

GUIDE TO REGISTRATION OF BANKS IN GUERNSEY

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PREFACE

Banks have been very important in helping Guernsey to develop as an international finance centre. At the end of 2012 there were 32 banking entities licensed in Guernsey representing 11 different countries including the UK, Switzerland, Bahrain and Bermuda and the total value of total deposits held in Guernsey at the end of December 2012 was £86.7 billion. Banking entities in Guernsey offer a range of services including retail banking services for local people, services for high net worth individuals and corporate banking services.

The Guernsey Financial Services Commission (**GFSC**) expects new banks entering the Guernsey market to be reputable, of good standing and with an established track record in banking. Any bank wishing to establish a presence in Guernsey must make an application under the Banking Supervision (Bailiwick of Guernsey) Law, 1994, as amended (**Banking Law**).

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they may be addressed to any member of the Banking and Finance Team in Guernsey, using the [contact information](#) provided at the end of this Guide.

Appleby

Guernsey

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1. WHO MUST REGISTER?

The Banking Law requires every person accepting a deposit in the course of carrying on a deposit-taking business in the Bailiwick (other than specifically identified exceptions such as the States of Guernsey, the Central Bank of an OECD Member State, the National Savings Bank, Friendly Societies and insurance companies regulated under Guernsey insurance laws) to hold a banking licence granted by the GFSC. The requirement applies regardless of whether a bank's presence in Guernsey is as a stand-alone entity, through a branch or subsidiary or as an "administered bank" (that is where the bank has no premises or staff of its own in Guernsey but is represented by another bank, as described in more detail later in this Guide). A Guernsey company or Guernsey limited liability partnership carrying on deposit-taking business outside Guernsey must also be registered.

The Banking Law states that a business is a "deposit-taking business" if, in the course of business, money received by way of deposit is used to make loans or to finance any other activity the deposit-taker's business. A business is not deposit taking if it does not hold itself out as accepting deposits on a day to day basis or if deposits are only accepted on particular occasions, whether or not for the issue of securities.

A deposit is defined as "a sum paid on terms that it will be repaid at some time in the future" but sums paid pursuant to a contract for the purchase of goods or services or as security are not included. Deposits do not include sums paid by a licensed institution, by a person in the course of a money lending business between group companies or between close relatives (as defined in the Banking Law).

2. ELIGIBILITY

Application for registration must be made to the GFSC. The GFSC has discretion to refuse and revoke licences and to attach conditions to registration. When considering whether to grant an application for a banking licence the GFSC must be satisfied that the applicant, and any person who is or is to be a director, controller or manager of the applicant, meets the minimum criteria for licensing. The criteria include:

- the applicant must be an institution;
- the business of the applicant is/will be carried on with prudence, professional skill and integrity appropriate to the nature and scale of its activities and in a manner which will not bring the Bailiwick of Guernsey into disrepute as an international finance centre;
- the Bailiwick of Guernsey is deriving/will derive economic benefit from the applicant's operation to an extent acceptable to the GFSC;
- every person who is or is to be a director, controller or manager of the applicant is a fit and proper person to hold that position. In determining this, the GFSC will consider, amongst other things:
 - his probity, competence, experience and soundness of judgment for filling that position;
 - the diligence with which he is fulfilling or likely to fulfil those responsibilities; and
 - his knowledge and understanding of the legal and professional obligations to be assumed or undertaken;
- at least two individuals resident in the Bailiwick and of appropriate standing and experience shall effectively direct the business of the applicant; and
- the applicant is/will conduct its business in a prudent manner.

As a rough guide, an applicant should have at least £1 million of assets although, as the GFSC requires Guernsey banks to maintain a minimum risk asset ratio of 8%, many banks have higher minimum risk asset requirements.

3. APPLICATION PROCEDURE

The application involves submitting an application form (available on the GFSC's website (www.gfsc.gg)) to the GFSC together with various documents including a business plan, copies of the audited financial statements for the applicant for the last 12 months (or where the company is newly established company, a budgeted balance sheet and profit and loss account), all relevant organisation charts, including details of the applicant's ultimate beneficial ownership and any intermediate ownership, and the relevant application fee.

In addition, any individuals wishing to become a director, controller, manager or key person of an applicant (such as compliance officer) are required to complete and submit to the GFSC a personal questionnaire. This is also available from the GFSC's website.

The GFSC encourages potential applicants to engage in initial discussions with it prior to submission of the application, at which time any necessary clarifications of the GFSC's policy and approach can be provided.

4. CONDITIONS ON LICENCES

The GFSC may, when granting a licence or at any time thereafter, impose conditions on any banking licence as it sees fit.

Such conditions may:

- require a bank to take certain steps, refrain from adopting or pursuing a particular course of action or restrict the scope of its business in a particular way;
- impose limitations on the acceptance of deposits, granting of credit or making of investments;
- prohibit the institution from soliciting deposits;
- requiring the removal of any director, controller, manager or employee;
- prohibit the institution from entering into a transaction or class of transactions;
- require the provision of information and documents to the GFSC; or
- prohibit, restrict or place limitations on carrying on the deposit taking business.

5. ADMINISTERED BANKS

As a more cost-effective way of establishing a banking operation in Guernsey, there have been a number of administered banks established in recent years. An administered bank is licensed in its own name and its business is conducted in Guernsey with its books and records kept there. It will be audited locally and pays tax in Guernsey. However, the day to day administration of that bank is carried out by another licensed entity that already has a stand-alone presence in Guernsey meaning that the administered bank does not have to employ its own staff or maintain premises. The manager of the principal licensed institution accepts responsibility for the business transacted by that administered bank.

6. DEPOSITOR COMPENSATION SCHEME

The Depositor Compensation Scheme was introduced in Guernsey on 26 November 2008. It is paid for by licensed banks through annual charges and special charges in the event of a bank failure. It is operated by an independent board which is separate from the GFSC and the States of Guernsey.

7. CONCLUSION

Once granted, registration is renewable annually on payment of a fee based on various components prescribed by the GFSC and set out in detail on its website. Following registration, all registered banks

must observe and comply with the requirements of the Banking Law and associated legislation and are subject to on-going supervision by the GFSC.

For more specific advice on the Registration of Banks in Guernsey, we invite you to contact:

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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).

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