



**Feedback Paper on Consultation Paper 2023/02**

# **Operational Continuity in Resolution and Communication Planning Guidance Notes**

A feedback paper relating to the JRA's consultation on its planned Guidance Notes on Operational Continuity in Resolution and Communication Planning for Jersey Banks.

Issued: 22 February 2024

## Glossary of Terms

Defined terms are indicated throughout this document as follows:

Bank	A person registered to carry on deposit-taking business in or from within Jersey under the Banking Business (Jersey) Law 1991; or A company incorporated under the Companies (Jersey) Law 1991 that is a Holding Company or a Subsidiary of a person so registered.
Communications Guidance Note	The JRA's Communication Planning Guidance Note
Consultation Paper	Consultation Paper 2023/02 'Operational Continuity in Resolution and Communication Planning Guidance Notes'
Core Business Line	Business lines and associated services which represent material sources of revenue, profit or franchise value for a bank or a bank's group.
Critical Function	Activities, services, or operations the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy in Jersey or the disruption of financial stability due to the size, market share, external and internal interconnectedness, complexity, or cross-border activities of a bank or bank's group, with particular regard to the substitutability of those activities, services, or operations.
Critical Shared Services	An activity, function or service performed by either an internal unit, a separate legal entity within the group or an external provider the sudden and disorderly failure of which would lead to the collapse of or present a serious impediment to the performance of a Critical Function or Core Business Line.
Jersey Bank	A person registered to carry on deposit-taking business in or from within Jersey under the Banking Business (Jersey) Law 1991.
Jersey Branch	The Jersey operations of an Overseas Incorporated Bank.
Jersey Incorporated Bank	A Jersey incorporated company registered to carry on deposit-taking business under the Banking Business (Jersey) Law 1991.
JFSC	Jersey Financial Services Commission.
JRA	Jersey Resolution Authority.
OCiR	Operational Continuity in Resolution.
OCiR Guidance Note	The JRA's Operational Continuity in Resolution Guidance Note
PS2023/01	Policy Statement 2023/01 'Resolution Planning and Resolvability'.

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 On 15 September 2023 we issued a Consultation Paper to all Jersey Banks, the Jersey Bankers Association, the Jersey Financial Services Commission, the Jersey Bank Depositors Compensation Board, the Government of Jersey, and Jersey Finance Limited. A copy was also published on our website.
- 1.1.2 The Consultation Paper sought views on our draft Guidance Notes in respect of 'Operational Continuity in Resolution' (OCiR Guidance Note) and 'Communication Planning' (Communications Guidance Note) (together the Guidance Notes), as well as the JRA's proposed OCiR Reporting Template.
- 1.1.3 The Guidance Notes set out:
  - 1.1.3.1 General guidance applicable to all Jersey Banks;
  - 1.1.3.2 Guidance for Jersey Banks performing Critical Functions; and
  - 1.1.3.3 Guidance for Jersey Banks not performing Critical Functions.
- 1.1.4 This Feedback Paper summarises the feedback we received and our responses to that feedback.
- 1.1.5 We have considered the feedback received and made some changes to the Guidance Notes. The final Guidance Notes are appended to this Feedback Paper (including tracked change versions). These will be published on our website.

## 1.2 Feedback received

- 1.2.1 Responses to the Consultation Paper were collected by way of:
  - 1.2.1.1 Written comments in the form of email which were provided directly to the JRA; and
  - 1.2.1.2 Arranged discussions with representatives of two Jersey Banks during the consultation period.
- 1.2.2 We received written responses from a total of six respondents (listed in Appendix A). Not all respondents commented on every question raised in the consultation.
- 1.2.3 Additionally, two Jersey Banks contacted the JRA seeking clarification in the form of questions ahead of the closing date. We have factored these questions into the feedback summarised below where this may provide further guidance to industry participants generally.
- 1.2.4 Most respondents provided no comments or were supportive of our proposed guidance. In some cases respondents made observations or requested further clarity, which has been provided either in Section 2 below or by way of amendments to the Guidance Notes.

- 1.2.5 Having considered the feedback we made amendments to the Guidance Notes, in summary:
  - 1.2.5.1 We amended the definition of Critical Shared Services and made other minor amendments to the OCiR Guidance Note to make it clear that Critical Shared Services also includes those supporting Core Business Lines. We have also amended the definition of Critical Shared Services in the Communications Guidance Note and plan to amend it within PS2023/01.
  - 1.2.5.2 We added content to Section 3 of the OCiR Guidance Note to provide guidance on the content of Jersey Banks' self-assessments (the first of which are due by 31 December 2024 with an interim update due by 31 March 2024).
  - 1.2.5.3 We added a paragraph to Appendix A of the OCiR Guidance Note that explains that, whilst the OCiR Reporting Template does not require reporting of all resolvability aspects, Jersey Banks' internal catalogues of Critical Shared Services will likely contain more information to aid in monitoring and evidencing that OCiR requirements have been met.
- 1.2.6 In addition, following internal consideration, we made some modifications to Section 4.5 of the Communications Guidance Note to better reflect our expectations in cases where Jersey Banks seek to rely on group communications plans and capabilities to meet local requirements.
- 1.2.7 We are grateful to all those involved for taking the time to participate in the consultation process and provide their feedback.

### **1.3 Next steps**

- 1.3.1 We have taken account of the feedback we received and made some amendments to the Guidance Notes. No changes have been made to the OCiR Reporting Template.
- 1.3.2 Final versions of the Guidance Notes and OCiR Reporting Template (including versions that tracks changes to the draft Guidance Notes) are appended and will be published on our website.
- 1.3.3 Jersey Banks should factor the Guidance Notes into existing plans, leveraging group capabilities where relevant, to ensure that they can meet the requirements and timeframes set out in PS2023/01 in respect of OCiR and Communications.
- 1.3.4 The OCiR Reporting Template must be submitted to the JRA as part of Jersey Banks' self-assessments versus OCiR requirements on or before 31 December 2024.
- 1.3.5 Further enquiries in relation to the Consultation Paper, this Feedback Paper, the Guidance Notes or OCiR Reporting Template may be sent to Martin Edwards, Head of the JRA ([m.edwards@jra.org.je](mailto:m.edwards@jra.org.je)).

## 2 Consultation feedback

This section summarises the comments received in response to the Consultation Paper. The section also sets out the JRA’s response to the feedback. The ordering of this section mirrors the order of questions in the Consultation Paper.

### 2.1 OCiR Guidance Note Question 1: Guidance for Jersey Banks performing Critical Functions

#### Respondents’ Comments

- 2.1.1 Most respondents did not directly answer this question but provided broad confirmation that they were comfortable with the draft Guidance Notes in general. Two respondents noted that the guidance provided aligned to the approach taken by their groups and/or Home Resolution Authority.
- 2.1.2 One respondent made observations and/or requested clarification in relation to:
  - 2.1.2.1 The need for Critical Shared Services to also include those supporting Core Business Lines; and
  - 2.1.2.2 Section 4.8.3 of the draft OCiR Guidance Note does not require liquidity buffers in respect of intra-entity services. In the respondent’s view such buffers are needed to protect the core services that support provision of banking services; and
  - 2.1.2.3 Given the focus of supplier financial resilience requirements on intra-group and non-group provided services, is there a need to identify and document intra-entity Critical Shared Services.
- 2.1.3 Whilst not formal feedback, we also received questions from Jersey Banks on the following areas:
  - 2.1.3.1 Given reference to continuity of Banking Services, whether work on OCiR should be extended to Deposit-taking activities even if Deposit-taking activities have not been determined to be a Critical Function;
  - 2.1.3.2 Whether there was a requirement to capture internal units (i.e. intra-entity services) when considering OCiR, given the OCiR Reporting Template does not require Jersey Banks to report such services to the JRA; and
  - 2.1.3.3 Whether there is a prescribed format to use for the ‘Assessment of Operational Continuity Risk’.

#### JRA Response

##### Core Business Lines

- 2.1.4 The JRA’s intention is that Critical Shared Services should include those activities, functions or services that support Core Business Lines (as well as those supporting Critical Functions).
- 2.1.5 Accordingly, we have made amendments to Section 4.2 of the OCiR Guidance Note to improve clarity in this respect.
- 2.1.6 Additionally, we have amended the definition of Critical Shared Services so that it clearly includes activities, functions or services that support Core Business Lines. This amendment may cause additional activities, functions, or services to meet the

definition of Critical Shared Services. The definition will also be amended within Policy Statement 2023/01 'Resolution Planning and Resolvability'.

- 2.1.7 Accordingly, we wrote to all impacted Jersey Banks to notify them of this planned amendment. The extent of the impact of this amendment will vary and, we believe that, in most cases, it will be mitigated by the fact that Jersey Banks will adopt group policies and procedures that already capture Core Business Lines within equivalent OCiR requirements. None of the impacted banks raised concerns regarding the amended definition of Critical Shared Services.

Liquidity buffers for intra-entity Critical Shared Services

- 2.1.8 In respect of intra-entity Critical Shared Services, the service provider is another part of the same legal entity (e.g. an overseas branch of a Jersey Incorporated Bank or the head office of the Jersey Branch of an Overseas Incorporated Bank).

- 2.1.9 Whilst there is a requirement (paragraph 5.5.6 of PS2023/01) for Jersey Banks performing Critical Functions to ensure such service providers have sufficient financial resources available, we did not feel it was necessary, at this stage, to be prescriptive in relation to minimum financial resources for such services. This allows Jersey Banks (Jersey Branches in particular) to adopt an approach aligned to existing requirements of Home Resolution Authorities. We plan to consider this further from the perspective of requirements for Jersey Incorporated Banks, as part of work on Liquidity and Funding in Resolution.

2.1.10 Intra-entity Critical Shared Services

- 2.1.11 Whilst intra-entity Critical Shared Services do not need to be reported to the JRA via the OCiR Reporting Template, they do constitute Critical Shared Services. Therefore, other aspects of OCiR requirements must still be applied to them.

- 2.1.12 Accordingly, intra-entity Critical Shared Services must be identified, documented mapped. Jersey Banks should take a proportionate risk-based approach in this respect. For example, as set out in paragraph 4.5.2 of the OCiR Guidance Note, these services do not need to be subject to a formal service agreement, so long as the documented information is sufficient to enable such agreements to be quickly drawn up if needed.

Other feedback

- 2.1.13 Where a Jersey Bank's Deposit-taking activity is not deemed to be a Critical Function, but other activities, functions or services are determined to be Critical Functions, it is possible that OCiR requirements will still need to be extended to its Deposit-taking activity if:

2.1.13.1 The Deposit-taking activity is required to support continuity of the Jersey Bank's Critical Functions (e.g. if customers must use a bank account at the Jersey Bank to transact in securities and its securities transaction activities are deemed to be a Critical Function); or

2.1.13.2 Where the Deposit-taking activity is part of a Core Business Line.

- 2.1.14 There is no prescribed format for performing and/or documenting an assessment of operational continuity risk. Use of existing risk management methodology would be appropriate as this will integrate OCiR with other risk management activities.

## **2.2 OCiR Guidance Note Question 2: Guidance on completing the OCiR Reporting Template**

### **Respondents' Comments**

- 2.2.1 Most respondents did not provide a direct response to this question. One respondent agreed that guidance was sufficient.
- 2.2.2 One respondent noted that they were broadly comfortable with the guidance on completing the OCiR Reporting Template but observed that the template does not cover all the OCiR requirements of PS2023/01 or the OCiR Guidance Note. Accordingly, the respondent requested that the JRA clarify which OCiR requirements Jersey Banks are to self-assess against by December 2024.
- 2.2.3 Additionally, we also received an enquiry from a Jersey Bank to confirm that intra-entity Critical Shared Services did not need to be reported as part of the OCiR Reporting Template.

### **JRA Response**

- 2.2.4 The self-assessments required by PS2023/01 must be made against the requirements set out in PS2023/01. In the case of a Jersey Bank that performed Critical Functions, the OCiR requirements are contained within Section 5.5 of PS2023/01.
- 2.2.5 The OCiR Guidance Note provides Jersey Banks with guidance on how they may wish to demonstrate that the requirements of PS2023/01 have been met. Accordingly, Jersey Banks should include reference to relevant parts of the OCiR Guidance Note when performing their self-assessments against the requirements of PS2023/01.
- 2.2.6 We have added further guidance on self-assessments to Section 3.3 of the OCiR Guidance Note.
- 2.2.7 Whilst the OCiR Reporting Template does not cover all OCiR requirements, Jersey Banks may wish to include additional data and information when developing and maintaining an appropriate catalogue of Critical Shared Services. This will assist Jersey Banks in demonstrating that they have addressed the OCiR requirements. We have included a paragraph explaining this in Appendix A of the OCiR Guidance Note.
- 2.2.8 Additionally, as noted in 2.1.12 above, whilst the OCiR Reporting Template does not require reporting of intra-entity Critical Shared Services, such services must still be identified, documented, and mapped. As set out in paragraph 5.5.3.2 of PS2023/01, these services must also be captured in Jersey Banks' catalogues of Critical Shared Services.

## **2.3 OCiR Guidance Note Question 3: Guidance for Jersey Banks not performing Critical Functions**

### **Respondents' Comments**

- 2.3.1 Three respondents agreed that they were comfortable with the OCiR Guidance provided for Jersey Banks not performing Critical Functions. The remaining three respondents did not comment in relation to this question.



## **2.4 OCiR Guidance Note Question 4: Any further guidance needed**

### **Respondents' Comments**

- 2.4.1 Two respondents confirmed no further guidance was necessary. Three respondents did not respond to this question.
- 2.4.2 One respondent inferred that more guidance on self-assessments would be welcome.

### **JRA Response**

- 2.4.3 As noted in 2.2.6 above, we have included additional guidance on self-assessments in Section 3.3 of the OCiR Guidance Note.

## **2.5 OCiR Reporting Template Question 1: Use of EBA templates**

### **Respondents' Comments**

- 2.5.1 Two respondents agreed with the JRA's approach of adopting the EBA templates relevant to OCiR with minimal amendments. The remaining four respondents did not comment in relation to this question.

## **2.6 OCiR Reporting Template Question 2: Any additional information to be reported**

### **Respondents' Comments**

- 2.6.1 Five respondents did not comment in relation to this question.
- 2.6.2 One respondent referred to previous comments regarding liquidity buffer requirements (financial resources for intra-entity and intra-group Critical Shared Services) and recommended consideration be given to the inclusion of a liquidity buffer template to report the liquidity buffers in place.

### **JRA Response**

- 2.6.1 As mentioned in 2.1.9 above, we plan to consider liquidity requirements further as part of work on Liquidity and Funding in Resolution. We anticipate this will include some level of reporting on liquidity and funding by Jersey Incorporated Banks that have been identified as performing Critical Functions. No amendments have been made to the OCiR Reporting Template at this time.

## **2.7 Communications Guidance Note Question 1: Guidance for Jersey Banks performing Critical Functions**

### **Respondents' Comments**

- 2.7.1 Two respondents confirmed that they were comfortable with the communication planning guidance provided. The remaining four respondents did not comment in relation to this question.

## **2.8 Communications Guidance Note Question 2: Guidance for Jersey Banks not performing Critical Functions**

### **Respondents' Comments**

- 2.8.1 Two respondents confirmed that they were comfortable with the communication planning guidance provided. The remaining four respondents did not comment in relation to this question.

## **2.9 Communications Guidance Note Question 3: Any further guidance needed**

### **Respondents' Comments**

- 2.9.1 Two respondents confirmed there were no areas where further guidance was needed. The remaining four respondents did not comment in relation to this question.

## **Appendix A: List of respondents to the consultation**

- 1.1 The JRA received responses from the following respondents:
  - 1.1.1 Butterfield Bank (Jersey) Limited
  - 1.1.2 HSBC Bank Plc, Jersey Branch
  - 1.1.3 Investec (Channel Islands) Limited, Jersey Branch
  - 1.1.4 Royal Bank of Canada (Channel Islands) Limited
  - 1.1.5 Santander Financial Services plc, Jersey Branch
  - 1.1.6 The Royal Bank of Scotland International Limited

**Appendix B: Tracked change version of Guidance Note ‘Operational Continuity in Resolution’**

A tracked change version of Guidance Note ‘Operational Continuity in Resolution’ is appended as a separate document.

**Appendix C: Tracked change version of Guidance Note ‘Communication Planning’**

A tracked change version of Guidance Note ‘Communication Planning’ is appended as a separate document.

**Appendix D: Final version of Guidance Note ‘Operational Continuity in Resolution’**

The final version of Guidance Note ‘Operational Continuity in Resolution’ is appended as a separate document.

**Appendix E: Final version of Guidance Note ‘Communication Planning’**

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