status.

~~ACR~~	~~Agreed capital resources~~
AML/CFT/CPF Handbook	The Handbook for the Prevention and Detection of Money Laundering, the Countering of Terrorist Financing and the Countering of Proliferation Financing, issued by us.
anti-money laundering legislation	Includes the Proceeds of Crime (Jersey) Law 1999, the Money Laundering (Jersey) Order 2008 (the **Money Laundering Order**) and the Terrorism (Jersey) Law 2002, as well as any other applicable Laws and United Nations or European Union Sanctions Orders applied within Jersey, all as amended from time to time
Appointment of Auditor Code	Banking Code: Appointment of Auditor
appointed senior officer	The senior officer appointed in accordance with Article 11(2)(a) of the General Provisions Order
Banking Code: Main Body	The Code of Practice for Deposit-taking Business: Main Body (this document)
Banking Code	The Code of Practice for Deposit-taking Business, comprising 20 parts as set out in the introduction.~~five parts, being:~~ ~~› Banking Code: Main Body~~ ~~› Appointment of Auditor Code~~ ~~› Declaration of Compliance Code~~ ~~› Financial statements Code~~ ~~› Prudential Reporting Code~~
Banking Law	Banking Business (Jersey) Law 1991, as amended

BAO	Banking Business (Accounts, Auditors and Reports) (Jersey) Order 2023
BRRDCJL	Bank (Recovery, Resolution and Depositors' Compensation) (Jersey) Law 2017
Capital Buffer	The Capital Buffer for each JIB, at least equal to the Capital Conservation Buffer
~~Capital Conservation Buffer~~	~~Minimum amount for the Capital Buffer, set at 2.5%~~
~~CL Large Exposure~~	~~Direct exposures to counterparties for which a Concession Limit has been agreed~~
COBP	Cessation of Business Plan
Code requirement	Any requirement contained within the Banking Code
complaint	Any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a service that relates to either of the following: › deposit-taking business carried on by the registered person~~; or~~ › money service business carried on by a prescribed person meeting the definition of an exempt person in Article 5(1) of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience.
CPD	Continuing Professional Development
~~CRM~~	~~Credit Risk Mitigation, described in the SAC Guide~~
DCS	Jersey Bank Depositors Compensation Scheme
Declaration of Compliance Code	Banking Code: Declaration of Compliance
Exceptions Regulations	Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002, as amended
Financial Statements Code	Banking Code: Financial statements
FS(J)L	Financial Services (Jersey) Law 1998, as amended
General Provisions Order	Banking Business (General Provisions) (Jersey) Order 2002, as amended
ICAAP	Internal Capital Adequacy Assessment Process
JIB	Jersey Incorporated Bank: a registered person incorporated in Jersey

Jersey Branch	The Jersey operations of an OIB
JFSC	Jersey Financial Services Commission
JRDCA	Jersey Resolution and Depositors Compensation Authority
key person	has the same meaning as provided in Article 1 of the Banking Law, i.e, briefly: a person employed or otherwise engaged as a: › compliance officer~~;~~ › money laundering compliance oo~~f~~ficer~~; or~~ › money laundering reporting officer
~~Large Exposure~~	~~All exposures to any counterparty or group of connected counterparties in excess of 10% of a JIB's ACR~~
LBA	Liquidity behavioural adjustment
LCR	Liquidity Coverage Ratio
LCR/LMR adjustment	Adjustments permitted for the purpose of calculating the LCR/LMR, as appropriate
LCP	Liquidity Contingency Plan
~~LE25~~	~~All exposures to any counterparty, or group of connected counterparties, in excess of 25% of a JIB's ACR~~
Liquidity Guidance Note	For JIBs means our guidance note titled: "Basel III: Liquidity Management and Reporting for Jersey Incorporated Deposit Takers". For overseas incorporated banks it means our guidance note titled "Liquidity management and reporting".
LMP	Liquidity Management Policy
LMR	Liquidity Mismatch Ratio
LTA	Loan takeover agreement
Money Laundering Order	The Money Laundering (Jersey) Order 2008, as amended
money service business	Has the same meaning as provided in Article 1 of the FS(J)L
OIB	overseas incorporated bank: a registered person incorporated overseas
Pillar 2 Guidance Note	Our guidance note titled: 'Pillar 2 in Jersey'
prudential return	The Banking Prudential Reporting Return submitted by a registered person to us on a quarterly basis

~~RBCR~~C~~c~~apital ratios	~~Risk Based Capital Ratio,~~ a collective term for the: › Common Equity Tier 1 ratio~~;~~ › Tier 1 ratio~~; and~~ › Total capital ratio.
registered person	A person registered under the Banking Law, being either a JIB or an OIB
P~~p~~rudential Parts	The 15 parts of the Banking Code that set out the financial-resource and risk-management requirements introduced through our Basel III Roadmap: › Own funds part › Required level of own funds part › Risk-based capital requirements part › Credit risk: standardised approach (CRR) part › Credit risk: internal ratings based approach (CRR) part › Credit risk: general provisions (CRR) part › Credit risk mitigation (CRR) part › Securitisations (CRR) part › Operational risk part › Standardised approach to market risk part › Counterparty credit risk part › Leverage capital requirements and buffers part › Leverage ratio (CRR) part › Large Exposures (CRR) part › Net stable funding ratio part These are available from our website on the Deposit-taking Business Code of Practice page. [This is where they will be available. At the time of publication of this draft, they are available from our website on the Basel III page]
Prudential Reporting Code	Banking Code: Prudential Reporting
~~SAC~~	~~Standardised Approach to Credit Risk~~
~~SAC Guide~~	~~Guidance Note "Prudential Reporting of Credit Risk under the Standardised Approach to Credit Risk", issued by us to specify the reporting of credit risk under the Standardised Approach~~
shareholder controller	Has the same meaning as provided in Article 1 of the Banking Law, briefly a person who, either alone or with associates, is entitled to exercise 15%+ of the voting power in general meeting of a registered person / parent company of a registered person
~~Trading Book Guidance Note~~	~~means our guidance note titled: 'The JFSC's rules relating to Trading Books'~~
We / us /our	Terms used to refer to the JFSC

Introduction

Power exercised and scope

The Jersey Financial Services Commission (**JFSC**) has issued a code of practice for deposit-taking business ~~in five parts~~into 20 parts:

- the main body of the Code of Practice for Deposit-taking Business (Banking Code: Main Body, this document)~~; and~~
- Four code documents addressing specific matters:
  - Banking Code: Appointment of Auditor (**Appointment of Auditor Code**)~~;~~
  - Banking Code: Financial statements (**Financial Statements Code**)~~;~~
  - Banking Code: Prudential reporting (**Prudential Reporting Code**)~~; and~~
  - Banking Code: Declaration of Compliance (**Declaration of Compliance Code**)~~.~~
- 15 code documents addressing prudential requirements (**the Prudential Parts**):
  - Own funds part
  - Required level of own funds part
  - Risk-based capital requirements part
  - Credit risk: standardised approach (CRR) part
  - Credit risk: internal ratings based approach (CRR) part
  - Credit risk: general provisions (CRR) part
  - Credit risk mitigation (CRR) part
  - Securitisations (CRR) part
  - Operational risk part
  - Standardised approach to market risk part
  - Counterparty credit risk part
  - Leverage capital requirements and buffers part
  - Leverage ratio (CRR) part
  - Large Exposures (CRR) part
  - Net stable funding ratio part

The defined term **Banking Code** refers to the entirety (all 20~~five~~ parts).

The Banking Code is issued in accordance with the powers given to it by Article 19A of the Banking Business (Jersey) Law 1991, as amended (**Banking Law**) and Article 19 of the Financial Services (Jersey) Law 1998, as amended (**FS(J)L**).

The Banking Code has been prepared and issued for the purpose of setting out the principles and detailed requirements that must be complied with in the conduct of: (i) deposit-taking business, as defined by the Banking Law; and (ii) money service business, as defined by the FS(J)L, when carried on by a prescribed person meeting the definition of an exempt person in Article 5(1) of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007.

The Banking Code applies to all persons registered by us under Article 9 of the Banking Law to carry on deposit-taking business (**registered persons**), including managed banks. A person carrying on deposit-taking business may take the form of either a Jersey incorporated company, in which case the defined term JIB is used within the Banking Code to refer to it, or a company incorporated in another jurisdiction that has a branch presence in Jersey (overseas incorporated bank (**OIB**)). In the latter case, the requirements of the Banking Code apply to the activities that the Jersey branch controls, unless otherwise stated, and the defined term Jersey Branch is used within the Banking Code to refer to that branch.

The Banking Code covers, amongst other things, conduct of business, corporate governance, financial resources and the effective risk management of all activities conducted by a registered person.

Overseas branches of a JIB are subject to the Banking Code. Where local law or regulation prevents an overseas branch of a JIB from complying with the Banking Code, this must be notified to us in writing, together with proposals to resolve the conflict, which might include requesting a variation to the application of the Banking Code.

Where a registered person has multiple regulatory registrations in Jersey, the requirements of the applicable Code of Practice takes precedence over the Banking Code in respect of those aspects of its business that relate to other registrations. However, the Money Service Business Code does not apply; rather, the Banking Code applies to any money service business undertaken by a registered person.

Article 10 of the Banking Law establishes threshold conditions that apply on an on-going basis – the fit and proper assessment. This assessment process includes consideration of integrity, competence, financial standing, structure and organisation. We have published a Policy Statement: 'Licensing Policy in respect of deposit-taking business under the Banking Law', Part 2 of which provides further information on our fit and proper assessment; paragraph 5.4 highlights the continuing nature of the fit and proper assessment. The Banking Code assists us in our on-going consideration of the fitness and propriety of a registered person by setting out standards that the registered person must meet, against which the registered person can be assessed.

Where the Banking Code requires a registered person to provide information to us, such requirement is established in accordance with the powers provided by Article 8 of the FS(J)L.

Arrangement of the Banking Code: Main Body

The Banking Code: Main Body is arranged under seven numbered sections. Each section is captioned by a principle, which is supported by detailed minimum requirements.

1. A registered person must conduct its business with integrity.
2. A registered person must have due regard for the interests of its customers.
3. A registered person must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.
4. A registered person must be transparent in its business arrangements.
5. A registered person must maintain, and be able to demonstrate the existence of, adequate financial resources.
6. A registered person must deal with the JFSC in an open and co-operative manner.
7. A registered person must not make statements that are misleading, false or deceptive.

Each section of the Banking Code: Main Body is designed to be understood by reference to its full text, including any notes.

Appendix I to the Banking Code: Main Body sets out additional guidance in respect of the following areas: corporate governance, credit risk, country and transfer risk, market risk, operational risk, interest rate risk, liquidity risk, customer due diligence, new product approval and stress testing. It is our intention to issue more detailed guidance on risk management on an on-going basis. Such guidance can be found on our website at www.jerseyfsc.org and includes:

- cCapital adequacy assessment guidance: the capital adequacy part of our guidance note 'Pillar 2 in Jersey' (**Pillar 2 Guidance Note**).
- lLiquidity guidance ~~(Liquidity Guidance Note)~~:
  - For JIBs: ~~our guidance note titled: "Basel III: Liquidity Management and Reporting for Jersey Incorporated Deposit Takers"~~the liquidity part of the Pillar 2 Guidance Note
  - For OIBs: our guidance note titled "Liquidity management and reporting"
- ~~Trading book guidance: "The JFSC's rules relating to Trading Books" (Trading Book Guidance Note); and~~
- ~~Capital adequacy assessment guidance: 'Pillar 2 in Jersey' (Pillar 2 Guidance Note).~~

Compliance with the Banking Code

The Banking Code should be read by registered persons in conjunction with the Banking Law and its subordinate legislation, together with any conditions attached to a registration held under the Banking Law, and the Handbook for the Prevention and Detection of Money Laundering, the Countering of Terrorist Financing and the Countering of Proliferation Financing, issued by us (**the AML/CFT/CPF Handbook**).

It is the responsibility of a registered person not only to comply with the Banking Code, but also to implement such additional practices as it considers necessary to maintain adequate management and control of its business. In that respect, registered persons are recommended to monitor, and adopt as appropriate, risk management standards established from time to time by the Basel Committee on Banking Supervision. Where a registered person considers that it may not be able to achieve full compliance with the Banking Code for a temporary period (for example, for a short period after first being licensed) it should, in advance, agree a plan of action (to include timescales) with us to bring itself into full compliance with the Banking Code. In exceptional circumstances, where strict adherence to the Banking Code would produce an anomalous result, a registered person may apply to us for a variance.

A registered person may adopt other measures to those set out in Appendix I, including policies and procedures established by its parental group, so long as it can demonstrate that such measures are appropriate to its business activities and achieve compliance with the regulatory requirement established at Principle 3, which is to maintain adequate risk management systems.

In respect of managed banks, the management contract with the party providing the management function, which must be a registered person, must be in accordance with our policy on outsourcing, as may be updated from time to time. The registered person that is the managed bank must satisfy itself that the controls and risk management systems applied by itself and the service provider meet the requirements laid down in the Banking Code.

Failure by a registered person to follow the Banking Code may lead to us taking regulatory action, such as more intense supervision, the issue of a condition of registration, an increase in the

registered person's minimum capital RBCR requirements or, in the most serious cases, the revocation of a registration.

In addition, continued failure to comply with the Banking Code may support a decision by us to issue a direction under Article 21 of the Banking Law, or Article 23 of the FS(J)L in relation to money service business. Such a direction might impose requirements on a registered person to do or not to do specified things, including the removal of specified individuals or the cessation of business. In appropriate circumstances, a direction can be made public by virtue of Article 48(2)(a) of the Banking Law or Article 25(a) of the FS(J)L.

We also have the power under Article 21A of the Financial Services Commission (Jersey) Law 1998 to impose financial penalties for significant and material contraventions of the Banking Code.

When considering a registered person's failure to comply with the Banking Code, we place emphasis on whether or not the registered person conducts its business with integrity and deals with us in an open and co-operative manner.

Whilst Article 19A(3) of the Banking Law and Article 19(3) of the FS(J)L provide that the contravention of a Code of Practice does not of itself render a person liable to proceedings of any kind (excluding regulatory action that may be taken by us in response to a contravention) or invalidate any transaction, Article 19A(4) of the Banking Law and Article 19(4) of the FS(J)L provide that a Code of Practice is admissible in evidence if they appear to the court to be relevant to any questions arising in the proceedings.

In appropriate circumstances, we may issue a public statement, in accordance with Article 48 of the Banking Law or Article 25 of the FS(J)L, concerning a registered person, including where a registered person has failed to comply with the Banking Code.

In a number of places the Banking Code requires us to be advised of a matter "in writing". For the avoidance of doubt, a notification given by email, or by myJFSC, will be considered by us to meet that requirement (unless the particular code requirement specifies otherwise how a notification "in writing" must be given).

Revision of the Banking Code

In accordance with Article 19A(1)(b) of the Banking Law and Article 19(1)(b) of the FS(J)L, we may, after consultation with such persons or bodies as appear to be representative of the interests concerned, revise the Banking Code by revoking, varying, amending or adding to provisions.

Between March 2024 and March 2026, we consulted on changes under the Basel III Roadmap.

In August 2026 we published the new Prudential Parts of the Banking Code, setting out the new requirements that will replace those in Section 5.

We also confirmed flexibility around the date for transitioning, as first set out in our Basel III Roadmap H2 2024 Feedback Paper.

In March 2026 we consulted on our bank-licensing policy and proposed removing the letter of comfort requirement, see Phase 1 Bank Licensing Policy Feedback Paper. This also said we would combine these changes.

In May 2026, we consulted on changes to Pillar 2 and prudential reporting. In particular, we proposed to consolidate liquidity guidance within the Pillar 2 guidance note and our feedback paper expanded this to include the LCR definitions.

In May 2025, we consulted on sustainable finance and in September 2025 our feedback paper we said that we would make the Principle 7 changes in Q1 2027..

The changes address all of the above by:

- requiring compliance with the new Prudential Parts through a substantially revised and streamlined Section 5 and removal of the related appendices.
- making a limited number of consequential amendments to Sections 3 and 6 to reflect the updated financial resource requirements and the consolidation of liquidity guidance
- removing letter of comfort requirements from Section 5
- adding the new sustainability requirement in 7.3
- allowing JIBs, on request, to adopt the revised requirements ahead of the general effective date

~~In April 2024, we published a consultation paper "Basel III: Immediate implementation", that included proposals for modifying the risk-based capital requirements and changes to the treatment of reverse repo transactions, which are reflected in Section 5 and Appendix II. Tracked and clean versions are available on the Basel III webpage, at Basel III — Jersey Financial Services Commission (jerseyfsc.org).~~

~~From 1 April 2026, consequential amendments have been made to address the revised Bank (Recovery, Resolution and Depositors' Compensation) (Jersey) Law 2017 (**BRRDCJL**), following the Bank (Recovery and Resolution) (Jersey) Amendment Law 2025 coming into effect. These include:~~

- ~~section 3: references to the Depositors' Compensation Scheme (**DCS**) regulations have been replaced with references to the corresponding requirements in the BRRDCJL~~
- ~~section 7: our requirements relating to DCS disclosures in adverts about Jersey deposits have been replaced with a requirement to comply with the new Jersey Depositors' Compensation Scheme (**JDCS**) Disclosure Standard, as set out by the Jersey Resolution and Deposit Compensation Authority (**JRDCA**) in its consultation paper CP2025/01 'JDCS Disclosure Standard'~~

Effective date

The Banking Code: Main Body will be~~is~~ effective from ~~1 April 2026~~1 July 2027 for all registered persons unless a variance has been sought and agreed to require earlier use.

Any person that has made an application to us which is currently under consideration, should review the Banking Code and contact us to discuss any areas where compliance on grant of registration may be an issue.

The Principles

1 A registered person must conduct its business with integrity.

1.1 Without limiting the breadth of the above principle, a registered person must not act or refrain from acting, or contract or have any other arrangement, so as to avoid or seek to avoid any regulatory responsibilities it may have under the Banking Code and the full consequences of not following them.

Note:

1. As stated in the Introduction, when considering a registered person's failure to comply with the Banking Code, we place emphasis on whether or not it conducts its business with integrity and deals with us in an open and co-operative manner.

2 A registered person must have due regard for the interests of its customers.

2.1 A registered person must have due regard for the interests of its customers in fulfilling the responsibilities that it has undertaken.

2.2 A registered person must either avoid any conflict of interest arising or, where conflicts do occur, must address such conflicts by disclosure, by applying appropriate internal rules of confidentiality or by declining to act, as appropriate.

2.3 A registered person must use best endeavours to execute the proper and lawful instructions of its customers promptly and accurately.

2.4 A registered person must transact its business (including the establishment, maintenance, transfer or closure of business relationships with its customers) in an expeditious manner.

3 A registered person must organise and control its affairs effectively for the proper performance of its business activities and be able to demonstrate the existence of adequate risk management systems.

Corporate governance

3.1 A registered person must operate an effective corporate governance system, appropriate to the nature of the business.

3.2 For a JIB, this must include:

- a minimum of two directors who are resident in Jersey~~;~~
- an appropriate number of non-executive directors~~; and~~
- procedures for the selection of directors, both executive and non-executive, which must be documented and in line with the stated structure, functions and accountabilities of the board of directors~~.~~

3.3 For a Jersey Branch, this must include:

- the appointment of a local management function in Jersey with sufficient resources and capability to fulfil the obligations placed on the Jersey Branch by the Banking Code and all relevant legislation~~; and~~
- compliance with the additional condition of registration that a senior officer situated outside Jersey is appointed (the appointed senior officer), as set out in Article 11(2)(a) of the Banking Business (General Provisions) (Jersey) Order 2002, as amended (General Provisions Order).

3.4 The appointed senior officer must:

- have appropriate status within the OIB to influence the local management of the Jersey Branch~~;~~
- be required to regularly monitor the Jersey Branch's financial performance, risk management and compliance~~; and~~
- be available for dialogue with us, as needed~~.~~

3.5 The following further requirements apply to all registered persons:

- An adequate number of key persons, senior managers and/or directors, who are able to exercise independent judgement without duress or undue influence from one another to ensure compliance with the Banking Code and all relevant legislation~~;~~
- The apportionment of responsibilities amongst key persons, senior managers and/or directors must be such that their individual responsibilities are clear, there is separation of critical functions and the business and affairs of the registered person are adequately monitored and controlled at the appropriate level. There must be an adequate balance of skills and resources of back office functions relative to the front office~~.~~

3.6 With respect to 3.1 to 3.5, as soon as a registered person becomes aware that the requirements will not be maintained, it must notify us in writing. In this respect, where a registered person has the minimum required number of individuals comprising its corporate governance structure and one of those individuals is absent from the business for a substantial period of time, the registered person must contact us to discuss its proposed arrangements to ensure that, during this period, the business is managed and controlled adequately.

Note:

1. With respect to 3.6, "as soon as a registered person becomes aware" applies from the point at which a registered person knows, or has reasonable grounds for believing, that any of the matters stated has occurred or may be about to occur, even where it is outside the control of the registered person.

Other corporate governance matters

3.7 A registered person must have a clearly defined and appropriately documented and implemented risk management strategy for all significant risks faced. The strategy must be communicated adequately within the organisation (risk management is covered in more detail in the sub-section on

~~3.7~~3.8 **Risk** management, paragraphs 3.52 to 3.62) and must detail how risks are to be identified, assessed, monitored and controlled. The strategy must be approved:

- at board level in the case of a JIB~~; or~~
- by the appointed senior officer in the case of a Jersey Branch~~.~~

~~3.8~~3.9 A registered person must have clearly defined and appropriately documented and implemented strategic objectives and corporate values, against which success of the organisation and individuals can be measured. These must be adequately communicated within the organisation.

~~3.9~~3.10 A registered person must prepare management information to enable it to adequately monitor, assess and control the performance of its business, the state of its affairs and the risks to which it is exposed.

~~3.10~~3.11 A registered person must have an established procedure for employees to be able to communicate material and bona fide concerns of any sort confidentially to the board of directors or senior management, independently of their normal line management.

~~3.11~~3.12 All aspects of corporate governance arrangements must be subject to appropriately regular review to ensure their continuing adequacy in light of the registered person's business activities and risk profiles. For a JIB, this must include a periodic self-assessment, or external assessment, of the board's effectiveness.

~~3.12~~3.13 Where a JIB also operates through subsidiaries and branches (both in Jersey and overseas), effective corporate governance principles must be extended to those operations.

~~3.13~~3.14 A registered person must comply with our policy on outsourcing, as may be updated from time to time.

Notes:

1. Corporate governance is the system by which an organisation is monitored, directed and controlled. A corporate governance framework specifies the allocation of management responsibilities and authorities across an organisation and sets out the rules and procedures for making decisions and taking actions. Risk management is an integral part of a corporate governance framework. In the context of Principle 3, "risk" refers to **all** the risks that a registered person faces, or may face, as a business enterprise.
2. Article 74(1) of the Companies (Jersey) Law 1991 states:

   "A director, in exercising the director's powers and discharging the director's duties, shall –

   a. act honestly and in good faith with a view to the best interests of the company; and

   b. exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances."
3. We consider that, for effective internal systems and controls to be achieved, it is necessary to establish an appropriate corporate culture, including employee compensation and incentive arrangements that support this.
4. The benefits of appointing non-executive directors, together with the operation of specialised committees on which they might serve, are commented upon in the Basel paper "Principles for enhancing corporate governance". We consider that it may be acceptable for appropriately competent group personnel to act as non-executive directors of a JIB if they are able to adopt and demonstrate a sufficiently independent approach in carrying out this function. Notwithstanding this, we consider that it will

usually be appropriate to appoint one or more fully independent non-executive directors.

This Basel paper is considered to offer relevant guidance on best practices for corporate governance that registered persons should consider.

5. Operations that are managed and controlled by business line function rather than by legal entity, perhaps involving staff having dual reporting lines, can pose increased challenges for effective corporate governance, potentially leading to gaps in responsibility and accountability. It is necessary to ensure that the decisions of such business line management are consistent with the proper fulfilment of corporate governance responsibilities.

6. With respect to 3.14, our outsourcing policy is available on our website.

7. With respect to the various risk management provisions under principle 3 of the Banking Code, particularly the sub sections on **Corporate governance, Internal systems and controls**, **Record keeping** and

~~7.~~8. **Risk** *management*, it is expected that a registered person will have specifically considered, amongst other risks, the risk of a cyber security incident, and have in place a corresponding documented policy to identify assets and risks, to protect them, to quickly detect potential cyber security incidents, to respond to contain the impact of an incident and to recover from it.

Internal systems and controls

~~3.14~~3.15 A registered person must maintain and adequately document effective internal systems and controls, including policies and procedures that cover the operations of the business.

~~3.15~~3.16 Directors and senior management must exercise their judgment in determining the scope and nature of controls that are necessary (also having regard to their cost effectiveness). Once controls are established, it is the responsibility of directors and senior management to monitor their effective operation on a regular basis.

~~3.16~~3.17 A registered person's systems must ensure that:

- The business is planned and conducted properly, adequately and in an orderly manner, in accordance with local and group policies.
- Transactions and commitments are entered into in accordance with documented general or specific authorities.
- The assets of the registered person are safeguarded and the liabilities controlled through measures designed to minimise the risk of loss from irregularities, error, fraud and physical damage, and to identify such occurrences promptly should they occur.
- Information is maintained in such a manner that all appropriate financial and business information can be extracted promptly to enable directors and senior management to adequately monitor all relevant exposures and performance aspects of the registered person and make timely and informed decisions.
- Management is able to assess and monitor the adequacy of capital in relation to the dynamics of the business operation, including risk profiles and the quality of its assets.
- Management is able to perform sufficient due diligence on the registered person's customers and prospective customers to adequately assess all relevant risks, including that of money laundering.
- Adequate business resumption, disaster recovery and other contingency arrangements are in place and tested at appropriate intervals.
- Adequate procedures are in place for controlling changes to systems and records to ensure that only valid changes are made to such systems and records.

› Adequate logical access controls are in place to protect the confidentiality and integrity of electronic assets.

~~3.17~~3.18 A registered person's systems must ensure that adequate, orderly and up-to-date records are kept which must include, but are not necessarily limited to:

› contractual documentation~~;~~
› business transactions undertaken~~;~~
› transactions effected for customers, including transactional vouchers~~;~~
› internal organisation~~;~~
› risk management systems~~; and~~
› board or management minutes~~.~~

~~3.18~~3.19 A registered person's systems must ensure that the accounting and other records of the registered person capture and record on a timely basis and in an orderly fashion every transaction and commitment into which the registered person has entered. The accounting and other records must be used to compile financial statements, management information and returns in line with applicable regulatory and legal requirements (this includes, but is not limited to, Article 142K of the BRRDCJL). Therefore they must contain sufficient information/detail:

› to provide all appropriate details of each such transaction and commitment~~;~~
› of exposure limits authorised by directors or senior management that are appropriate to the type, nature and volume of business undertaken~~;~~
› that can be summarised in such a way as to enable actual exposures to be readily, accurately and regularly measured against such limits~~; and~~
› of the factors considered, the analysis undertaken and the authorisation or rejection by directors or management in respect of all credit exposures~~.~~

~~3.19~~3.20 A registered person's systems must ensure that Management is able to identify and regularly assess all relevant risks in the conduct of its business, including liquidity, credit, country, transfer, operational, interest rate and market risk, so that:

› risks can be monitored and controlled appropriately~~;~~
› any losses can be monitored and controlled on a regular and timely basis~~; and~~
› appropriate provisions can be made for bad and doubtful debts and for any other exposures, both on- and off-balance sheet~~.~~

~~3.20~~3.21 A registered person's systems must ensure that Management is able to properly guard against involvement in financial crime and ensure that the registered person is complying with all relevant legislation and guidance to counter money laundering, the financing of terrorism and proliferation financing (**anti-money laundering legislation**). The legislation must be observed in conjunction with the standards set out in the AML/CFT/CPF Handbook.

~~3.21~~3.22 The control objectives in 3.17 above apply equally to operations undertaken in manual and electronic environments. Relevant controls must be applied to address those risks that are specific to computer systems.

~~3.22~~3.23 Where a JIB also operates through subsidiaries and branches (both in Jersey and overseas), internal systems and controls must extend to those operations and enable effective oversight by it.

Notes:

1. Article 142K(1) of the BRRDCJL requires a registered person to be able to supply relevant information to the JRDCA in the event of any registered person defaulting.

2. Article 142K(2) of the BRRDCJL requires the responsible person for a registered person in default to be able to supply relevant information to the JRDCA.
3. Failure to follow legislation to counter money laundering, the financing of terrorism and proliferation financing or the relevant AML/CFT/CPF Handbook may form the basis for regulatory action by us. This is in addition to any legal action that may be taken by judicial authorities for failure to comply with legislation. Of specific note from the AML/CFT/CPF Handbook are the requirements in respect of correspondent banking relationships.

Internal Audit

~~3.23~~3.24 A registered person must have an appropriate Internal Audit function. The function must:

- have appropriate independence and report directly to the board of directors or a group audit committee or equivalent function~~;~~
- have unfettered access to all business lines, support departments and information necessary to appropriately perform the function~~;~~
- have appropriate status within the registered person to ensure that directors and senior management react to and determine whether to act upon its recommendations~~;~~
- have sufficient resources and staff that are adequately trained and have relevant auditing experience to understand and evaluate the business they are auditing~~; and~~
- employ a methodology that identifies all significant risks run by a registered person and allocate resources accordingly~~.~~

~~3.24~~3.25 The function is responsible for:

- assessing whether applicable risk management criteria, policies, practices and procedures are complied with~~; and~~
- reviewing whether existing policies, practices and controls remain sufficient and appropriate for the registered person's business~~.~~

Notes:

1. We will recognise and take comfort from the existence of effective internal audit controls. We may require access to internal audit reports and expects that such reports will be available to external auditors.
2. The Internal Audit function may be provided from elsewhere within a group. In such cases, we should be offered the opportunity to meet with its personnel when they visit the Island, at least once per annum (unless a visit is not otherwise planned in any particular twelve month period) and more frequently if material issues have been identified.
3. It is recognised that a registered person might not be able to influence group Internal Audit resources in respect of the requirements in 3.24 but, where there is evidence that these are inadequate, it will be appropriate to create a local resource to meet these requirements.
4. Maintaining the sufficiency and appropriateness of a registered person's policies, practices and controls remains the responsibility of the board or, in the case of a Jersey Branch, senior management.

Compliance Function, Compliance Officer, Money Laundering Reporting Officer and Money Laundering Compliance Officer

~~3.25~~3.26 The board of directors of a JIB, or in the case of a Jersey Branch the senior management, is responsible for ensuring that it has robust arrangements for compliance with the Banking Law,

related Orders, the Banking Code and, if money service business is carried on, the FS(J)L, in so far as the registered person is not exempted. These arrangements must include:

- a compliance policy which must be approved:
  - in the case of a JIB, at board level~~; or~~
  - in the case of a Jersey Branch, by the appointed senior officer~~;~~
- the establishment of a permanent and effective compliance function whose responsibilities are formally documented~~;~~
- assessment, on at least an annual basis, of the extent to which compliance risk is managed effectively~~; and~~
- the appointment of an appropriately skilled and experienced person as its Compliance Officer~~.~~

~~3.26~~3.27 The compliance function must:

- have appropriate independence~~;~~
- have direct access to the registered person's Jersey board of directors or senior management~~;~~
- have unfettered access to all business lines, support departments and information necessary to appropriately perform the function~~;~~
- act as the principal point of contact for employees on day-to-day regulatory matters~~; and~~
- have sufficient resources to discharge the responsibilities of the function~~.~~

~~3.27~~3.28 The registered person must ensure that the Compliance Officer is responsible for:

- co-ordinating the identification and oversight of the registered person's compliance risk, including monitoring and instigating actions to remedy identified deficiencies in compliance risk management~~;~~
- supervising the activities of other compliance function staff~~;~~
- providing senior management and the board of directors of the registered person with regular compliance reports~~; and~~
- acting as the principal point of contact with us on day-to-day regulatory matters~~.~~

~~3.28~~3.29 The Compliance Officer must:

- be an individual operating under a contract of employment directly with the registered person or another company within the same group~~;~~
- be based in Jersey~~;~~
- have sufficient experience and skills, including holding an appropriate compliance or other qualification or be studying towards such a qualification~~; and~~
- have appropriate status within the registered person to ensure that directors and senior management react to and determine whether to act upon his or her recommendations~~.~~

~~3.29~~3.30 In the event that a Compliance Officer is temporarily unable to fulfil his/her responsibilities, the registered person must:

- n~~N~~otify us~~; and~~
- designate an appropriately skilled and experienced alternate.

~~3.30~~3.31 With respect to 0, notification to us must be made, in writing, as soon as the registered person becomes aware that the Compliance Officer will be temporarily unable to fulfil their responsibilities.

Notes:

1. Where temporary circumstances arise which result in a registered person having a limited or inexperienced compliance resource, we expect the registered person to support this area of operation as necessary, possibly by importing specialist skills or through the use of group resources.
2. It is a requirement of the Money Laundering Order that a registered person must appoint a Money Laundering Reporting Officer and a Money Laundering Compliance Officer. The AML/CFT/CPF Handbook sets out additional requirements for registered persons.
3. The roles of Compliance Officer, Money Laundering Reporting Officer and Money Laundering Compliance Officer meet the definition of a key person as defined by Article 1 of the Banking Law; consequently, Article 24 of the Banking Law applies.
4. Where operating volumes are at a level for it to be appropriate, the Compliance Officer, the Money Laundering Reporting Officer and the Money Laundering Compliance Officer may be the same person.
5. When considering a key person application, we will not only look at the suitability of the qualifications and experience of the applicant, but will also consider this in the context of the qualifications and experience of the balance of the board and/or other key persons employed by the registered person.
6. With respect to 0, we consider a period of in excess of four weeks to constitute being temporarily unable to fulfil his/her responsibilities.

Record keeping

All records

~~3.31~~3.32 A registered person must ensure that it has appropriate record keeping arrangements for compliance with the applicable Laws (including anti-money laundering legislation and company legislation), Orders and regulatory requirements set by the Banking Code or the AML/CFT/CPF Handbook.

~~3.32~~3.33 A registered person is expected to maintain its books and records in a language understood by the employees of the business. These must be translated into English at our request. A registered person must be able to readily retrieve them in Jersey and, if kept otherwise than in legible form, maintain them so as to be readable at a computer terminal in Jersey so that they may be produced in legible form without delay.

~~3.33~~3.34 A registered person must have a clearly documented policy and procedure regarding record retention that includes:

- periodic review of the accessibility and condition of paper and electronic records~~;~~
- the adequacy of the safekeeping of records~~; and~~
- periodic testing of procedures relating to the retrieval of records~~.~~

~~3.34~~3.35 A registered person that is ceasing to conduct deposit-taking business or money service business is required to arrange appropriate record keeping arrangements as part of a cessation of business plan.

Business records

~~3.35~~3.36 A registered person must maintain an audit trail of material changes to the policies and procedures manual that covers the operation of the business, which is updated as required. When updates are made, the effective date of such updates must be recorded and the superseded records maintained.

~~3.36~~3.37 The period for which business records must be kept is the later of:

- the period required for any particular record by any law~~;~~
- the AML/CFT/CPF Handbook~~; or~~
- where records relate to significant corporate governance matters, such as management meeting minutes and risk assessment matters or are records relating to requirements established by the Banking Code – ten years from the date of the record~~.~~

Customer records

~~3.37~~3.38 A registered person is expected to keep adequate, orderly and up-to-date customer records which are in line with the requirements established by Part 4 of the Money Laundering Order and as set out in the AML/CFT/CPF Handbook.

~~3.38~~3.39 In addition to the records required by the Money Laundering Order, the following minimum retention periods must be applied:

- contractual documentation such as account opening paperwork, mandates and loan agreements – ten years from account closure or loan repayment~~;~~
- transactional vouchers, such as cheques – six years from the date of the transaction~~; and~~
- any other records relating to requirements established by the Banking Code, including bank statements – ten years from the date of the record~~.~~

Notes:

1. The Banking Code does not establish any retention requirements for tape recordings of telephone conversations.
2. Overseas branches and subsidiaries of a JIB should apply any more stringent minimum requirements applicable in their jurisdictions.
3. With respect to 3.36, a change to the policies and procedures manual that necessitates communication to impacted staff is a material change.
4. With respect to 3.37, we consider that laws relating to companies, tax, proceeds of crime, and data protection may be relevant.

Customer complaints

~~3.39~~3.40 A registered person must establish and maintain an effective customer complaint handling system and procedures, in particular to:

- maintain adequate records of complaints against the registered person, including a central register that contains details of any compensation agreed to be paid or compromise reached~~;~~
- inform customers of how complaints may be made and how they may expect these to be responded to~~;~~
- handle customer complaints transparently, competently, diligently, and impartially~~;~~
- provide, in writing, within five business days (except as otherwise agreed with the complainant) an acknowledgement that their complaint has been received, including

confirmation that the complaint is being considered and providing the information referred to above on how complaints may be made and how they may expect these to be responded to~~;~~

- keep the complainant informed about the progress of their complaint, including details of any actions being taken to resolve their complaint~~;~~
- advise the complainant in writing when the complaint is considered closed and, where the complaint is not upheld, clearly state the reason(s) for rejecting it~~;~~
- at the same time, where the complaint relates to the registered person's Jersey operations, advise the complainant in writing:
  - that if they are dissatisfied with its response to the complaint, the complainant may be able to refer the complaint to the Channel Islands Financial Ombudsman~~;~~
  - of the contact details for the Channel Islands Financial Ombudsman (namely its website address, postal address, email address and telephone number)~~; and~~
- enable consideration of customer complaints data for patterns emerging~~.~~

~~3.40~~3.41 A registered person must notify us, in writing, on a monthly basis, using our reporting template:

- of any outstanding customer complaints not satisfactorily resolved within three months of the customer having lodged the complaint~~;~~
- if the Channel Islands Financial Ombudsman, using the powers it has under Article 16 of the Financial Services Ombudsman (Jersey) Law 2014, has required the registered person to pay compensation to a complainant or has directed the registered person to take other specified steps in relation to a complainant~~;~~
- if a pattern to complaints is identified~~; or~~
- of any complaints having resulted, in the previous month, in a claim having been made on any Professional Indemnity Insurance policy, or any type of ex gratia payment made, in excess of £2,500~~.~~

~~3.41~~3.42 A registered person must deal with the Channel Islands Financial Ombudsman in an open and co-operative manner.

Note:

1. With respect to paragraph 3.40, a registered person may wish to consider adopting and following the "Model complaint-handling procedure for financial services providers" published by the Channel Islands Financial Ombudsman.
2. With respect to paragraph 3.40, we consider that it would be inconsistent with requirements if a registered person were to act in a way that may undermine the integrity of the complaints-resolution framework provided under the Financial Services Ombudsman (Jersey) Law 2014, such as:
   - making a settlement offer that is conditional upon the complainant not referring the matter to the Channel Islands Financial Ombudsman. (The complainant may want to seek independent advice from the Channel Islands Financial Ombudsman before deciding whether or not to accept the offer.) This would not preclude a registered person – if it has fully informed the complainant of their right to refer their complaint to the Channel Islands Financial Ombudsman – asking the complainant to sign a full and final release as part of the settlement if the offer is accepted~~;~~
   - misleading a complainant about their right to refer a complaint to the Channel Islands Financial Ombudsman~~;~~
   - offering a view as to the likelihood of the Channel Islands Financial Ombudsman ruling in favour of the complainant~~.~~
3. Reference to "ex gratia payments" in paragraph 3.41 does not include adjustments which are the result of commercial decisions such as retrospective amendments to interest rates charged or paid or amendments made to correct errors in original calculations.

Integrity and competence

~~3.42~~3.43 A registered person must ensure that its directors, senior managers and all other employees are fit and proper for their roles. The term "employees" includes not only staff directly employed by the registered person but also indirect employees such as temporary or contracted employees and other contracted service providers.

~~3.43~~3.44 A registered person must:

- operate robust arrangements for meeting the standards and requirements of the regulatory system~~;~~
- ensure adequate supervision of employees and authorisation procedures~~;~~
- ensure that all transactions and decisions are properly authorised by persons with the requisite knowledge and experience to effect such transactions or make such decisions~~; and~~
- adequately vet and monitor the probity of its directors, senior managers and other employees~~.~~

~~3.44~~3.45 A registered person must ensure that:

- it has a clear, documented policy regarding the identification, notification and handling of any conflicts of interest that its directors and employees may encounter during the normal course of their employment in the registered person's business~~; and~~
- it has a clear, documented policy regarding private transactions, self-dealing, preferential treatment and other transactions of a non-arm's length nature~~.~~

~~3.45~~3.46 A registered person must ensure that its employees are appropriately competent on an on-going basis and trained adequately and appropriately. Competence may comprise a balance between relevant qualifications held, training received and experience gained, having regard,

amongst other things, to the nature of the work carried out by the employee and the level of his or her responsibility. Competency requirements should be set out in each employee's job description, with an assessment of the individual's competency against this description performed on an appropriately regular basis.

~~3.46~~3.47 A registered person must ensure that it obtains and retains copies of documentary evidence of qualifications held by employees where such qualifications have been established by the registered person as a requirement for the role involved.

Notes:

1. Paragraph 3.43 above is subject to the Rehabilitation of Offenders (Jersey) Law 2001, which prohibits an employer requesting information from its employees and prospective employees about convictions that are "spent". This general prohibition is subject to exceptions provided by the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002, as amended (**Exceptions Regulations**).
2. Regulation 21 of the Exceptions Regulations permits a registered person, applicants and those intending to apply for registration to request information about all "relevant offences", whether "spent" or not, from employees holding certain positions and applicants for such positions. To be consistent with the Banking Code, it may be necessary for a registered person to make use of this when screening employees.

Continuing Professional Development (CPD)

~~3.47~~3.48 A registered person must ensure that the opportunity is available to all relevant employees to continue their professional development as part of their normal working environment.

~~3.48~~3.49 A registered person must determine an appropriate minimum time to be spent on CPD each year by individual relevant employees and how this is to be allocated, which may vary, dependent upon the professional body involved.

~~3.49~~3.50 A registered person must ensure that the CPD is appropriate and relevant to employees, taking into account their job descriptions, current duties and future development needs.

~~3.50~~3.51 A registered person must maintain CPD records for all relevant employees (although it is permissible for a registered person to require employees to keep their own records and account to the registered person on a regular basis).

Notes:

1. For these purposes, the term "relevant employee" means an employee who has, or is working towards, a professional qualification that the employer has agreed with the employee is necessary for his or her employment with the registered person.
2. It is recognised that some relevant employees may be members of professional bodies that have their own CPD requirements as a condition of continued membership. In these circumstances, it is a matter for the registered person:
   - ~~*a.*~~› firstly, to ensure that the necessary opportunity is given to such relevant employees to enable them to comply with these professional requirements~~; and,~~
   - ~~*b.*~~› secondly, to take a view on the extent to which such professional CPD is relevant to the registered person's business and may therefore be counted towards the employee's work-related CPD~~.~~

Risk management

~~3.51~~3.52 A registered person must undertake an assessment of the resource requirements necessary for an appropriate risk management system, with larger and more complex registered persons having an independent unit responsible for risk evaluation, monitoring and control for material risk areas.

~~3.52~~3.53 A registered person must document and implement clearly defined procedures which ensure that there is appropriate oversight of all relevant areas of risk management by the board of directors or, in the case of a Jersey Branch, senior management. The risk management procedures must include:

- Assessment of the risks present in the business, which must be documented, as must the ways in which these are assessed.
- Risk management criteria, policies and practices which measure, monitor and control risks, as appropriate to the type, nature and volume of business undertaken.
- Setting exposure limits, which must include recording the basis of decisions for individual limits.
- Effective communication to appropriate personnel of risk management criteria, policies, practices and procedures, this to include readily available current reference material such as procedures manuals.
- Setting and agreeing individuals' authority levels.
- Accurate and reliable management information and reporting systems.
- The maintenance of an effective documented system of internal control that is appropriate to the type, nature and volume of business undertaken.
- Reporting to board/senior management must include exceptions to established policies, processes and limits. This should ensure that details of any exemptions granted and control breakdowns are reported and enable the board/senior management to give prompt attention to addressing deficiencies.

~~3.53~~3.54 Appendix I to the Banking Code: Main Body sets out additional guidance in respect of the following areas: corporate governance, credit risk, country and transfer risk, market risk, operational risk, interest rate risk, liquidity risk, customer due diligence and stress testing. This cross-refers to our issued guidance notes and guidance promulgated by the Basel Committee on Banking Supervision. A registered person may adopt other measures to those set out in Appendix I, including policies and procedures established by group, so long as it can demonstrate that such measures are appropriate to its business activities and achieve compliance with the overriding regulatory requirement to maintain adequate risk management systems.

Liquidity risk

~~3.54~~3.55 A registered person must establish and maintain a robust liquidity risk management framework. The framework must include clear articulation of the registered person's liquidity risk tolerance and a strategy, policies, procedures and controls to manage and monitor liquidity on an on-going basis. In particular, a registered person must create and maintain the following documents:

- a Liquidity Management Policy (LMP)~~; and~~
- a Liquidity Contingency Plan (LCP) (which may form part of the LMP)~~.~~

~~3.55~~3.56 With respect to the documents required by 3.55, maintenance should include both:

- an annual review~~; and~~
- a review carried out where there is a material change in the registered person's risk profile~~.~~

~~3.56~~3.57 Where behavioural adjustments have been agreed for JIBs by us ~~for the purpose of its LMP~~, as allowed for in the ~~Liquidity Guidance Note~~liquidity part of our Pillar 2 Guidance Note, the

~~annual review~~ICAAP should include ~~-~~consideration of whether the adjustments agreed remain appropriate.

~~3.57~~3.58 JIBs should monitor liquidity daily, in accordance with the limits set in the ~~Liquidity Guidance Note~~Pillar 2 Guidance Note, and report breaches immediately to us in writing.

~~3.58~~3.59 In relation to the documents detailed in 3.55, whenever the board (JIB) or senior management (Jersey Branch) approves amendments we must be provided with revised copies within five business days of their approval.

Notes:

1. Guidance in respect of the content of LMPs and LCPs is contained within the liquidity part of our ~~Liquidity~~ Pillar 2 Guidance Note.
2. A Jersey Branch may achieve compliance with 3.55 in one of three ways:
   a. through establishing and maintaining local policies and procedures~~;~~
   b. adoption of the OIB policies and procedures, if these meet the criteria with no amendment~~; or~~
   c. a combination of the OIB policies and procedures accompanied by local policies and procedures as necessary. Both the OIB's LMP/LCP and relevant local policies and procedures must be provided to us where this approach is used~~.~~

New product approval

~~3.59~~3.60 All registered persons must have a documented new product approval policy that is subject to the approval of the board/senior management and is signed off by all relevant internal stakeholders, including those involved in risk control.

~~3.60~~3.61 The new product approval process must, as a minimum, consider the impact of the product on the following areas:

- risk management~~;~~
- operations, including operational risk~~;~~
- profitability and capital~~;~~
- liquidity~~;~~
- compliance, including AML/CFT/CPF, capital adequacy, Large Exposures and liquidity regulations~~; and~~
- accounting matters, including valuations~~.~~

~~3.61~~3.62 The new product approval process must require consideration as to whether the product is a "new activity" that requires disclosure to us, in accordance with paragraph 6.8.

Payment of financial penalties

~~3.62~~3.63 A registered person must not pay a financial penalty imposed by us on any other person.

~~3.63~~3.64 A registered person must not enter into, arrange, claim on or make a payment under a contract of insurance that is intended to have, or has or would have, the effect of indemnifying any person against all or part of a financial penalty imposed by us.

Notes:

1. The sub-section on **Payment of financial penalties** (paragraphs 3.63 to 3.64) is not intended to prevent a registered person from entering into, arranging, claiming on or making a payment under a contract of insurance which indemnifies any person against all or part of the costs of defending our enforcement action or any costs the person may be ordered to pay to us.

4 A registered person must be transparent in its business arrangements.

4.1 A registered person must inform its customers that it is regulated by the Jersey Financial Services Commission.

4.2 A registered person must communicate information to customers in a way that is adequate, fair and not misleading. A registered person must also provide confirmation, in legible form, of any transaction effected for the customer. In the normal way, this would be provided to a customer by means of a bank statement.

4.3 A registered person must provide to its customers, in writing, any terms and conditions applying to on-going services provided by the registered person. Those terms and conditions must be:

- clearly identifiable as being applicable contractual arrangements~~;~~
- consistent with the Banking Code~~; and~~
- provided before the contract becomes legally binding on the parties, except when it is acceptable to both parties not to do so, in which case, the terms and conditions shall be provided at the earliest opportunity~~.~~

4.4 A registered person must include the following information in its customer documentation:

- the method of calculation of fees and charges~~;~~
- the basis on which interest is calculated and the frequency with which it will be debited or credited~~;~~
- the manner in which the customer will be notified of changes to the terms and conditions and changes to interest rates, fees and charges. In the case of terms and conditions, this should include a reasonable minimum notice period~~;~~
- any minimum balance requirement or restriction on depositing money in, or withdrawing money from, a bank account~~; and~~
- the frequency with which bank statements will be provided to the customer~~.~~

Note:

1. Whilst a registered person must be able to demonstrate overall adherence to the notification requirement established in paragraph 4.1, this does not apply to every communication with a customer. For example, the requirement could be satisfied by inclusion of an appropriate statement on key documents only. Requirements specifically in respect of advertisements relating to financial services are established in paragraph 7.12.

5 A registered person must maintain, and be able to demonstrate the existence of, adequate financial resources.

Notes:

~~2.~~ This section only applies to JIBs~~, with the exception of 5.15 which applies to an OIB that operates through a managed Jersey Branch.~~

1.

~~3.~~2. The Prudential Parts establish the detailed code requirements regarding the calculations relating to capital adequacy.~~See Guides regarding the completion of the relevant prudential reporting for appropriate calculations and definitions.~~

~~Minimum capital requirement~~Earlier use by variance

5.0 JIBs may seek a variance to be subject to these Code requirements from an earlier date (between 1 January 2027 and 1 July 2027), which we will agree provided at least 28 days' notice is provided.

Minimum capital requirement

5.1 A JIB must maintain a minimum of £5,000,000 of Tier 1 capital, calculated in accordance with Chapter 3 of the 'Own funds part'~~.~~

Adequacy of capital and liquidity ratios

5.2 A JIB must maintain a level of capital commensurate with the nature and scale of its business and full risk profile.

5.3 In particular:

› A JIB must comply with the capital requirements set out in the 'Risk-based capital requirements part'
› a JIB that is highly systemic or has material overseas banking operations must comply with the leverage ratio set out in the 'Leverage capital requirements and buffers part' and the 'Leverage ratio (CRR) part'

~~5.3 Notwithstanding this, a JIB's Risk Based Capital Ratios (**RBCRs**) must be maintained at all times, at or above:~~

~~› Common Equity Tier 1 ratio: 4.5% of risk weighted assets;~~
~~› Tier 1 ratio: 6% of risk weighted assets; and~~
~~› Total capital ratio: 8% of risk weighted assets,~~

~~or such other ratio as agreed with us and established by application of a registration condition in accordance with Article 11 of the Banking Law.~~

5.4 A JIB must manage its liquidity position commensurate with the nature and scale of its business and full risk profile.

5.5 ~~Notwithstanding this, the~~In particular:

› a JIB must monitor its Liquidity Coverage Ratio (**LCR**) ratio at all times unless we have agreed to vary this code and instead required that the Liquidity Mismatch Ratio (**LMR**) should be monitored~~.~~

~~5.5~~› a JIB that is highly systemic or has material overseas banking operations must monitor its net stable funding ratio, as set out in the net stable funding ratio part

5.6 A JIB must maintain adequate procedures and controls to assess and manage its capital adequacy and liquidity on an on-going basis. In particular, a JIB must create and maintain an Internal Capital and liquidity Adequacy Assessment Process (**ICAAP**) document. Whenever the board approves amendments we must be notified within five business days. Maintenance of the ICAAP should include both:

› An annual review~~; and~~
› A review carried out where there is a material change in the JIB's risk profile~~.~~

5.7 We will establish a Capital Buffer, in accordance with chapter 4 of the 'Risk-based capital requirements part'. This part also establishes which JIBs are systemic and the relevant Systemic Buffer for such banks.

~~5.7~~ Capital ratios must be calculated in accordance with the Prudential Parts. The LCR (or LMR) - must in accordance with the definitions provided in the liquidity part of our Pillar 2 Guidance Note.~~We will establish a Capital Buffer for each JIB and communicate this and update it following each ICAAP submission. This will be a minimum of 2.5%, being the Capital Conservation Buffer and may be increased to reflect the outcome of our review.~~

5.8 ~~The three RBCRs - (1) Common Equity Tier 1 ratio, (2) Tier 1 capital ratio and (3) Total capital ratio - and the liquidity ratio - (4) LCR or LMR, as applicable - must be calculated in accordance with our prudential reporting instructions (see Prudential Reporting Code), except where otherwise agreed by us.~~

5.9 Capital ratios must be calculated on a consolidated basis, save as allowed by chapter 5 of the 'Risk-based capital requirements part'. The LCR (or LMR) must be calculated on a solo basis unless the JIB has a material banking subsidiary, when each ratio should be calculated, unless otherwise agreed by us, as the lower of the relevant:

› ratio calculated on a solo basis
› ratio calculated on a solo-consolidated basis (consolidating banking subsidiaries only)

~~5.8~~

~~5.9 Each of the four ratios must be calculated on a solo basis unless the JIB has a material banking subsidiary, when each ratio should be calculated, unless otherwise agreed by us, as the lower of the relevant:~~

~~› Ratio calculated on a solo basis; or~~

~~5.10 Ratio calculated on a solo-consolidated basis (consolidating banking subsidiaries only).~~Capital requirements must be calculated for each risk in accordance with the Prudential Parts.

5.10

~~5.11 The three RBCRs must be calculated using the methodologies agreed by us for credit, operational and market risk. Changes to the methodology, including use of advanced approaches, require prior written notification to, and approved by us. The JIB's ICAAP document should confirm the methodology used in respect of each of these risks, within the relevant section.~~

~~5.12~~5.11 The ~~liquidity ratio~~LCR/LMR must be calculated using only the adjustment factors agreed by us (**LCR/LMR adjustments**). Changes to LCR/LMR adjustments require prior written notification to us and to be approved by us. The JIB's ICAAP ~~document~~ should confirm the LCR/LMR adjustments used in respect of each item within the section on liquidity risk.

Notes:

1. *With respect to 5.3, we expect JIBs to take all necessary steps to ensure that they can avoid any breach. This is likely to entail maintaining a reasonable element of headroom in capital levels maintained. A JIB should approach us if its ability to maintain a Capital Buffer, or indeed a minimum ratio, is in doubt* ~~*With respect to 5.3, the stated minimum RBCRs are considered to be an absolute minimum. We expect JIBs to take all necessary steps to ensure that they can avoid any breach. This is likely to entail maintaining a reasonable element of headroom in capital levels maintained. A JIB should approach us if its ability to maintain any RBCR above the minimum is ever subject to any element of doubt.*~~

1.

2. ~~G~~With respect to 5.6 & 5.7, guidance regarding ICAAPs and our assessment process is contained within the Pillar 2 Guidance Note, including information in respect of Capital Buffers. The Basel Committee papers which contain relevant guidance, are the Basel II framework paper (Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework - Comprehensive Version", issued June 2006) and "Enhancements to the Basel II framework", issued July 2009.uidance regarding ICAAPs and our assessment process is contained within our Guidance Note 'Pillar 2 in Jersey'.

3. ~~*With respect to 5.10, available methodologies for credit risk are:*~~

~~*a. standardised approach for credit risk (**SAC**); and*~~

~~*b. advanced approaches,*~~

~~*methodologies available for operational risk are:*~~

~~*c. standardised approach for operational risk;*~~

~~*d. basic indicator approach; and*~~

~~*e. advanced measurement approach; and*~~

~~*methodologies available for market risk are:*~~

~~*f. standardised approach for market risk; and*~~

~~*g.*~~2. ~~*advanced approaches.*~~

~~Letter of comfort~~

~~5.13 A JIB is required to ensure that an acceptable parent bank provides a Letter of Comfort to us. An acceptable parent bank would be the ultimate banking parent or an intermediate parent bank, providing that the latter ranks within the world top 1000 banks by Tier 1 capital. A Letter of Comfort records confirmation that the provider will ensure the continuing financial viability of the JIB. Terminology used may vary but must be in a form acceptable to us.~~

~~5.14 The Letter of Comfort must initially be provided as part of any request for registration and re-issued every three years.~~

~~5.15 If any change of ownership is proposed that would lead to the entity no longer being owned by the provider of the Letter of Comfort, we will require that a new letter is provided from an acceptable parent bank before it provides its consent for the change of shareholder controller.~~

~~5.16 Where a Jersey Branch is a managed branch (that is, a Jersey Branch of the OIB that is managed in Jersey by another party (JIB or another Jersey Branch)), written confirmation is required from the head office of the OIB that it accepts full responsibility for the liabilities of the managed Jersey Branch. Such confirmation is required to be provided to us prior to registration and on a three yearly cycle thereafter.~~

Large Exposures

~~5.175.16~~ A JIB must ~~obtain prior approval from us for all exposures to any counterparty, or group of connected counterparties, in excess of 25% of its agreed capital resources (**ACR**). Such an exposure is referred to as an **LE25**. The approval process for LE25s is the same, regardless of whether the exposure is booked within the JIB's banking book or trading book. **Appendix II - Large Exposures: definitions** sets out the definition of an exposure, including provisions that permit JIBs to reduce exposures relating to reverse repo transactions (only) to reflect collateral, see paragraphs **2.9** and **2.10** of **Appendix II.**~~comply with the requirements set out in the 'Large exposures part'.

Note:

1. ~~Article 11 of the General Provisions Order stipulates that a JIB must not enter into an exposure that exceeds 25% of its 'agreed capital resources' without our approval~~We will vary the general conditions established in Article 11 of the General Provisions Order to remove Article 11(3)c, by issuing a condition of registration under Article 11(2)b of the Banking Law.~~.~~

~~5.18 Requests for LE25 approval must be submitted in writing at least two business days in advance of any required date for response. **Appendix III - Approval criteria for** LE25s establishes the detailed framework of requirements for the approval of Large Exposures that exceed 25% of a JIB's ACR.~~

~~5.19 Certain LE25s are pre-approved but these are limited in scope and approval is conditional on all deals relating to such exposures being post-notified to us (see **Appendix III - Approval criteria for LE25s, Section 1 "Money market concession")**.~~

~~5.20 LE25s that are direct exposures to counterparties for which a Concession Limit has been agreed:~~

- ~~do not require further day-to-day approval (see Appendix III - Approval criteria for LE25s, Section 2 "Concession limits");~~
- ~~are referred to herein as CL Large Exposures; and~~
- ~~are not included for the purpose of determining compliance with the aggregate Large Exposure limit of 800%.~~

~~5.21 We may approve LE25s where:~~

- ~~an appropriate guarantee or loan takeover agreement (LTA) is in place from an acceptable parent bank or a party for which a Concession Limit has been approved (see Appendix III - Approval criteria for LE25s, Section 3 "Day-to-day LE25 approval requirements – guaranteed exposures"). Such exposures are referred to as 'Guaranteed Large Exposures' and are not included for the purpose of determining compliance with the aggregate Large Exposure limit; or~~
- ~~appropriate high quality collateral arrangements are in place and exposures are less than 100% of the JIB's ACR (see Appendix III - Approval criteria for LE25s, Section 4 "Day-to-day LE25 approval requirements – collateralised exposures"); or~~
- ~~the exposure does not meet either of the above criteria for approval but the JIB considers that the particular circumstances warrant approval (see Appendix III - Approval criteria for LE25s, Section 5 "Approval of LE25s not meeting the specified criteria").~~

~~5.22 A JIB must report to us, via the quarterly prudential return, all exposures to any counterparty or group of connected counterparties in excess of 10% of its ACR (a **Large Exposure**).~~

Note:

1. Large Exposures must be reported in accordance with the Guide "Prudential reporting of loans and deposits data"

5.23 A JIB must notify us in writing within five business days if the total value of all Large Exposures exceeds 300% of ACR, after excluding CL Large Exposures and "Guaranteed Large Exposures" (see **Appendix III - Approval criteria for LE25s** for definitions).

5.24 The absolute limit for the sum of all Large Exposures (after excluding CL Large Exposures and Guaranteed Large Exposures) is 800%.

5.25 LE25s for which no day-to-day approval is required are reported separately, with less detail being required, from other Large Exposures within the prudential return. These comprise:

› "Money Market Concession Exposures" (see Appendix III - Approval criteria for LE25s for definition).

5.26 The accounting valuation, classification and provisioning of Large Exposures must be conducted on an individual item basis.

5.27 Where approval is requested for an LE25 that is subject to revaluation due to market fluctuations, including where the facility is either wholly or in part denominated in a currency other than the JIB's accounting currency, a margin must be added by the JIB to allow for market rate driven fluctuations. The JIB is responsible for deciding the margin, following the rules set out in **Appendix II - Large Exposures: definitions**, but if the value of the exposure at any time exceeds the approved amount, this would be considered a breach of both the Banking Code and Article 11 of the General Provisions Order. We will consider a request for an increase in the approved amount if the exposure approaches the approved amount due to currency fluctuations; such requests must be submitted in sufficient time to avoid breaches.

5.28 When calculating total exposure to a counterparty for the purpose of determining notifications under the Money Market Concession, a JIB must either:

› in the case that it chooses to notify on an "internal limits" basis: use the higher of its actual exposure and its internal limit for that counterparty; otherwise
› use its actual exposure.

5.29 A JIB must immediately inform us in writing of any material negative variation in an approved LE25, such as:

› a lengthening of the repayment schedule;
› a provision being raised against any part of the exposure; or
› a change in the supporting security.

5.30 Where such circumstances occur, the JIB must immediately provide us with written details of the issue and proposals that either provide adequate alternative protection or provide a plan to reduce the exposure within an appropriate timescale. We will consider such plans and permit continuing exposure where risks are adequately mitigated.

5.31 Any LE25 that exceeds an approval or occurs where no approval has been granted, must be reported in writing to us immediately and either a revised or new request submitted. If the LE25 does not meet any of the criteria for approval, the request must be made in accordance with **Appendix III - Approval criteria for LE25s, Section 5 "Approval of LE25s not meeting the specified criteria"**. Meanwhile, the excess (the amount by which the exposure exceeds the approved limit, or, where not

~~approved, 25% of ACR) must be deducted from capital for all regulatory purposes, such as calculating its RBCRs, until a specific alternative treatment has been agreed with us.~~

~~5.32~~ ~~**Appendix II - Large Exposures: definitions** provides guidance regarding the determination of whether an exposure is a Large Exposure or not. Specifically, it contains definitions of the terms ACR, "exposure" and "connected", in this context.~~

6 A registered person must deal with the JFSC in an open and co-operative manner

Notes:

1. There is a need for candour and co-operation in a registered person's relationship with us. Article 22(3) of the Banking Law (Article 28(3) of the FS(J)L) provides that a registered person or former registered person shall be guilty of an offence if it fails to provide us with any information in its possession, knowing or having reasonable cause to believe that –

   ~~a.~~ › the information is relevant to the exercise by us of our functions under the Banking Law, and, if applicable the FS(J)L, in relation to the registered person~~; and~~

   ~~b.~~ › the withholding of the information is likely to result in us being misled as to any matter which is relevant to and of material significance for the exercise of those functions in relation to the registered person~~.~~

2. As stated in the Introduction, where registered person has failed to comply with parts of the Banking Code, its observance or non-observance of this principle will be considered relevant to the question of mitigation or aggravation.
3. The scope of Principle 6 is extended to the provision of information and the notification of events concerning non-regulated activities and other members of the corporate group, to the extent that such information or events might reasonably be expected to have a material impact on the registered person in Jersey.
4. Notification to the Companies Registry does not constitute notification to the JFSC for the purposes of this Principle.
5. We consider that the obligations of a registered person under this Principle include the timely provision of data required in connection with a registered person's regulatory fees and the timely payment of fees due.

General notifications – all registered persons

6.1 A registered person must advise us in writing as soon as it becomes aware of any matter that might reasonably be expected to affect its deposit-taking or money service business registration or be in the interests of its customers to disclose. Wherever possible this notification must include details of the steps the registered person has taken, or intends to take, to mitigate the matter.

6.2 In addition to the requirements of the Banking Law and FS(J)L, a registered person must allow, and shall procure that any agent or subcontractor of the registered person also allows, inspections by or on behalf of us of any part of the activities in relation to which the registered person has either:

- been granted registration under the Banking Law~~; or~~
- notified us under Article 5 of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007~~.~~

6.3 The registered person must provide all reasonable assistance in connection with any such inspection and shall procure that any such agents or subcontractors also provide all reasonable assistance.

6.4 Any statements made to us under the Banking Law must be signed by a person authorised to sign such statements by the registered person's internal procedures.

Note:

1. With respect to 6.1, "as soon as it becomes aware" applies from the point at which the registered person knows, or has reasonable grounds for believing, that any of the matters referred to have occurred or may be about to occur, even where it is outside the control of the registered person. We consider the following indicative that notification is necessary. Any matter which:
   - *a.* is material to our ability to undertake our function of supervision of financial services provided in or from within Jersey~~; or~~
   - *b.* the registered person considers is material to, or makes it impractical for it to comply with, one or more of~~:~~
     - i. the provisions of the Banking Law or any Regulation or Order made under it~~;~~
     - ii. if applicable, the provisions of the FS(J)L or any Regulation or Order made under it~~;~~
     - iii. a registration condition~~;~~
     - iv. a direction issued by the JFSC~~;~~
     - v. the Banking Code~~;~~
     - vi. the requirement regarding the fitness and propriety of any of its directors, controllers, managers, key persons and, in respect of a Jersey Branch, the appointed senior officer, especially where the registered person has imposed a formal disciplinary measure or sanction~~.~~

Specific notifications

6.5 A JIB or OIB must comply with the notification requirements of our policy on outsourcing as may be updated from time to time.

6.6 A JIB or OIB must notify us in writing, not less than 10 business days before an intended change in the address of its registered office.

6.7 A JIB or OIB must notify us in writing, within a reasonable time of becoming aware of, or resolving to undertake, any of the following events:

- the presentation of any application to the court for a declaration of désastre~~;~~
- the summary winding up or voluntary dissolution of either a JIB or OIB~~;~~
- the summoning of any meeting to consider a resolution to wind up, or the winding up of, either a JIB or OIB~~;~~
- the application by any person for the commencement of insolvency proceedings or the appointment of a receiver, administrator or provisional liquidator under the law of any jurisdiction~~; or~~
- the making, or any proposals for the making, of a composition or arrangement with creditors~~.~~

6.8 A registered person must notify us in writing of any decision to commence a new activity, prior to commencement, that is likely to have a material effect on the business or its profitability.

6.9 A registered person must notify us in writing, not less than 10 business days before the change is implemented, of any intended change in:

- the name of the registered person~~;~~
- any business name under which the registered person carries on deposit-taking business or money service business~~;~~

- the address of the principal office of the registered person~~; or~~
- any address which is treated as the proper address of the registered person under Article 49(6) of the Banking Law~~.~~

6.10 A registered person must notify us in writing, within a reasonable time of becoming aware of, or resolving to undertake, any of the following events:

- A decision to voluntarily cease deposit-taking business or money service business, whether temporarily or permanently. A registered person must complete a cessation of business plan (COBP), as prescribed by us, which must include details of arrangements for the protection of depositors, creditors and other stakeholders. Before implementing a COBP a registered person must obtain written confirmation from us that we have no objection to it.
- The imposition of disciplinary measures or sanctions on the registered person or any of their directors, controllers, managers and key persons or in respect of a Jersey Branch, the appointed senior officer, by any supervisory authority, professional body or any investment exchange or clearing house.
- The conviction of the registered person or any of its directors, controllers, managers, key persons, or any other employees or, in respect of a Jersey Branch, the appointed senior officer for any offence:
    - under the legislation of any jurisdiction relating to deposit-taking or other financial services (this includes legislation relating to: banking, building societies, collective investment funds, companies, credit unions, consumer credit, friendly societies, insolvency, insurance, industrial and provident societies and trust companies)~~; or~~
    - involving fraud or dishonesty~~.~~
- The imposition of any penalties for deliberate tax evasion on the registered person or any of its directors, controllers, managers, key persons, or any other employees or, in respect of a Jersey Branch, the appointed senior officer.
- The granting, withdrawal or refusal of any application for authorisation to carry on any regulated financial services business in any jurisdiction outside Jersey, or the revocation of such authorisation.
- The granting, withdrawal or refusal of an application for membership of any investment exchange or clearing house, or the revocation of such a membership.
- The withdrawal of an application for membership of any professional or trade body by the registered person, a director, controller, manager or key person and, in respect of a Jersey Branch, the appointed senior officer, in any jurisdiction, or refusal or revocation of such a membership.
- The appointment of investigating inspectors (howsoever named) by a statutory or other relevant supervisory authority to investigate the affairs of the registered person.
- Any litigation following the institution of proceedings before a Court of Law, where any amount claimed or disputed is likely to exceed £250,000 sterling or its equivalent in another currency, other than the realisation of security in the normal course of business, which:
    - is instigated by the registered person or any subsidiary of the registered person~~;~~
    - is instigated against the registered person~~; or~~
    - involves the registered person as a cited party~~.~~
- Any suspicious activities or incidents of fraud, whether internal or external, that are material to the safety, soundness or reputation of the registered person.
- The formation, disposal or dissolution of a subsidiary company or acquisition of a holding of more than half in nominal value of the share capital of a company, specifying the name of the company and its principal business, where the action will not have a material effect (see note 1(b) below).
- Any material changes, other than those specifically referred to in the Banking Code, in the information originally submitted for any:
    - subsidiaries owned by the registered person~~;~~

- overseas operations through which the registered person carries on regulated business, whether this is done through a branch, subsidiary, representative office or otherwise~~; and~~
- deposit-taking business or money service business to be carried on outside Jersey, indicating whether this is to be done through a branch office, a subsidiary or otherwise~~.~~

Note:

1. With respect to paragraphs 6.8 and 6.10:
   a. "new activity" includes new acquisitions or investments made by the registered person~~.~~
   b. "material" is defined as an amount in excess of 5% of the registered person's Tier 1 capital~~ACR~~ for acquisitions and investments, and 5% of the registered person's Total Income (as defined in the Guide "Prudential reporting of financial data", as published on our website) for other new activities~~.~~
   c. We may, upon the application of a registered person, alter the notification requirements so as to adapt them to the specific circumstances of that person or to any particular kind of business carried on or to be carried on by it. We may lighten the requirements where it appears that compliance with the requirements in question would be unduly burdensome, having regard to the benefit that compliance would confer~~.~~

Specific notifications – JIB

6.11 A JIB must notify us in writing, within a reasonable time of becoming aware of, or having resolved to undertake, any of the following events:

- Any instrument or transaction entered into, or situation arising, that might give a misleading impression of capital adequacy~~;~~
- A breach of any minimum established in respect of ~~any RBCR~~capital ratio (Common Equity Tier 1 capital ratio, Tier 1 capital ratio or Total capital ratio)~~;~~
- A ~~RBCR~~ capital ratio that exceeds any applicable minimum by less than the Capital Buffer set~~; or~~
- Its LCR or LMR, as applicable, falling below 100% or any other level agreed~~.~~
- In the case of a JIB that is highly systemic or has material overseas banking operations, a breach of the leverage ratio or its net stable funding ratio falling below 100% or any other level agreed

6.12 A JIB must notify us in writing, within a reasonable time of becoming aware of a decision by its auditor to qualify its audit report or to raise an emphasis of matter therein.

6.13 A JIB must notify us in writing, not less than 10 business days before a change to its capital structure is implemented (includes, inter alia, the issuance, buy back and variance to the terms of preference shares, ordinary shares and debt instruments issued by the JIB), in particular:

- where an opinion has been obtained on accounting for any aspect of the change this should be provided to us as part of the notification~~; and~~
- the revised capital structure must not take effect until we have provided the JIB with a letter of no objection in relation to the proposed structure

Notes:

1. With respect to 6.7, 6.10, 6.11 and 6.12, we consider:
   a. "a reasonable time" to be five business days~~; and~~
   b. that " becoming aware" applies from the point at which the registered person knows, or has reasonable grounds for believing, that any of the matters stated has occurred or may be about to occur, even where it is outside of the control of the registered person~~.~~
2. With respect to 6.10, a full outline of the matters that must be addressed within the COBP is available from us upon request.

Notifications arising in other parts of the Banking Code

6.14 A registered person is required to comply with notification requirements established in other parts of the Banking Code:

- paragraph 3.6 requires notification as soon as the registered person becomes aware that the requirements set out in 3.1 and 3.5 in relation to there being an inadequate number of directors and managers~~;~~
- paragraph 0 requires notification if a Compliance Officer is temporarily unable to fulfil his/her responsibilities~~;~~
- paragraph 3.41 sets notifications in respect of customer complaints~~; and~~
- ~~paragraph 5.10 requires notification by a JIB and approval by us of all changes in methodologies used for the calculation of capital requirements for credit, operational and market risk.~~the Prudential Parts contain notifications with respect to, amongst other matters, whether they are Highly Systemic

Notifying or providing information via myJFSC

6.15 Where we specify (whether in the Banking Code or otherwise), a registered person must notify or provide information by myJFSC.

6.16 If, because of a systems failure of any kind, a registered person is unable to access myJFSC to make a relevant notification or provide required information it must notify us in writing within one business day of the systems failure being identified.

7 A registered person must not make statements that are misleading, false or deceptive.

Notes:

1. Under Article 23 of the Banking Law, it is an offence for any person to knowingly or recklessly make a misleading, false or deceptive statement, promise or forecast for the purpose of inducing another person to place a deposit.
2. Article 20(5) of the Banking Law defines a "deposit advertisement" to include any means of bringing to the notice of the person or persons to whom it is addressed either:
   a. an invitation to make a deposit~~; or~~
   b. information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit~~.~~
3. Schedule 2 to the General Provisions Order, titled "Conditions applicable to a deposit advertisement", sets conditions which apply to all deposit advertisements issued by registered persons in Jersey.
4. In respect of a registered person's money service business, paragraphs 7.9 to 7.10 do not apply.

7.1 The definition of an advertisement is broad and includes conversations, letters and offer documents. References herein to "advertising" refer to all advertisements of any nature, including advertisements in respect of lending and other financial services, rather than solely "deposit advertisements", excepting where specifically noted.

7.2 A registered person must ensure that its advertising and promotional literature is fair and not misleading. Words used in advertisements must be chosen carefully and certain words, such as guarantee, assured, confidential and secret, must be treated with great caution.

7.3 An advertisement must not contain:

- a statement, promise or forecast which is untrue or misleading~~;~~
- a statement of fact that the registered person does not, at the time the advertisement is issued, have reasonable grounds, supported by documentary evidence, for believing to be true~~;~~
- Sustainability-related claims, whether concerning the registered person, products or services, that are unclear, misleading or unfair. Claims must be backed up by credible evidence
- a statement of opinion by any person which the registered person does not, at the time the advertisement is issued, have reasonable grounds, supported by documentary evidence, for believing to be the honestly held opinion of that person at that time~~;~~
- a statement of fact which the registered person does not, at the time the advertisement is issued, have reasonable grounds for believing will continue to be true for so long as the advertisement continues to be issued in current publications~~;~~
- a misleading statement about the scale of activities of, or any of the activities of, or the resources of or available to, the registered person or its group or associated bodies~~;~~
- a statement relating to taxation benefits unless it is properly qualified to show what it means in practice and to whom such benefits may apply~~;~~
- a statement relating to confidentiality unless it is properly qualified to show the limits of any confidentiality assurance made~~;~~
- a comparison with other entities carrying out deposit-taking business unless the basis of comparison is clearly stated and the comparison is fair~~; or~~

- a statement implying that the product or service involved is only available for a limited period or in limited form, if such is not the case~~.~~

7.4 The content and format of any advertisement must not:

- be so designed as to be likely to be misunderstood~~;~~
- be so designed as to disguise the significance of any warning, statement or information, that is required to be included under the Banking Code~~;~~
- be presented in such a way that it is not clearly identifiable as an advertisement; ~~or~~
- signify in any way that the advertisement has been approved by us.~~-~~

7.5 An advertisement may include a quotation from a statement made by any person commending any product or service of the registered person, provided that all of the following apply:~~:~~

- where the person is an employee or associate of the registered person, that fact is disclosed in the advertisement~~;~~
- the quotation is included with that person's written consent~~;~~
- the statement is relevant to the product or service that is the subject of the advertisement~~;~~
- where the whole of the statement is not quoted, what is quoted represents fairly the message contained in the whole of the statement~~; and~~
- the statement has not become inaccurate or misleading, through the passage of time, since it was made.

7.6 An advertisement that only specifies some of the terms and conditions that attach to a product or service and excludes others, must indicate this fact. Where those terms and conditions that are specified give only a partial indication of the nature of the product or service being offered, the advertisement must refer to how all the terms and conditions may be obtained. Where no details of terms and conditions are given, the advertisement must contain information as to how these may be obtained.

7.7 It may not be possible to list within an advertisement all areas of risk that might apply to a particular product or service. However, the advertisement must disclose all key risks that specifically relate to the product or service advertised. The necessary extent of such risk warnings will be dependent upon the nature of the products or services being advertised.

7.8 The degree and point at which risks need to be disclosed to customers may vary. Notwithstanding the variation that may be appropriate, the registered person must be able to demonstrate that adequate disclosure of the relevant key risks was made to the customer before commitment was made, so as to enable the customer to make an informed decision.

7.9 All deposit advertisements, account statements or other documents or publicity produced for depositors or potential depositors issued in respect of a registered person's Jersey operations must comply with the JDCS Disclosure Standard published by the Jersey Resolution and Depositors Compensation Authority (**JRDCA**), available from the JRDCA website, subject to any variances or waivers granted by the JRDCA.

7.10 Where deposit advertisements are issued overseas, relevant local regulations must be complied with. Such advertisements must state whether or not any DCS of the jurisdiction in which the advertisement is issued applies to the product advertised, state whether or not the Jersey DCS applies and, where an advertisement is issued in respect of an overseas operation, provide details of that jurisdiction's DCS, where applicable.

7.11 In relation to 7.10, we will consider requests for variances and waivers where specific issues arise. Without prejudice to the generality of such variances, this might, for example, include a situation where local regulations differed significantly to Jersey requirements and alternative adequate methods, such as disclosure in customer terms and conditions, could be demonstrated to be in place.

7.12 Any advertisement relating to financial services must state that the person issuing the advertisement is regulated by the Jersey Financial Services Commission.

7.13 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].

Notes:

1. For the avoidance of doubt, neither the Banking Law nor the FS(J)L require advertisements to be approved by us. Accordingly, we would not normally contribute to any review or vetting process.
2. The requirements of sections 7.7 to 7.12 do not apply to advertisements that only contain a business name, trademark or logo.
3. 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 7.13.

Appendix I - Guidelines for corporate governance and risk management

Adequate risk management involves having processes, structures, resources, information systems and reporting arrangements in place to ensure the adequate identification, evaluation, control, recording and reporting of all significant risks that a registered person incurs. This should span both the consolidated position and individual entities, where applicable.

This appendix is not intended to provide an exhaustive list of the controls needed but instead identifies what we consider to be minimum control requirements for a number of key risks that are common to many registered persons. Certain of the controls referred to relate to a number of the risks identified but have not been repeated under every relevant heading.

The Basel Committee has issued a wide range of papers that provide guidance on risk management in various banking functions. As a guide, reference is made under a number of risk headings to the key relevant document.

A registered person may adopt other measures to those set out here, including policies and procedures established by group, so long as it can demonstrate that such measures are appropriate to its business activities and achieve compliance with the overriding regulatory requirement to maintain adequate risk management systems.

1 Corporate governance

(Basel paper: "Principles for enhancing corporate governance", October 2010)

1.1 The Basel paper sets out best practices for banking organisations. Key areas of particular focus include:

- the role of the board~~;~~
- the qualifications and composition of the board~~;~~
- the importance of an independent risk management function, including a chief risk officer or equivalent~~;~~
- the importance of monitoring risks on an on-going firm-wide and individual entity basis~~;~~
- the board's oversight of the compensation systems~~; and~~
- the board and senior management's understanding of the registered person's operational structure and risks~~.~~

1.2 Whilst only directly appropriate for UK listed firms, the UK Corporate Governance Code is considered to present an example of good practice in the relevant areas of corporate governance that it addresses. Registered persons should consider such guidance, whilst recognising that, for smaller firms and those not associated with the UK in particular, it may not be wholly appropriate in parts.

2 Credit risk

(Basel paper: "Principles for the Management of Credit Risk", September 2000)

2.1 A sound and well documented credit granting and investment process which, inter alia, ensures that officers make credit decisions free of conflicting interests, on an arm's length basis, and free from inappropriate pressure from outside parties. All officers involved should have appropriate authority levels advised to them, and acknowledged, in writing.

2.2 The maintenance of appropriate credit administration, monitoring, reporting and asset grading processes which enable credit risk to be measured in all on- and off-balance sheet facilities provided, including stress testing exposures.

2.3 Clearly documented and readily available policies covering all relevant aspects of the lending environment, which should include but are not necessarily limited to:

- lending to employees, parties connected to them and other related parties~~;~~
- term commitments, such as maximum repayment periods for different types of lending and preferred covenanting arrangements~~;~~
- sectors for which the registered person has limited or no appetite~~;~~
- pricing~~;~~
- country limits~~;~~
- personal banking lending criteria, such as maximum salary multiples and loan to value ratios~~;~~
- customer aggregation~~;~~
- lending reviews~~;~~
- collateral valuations~~; and~~
- identification and monitoring of portfolio concentrations, including the reporting of material concentrations to the board on a regular basis~~.~~

2.4 A policy to deal with problematic credits. As a minimum, such a policy should require:

- a system for early remedial action on deteriorating credits~~;~~
- a system for classifying loans into discrete categories when payments are contractually a minimum number of days in arrears~~;~~
- loans to be treated as impaired when there is reason to believe that principal or interest will not be collected in accordance with the contractual terms of the loan agreement~~; and~~
- appropriate provisioning policies~~.~~

2.5 Policies and procedures to deal with related parties. As a minimum, such policies and procedures should include the following provisions:

- transactions with related parties and the write-off of such exposures exceeding specified amounts or otherwise posing unique risks are subject to prior approval at an appropriately senior level~~;~~
- senior managers and/or directors with conflicts of interest should be excluded from the approval process~~;~~
- adequate and appropriate assessment of the terms under which the transaction is to be granted when lending to related parties, including whether or not proposed terms are inappropriately favourable~~;~~
- the identification of individual exposures to related parties, and the monitoring and reporting of these exposures through an independent credit review process~~; and~~
- the reporting of all related party exposures, in aggregate, to us through the quarterly prudential return~~.~~

Note:

1. The term “related parties” includes the registered person’s subsidiaries, holding companies, affiliates and any person that the registered person exerts control over or that exerts control over the registered person. These may be the registered person’s major shareholders, directors, senior management, key staff, their close family members, and corresponding persons in affiliated companies.

3 Country and transfer risk

3.1 The identification and monitoring of exposures on an individual country basis (in addition to counterparty risk).

3.2 The setting, communicating and monitoring of adherence to individual country limits.

3.3 A policy to monitor and evaluate developments in country risk and transfer risk and apply appropriate countermeasures.

4 Market risk

(Basel paper: "Principles for the Management and Supervision of Interest Rate Risk", July 2004. See also ~~"The JFSC's rules relating to Trading Books" Guidance note issued by us in February 2008, and~~ the Market Risk Reporting Guide).

4.1 Appropriate limits for all significant risks incurred and regular reviews of these.

4.2 Controls in place to ensure that all transactions are captured on a timely basis and that positions are re-valued on an appropriately regular basis, using reliable and appropriate market data (or in the absence of market prices the use of industry accepted models).

4.3 Policies and processes in place to consider valuation adjustments for positions that cannot otherwise be prudently valued, including concentrated, less liquid and stale positions.

4.4 Performance of scenario analysis, stress testing and contingency planning, as appropriate, and periodic validation of measurement systems used.

~~4.5 Registered persons that have trading books should consider the guidance provided in the Trading Book Guidance Note.~~

4.~~6~~4.5 JIBs must hold capital (see ~~Trading Book Guidance Note and~~ Market Risk Reporting Guide) in respect of:

- Foreign Exchange Risk~~;~~
- Commodities Risk~~; and~~
- ~~Interest Rate Risk and Equity Risk (Trading Book only).~~

4.~~7~~4.6 A JIB must also assess the amount of the capital required for all risks, including Market Risk, and document this assessment in its ICAAP~~.~~.

5 Operational risk

(Basel paper: "Sound Practices for the Management and Supervision of Operational Risk", February 2003)

5.1 Operational risk is defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk but excludes strategic and reputational risk.

5.2 Appropriate policies, processes and procedures for managing operational risk in all material products, activities, processes and systems. These include but are not limited to:

- execution and delivery~~;~~
- documentary and legal risk~~;~~
- process management~~;~~
- systems failure~~;~~
- internal and external fraud~~;~~
- employment practices and workplace safety~~;~~
- handling of customer information~~;~~
- improper activities~~; and~~
- physical damage~~.~~

5.3 Clearly defined employee duties that include sufficient separation of position taking and control functions to avoid conflicts of interest.

5.4 Adequate assessment of risk relating to new products prior to launch.

5.5 Regular review of operational risk profiles and material exposures to losses, with pertinent information regularly reported to board or equivalent level, in an environment that supports proactive management of operational risk.

5.6 Business continuity plans to ensure the capability to operate on an on-going basis and limit losses to acceptable levels in the event of severe business disruption.

6 Interest rate risk

(Basel paper: "Principles for the Management and Supervision of Interest Rate Risk", July 2004)

6.1 Established standards for valuing positions and measuring risk.

6.2 The establishment of, and adherence to, operating limits that maintain exposures within levels consistent with agreed internal policy.

6.3 On-going assessment of the effects of interest rate changes in a manner consistent with the scope of activities undertaken.

6.4 Regular review of limits and underlying assumptions, including independent reviews and appropriate stress testing.

7 Liquidity risk

(Basel paper: "Principles for Sound Liquidity Risk Management and Supervision, September 2008).

7.1 The establishment of a robust liquidity risk management framework.

7.2 The clear articulation of liquidity risk tolerance.

7.3 The development of a strategy, policies and practices to manage liquidity risk in accordance with the registered person's risk tolerance.

7.4 The incorporation of liquidity costs, benefits and risks in the internal pricing, performance measurement and new product approval process for all significant business activities.

7.5 The development of a sound process for identifying, measuring, monitoring and controlling liquidity risk. This process should include a robust framework for comprehensively projecting cash flows arising from assets, liabilities and off-balance sheet items over an appropriate set of time horizons.

7.6 Active monitoring and control of liquidity risk exposures and funding needs within and across legal entities, business lines and currencies.

7.7 The establishment of a funding strategy that provides effective diversification in the sources and tenor of funding.

7.8 Active management of its intraday liquidity positions and risks.

7.9 Active management of its collateral positions, differentiating between encumbered and unencumbered assets.

7.10 The conduct of stress tests on a regular basis for a variety of short-term and protracted institution-specific and market-wide stress scenarios.

7.11 The development and maintenance of a formal liquidity contingency plan that clearly sets out the strategies for addressing liquidity shortfalls in emergency situations.

7.12 The maintenance of a cushion of unencumbered, high quality liquid assets to be held as insurance against a range of liquidity stress scenarios, including those that involve the loss or impairment of unsecured and typically available secured funding sources.

8 Customer due diligence

(Basel paper "Customer Due Diligence for Banks", October 2001)

8.1 Customer due diligence is most closely associated with the fight against money laundering, which is addressed by the Proceeds of Crime (Jersey) Law 1999, the Money Laundering Order and the AML/CFT/CPF Handbook. However, sound customer due diligence is also critical in protecting the safety and soundness of registered persons and the integrity of banking systems from reputational, operational, legal and concentration risks. Effective risk management therefore requires sound customer due diligence policies and procedures, including:

- a formal customer acceptance policy that includes a description of the types of customer that are likely to pose a higher than average risk to the registered person~~;~~
- a systematic procedure for identifying new customers that does not permit the establishment of a banking relationship until the identity of the new customer is satisfactorily verified~~; and~~
- an adequate understanding of the customer to enable an assessment of the appropriateness of required services or products. This is particularly relevant to lending activities~~.~~

Note:

1. Adequate customer due diligence is required to sufficiently identify groups of connected counterparties. This is necessary to identify concentration risks within a registered person's exposures, as addressed ~~previously in the sub-section on **Large Exposures** (see paragraphs 5.16 to 5.31 of this Code)..~~in the 'Large exposures part'.

~~1.~~2. It is also necessary to undertake due diligence in connection with credit risk, as addressed in the 'Credit risk: standardised approach (CRR) part'.~~a subject discussed previously in the sub-section on **Large Exposures** (see paragraphs 5.16 to 5.31 of this Code)..~~

9 Stress testing

(Basel paper "Principles for sound stress testing practices and supervision", May 2009)

9.1 Stress testing should form an integral part of the overall governance and risk management culture of the registered person. Stress testing should be actionable, with the results from stress testing analyses impacting decision making at the appropriate management level.

9.2 The operation of a stress testing programme that:

- promotes risk identification and control~~;~~
- provides a complementary risk perspective to other risk management tools~~;~~
- improves capital and liquidity management~~; and~~
- enhances internal and external communication in respect of risk management~~.~~

9.3 Stress testing programmes should take account of views from across the organisation and should cover a range of perspectives and techniques.

9.4 The development and maintenance of written policies and procedures governing the stress testing programme. The operation of the programme should be appropriately documented.

9.5 Stress tests should feature a range of severities whether through size of loss or through loss of reputation. A stress testing programme should also determine what scenarios could challenge the viability of the registered person (reverse stress tests) and thereby uncover hidden risks and interactions among risks.

9.6 As part of an overall stress testing programme, a registered person should aim to take account of simultaneous pressures in funding and asset markets, and the impact of a reduction in market liquidity on exposure valuations.

Appendix II - Large Exposures: definitions

1 Determining the agreed capital resources (ACR) of a JIB

1.1 At a prudential reporting date, the ACR will equate to the JIB's Tier 1 Capital, calculated in accordance with prudential reporting guidance.

1.2 In between prudential reporting dates, the ACR equates to the JIB's Tier 1 Capital, as calculated at the latest prudential reporting date, after adjusting for any:

› Direct impact of exchange rates on capital since the latest prudential return date;

› Increase in year-to-date losses incurred;

› Repayment of Tier 1 capital;

› Payment of dividends;

› profits made, but only providing auditor certification has been received by the JIB in this respect and provided to us or, in the case of the year-end, where the accounts have been submitted to us; and

› New Tier 1 capital raised, provided we have been notified of the details.

2 Determining the exposure

2.1 An exposure is the maximum gross loss (that is, before allowing for any form of security held) a JIB might suffer if a counterparty or a group of connected counterparties fails to meet its obligations, or the maximum loss that might be experienced as a result of the JIB realising assets or off-balance sheet positions. The following three paragraphs describe the main classes of exposure; if a JIB is in any doubt regarding whether an exposure should be counted for this purpose, it should contact us.

2.2 "Exposure" spans all claims on a counterparty or group of connected counterparties and includes both actual claims and potential claims which would arise from the drawing down in full of undrawn advised facilities (whether revocable or irrevocable, conditional or unconditional) which the JIB has agreed to provide, and claims which the JIB has agreed to purchase or underwrite.

Note: The following should not be included:

1. claims and other assets deducted from the JIB's capital base for the purpose of determining regulatory capital, including investments in subsidiary companies;

2. specific provisions raised relating to a claim;

3. claims where the JIB has paid its side of an FX transaction and the counter value is not received from the counterparty until up to two business days following payment;

4. where an asset has been traded, claims on a counterparty arising during settlement where neither side has parted with their asset, commonly referred to as delivery versus payment transactions, until five business days following the settlement date; and

5. counterparty risk on futures and options where the contracts are traded on an exchange and are subject to daily margining requirements.

2.3 "Exposure" also spans assets, and assets which the JIB has committed itself to purchase or underwrite, whose value depends wholly or mainly on a counterparty performing its obligations, or whose value otherwise depends on that counterparty's financial soundness but which do not represent a claim on the counterparty.

Note:

1. This includes equities, equity warrants and related derivatives such as contracts for difference which do not represent a claim on the party to which they relate but whose value depends, principally, on the party's financial soundness.

2.4 The calculation of the exposure must include accrued interest.

2.5 Where an exposure may fluctuate due to market movements, the value of the exposure, for this purpose, must be estimated as being the highest exposure that could arise, at a 99.9% confidence interval. This will depend on the volatility of the exposures, the limits agreed with the counterparty, the frequency of monitoring and the actions available in the event that a limit is reached.

2.6 The volatility of the exposure at the 99.9% confidence interval must be calculated based on at least 500 calendar days of past data. The use of volatility data provided by group may be appropriate, provided that such data is regularly updated.

2.7 As an alternative, the additional exposure may be calculated to be:

› foreign exchange (major currencies - Sterling, US Dollars, Euro, Swiss franc and/or Yen): 10%;

› foreign exchange (other): 20%;

› AA- or higher rated government bonds: 5%;

› other investment grade bonds: 10%; and/or

› listed securities: 25%.

2.8 Different methods may be applied to individual types of Large Exposure but only where a clear and acceptable rationale is offered, such as materiality or type of risk, that warrants the specific treatment proposed. This must be specified by the JIB when it seeks model approval and any proposed changes must be notified in advance to us.

2.9 For Reverse-repo transactions with core market participants (as defined in Appendix D to the Guidance Note "Prudential Reporting of Credit Risk under the Standardised Approach to Credit Risk" (SAC Guide), JIBs may opt to reduce the exposure (for Large Exposures purposes), by recognising the impact of the collateral provided, in accordance with the rules for Credit Risk Mitigation (CRM) set out in the SAC Guide.

2.10 If a JIB chooses to reduce the exposure, it must recognise an exposure (for Large Exposure purposes) to the collateral provided equivalent to the amount by which the Exposure has been reduced and add this to any direct or guaranteed Exposures when determining the exposure to that entity for these purposes.

3 Determining connection

3.1 The term "connected counterparties" relates to counterparties that together may pose a single risk to the JIB.

3.2 Counterparties must be considered to be connected where either:

› two or more counterparties are under common control, whether direct or indirect; or

› there exists a relationship of economic dependence between counterparties, including where two or more customers are economically dependent on a single third party.

3.3 In respect of the latter, if it is likely that financial problems of one customer would cause repayment difficulties for the other(s), then they are connected for this purpose. An economic dependence may be mutual or only one way. Borderline cases should be referred to us.

~~3.4 The following are examples where, ordinarily, customers would be considered to be connected:~~

~~› persons linked by close family tie;~~

~~› companies linked through common ownership or sharing common management;~~

~~› persons linked by common endeavour;~~

~~› persons linked by a common function (such as marketing); or~~

~~› exposures where the principal risk exposure is to the underlying collateral, including all non-recourse lending, where the collateral is connected or common.~~

~~3.5 Companies under common ownership could "stand alone" from the relevant owner (and therefore be excluded in calculating the total connected exposure to the owner for Large Exposure purposes) but this would be unusual. A potential example might be a company owned via a state run pension fund where the fund is run independently of government and on a commercial basis. JIBs are likely to be considered to be economically dependent on large shareholders even if there is little or no evidence of control.~~

~~3.6 Where an LE25 is in respect of related parties (i.e. parties connected to the JIB), we may require that such lending be deducted from capital for regulatory capital purposes or require collateralisation of the lending, unless the counterparty is a group bank for which a Concession Limit has been agreed (see Appendix III).~~

~~3.7 A JIB may use a risk-based approach to considering whether exposures are connected, provided that all material exposures are specifically assessed in that respect.~~

Appendix III - Approval criteria for LE25s

1 Money market concession

General

1.1 LE25s in respect of money market exposures to low risk bank or sovereign counterparties do not require our approval, subject to the conditions set out below. Such exposures are excluded when calculating adherence to the 300% notification and 800% hard limits for total Large Exposures.

1.2 Similarly, unforeseen customer driven LE25s on correspondent bank accounts do not require our approval, subject to the conditions set out below, and are excluded when calculating adherence to the 300% and 800% limits.

1.3 Together, these concessions are described as the Money Market Concession and all such exposures are referred to as Money Market Concession Exposures.

1.4 Where exposure to an eligible counterparty is a mix of money market and non-money market exposures:

› the non-money market exposure to a counterparty requires approval if it exceeds 25% of capital; and

› the Money Market Concession rules apply to the total exposure.

Conditions relating to low risk bank or sovereign money market exposures:

1.5 For the application of this concession, exposures must be to a low risk bank or sovereign (see 1.6), under £50 million and less than 100% of ACR, i.e.

› if the JIB's ACR is less than £50 million: exposures are pre-approved up to 100% of ACR; and

› if the JIB's ACR is £50 million or more: exposures are pre-approved up to £50 million.

1.6 For the purpose of this concession, "low risk" banks and sovereign exposures are defined as direct exposures to high quality counterparties meeting the following criteria:

› all investment grade, high-income OECD (HI-OECD, as defined by the OECD) sovereigns;

› all investment grade, non-HI-OECD sovereigns where the exposure is denominated in the currency of the relevant country;

› AA- or higher rated non-HI-OECD sovereigns where the exposure is not denominated in local currency;

› all investment grade or unrated banks, provided the maturity was under three months at origination; or

› AA- or higher rated banks, provided that the maturity is under one year, on a residual basis.

1.7 All deals or changes in internal limits relating to such exposures that result in an LE25 that is eligible for the concession must be notified to us within five business days, using the Form: "Notification in respect of the Money Market Concession", which is published on our website.

1.8 "Money market exposures" for these purposes are limited to cash deposit placements and holdings of debt securities. In the case of the latter, the rate of interest must be fixed or linked to a money market rate of interest such as LIBOR, and the exposure must not be subordinated or form part of the issuer's regulatory capital.

1.9 Any non-money market exposure to the counterparty would require approval if it constituted an LE25 (excluding the money market element). The aggregate of the money market and non-money market exposure must be lower than the limit for this concession, as set out in 1.5.

Unforeseen customer driven transactions on correspondent bank accounts

1.10 LE25s that are the result of unforeseen customer activity on correspondent bank accounts may be excluded provided that:

› all excesses are notified to us immediately, using the form: "Notification in respect of the Money Market Concession", which is published on our website;

› all excesses are corrected within two business days of their coming into existence; and

› processes, controls and limits are appropriate to ensure that such instances are not a regular occurrence and these must be reviewed in light of each occurrence.

1.11 The European Banking Authority has issued guidelines relating to a similar concession available to European banks, including those regulated by the PRA. This is not directly applicable to JIBs but is considered to be useful in identifying and addressing issues relating to correspondent bank accounts for Large Exposure purposes. The Guidelines, titled 'Implementation guidelines on Article 106(2)(c) and (d) of Directive 2006/48/EC recast', are published at https://eba.europa.eu/ .

2 Concession limits

2.1 Our Guidance Note "Approval of Concession Limits for Governments and Connected Banks" sets out the framework for our approval of concessions in respect of LE25s to governments and group banks. This allows for a Concession Limit to be agreed in the following circumstances:

› LE25s to group banks, including upstreamed deposits; and

› LE25s to highly rated governments and considered to represent a minimal risk only.

2.2 Such applications must be accompanied by a completed Form: "Application form for Concession Limit approval", which is published on our website.

2.3 Concession Limits may exceed 100% of capital and are expressed as a fixed monetary amount.

2.4 Concession limits are not normally time limited but are subject to regular review, as described in the Guidance Note.

2.5 Once a Concession Limit is obtained, the following apply:

› direct LE25s to that counterparty are exempt from requiring further approval (although Concession Limits are subject to regular review). Such LE25s also do not count towards the absolute aggregate limit of 800%;

› exposures to individual or connected sub-groups that are connected to the counterparty that exceed 25% of ACR require individual approval; and

› exposures covered by an appropriate guarantee from the counterparty may be approved individually (See Section 3 "Day-to-day LE25 approval requirements – guaranteed exposures").

2.6 The total of all direct and connected exposures to the counterparty (including as a result of reverse repo transactions), including all exposures guaranteed by it in order to secure LE25 approvals, must remain within the Concession Limit at all times.

2.7 PSE exposures must be considered to be connected to the relevant sovereign and must be included when calculating the sovereign. A sovereign Concession Limit would be necessary unless a single PSE exposure is the only relevant exposure to the sovereign.

2.8 Where a Liquid Asset Concession Limit is approved, exposures that fall within the relevant definition must be included (only) for the purpose of calculating the relevant exposure but excluded when calculating the exposure to the relevant sovereign.

3 Day-to-day LE25 approval requirements – guaranteed exposures

3.1 Requests must take the form of a free format letter, detailing the exposure and containing relevant details of legal advice taken in respect of any collateral arrangements, guarantees, LTAs and netting agreements, together with the relevant completed Large Exposure application form.

3.2 Guarantees from two classes of counterparty will be considered by us, members of which are either group banks or governments. For each type, a separate application form has been created. The two are:

› parent banks; and

› counterparties for which a Concession Limit has been agreed (certain group banks and governments).

3.3 A guarantee or LTA from a parent for which no Concession Limit has been agreed will only be considered for the purposes of LE25 approval where:

› the parent is a regulated bank (i.e. not a holding company);

› the exposure is not a Large Exposure in respect of the parent bank (i.e. not in excess of 10% of its total regulatory capital); and

› the provider is either the ultimate parent or an intermediate parent that is a member of the top 1000 banks globally, as measured by Tier 1 capital size.

3.4 An exposure will only be deemed to be covered by an appropriate guarantee or LTA where:

› the JIB has obtained appropriate legal opinion on the documentation relating to the guarantee/LTA. Sight of both the documentation and covering legal opinion may be required by us; and

› in the case of an LTA used in place of a guarantee: the agreement relates to the amortised cost of the exposure (i.e. not the written down value).

3.5 Such applications must be accompanied by a completed Form: "Large Exposure Approval – Parental Guarantee", which is published on our website.

3.6 An application in respect of an LE25 for which a guarantee has been provided by a counterparty for which a Concession Limit has been agreed must be accompanied by a completed Form: "Large Exposure Approval – Concession Limit Guarantee", which is published on our website.

4 Day-to-day LE25 approval requirements – collateralised exposures

4.1 Requests must take the form of a free format letter, detailing the exposure and containing relevant details of legal advice taken in respect of the collateral arrangements and netting agreements, together with a completed Form: "Large Exposure Approval – Collateralised Exposures", which is published on our website.

4.2 An exposure will only be deemed to be covered by adequate collateral where:

› in the case of JIBs using the comprehensive approach under Basel II to credit risk mitigation, including advanced approaches, collateral may be in the form of cash, 0% risk weighted HI-OECD government securities or certificates of deposit issued by the JIB and must be sufficient to ensure that the exposure is eligible for a 0% risk weight after such credit risk mitigation (without reliance on any other form of security) is taken into account and allowing for currency mismatches (no maturity mismatch is allowed);

› in the case of a JIB using the simplified standardised approach, an exposure that is secured by cash deposits, 0% risk weight government securities or certificates of deposit issued by the JIB, providing that the amount of security exceeds the exposure by at least:

○ 0% for cash or certificate of deposit, both to be in the same currency as the exposure;

- 10% in the case of a cash deposit or certificate of deposit that are in a different currency to the exposure;
- 10% in the case of a HI-OECD government security in the same currency; and
- 20% in the case of a HI-OECD government security in a different currency to the exposure;

› the security is held by the JIB and a legal right of set-off exists. The cover levels referred to above are minimum levels and the JIB must consider whether the particular circumstances of the exposure require additional security and address this issue in its request. Collateral arrangements must ensure that the collateral remains in place until the maturity of the large exposure; and

› the JIB has obtained appropriate legal opinion on the security documentation relied upon. Sight of both the documentation and covering legal opinion may be required by us.

4.3 The above may be achieved where a third party has lodged appropriate collateral with the JIB and provided an appropriate legal guarantee in respect of the exposure, backed by the collateral.

4.4 Security may not, for this purpose, be held by another bank, irrespective of pledges and guarantees received or whether the bank is part of the same group. However, a guarantee from a group bank may be considered to be effective if it meets the criteria for such guarantees (see Section 3 – "Day-to-day LE25 approval requirements – guaranteed exposures").

5 Approval of LE25s not meeting the specified criteria

5.1 Requests must take the form of a free format letter, detailing the exposure, including any collateral arrangements, an explanation of the circumstances that resulted in the exposure and a description of the proposed management of it. A completed Form: "Large Exposure Approval – Collateralised Exposures", which is published on our website, must also be submitted with the letter, completed with relevant details.

5.2 We will review the request, taking into account the circumstances, the nature of the exposure and whether it considers the proposed management of the LE25 to be appropriate.

5.3 In particular, approval may be granted where the LE25 has occurred in unforeseen circumstances, such as where a merger brings together two previously unconnected counterparties.

5.4 The proposed management of the LE25 must describe how the JIB expects to regularise the situation and, in the interim period, any other risk mitigating actions that are planned or have already been effected.

~~6 Netting, other credit transfer mechanisms and other specific circumstances~~

~~6.1 Netting may only be reported as credit mitigation on the application form where a netting agreement is in place. This would not reduce the exposure, for Large Exposure purposes, but may be considered to be equivalent to the provision of cash collateral. As such, a gross exposure of up to 100% of ACR may be approved.~~

~~6.2 A credit default swap, or similar contract, may be used in place of a parental guarantee but only provided that the reference obligation of the credit default swap is the same as the exposure.~~

~~6.3 Other credit transfer mechanisms, such as syndication or sub-participation (in respect of a loan extended by the JIB), may be used in place of a parental guarantee. These may also be used to provide an effective pledge of cash collateral but only where they are fully funded (i.e. not a contractual arrangement) and, as such, provide equivalent protection to cash collateral.~~

~~6.4 In such circumstances, we expect that the amount covered will be the full amount of the exposure. Where this is not the case, as may be sought in the case of sub-participation and syndication agreements, we may approve one-off transactions. Such approval will depend on individual circumstances but it is expected that the residual remaining uncovered element will not itself be a Large Exposure (i.e. it will not exceed 10% of ACR).~~