Bank licensing policy

Version 3

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Contents

1 Executive summary

1.1 Overview

1.1.1 Jersey is an attractive jurisdiction for new banks seeking to operate here. We welcome internationally active banks, existing Jersey operators seeking a banking licence, and firms wishing to establish a new bank in Jersey.

1.1.2 Jersey is also a good place to develop existing banking businesses. We are an international finance centre with:

- significant experience servicing international clients
- a broad range of legal, accounting and other service providers
- skilled talent with the experience needed to support business development

We have a reputation as a well-regulated jurisdiction that meets international standards.

1.1.3 Our bank licensing policy (**BLP**) sets out the criteria we use to assess applications for banks to be licensed under the Banking Business (Jersey) Law 1991 (**BBJL**) to take deposits in Jersey. [1]

1.1.4 The BLP addresses:

- core considerations (Section 2)
- internationally active banks (Section 3)
- Jersey start-up banks (Section 4)

1.2 Flexibility

1.2.1 We take a flexible approach to applying the BLP. We may accept an applicant that substantially meets the overall requirements, provided that the potential risks to depositors are mitigated, including the risk:

- to retail depositors
- of calls being made on the Jersey Bank Depositors Compensation Scheme

1.2.2 A small number of requirements are mandatory, and we use the term 'must' to identify them.

2 Core considerations

2.1 General

2.1.1 Our starting point is the applicant's risk profile. This includes the nature of the activities to be provided and the intended customer base, with reference to the requirements of Article 10(3) of the BBJL, which include protecting Jersey's reputation and integrity.

2.1.2 We may refuse registration if it appears that the applicant is not fit and proper to be registered. This includes any director, controller or manager employed by the applicant who has been convicted of fraud or dishonestly.

[1] For the avoidance of doubt, the BLP does not address bank resolution/resolvability, which the JRDCA is responsible for

2.1.3 The fit and proper assessment is initial and ongoing, including those persons employed by or associated with the applicant.

2.1.4 For the purposes of this policy, we consider ‘associated with the applicant’ to include both natural persons and bodies corporate that might affect the fitness and properness of the applicant. These may include:

- those that will perform functions on behalf of the applicant under an outsourcing or service level agreement
- companies that share common ownership with the applicant
- companies in which the applicant has 20% or more of the voting rights
- parties that have close business links with the applicant, but no legal structural interaction, for example, one which acts as a business introducer

2.1.5 We will take into account any failure of an applicant to comprehensively and accurately supply any information requested.

2.2 Ownership and control

2.2.1 The applicant must provide a comprehensive ownership structure and identify all intermediate and significant ultimate owners. If this is complex or lacks transparency, the applicant should explain and justify the rationale for having this structure.

2.2.2 The BBJL requires prospective directors and controllers, including shareholder controllers, to seek a ‘no objection’ decision from us. You should ensure that ‘no-objection’ applications are submitted as part of the bank application process.

2.2.3 If a controlling shareholder is an individual, the applicant should explain the circumstances, including the degree of influence involved and the impact that this may have.

2.2.4 We will consider the regulatory history of an applicant, including the home supervisor’s views of its business and management.

2.2.5 In the case of an applicant which is ultimately owned by persons connected with a higher risk jurisdiction, an applicant’s ownership structure will be subject to heightened scrutiny.

2.3 Competence

2.3.1 Competency, with respect to those employed by or associated with an applicant, may be evidenced by relevant qualifications or by having sufficient relevant experience for the functions they are charged with performing.

2.3.2 An applicant must be able to demonstrate that it is, and will remain, competent to undertake deposit-taking business, including the ability to comply with relevant regulatory requirements.

2.4 Organisation and systems

2.4.1 The applicant should demonstrate that its systems and controls will enable it to comply with regulations, including our Code of Practice for deposit-taking business (**Banking Code**) and our Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing (**AML/CFT/CPF Handbook**).

2.4.2 Where relevant, it is desirable that at least one board member of the Jersey entity should be an individual who holds a senior position with the regulated parent.

2.4.3 Where elements of the applicant's systems, controls or functions are to be outsourced, the applicant should ensure that such arrangements follow our outsourcing policy.

2.4.4 An applicant must be structured and organised in such a way that will enable us to fulfil our oversight function.

3 Assessment of internationally active banking groups

3.1 Track record

3.1.1 Where an applicant will be part of a large internationally active banking group, we will:

- consider the track record and audit history of the applicant's parent group as well as of each individual who is to be a director, controller (which includes the chief executive) or manager of the applicant
- seek evidence that the applicant will be able to meet on an ongoing basis the criteria that are set out in this policy, where the applicant is not already doing so

3.1.2 In particular, the applicant should be able to demonstrate (either in its own name or in the name of its parent group where applicable) that it meets all the following criteria:

- a minimum of five years' satisfactory track record as a banking business, supervised by a relevant supervisory authority
- a satisfactory audit history, as demonstrated by the audit reports provided on its financial statements, or those of its ultimate and intermediate parents
- a well-established and stable management team with the necessary developed capability in respect of corporate governance and conduct of business matters relevant to the proposed regulated activities and risk profile of the applicant
- it conducts its business with integrity
- it has due regard for the interests of its customers
- it provides appropriate supervision and training to its employees

3.1.3 The applicant must demonstrate its ability to fully adhere to Jersey regulations, including, but not limited to, legislation such as the BBJL, the Banking Code and the AML/CFT/CPF Handbook.

3.2 Stature

3.2.1 Applicants, or the groups to which they belong, should carry an investment-grade credit rating given by an internationally recognised credit rating agency.

3.2.2 The Banking Code sets out the requirements for financial resources that apply to Jersey incorporated banks.

3.3 Home jurisdiction

3.3.1 The home jurisdiction should be 'equivalent' in terms of the measures it applies to counter money laundering and the financing of terrorism.

3.3.2 The home jurisdiction(s) of the applicant's parent(s) should operate adequate financial supervision, and the group the applicant belongs to must be subject to consolidated supervision by the home supervisor.

3.3.3 In assessing this aspect, we will take account of any reports issued by relevant international bodies such as the International Monetary Fund, as well as responses to its own enquiries in respect of the home supervisor's adherence to the Basel Committee on Banking Supervision's Core Principles.

3.3.4 It is desirable for the home supervisor to have a memorandum of understanding with us.

3.3.5 We will ask the home supervisor to confirm its agreement to the applicant establishing business in Jersey and that the applicant will be included in its consolidated supervision. Authorisation will depend on us receiving this confirmation.

4 Assessment of Jersey start-ups

4.1 Jersey mind and management

4.1.1 Shell banks are not permitted by Article 10(1) of the BBJL. Hence, we can only approve a Jersey start-up if, as per Article 10, it has 'physical presence in Jersey involving meaningful decision-making and management'. The applicant must explain how it intends to address this requirement.

4.2 Financial soundness

4.2.1 The Banking Code establishes requirements relating to financial soundness.

4.2.2 The applicant should ensure that it is able to comply with all regulatory requirements, including those around capital, liquidity and large exposures.

4.2.3 The applicant should consider the financial risks relating to its business plan, considering relevant controls and mitigating factors. This assessment should be included within its internal capital adequacy assessment process[2].

4.2.4 We will consider the overall level of risk, based on our assessment of the applicant and its business model.

4.3 Tailored approach

4.3.1 While Part 1 sets out our general approach to assessing applications, we will tailor our assessment to reflect the applicant's proposed business model. This may include considering:

› experience of the board and management in setting up and running new banks
› regulatory history of individuals and previous businesses they have been involved with

4.4 Mobilisation

[2] Our Guidance Note titled Pillar 2 in Jersey provides information on how a bank should assess its risk based capital requirements, including through stress testing, and mitigating factors such as recovery planning

4.4.1 There may be circumstances where an applicant needs time to put in place relevant systems and controls and seeks a restricted licence that enables it to operate in a limited way. This may include situations where the applicant is not yet ready to accept deposits

4.4.2 In this circumstance, we may grant a restricted registration, subject to conditions. We may require information to be made available to potential depositors concerning such restrictions.

4.4.3 This is intended for circumstances where there are no concerns about the applicant, but it has not yet developed its operational capacity.

4.4.4 We will only remove restrictions as and when the applicant is able to evidence full compliance.

Glossary

Defined terms are indicated throughout this document as follows:

AML/CFT/CPF Handbook	Handbook for the prevention and detection of money laundering, the countering of terrorist financing, and the countering of proliferation financing
Banking Code	Code of practice for deposit-taking business
Basel Committee on Banking Supervision	Primary global standard setter for the prudential regulation of banks
BBJL	Banking Business (Jersey) Law 1991
Core Principles	Comprehensive standard for establishing a sound foundation for the regulation, supervision, governance and risk management of the banking sector, issued by the Basel Committee on Banking Supervision
JFSC	Jersey Financial Services Commission
shell bank	An applicant or registered person that (a) has no physical presence in Jersey involving meaningful decision-making and management; and (b) is not subject to supervision by a relevant supervisory authority by reason of that person's connection with any other institution or person.