



Jersey Financial
Services Commission

**Policy Statement: Licensing Policy in respect of
deposit-taking business that
requires registration under the
Banking Business (Jersey) Law
1991**

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Glossary of terms:

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

applicant	a person applying for registration under the Banking Law
the Banking Codes	Codes of Practice for Deposit-taking Business
the Banking Law	Banking Business (Jersey) Law 1991
the Commission	The Jersey Financial Services Commission
the Commission Law	Financial Services Commission (Jersey) Law 1998
deposit-taking business	as defined in Article 3 of the Banking Law
the General Provisions Order	Banking Business (General Provisions) (Jersey) Order 2002
the Handbook	the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Financial Services Business Regulated under the Regulatory laws
key person	as defined in Article 1 of the Banking Law
RAR	Risk Asset Ratio
registered person	a person registered under Article 9 of the Banking Law

In addition to this Policy, the Commission has also published Policy Statements and Guidance Notes on the subjects shown below. These are available on the Commission's website:

http://www.jerseyfsc.org/the_commission/general_information/policy_statements_and_guidance_notes/index.asp

- Outsourcing;
- Pillar 2;
- Large Exposures;
- Concession Limits;
- Liquidity management and reporting;
- Prudential rules on Trading Books; and
- The Commission's Decision-Making Process.

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Executive Summary

The purpose of the Bank Licencing Policy is to set out clearly the criteria against which the Jersey Financial Services Commission will assess applications for banks to be licensed to take deposits in Jersey.

The totality of requirements might appear to be rather challenging barriers to entry, but this is not the intention. Whilst Jersey remains cautious in its approach to banking safety, the Policy is intended to be applied in a flexible manner; a bank that does not meet all criteria might still be licensed if risk to depositors can be adequately mitigated.

In licensing banks, the Island is most sensitive to retail depositor safety and the connected risk of calls being made on the Jersey Depositors Compensation Scheme. So it is feasible, for example, that an applicant bank which did not meet all the criteria of the policy but wished only to operate in the wholesale space might be accepted, subject to its license being conditioned accordingly. A variety of banking models operate in the Island and the Commission is highly receptive to new proposals and to discuss what might be possible.

Jersey remains very keen further to develop its banking industry and offers a warm, informative and constructive welcome to prospective applicants. Other agencies are also available to discuss the benefits and relevant operational considerations of setting up in Jersey and potential applicants are recommended to contact both Jersey Finance Limited and the Chief Minister's Department of the States of Jersey.

This policy was revised in August 2014 to reflect changed approaches to supporting stressed banks around the world, namely a move from bailing them out at taxpayers' expense, to "bailing-in" bank creditors. In these changed circumstances, the Commission's earlier approach that emphasised the need for a bank to be of systemic importance in its home jurisdiction and for the latter to be capable of financially supporting it if necessary became inoperative – a meaningless disincentive to doing business in Jersey.

Similarly (and because recent history demonstrated that it was something of a false comfort), the longstanding requirement for the parental group to be in the global Top 500 by capital size has been altered to an expectation that it feature in the Top 1000. But again, inability to meet this criterion should not deter an applicant from exploring options for licensing with the Commission.

And for similar reasons, the previously stated expectation that an applicant bank will have experience of operating beyond its home borders has been removed.

The Commission believes that the revised Licensing Policy reflects new realities and provides a workable and flexible framework for a wide variety of banks to operate within the strong regulatory framework to which the Island remains committed.

Further changes may be made in due course, in line with local strategies and international developments.

Any parties interested in discussing this policy, or a potential application to take deposits in Jersey, are encouraged to contact the Director of Banking at any time.

PART 1: Introduction, Regulation and Scope

1. Introduction

- 1.1 For more than 40 years, Jersey has been involved in the international financial services sector. Over this period, the Island has monitored developments in the international sector and encouraged the breadth and depth of the range of services now offered by Jersey organisations.
- 1.2 Consequently, Jersey remains at the forefront of international finance centres, a position which continues to be recognised in various relevant international reviews and commentary.
- 1.3 Jersey is committed to maintaining its international status and to attracting higher value-added inward investment. The States of Jersey actively supports the development of international business and inward investment and the facilitation of new business in the Island.
- 1.4 For those considering the provision of financial services business in Jersey the following websites may be useful:
 - 1.4.1 States of Jersey - <http://www.gov.je/Industry/Pages/default.aspx>
 - 1.4.2 Jersey Finance Limited - <http://www.jerseyfinance.je>; and
 - 1.4.3 Jersey Financial Services Commission - <http://www.jerseyfsc.org>.
- 1.5 Where an applicant is considering operating in Jersey as a managed bank, section 11 of this policy statement, covering managed banks, will be of particular interest.

2. Regulation

- 2.1 In common with many international finance centres, the majority of financial services provided in, or from within, Jersey are subject to regulation and supervision by the Jersey Financial Services Commission (the “**Commission**”), which is an independent regulatory authority. A regulatory framework has been established which sets requirements for both the Commission and those providing financial services that are subject to regulation.
- 2.2 The financial services subject to regulation and supervision by the Commission are set out in the following primary legislation:
 - 2.2.1 Banking Business (Jersey) Law 1991 (the “**Banking Law**”);
 - 2.2.2 Collective Investment Funds (Jersey) Law 1988;

- 2.2.3 Financial Services (Jersey) Law 1998, the scope of which is:
- 2.2.3.1 investment business;
 - 2.2.3.2 trust company business;
 - 2.2.3.3 general insurance mediation business;
 - 2.2.3.4 money service business;
 - 2.2.3.5 fund services business; and
 - 2.2.3.6 AIF services business¹
- 2.2.4 Insurance Business (Jersey) Law 1996 (collectively the “**Regulatory Laws**”).
- 2.3 The Jersey regulatory framework comprises the following:
- 2.3.1 Primary legislation – sets, amongst other things, legal powers and obligations. It is adopted by the States of Jersey, sanctioned by the UK Privy Council, registered in the Royal Court and then brought into force in one of two ways:
 - 2.3.1.1 on a date or dates specified in the Law; or
 - 2.3.1.2 on a date or dates determined by an Appointed Day Act passed by the States of Jersey.
 - 2.3.2 Secondary legislation – sets, amongst other things, detailed legal obligations in specific areas but can only be enacted to the extent permitted by primary legislation:
 - 2.3.2.1 in the form of Regulations, which are made by the States of Jersey; or
 - 2.3.2.2 in the form of an Order, which is generally made by the Chief Minister.
 - 2.3.3 Notices – provide detail on specific matters, as required by legislation, and are issued by the Commission or other government agencies, for example, Notices issued in accordance with Article 15 of the Financial Services Commission (Jersey) Law 1998 (the “**Commission Law**”) in respect of fees.

¹ A person carries on AIF services business if the person is a legal person whose regular business is managing one or more alternative investment funds (“**AIFs**”), where managing AIFs has the same meaning as in Directive 2011/61/EU.

- 2.3.4 Policy Statements – record the Commission’s policies in respect of the administration of certain aspects of legislation or regulatory approach.
 - 2.3.5 Codes of Practice – establish sound principles, including minimum requirements, for the operation of financial services business. They are issued by the Commission, using powers provided in the Regulatory Laws.
 - 2.3.6 Guidance Notes – provide guidance on complying with either a legislative or regulatory requirement.
- 2.4 The regulatory framework described in section 2.3 includes requirements designed to counter money laundering and the financing of terrorism, including the [Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for Financial Services Business Regulated under the Regulatory Laws](#) (the “**Handbook**”).

3. Scope of this policy statement and general comment

- 3.1 This policy statement is set out within the context of an application. However, Article 10(1) of the Banking Law states that “*The Commission shall refuse to grant an application for registration, or where registration has been granted shall revoke the registration, if the applicant or registered person...*”. Therefore, unless the context precludes such construction, where this statement refers to an applicant, it should also be taken to be a continuing obligation on a person already registered to undertake deposit-taking business, except as varied by the Commission.
- 3.2 The policy statement is intended to cover all relevant criteria but the Commission will look to explore any other matters that are relevant to an application or registration.
- 3.3 In considering an application, the Commission will take into account all requirements of this policy statement. Where an applicant is (or is to be) a newly incorporated company and has no track record or audit history in its own name, then the Commission will:
- 3.3.1 take into account the track record and audit history of the applicant’s parent group and of each individual who is to be a director, controller (which includes the chief executive) or manager of the applicant; and
 - 3.3.2 seek to satisfy itself 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.
- 3.4 Where the policy states that a requirement “must” be met then such requirement is considered to be essential. An applicant that substantially meets the overall requirements of the policy but is unable to fully demonstrate adherence to some of those requirements that the policy states “should” be met might still be considered to be acceptable, dependent on the extent of the shortfall and the Commission’s perception of its impact on the applicant’s risk profile.

- 3.5 There is only one, all encompassing, registration category for deposit-taking business in Jersey. This includes managed banks, which are commented on specifically in section 11. The criteria established in this policy, and all regulatory requirements applicable to deposit takers, apply equally to such institutions.
- 3.6 Banks licensed overseas may register in Jersey for the purpose of utilising facilities in the Island in the event of any disruption of normal operations in their home jurisdictions. Prior to commencement of any deposit-taking activity in Jersey, such banks will need to demonstrate to the satisfaction of the Commission that they are sufficiently able to satisfy the criteria established in this policy, and all other relevant regulatory requirements, relative to the size, nature and complexity of the operations proposed. These will tend to be limited to the processes essential to maintain the bank. Deposit-taking activities will normally be limited by registration condition to the maintenance of existing business only. Should such a bank subsequently wish to establish a permanent presence in the Island it would need to satisfy the criteria relative to the operations then proposed.
- 3.7 The power to approve an application for a deposit-taking registration lies with the Board of Commissioners.
- 3.8 An application for registration should be made to the Commission in accordance with Article 9 of the Banking Law and annually thereafter in accordance with Article 9 of the Banking Business (General Provisions) (Jersey) Order 2002 (the “**General Provisions Order**”), using in both cases the application form referred to in Part 3 of this policy statement.
- 3.9 The following Articles of the Banking Law apply to the application process:
- 3.9.1 Article 9 provides the Commission with the power to register an applicant;
- 3.9.2 Article 10 provides the Commission with the power to refuse registration. It specifically requires refusal where the applicant would have no physical presence, which includes meaningful mind and management, and would not be subject to adequate consolidated supervision in the home jurisdiction; and
- 3.9.3 Article 11 provides for registration to be granted, subject to both general and specific conditions.
- 3.10 General conditions of registration are set out in Article 11 of the General Provisions Order and include the following aspects:
- 3.10.1 appointment of a senior officer outside the Island (branches only);
- 3.10.2 commencement of new activities;
- 3.10.3 Large Exposures (Jersey incorporated companies only); and
- 3.10.4 establishing operations outside the Island.

- 3.11 In addition to such general conditions, the Commission may attach any special conditions considered necessary to a registered person's registration in order to enable the Commission to fulfil its responsibilities under the Banking Law.
- 3.12 Failure to comply with a registration condition is an offence and could result in a registered person being liable to a fine and other persons being liable to a fine or to imprisonment for a period not exceeding two years.
- 3.13 In determining whether to grant or refuse registration, the Commission is required to consider a number of specific areas. Article 10 of the Banking Law sets out the grounds that may give the Commission cause to refuse to grant a registration.
- 3.14 Specifically, Article 10(3)(a) of the Banking Law requires that the Commission satisfies itself that the applicant is a fit and proper person to be registered, having regard to the information before it as to the:
- 3.14.1 integrity, competence, financial standing, structure and organisation of the applicant;
 - 3.14.2 persons employed by or associated with the applicant for the purposes of its business or who are directors, controllers or managers of it; and
 - 3.14.3 description of the business that the applicant proposes to carry on.
- 3.15 Where the Commission considers that, based on the information available to it, it may not grant registration to an applicant, the process to be followed is published in a guidance note on the Commission's Decision-making Process. This process includes a provision for the applicant to provide comment on the facts underlying the Commission's concerns and to address any misunderstandings.

PART 2: The Commission's "fit and proper" assessment

4. Key areas of consideration

4.1 Fit and proper considerations are addressed under the following headings:

4.1.1 General (section 5);

4.1.2 Stature (section 6);

4.1.3 Home jurisdiction (section 7);

4.1.4 Competence (section 8);

4.1.5 Organisation and Systems (section 9); and

4.1.6 Ownership and Control (section 10).

4.2 These fully incorporate the requirements of the Banking Law, represented by the specific criteria established in Article 10(3)(a) and referred to in section 3.14 of this policy. Certain of those criteria are relevant for consideration under more than one heading, for example "integrity" is mainly commented on in section 5 ("General"), but would also be relevant in considering the subject of ownership in section 10. Part 2 should therefore be read in the whole when considering the matter of fit and properness.

4.3 Specific considerations in respect of managed banks are commented on in section 11.

5. General

5.1 It is the Commission's starting point that an applicant be able to demonstrate (either in its own name or in the name of its parent group where applicable) that it meets all the following criteria:

5.1.1 minimum five years relevant and satisfactory track record as a banking business, supervised by a relevant supervisory authority²;

5.1.2 a satisfactory audit history, as demonstrated by the audit reports provided on its financial statements, or those of its ultimate and intermediate parents;

5.1.3 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;

² "relevant supervisory authority" is so defined in Article 1 of the Banking Business (Jersey) Law 1991.

- 5.1.4 it conducts its business with integrity;
 - 5.1.5 it has due regard for the interests of its customers; and
 - 5.1.6 it provides appropriate supervision and training to its employees.
- 5.2 In the context of an applicant whose ultimate beneficial owner is a person connected with a higher risk jurisdiction³, the applicant may be expected to demonstrate a longer relevant and satisfactory track record and mature relationship with a relevant supervisory authority.
- 5.3 When determining an application, it is the Commission's policy to consider the risk profile of the applicant, including the nature of the activities that are to be provided and the intended customer base, having regard to the requirements of Article 10(3) of the Banking Law, which include protecting the reputation and integrity of Jersey.
- 5.4 The fit and proper determination is both an initial and ongoing assessment in relation to the suitability of the applicant, including those persons employed by or associated with it. This means that the criteria set out below will apply to an existing registered person where there is a material change in its circumstances, for example an anticipated change of ownership (see section 10.3).
- 5.5 For the purposes of this policy statement, the Commission considers "associated with the applicant" to include both natural persons and bodies corporate that might affect the fitness and properness of the applicant. These may encompass the following persons:
- 5.5.1 those that will perform functions on behalf of the applicant under an outsourcing or service level agreement;
 - 5.5.2 companies that share common ownership with, the applicant;
 - 5.5.3 companies in which the applicant has 20% or more of the voting rights; and
 - 5.5.4 parties that have close business links with the applicant, but no legal structural interaction, for example one which acts as a business introducer.
- 5.6 The Codes of Practice for Deposit-taking Business (the "**Banking Codes**") provide high level principles, including minimum requirements, in the areas of integrity, conduct, risk management, transparency, capital resources, a registered person's relationship with the Commission and advertising. The applicant, through the application process, must be able to demonstrate its ability to fully adhere to the Banking Codes.

³ In assessing which jurisdictions may present a "higher risk", the Commission will have regard to Appendix D (lists 1 and 2) of the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism together with objective data published by such sources as are listed on the [Commission's website](#).

- 5.7 In assessing the integrity of an applicant and, as part of that assessment, the integrity of those persons employed by or associated with it, the Commission will consider whether any of their past actions or conduct impact on their ability to meet expected standards in this respect.
- 5.8 The Commission considers the provision of information that is both complete and accurate to be an indication that an applicant is acting with integrity. Failure of an applicant to comprehensively complete any form or supply any information required in respect of an application in an honest manner, or the intentional omission of any relevant material, will be taken into account by the Commission.
- 5.9 Registration may be refused if it appears to the Commission that the applicant is not fit and proper to be registered by reason of any director, controller or manager employed by the applicant having been convicted for acting fraudulently or dishonestly, or by reason of any other circumstances whatsoever which are either likely to lead to improper conduct of business by the applicant, or reflect discredit on its methods of conducting business.

6. Stature

- 6.1 Applicants should be part of financial institutions of international stature and reputation. It is the Commission's policy that registrations under the Banking Law are limited to entities which are, or which are ultimately owned by, members of the global "Top 1,000" banking groups by reference to their Tier 1 capital base, or financial services conglomerates of equivalent size.
- 6.2 Shell banks are not permitted by the Banking Law.
- 6.3 Applicants, or the groups to which they belong, should carry a credit rating given by an internationally recognised credit rating agency which is equivalent to what is recognised at any one time as being of "investment grade".
- 6.4 Applicants must be able to demonstrate an ability to meet the financial requirements established in section 5 of the Banking Codes. In the case of deposit takers that are to be incorporated in Jersey, these include:
- 6.4.1 minimum capital of £5 million (or equivalent); and
- 6.4.2 a general minimum Risk Asset Ratio ("**RAR**") of 10% (but it should be noted that specific RARs and target ratios, both of which may be more than 10%, are established with individual banks via the Pillar 2 process of Basel II).
- 6.5 Applicants must also be able to demonstrate an ability to meet the Commission's liquidity management requirements, as detailed in the regulatory framework.
- 6.6 The group to which the applicant belongs must also be able to demonstrate adequacy of financial strength and a risk profile that is acceptable to the Commission, as reflected in

its published financial statements and any other relevant information.

6.7 Applicants must be able to provide, prior to registration:

6.7.1 in the case of a Jersey incorporated subsidiary, a letter of comfort from the ultimate parent bank, or intermediate owner if that party is an appropriately supervised "Top 1,000" bank; or

6.7.2 in the case of a managed branch, written confirmation from the applicant's head office that it accepts full responsibility for the liabilities of the branch.

6.8 The applicant is required to submit a three year business plan, including financial projections and estimated physical, systems and human resources, for the proposed operations, which must be acceptable to the Commission.

7. Home jurisdiction

7.1 The home jurisdiction should be considered by the Commission to be "equivalent" in terms of the measures it applies to counter money laundering and the financing of terrorism. In assessing this aspect, the Commission will take account of section 1.7 of the Handbook, which provides information in respect of the equivalence of requirements in overseas jurisdictions.

7.2 The home jurisdiction(s) of the applicant's parent(s) should be considered by the Commission to operate an adequate regime of financial supervision and the group to which the applicant belongs must be subject to consolidated supervision by the home supervisor. In assessing this aspect, the Commission will take account of any reports issued by relevant international bodies such as the IMF, as well as responses to its own enquiries in respect of the home supervisor's adherence to the Basel Committee's Core Principles for Banking Supervision.

7.3 The home supervisor will be asked to confirm, in writing, its agreement to the applicant establishing business in Jersey and that the applicant will be included in its consolidated supervision. Authorisation will be dependent upon such confirmation being received.

8. Competence

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

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

- 8.3 An applicant must be able to demonstrate that it will be able to undertake appropriate management and training of its staff.
- 8.4 The Commission has a particular interest in the collective competence and experience of those that will govern the entity.
- 8.5 In assessing the competence of an applicant, the Commission will consider the specific activities it proposes to undertake, in particular the volume of each type of business and the jurisdictions in which it will be offering its services.

9. Organisation and Systems

- 9.1 The Commission considers that the organisation and systems of an applicant are essential elements of an applicant's ability to satisfy the Commission that it is a fit and proper person to be registered.
- 9.2 Whilst all aspects of the Banking Codes are of high importance, the governance of a registered person is of particular interest to the Commission. This should include an appropriate number of independent, non-executive directors in the case of a Jersey incorporated registered person. In those cases, the Commission will normally require the majority of the board to be resident in Jersey and for the Jersey element of the board to be actively engaged in the governance of the business.
- 9.3 In addition, the Commission considers it desirable that at least one board member of the Jersey entity should be an individual who holds a senior position with the regulated parent.
- 9.4 An applicant must be structured and organised in such a way that will enable the Commission to fulfil its oversight function.
- 9.5 The Commission's policy is to accept only natural persons to act in the capacity of director of a registered person.
- 9.6 An applicant must be able to demonstrate to the satisfaction of the Commission that it will have, and will be able to maintain:
 - 9.6.1 sufficient management oversight and control of its activities;
 - 9.6.2 comprehensive operational records, relating to all activities, which must be readily accessible in Jersey;
 - 9.6.3 comprehensive financial information, which must be readily accessible in Jersey;
 - 9.6.4 relevantly qualified and experienced staff to competently deliver the services it offers. This includes third party service providers or relevant entities within the same group; and

- 9.6.5 systems and controls appropriate to its risk profile and designed to manage its affairs effectively for the proper performance of all activities, including those that evidence transparency in its business arrangements.
- 9.7 In an age of increasing specialism, globalised corporate operations and information technology, the Commission recognises that applicants may wish to utilise group resources outside the Island or outsource certain functions to external third parties able to offer particular expertise. However, it is the Commission's policy that, even where functions have been outsourced, the registered person remains accountable to the Commission for all regulatory matters.
- 9.8 Where elements of the applicant's systems, controls or functions are to be outsourced, the Commission will consider whether such arrangements are in compliance with the guidelines set out in the Commission's published policy on outsourcing and whether any conflicts arising from such outsourcing arrangements are addressed in accordance with the Banking Codes.
- 9.9 In addressing the foregoing considerations, the Commission will look to satisfy itself that the applicant's systems and controls will enable it to comply with section 3 of the Banking Codes relative to its risk profile. In particular, if an applicant intends to provide services to customers who are themselves connected with a higher risk jurisdiction, it must be able to demonstrate that it has the scale and depth of resources pertinent to the customer base together with sufficiently developed systems and controls which can adequately deal with the enhanced risk profile of such customers.

10. Ownership and Control

- 10.1 The Commission's requirement is for applicants to be companies and preferably for them to be publicly quoted companies, or subsidiaries of such.
- 10.2 The Commission must be able to look through the ownership structure to identify all intermediate and significant ultimate owners and, if this is unduly complex or lacks transparency, it would expect the applicant to explain and justify the rationale for having such a structure.
- 10.3 The Commission considers an application for registration on the basis of the existing or planned ownership structure at the time the application is made. Any subsequent changes in this respect may alter the Commission's assessment of the bank as a fit and proper person. Consequently, potential amendments to the structure or ownership of the registered person must be advised to the Commission sufficiently in advance for it to properly consider the proposals and determine whether to object. Any such changes must be notified to the Commission in accordance with Articles 14 and 24 of the Banking Law.
- 10.4 The Commission can require the removal of any director, manager or controller (which includes chief executive and shareholder controller) or key person in the event that it concludes that their continued involvement is no longer compatible with the bank being considered as fit and proper.

- 10.5 It is unusual for banks which are part of a “Top 1,000” banking group to have dominant controllers (including shareholder controllers). Where this occurs, the circumstances will require additional consideration by the Commission, including the degree of influence involved and the impact that this may have.
- 10.6 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.
- 10.7 Shareholder controllers and controllers are fully defined in Article 1 of the Banking Law. The main categories are:
- 10.7.1 Executive Controller - the managing director and chief executive of an institution, or any of its holding companies;
- 10.7.2 Shareholder Controller - a person who, either alone or with any associate, holds 15% or more of the shares or commands equivalent voting power in the institution, or in its holding companies; and
- 10.7.3 Indirect Controller - a person (usually an individual) in accordance with whose directions or instructions the directors of an institution or any of its holding companies or controllers, including shareholder controllers, are accustomed to act.
- 10.8 Any applicant must notify the Commission of: -
- 10.8.1 the identity of its controllers (including shareholder controllers);
- 10.8.2 the category each falls into;
- 10.8.3 the percentage of shares each controller holds;
- 10.8.4 the percentage of voting powers which each is entitled to exercise or control the exercise of; and
- 10.8.5 any “significant shareholders”, as defined in Article 25(2) of the Banking Law, involving the exercise of voting power of 3% or more but less than 15%.
- 10.9 Each prospective key person, director, manager and controller that is a natural person will be required to complete the Commission’s standard personal questionnaire, which will be used in determining the person’s fit and properness.

11. Specific considerations in respect of Managed Banks

- 11.1 The Commission recognises that there are circumstances in which a bank may be able to undertake its business without premises of its own in Jersey. These can arise where the business of that bank is, or is to be, managed in Jersey by another registered deposit taker (“the manager”). This will involve the manager providing all necessary resources, such as staff, premises and information systems, and operating those resources on behalf of the managed bank.
- 11.2 In such circumstances a written agreement approved by the Commission must exist between the managed bank and the manager.
- 11.3 It is important to note that, once authorised, the managed bank is a registered person in its own right and must comply with all aspects of the regulatory framework applicable to deposit-taking business, including the Banking Codes.
- 11.4 In assessing the fitness and propriety of an applicant that wishes to operate as a managed bank, it is the Commission’s policy to apply the same standards as with an applicant that would maintain its own staff and business premises in Jersey. The Commission will additionally consider carefully the arrangements under which the proposed manager intends to carry out its management function. Specifically, in relation to the provision of services to customers connected with higher risk jurisdictions, further explanation is provided at section 11.7 below.
- 11.5 In assessing an applicant that is applying to operate as a managed bank, the Commission must satisfy itself that it will be able to exercise sufficient regulatory oversight. Although the managed business may rely to a large extent on the proper exercise of the functions of the manager, the managed bank itself will ultimately remain accountable to the Commission for the activities it undertakes.
- 11.6 All records relating to the managed bank must be readily accessible in Jersey.
- 11.7 Should a managed bank intend to provide services to customers who are themselves connected with a higher risk jurisdiction, the Commission will carefully review its “fit and proper” assessment of the proposed manager in light of the application. In the context of such an application the Commission will consider such factors as:
- 11.7.1 the number and ratio of executive directors to be provided by the proposed manager;
 - 11.7.2 the quality of the risk assessment undertaken by the proposed manager of the applicant;
 - 11.7.3 the overall framework of systems and control to be implemented by the proposed manager;

- 11.7.4 the resources to be deployed by the proposed manager, including specific additional compliance resource with requisite experience and expertise to oversee the managed business; and
- 11.7.5 the financial resources available to the proposed manager.
- 11.8 In a case where section 11.7 applies, where such an application is successful, the Commission is likely to exercise its power (referred to in section 3.9.3) to grant a registration with conditions attached. One likely condition would be not to permit the manager to terminate its appointment without first receiving the prior written consent of the Commission. Such consent would only be granted where the proposed new manager is deemed acceptable to the Commission.

PART 3: Application for Registration

12. General

- 12.1 The Commission recognises that the particular circumstances of each applicant will not be identical. Notwithstanding this, it is the Commission's policy that all applicants will be assessed against the same standards. In considering an application against the requirements of this policy, the Commission will seek to identify and consider any regulatory risks arising either from the nature of the activities to be undertaken, or from the particular circumstances of an applicant, and the mitigation of these.
- 12.2 Each application will be considered on its own merits and all information relating to an applicant that is available to the Commission during the assessment process will be taken into account.
- 12.3 It is the Commission's policy to make all enquiries it considers necessary, such as regulator to regulator enquiries, to determine an application, especially if it appears that a particular applicant poses a risk in terms of the guiding principles⁴ the Commission is required to consider in pursuance of its functions⁵.
- 12.4 In line with Article 10 of the Banking Law, an applicant should satisfy the Commission that it is fit and proper to undertake the proposed activities. It is not for the Commission to prove that it is not fit and proper.
- 12.5 Information supplied to the Commission and statements made by the applicant must not be false or misleading and, in this regard, the provisions of Article 22 of the Banking Law should be noted.
- 12.6 All individuals wishing to become a director, controller (which includes chief executive and shareholder controller), manager or key person of an applicant are required to complete and submit to the Commission a personal questionnaire. This document and associated guidance can be found on the Commission's website at:

PQ Guidance Notes:

http://www.jerseyfsc.org/the_commission/general_information/policy_statements_and_guidance_notes/index.asp

PQ Forms:

http://www.jerseyfsc.org/the_commission/general_information/forms/index.asp

⁴ The guiding principles of the Commission are set out in Article 7 of the Commission Law.

⁵ The functions of the Commission are set out in Article 5 of the Commission Law.

13. Application form

13.1 The application form applicable to deposit-taking business may be found on the Commission's website using the following link:

http://www.jerseyfsc.org/banking_business/forms/index.asp

13.2 The application form details the information that should be submitted in support of an application. In brief, this comprises:

13.2.1 a business plan, including three year forecasts and all resource requirements;

13.2.2 the last three years' financial statements of the applicant, if applicable, and all parent companies;

13.2.3 the latest management accounts of the applicant, if applicable;

13.2.4 all relevant organisation charts; and

13.2.5 the application fee (see Banking Fees Notice⁶).

13.3 Existing registered persons, in applying annually for extension of their registrations, should note the lower information requirement applicable to such circumstances, as established in Article 9(4) of the Banking Law. The requirement is limited to information that has changed since any previous submission to the Commission, unless specifically varied by the latter.

14. Contacting the Commission

14.1 The Commission encourages potential applicants, after considering this policy statement, to make early contact with it for initial discussions, at which time any necessary clarifications can be provided. The Commission can be contacted as follows:

Director, Banking
Jersey Financial Services Commission
PO Box 267
14 - 18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: **+44 1534 822000**

Facsimile: **+44 1534 822047**

Email: info@jerseyfsc.org

⁶ Banking Fees Notice available from the Commission's website:
www.jerseyfsc.org/the_commission/fees_notices/index.asp