



**Jersey Financial  
Services Commission**

# **Registry Processing Statement**

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## 1 Introduction

- 1.1 This Statement should be read in conjunction with the Jersey Financial Services Commission's (the **JFSC**) Sound Business Practice Policy (the **Policy**). The application and purpose of this document are set out at sections 2 and 3.

## 2 Application

- 2.1 This Statement applies to applications for consent under the following provisions of the [Control of Borrowing \(Jersey\) Order 1958 \(COBO\)](#).
- 2.1.1 Article 1 (external body corporate raising money in Jersey by issue of shares);
  - 2.1.2 Article 2 (admission to membership of a Jersey body corporate);
  - 2.1.3 Article 3 (external body corporate having shares registered in Jersey);
  - 2.1.4 Article 4 (issue of securities other than shares);
  - 2.1.5 Article 5 (continuance of an external body corporate in Jersey);
  - 2.1.6 Article 7 (Issue of government securities);
  - 2.1.7 Article 8 (circulation of prospectuses);
  - 2.1.8 Article 9 (raising money for the purpose of a unit trust or issuing units under a unit trust scheme); and
  - 2.1.9 Article 10 and 11 (creation of partnership interests).
- 2.2 The Statement also applies to applications made to the JFSC for approval for the transfer of a Reserved Company.

## 3 Purpose

- 3.1 The purpose of this Statement is to outline the processes undertaken by the Companies Registry when dealing with applications outlined at 2.1, where a higher risk factor and/or sensitive activity is a feature of an application. The presence of higher risk factors and/or sensitive activities will be determined as a result of either disclosure of certain information by an applicant on the relevant application form and/or as a result of Registry's assessment and evaluation, utilising relevant external data sources.

## 4 Legal Principles

- 4.1 In the course of processing applications the Companies Registry will have regard to the:
- 4.1.1 Requirements set out in Article 2(3) of the [Control of Borrowing \(Jersey\) Law 1947](#), to have regard to the need to protect the integrity of Jersey in commercial and financial matters and the best economic interests of Jersey; and
  - 4.1.2 The JFSC's guiding principles set out in Article 7 of the [Financial Services Commission \(Jersey\) Law 1998](#) (the **guiding principles**) to:
    - 4.1.2.1 reduce risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers;

- 4.1.2.2 protect and enhance the reputation and integrity of Jersey in commercial and financial matters;
- 4.1.2.3 safeguard the best economic interests of Jersey; and
- 4.1.2.4 counter financial crime both in Jersey and elsewhere.

## 5 What is covered?

### High risk factors

- 5.1 The Registry has adopted measures to apply a risk based approach to its determination of applications and in doing so, due regard will be given to:
  - 5.1.1 The Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism (the **AML/CFT Handbook**), in particular, Part 1, Section 3 – Customer due diligence requirements and Appendices D1 and D2;
  - 5.1.2 the Corruption (Jersey) Law 2006;
  - 5.1.3 Sanctions; and
  - 5.1.4 Proliferation and Proliferation Financing Guidance.
- 5.2 In determining applications made by way of published application form, the Companies Registry will consider a number of higher risk areas. The published application forms provide applicants with a means of stating which higher risks, if any, are present. However, the JFSC reserves the right to consider matters wider than those stated on the application form in order to properly assess and protect the Island's reputation and integrity in commercial and financial matters.
- 5.3 One area of risk the Registry will consider is the potential risks posed by the ultimate beneficial owners/controllers/founders/partners. In particular:
  - 5.3.1.1 Solvency;
  - 5.3.1.2 Politically Exposed Persons (**PEP**)<sup>i</sup>;
  - 5.3.1.3 Residency in a country or territory that presents a higher risk of money laundering or terrorist financing;
  - 5.3.1.4 Being the subject of Jersey sanctions legislation; and
  - 5.3.1.5 Provide details, in a free text box "other relevant details" of any other higher risk factors, identified during the course of completing due diligence, that pose a potential reputation risk to Jersey.
- 5.4 The published application forms require the disclosure of higher risk factors, exhibited by the ultimate beneficial owners/controllers/founders/partners and in particular applicants are required by way of submitting the published application forms to:
  - 5.4.1 confirm, that in completing due diligence, due regard has been given to items 5.3.1.1 to 5.3.1.4 above; and
  - 5.4.2 provide details to 5.3.1.5 above.

### Activities posing potential reputational risks

- 5.4.3 The Companies Registry has published a Sound Business Practice Policy and published application forms. This provides applicants with a means of stating what, if any, intended activities pose potential reputational risks. A sensitive activity is an

activity that appears in either Table 1 or Table 2 of the Sound Business Practice Policy. For further information see Section 7.

## 6 Processing applications featuring higher risk factors and activities posing potential reputational risks

### Generally

- 6.1 Where applications fall within the scope of the sound business practice policy, the Companies Registry **will not guarantee a fast track service**. Applicants are encouraged to contact the Registry, in advance of submitting an application, so as to promote a clear understanding of the additional information required and the likely processing service level.
- 6.2 The Companies Registry will assess relevant applications, **on a case by case basis**, following the standard assessment and evaluation using external data sources. The results of this process will inform Registry's contact with applicants and requirements for the provision of additional information and/or questions to be answered.
- 6.3 In instances where the Companies Registry identifies such factors and determines that an application is materially inaccurate/inadequate/incomplete, any one or more of the following actions will be considered:
- 6.3.1 informing the applicant that the processing clock has stopped;
  - 6.3.2 returning the application in order for it to be properly executed;
  - 6.3.3 referral to the JFSC's trust company business division for an assessment against the regulatory requirements; and/or
  - 6.3.4 in circumstances where there has been repeated incidences of deficient applications received from the same service provider, the Registry will consider whether a suspension of the standard trust company business COBO exemption and/or fast track service level should apply.
- 6.4 It is noted that, in some circumstances, applicants may during this process withdraw an application. In such situations and in the absence of exceptional circumstances the application fee will not be refunded.
- 6.5 The Companies Registry will, following its initial assessment and evaluation, contact applicants setting out, **on a case by case basis**, the action it will take to fully understand the risk factors associated with the application and potential mitigation by the applicant.

## 7 Activities posing potential reputational risks

### Table 1 - Activities 1 – 5

- 7.1 Activities falling into one or more of these categories will require registration under the Regulatory Laws<sup>ii</sup>, and Registry will liaise with the relevant Supervisory Divisions within the JFSC when processing such applications.
- 7.2 The relevant regulatory application form must be fully completed, but the Registry will seek to minimise, as far as is possible, duplication of supporting submissions by working closely with the relevant Supervisory Divisions.

- 7.3 Depending on when, in the application for registration under the Regulatory Laws, the application for incorporation is made, the Companies Registry will take the following action:
- 7.3.1 Where an application under the Regulatory Laws has been successfully determined in principle prior to application for incorporation, the fast track service may be utilised.
  - 7.3.2 Where application for incorporation predates determination of an application under the Regulatory Laws, the Companies Registry will seek undertakings from the subscribers/director confirming that:
    - 7.3.2.1 the regulated activity will not be undertaken unless and until the relevant registration is granted; and
    - 7.3.2.2 if the relevant registration is not granted, that the entity will be wound-up within agreed timescales.

## Holding companies with reference to Table 1 - Activities

- 7.4 Registry will need to understand the nature of the investments to be held by the proposed Jersey holding company, and this may be achieved by way of submission of a proposed structure chart setting out the entities to be held, their jurisdiction of incorporation, activity and, where appropriate, name of the regulatory body.
- 7.5 Furthermore, the Registry will require confirmation, from the applicant, as to whether the activity of the Jersey holding company and/or its underlying subsidiaries would fall within the scope of the Regulatory Laws.
- 7.6 The Companies Registry will, having due regard to the information provided, follow its process for holding companies applications which feature Table 1 activities as described in Appendix A.

## Non-Profit organizations

- 7.7 Activities falling into this category will require registration under the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#) and Registry will liaise with the relevant supervisory Division in the JFSC when processing such applications.

## Table 2 Activities

- 7.8 The Companies Registry will, following its initial assessment and evaluation, contact applicants setting out, **on a case by case basis**, the action it will take to fully understand the risk factors associated with the application and potential mitigation by the applicant. For example, where Activity 1 is proposed, Registry will seek to understand what form of scheme of financial protection will be available to its customers. In the case of a travel agency this might involve membership of ABTA (Association of British Travel Agents).
- 7.9 Where the Policy is wide in context, such as Activity 4 “Conduct of scientific research”, the JFSC is looking to take a pragmatic approach concentrating on those activities which would pose a significant reputational risk to the Island, for example: nuclear weapons research.
- 7.10 In respect of any activity relating to cryptocurrencies and/or initial coin offerings, the JFSC will be guided by the ICO Guidance issued by the JFSC, as updated from time to time, and will have due regard to the [Government policy statement on Initial Coin Offerings issued on 13 December 2017](#).

- 7.11 All applications made to the Companies Registry are to be made in the manner and form set out by the JFSC.
- 7.12 Where a person (A) provides trust company business (as defined in Article 2(3) of the Financial Services (Jersey) Law 1998) to another person (B) that is both i) subject to the Sound Business Practice Policy, and ii) carrying on activity within Table 1 or 2 of that Policy, person A must ensure that it has the appropriate level of knowledge, skills and experience to properly fulfil its trust company business activities, taking into account the activities carried on by person B. Compliance with this will be considered as part of the supervisory approach to the trust company business sector.

## Appendix A

### 1 Requirements for a holding company application which features a Table 1 activity in the underlying entity.

- 1.1 The Registry will determine what off-Island regulatory contact is required. In doing so, the JFSC will, depending on the nature of the event/transaction and the regulatory regime, the JFSC will require one of the following to facilitate direct communication with the named regulatory body, now and on an on-going basis, in relation to the proposed structure.

Structure	Approach
Regulatory regimes requiring post event notification of changes to the ownership of a regulated entity	Upon application for incorporation of the Jersey entity, a letter of Authority and Confirmation to enable contact and facilitate ongoing communication, is to be provided to the JFSC by the regulated entity(ies).
Bid Entity situations involving a Jersey company and a proposed acquisition of a regulated entity(ies)	Upon application for incorporation of the Jersey Bid entity, the Jersey legal advisors are to provide the JFSC with a letter of Undertaking and Confirmation. This is to enable contact and facilitate ongoing communication should a bid be successful or at an agreed stage in the bid process.
Change of ownership of a regulated entity(ies)	Upon application for incorporation of the Jersey holding entity a letter of Authority and Confirmation is to be provided by the regulated entity(ies).
New Financial Service business applicant with an application for incorporation of a Jersey Holding Entity	Upon application for incorporation of the Jersey holding entity a letter of Authority and Confirmation is to be provided by the regulated entity(ies).

- 1.2 The content of a letter of Authority and Confirmation will need to be appropriate for the proposed entity organisation structure. A draft copy of the relevant letter may be obtained from the Companies Registry, upon request, following submission of the Application.
- 1.3 The timing of the JFSC's first communication with the named regulatory body will be determined on a case by case basis.
- 1.4 Having received the Letter of Authority and Confirmation and contact name(s), the JFSC will seek a reference from the relevant regulator body on the following lines:
- 1.4.1 Request confirmation that the regulatory body is aware of the proposed transaction and that it has no objection to the re-structured ownership as described in the letter and/or the appended Group structure chart.
  - 1.4.2 Request notification of any material breaches in relation to the regulatory issues or conduct of business matters by the proposed Group together with issues that may have been identified by the regulatory body and, if applicable, been drawn to its attention by other regulatory bodies responsible for supervising the proposed Group.



- 1.4.3 The regulatory body will undertake to notify the JFSC, as soon as is possible, in the event that it becomes aware of a material change which affects, or is likely to affect, the regulatory standing of the proposed Group.
- 1.4.4 In writing to the regulator, the JFSC will confirm, where relevant, that it will not perform any regulatory function in relation to the business carried on by the proposed Group.
- 1.5 Having completed its enquiries and on the basis that no material issues are identified, the JFSC may issue a conditioned COBO Consent subject to one or more of the following conditions:
  - 1.5.1 *That the prior approval of an officer of the JFSC be sought and obtained for any change in the ownership and/or control of the company, including but not limited to:*
    - 1.5.1.1 *any issue of shares other than to the beneficial owners or their nominees as stated in the completed Control of Borrowing Order Application Form;*
    - 1.5.1.2 *save as provided in xx above, any transfer, granting of options, or dealings in or over such shares of the Company without the prior approval of the JFSC; and*
    - 1.5.1.3 *that except with the prior approval of the JFSC the Company shall be used solely for the purpose expressly or impliedly stated in the completed Control of Borrowing Order Application Form and/or the letter/e-mail from (name of Applicant) (dated) provided by the regulated entity(ies), confirming that they have no objection to the JFSC contacting (insert the name of the regulatory body) now and on an on-going basis in relation to the proposed acquisition of (the name(s) of the entities to be acquired).*

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<sup>i</sup> Politically Exposed Person shall have the meaning assigned to it in Article 15(5)(b) of the Money Laundering (Jersey) Order 2008.

<sup>ii</sup> Regulatory Laws is the collective term for the following legislation: the Collective Investment Funds (Jersey) Law 1988; the Banking Business (Jersey) Law 1991; the Insurance Business (Jersey) Law 1996; and the Financial Services (Jersey) Law 1998.