

# Banking Business (Jersey) Law 1991

## Code of Practice for Deposit-taking Business

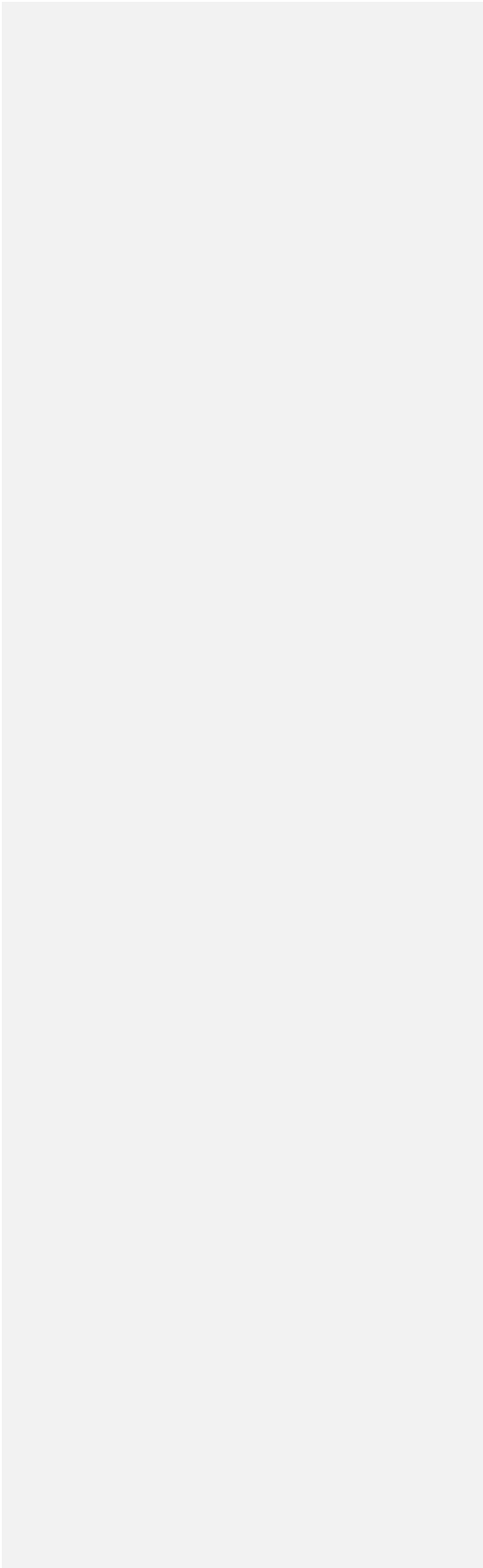
### Appointment of Auditor

Effective from: ~~1-August-2023~~ 23 February 2024

## Glossary of Terms

Defined terms are indicated throughout this document as per the following table.

Appointment of Auditor Code	Banking Code: Appointment of Auditor – this document
<del>BAO</del>	<del>Banking Business (Accounts, Auditors and Reports) Order</del>
Banking Code: Main Body	The Code of Practice for Deposit-taking Business: Main Body
Banking Code	The Code of Practice for Deposit-taking Business, comprising five parts, being: <ul style="list-style-type: none"><li>› Banking Code: Main Body</li><li>› Appointment of Auditor Code (this document)</li><li>› Declaration of Compliance Code</li><li>› Financial Statements Code</li><li>› Prudential Reporting Code</li></ul>
Banking Law	Banking Business (Jersey) Law 1991
<u>BAO</u>	<u>Banking Business (Accounts, Auditors and Reports) (Jersey) Order 2023</u>
Basel Committee	Basel Committee on Banking Supervision
Branch Auditor	Auditor appointed in relation to an OIB's Jersey business
Code requirement	Any requirement contained within the Banking Code
Declaration of Compliance Code	Banking Code: Declaration of Compliance
Financial Statements Code	Banking Code: Financial Statements
JFSC	Jersey Financial Services Commission
JIB	Jersey Incorporated Bank: a Registered Person incorporated in Jersey
JIB Auditor	Auditor appointed in relation to a JIB's business
OIB	Overseas Incorporated Bank: a Registered Person incorporated overseas.
OIB Auditor	Auditor appointed in relation to an OIB's business
Prudential Reporting Code	Banking Code: Prudential Reporting
Registered Person	A person registered under the Banking Law
We / us /our	Terms used to refer to the JFSC



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# 1 Introduction

## Arrangement of the Appointment of Auditor Code

- 1.1 The Jersey Financial Services Commission (JFSC) has issued a code of practice for deposit-taking business in five parts:
- › the main body of the Code of Practice for Deposit-taking Business (Banking Code: Main Body); and
  - › Four Code documents addressing specific matters:
    - › Banking Code: Appointment of ~~Auditors~~ Auditor (Appointment of Auditor Code – this document~~);~~);
    - › Banking Code: Financial statements (Financial Statements Code~~);~~);
    - › Banking Code: Prudential reporting (Prudential Reporting Code~~);~~); and
    - › Banking Code: Declaration of Compliance (Declaration of Compliance Code~~);~~).
- 1.2 The defined term Banking Code refers to the entirety (all five parts).
- 1.3 Each Section of the Appointment of Auditor Code is intended to be understood by reference to its full text, including any notes.
- 1.4 A description is provided herein of relevant statutory requirements, being those established in the Banking Business (Accounts, Auditors and Reports) (Jersey) Order ~~2023~~ (BAO). Failure to follow a statutory requirement is a criminal offence and may also attract a regulatory sanction. The text included herein paraphrases provisions contained in the BAO and should always be read and understood in conjunction with the full text of the BAO, which is available on the [Jersey Law website](#).
- 1.5 The Introduction to the Banking Code: Main Body sets out the relevant considerations concerning:
- › ‘Compliance with the Banking Code’, within the section with that title; and
  - › ‘Powers exercised and scope’, within the section with that title.
- 1.6 This document (the Appointment of Auditor Code) sets out Code requirements and provides guidance. Code requirements must be complied with, unless variances or exemptions have been granted by us.
- 1.7 Guidance is provided on ways of complying with certain requirements and must always be read in conjunction with these. A Registered Person may adopt other appropriate measures, so long as it can demonstrate that such measures also achieve compliance with the statutory requirements and Code requirements.
- 1.8 This allows a Registered Person discretion as to how to apply requirements in the particular circumstances of its business. The reasoned and evidenced application of the provisions contained within the guidance will provide a good indication that a Registered Person is in compliance with the statutory requirements and Code requirements.

## Revision of this document

- 1.9 In accordance with Article 19A(1)(b) of the Banking Law, 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.

1.10 In December 2020 we published Consultation Paper No. 13 2020, proposing that ~~this~~ draft ~~of~~ this document, the Appointment of Auditor Code, be issued to establish Code requirements regarding the appointment of auditors (JIB Auditors and Branch Auditors).

1.11 In February 2024 we made a number of typographical corrections. A tracked change version is available at:

<https://www.jerseyfsc.org/industry/codes-of-practice/codes-of-practice-tracked-changes/>

#### Effective date

~~1.11.12~~ 1.11.12 This part of the Banking Code, the Appointment of Auditor Code, is effective from ~~1 August 2023~~ 23 February 2024 for all Registered Persons.

## 2 Jersey Incorporated Banks (JIBs)

### Statutory requirements

Note: This is a summary of certain relevant matters. Please be aware of the full disclaimer in 1.4.

- 2.1 Every JIB must appoint an auditor in relation to its business (JIB Auditor) and notify us of the appointment.
- 2.2 The JIB Auditor appointed must have the skill, resources and experience to perform its functions.
- 2.3 We may object to the appointment, or proposed appointment, of a JIB Auditor.
- 2.4 We may require a proposed JIB Auditor to provide ~~it~~us with such information as we consider appropriate regarding its skill, resources and experience and that any information provided to us in this respect must also be provided to the relevant bank.
- 2.5 A Registered Person must notify us upon terminating a JIB Auditor's appointment and the JIB Auditor is required to make a statement to us concerning the termination, including any matters that it considers should be brought to our attention.
- 2.6 Article 17 'Exemptions and variation' of the BAO allows us, on the request of a JIB, to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption or variation is granted.

### Code requirements

- 2.7 A JIB must have a robust process for approving, or recommending for approval, the appointment, reappointment, removal and remuneration of its JIB Auditor.
- 2.8 A JIB must monitor and assess the independence of its JIB Auditor.
- 2.9 A JIB must monitor and assess the effectiveness of its JIB Auditor.
- 2.10 A JIB must have effective communication with its JIB Auditor to enable the JIB to carry out its oversight responsibilities and to enhance the quality of the work carried out by its JIB Auditor.
- 2.11 A JIB must require its JIB Auditor to report to the JIB on all relevant matters to enable the JIB to carry out its oversight responsibilities.
- 2.12 A JIB must maintain records relating to the above as business records.

### Guidance

- 2.13 The guidelines published in March 2014 by the Basel Committee on Banking Supervision (Basel Committee) on 'External audits of banks' should be considered by JIBs. In particular, those set out in 'Section A – Supervisory guidelines with regard to a bank's audit committee and its relationship with the external auditor' within Part 1 'Supervisory guidelines with regard to a bank's audit committee in relation to external audit, and the engagement of supervisors with auditors and audit oversight authorities' should be considered to be guidance relevant to the Code and Statutory requirements.
- 2.14 The Basel Committee document is available on its website at <https://www.bis.org/press/p140331a.htm>.



- 2.15 The guidelines in that document are predicated on a JIB having an audit committee. Where this does not exist, the guidance should be considered as being applicable to the JIB's board instead.

### 3 Overseas Incorporated Banks (OIBs)

#### Statutory requirements

Note: This is a summary of certain relevant matters. Please be aware of the full disclaimer in 1.4.

- 3.1 Every OIB must appoint (and notify us of the appointment of) both:
- › an auditor in respect of its entire business (OIB Auditor) and
  - › an auditor in respect of its Jersey business (Branch Auditor).
- 3.2 The OIB Auditor and Branch Auditor appointed must have the skill, resources and experience to perform their respective functions.
- 3.3 We may:
- › object to the appointment, or proposed appointment, of a Branch Auditor (but not an OIB Auditor); and
  - › require a proposed Branch Auditor to provide ~~it~~us with such information as we consider appropriate regarding its skill, resources and experience and that any information provided to us in this respect must also be provided to the relevant bank.
- 3.4 An OIB must notify us upon terminating an OIB Auditor or Branch Auditor appointment and the relevant auditor is required to make a statement to us concerning the termination, including any matters that it considers should be brought to our attention.
- 3.5 Article 17 'Exemptions and variation' of the BAO allows us, on the request of an OIB, to waive or vary requirements, provided that no customer or client is likely to be prejudiced if the exemption or variation is granted.

#### Code requirements

- 3.6 Every OIB must have a robust process for approving, or recommending for approval, the appointment, reappointment, removal and remuneration of its Branch Auditor.
- 3.7 Every OIB must monitor and assess the independence of its Branch Auditor
- 3.8 Every OIB must monitor and assess the effectiveness of its Branch Auditor
- 3.9 Every OIB must have effective communication with its Branch Auditor to enable the OIB to carry out its oversight responsibilities and to enhance the quality of the work carried out by its Branch Auditor.
- 3.10 Every OIB must require its Branch Auditor to report to it on all relevant matters to enable the OIB to carry out its oversight responsibilities; ~~and~~.
- 3.11 Every OIB must maintain records relating to the above as business records.

#### Guidance

- 3.12 With respect to the Branch Auditor, the appointment and oversight should be the responsibility of ~~it~~the OIB's audit committee.
- 3.13 If no audit committee has been established, responsibility should rest with the OIB's board.
- 3.14 Responsibility may be delegated, provided that relevant matters are addressed including conflicts.