



Consultation Paper 2023/01

JRA's Approach to Resolution Planning and Resolvability

A consultation on the JRA's planned approach to Resolution Planning and Resolvability, including associated requirements for Jersey Banks and a proposed phased rollout.

Issued: April 2023

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 Law; or A company incorporated under the Companies Law that is a Holding Company or a Subsidiary of a person so registered.
Banking Law	Banking Business (Jersey) Law 1991
Companies Law	Companies (Jersey) Law 1991
Critical Functions	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.
Jersey Bank	A person registered to carry on deposit-taking business in or from within Jersey under the Banking Law
Jersey DCS	Jersey Bank Depositors Compensation Scheme
JFSC	Jersey Financial Services Commission
JRA	Jersey Resolution Authority
Holding Company	has the meaning given by Article 2(4) of the Companies Law
MREL	Minimum requirement for own funds and eligible liabilities
OCiR	Operational Continuity in Resolution
Policy Statement	Policy Statement 2023/01 ‘Resolution Planning and Resolvability’ (a draft of which is appended to this consultation paper)
Regulations	means Regulations made under the Resolution Law
Resolution Law	Bank (Recovery and Resolution) (Jersey) Law 2017
Subsidiary	shall be construed in accordance with Article 2 of the Companies Law

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1 Executive Summary

1.1 Overview

- 1.1.1 The JRA is established under the Resolution Law to minimise the impact of a bank failure and to ensure public funds are protected.
- 1.1.2 This Consultation Paper covers the JRA’s draft Policy Statement 2023/01 ‘Resolution Planning and Resolvability’ (the Policy Statement), which sets out the JRA’s approach to resolution planning and resolvability assessments as well as the requirements that Jersey Banks will need to meet to demonstrate resolvability.
- 1.1.3 The Policy Statement provides a common risk-based approach to resolution (a Resolution Framework) whilst also allowing flexibility to reflect the specific circumstances of each Jersey Bank.
- 1.1.4 The Resolution Framework takes account of the composition of Jersey’s banking industry and allows alignment to Group Resolution Plans where applicable and possible.
- 1.1.5 The Policy Statement, which is the culmination of work over the last year, sets out:
 - 1.1.5.1 general requirements applicable to all Jersey Banks;
 - 1.1.5.2 requirements applicable to Jersey Banks that perform Critical Functions in Jersey, designed to address nine Risks to Resolution identified by the JRA;
 - 1.1.5.3 requirements applicable to Jersey Banks that do not perform Critical Functions in Jersey; and
 - 1.1.5.4 a proposed phased rollout of requirements to address the nine Risks to Resolution.

1.2 Feedback

- 1.2.1 Comments are invited from interested parties on the proposals by **no later than 2 June 2023**.
- 1.2.2 Comments should be sent by email to Martin Edwards, Head of the JRA at: info@jra.org.je

1.3 Next Steps

- 1.3.1 The JRA will review and consider all feedback received. Where appropriate, the JRA will amend the Policy Statement.
- 1.3.2 It is intended that a Feedback Paper will be issued in late June 2023 along with the final version of the Policy Statement.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The JRA has produced the Policy Statement included in Appendix B to set out its approach to resolution planning and resolvability assessments as well as the requirements that Jersey Banks will need to meet to demonstrate resolvability.
- 2.1.2 Whilst the requirements set out in the Policy Statement are not intended to impose any additional requirements on Jersey Banks over and above the requirements in the Resolution Law, it sets out clear expectations of the capabilities the JRA requires Jersey Banks to develop to demonstrate that they are resolvable. Where Jersey Banks cannot demonstrate these requirements are met, the JRA has powers under the Resolution Law to require them to implement measures to improve their resolvability.
- 2.1.3 Section 4 of this consultation paper sets out the approach to producing the Policy Statement as well as further rationale for publishing it. Section 5 sets out the specific consultation questions upon which the JRA is seeking feedback.

2.2 Who will be affected by the proposals?

- 2.2.1 The proposed Policy Statement will primarily impact on Jersey Banks. The impact will be greatest for those Jersey Banks that perform Critical Functions in Jersey.
- 2.2.2 Jersey Banks that are part of groups that have already implemented resolution planning requirements will be less impacted than those that are not. However, all Jersey Banks will be required to both submit information to the JRA and develop capabilities to demonstrate their resolvability.

2.3 Responding to the consultation

- 2.3.1 Comments are invited from interested parties on the proposals by **no later than 2 June 2023**.
- 2.3.2 Comments should be sent by email to Martin Edwards, Head of the JRA at: info@jra.org.je
- 2.3.3 We encourage respondents to respond to all relevant questions, however this is not mandatory.
- 2.3.4 We encourage responses on a named basis as this will enable bilateral dialogue on the feedback provided.
- 2.3.5 Unless otherwise requested by the respondent, the JRA will aggregate responses and paraphrase them on an anonymised basis for the purposes of producing a Feedback Paper. If a sufficient volume of responses is received, a list of respondents will be published in an appendix to the Feedback Paper.
- 2.3.6 Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that the comments represent. This will aid the JRA in considering and categorising the comments.

2.4 Next steps

- 2.4.1 The JRA will review and consider all feedback received. Where appropriate, the JRA will amend the Policy Statement.
- 2.4.2 It is intended that a Feedback Paper will be issued in late June 2023 along with the final version of the Policy Statement.
- 2.4.3 In line with the phased rollout set out in the draft Policy Statement, the JRA will commence work developing its policy on MREL as well as guidance in respect of OCiR and Communications requirements. The JRA expects to consult on these during the second half of 2023, as detailed in the draft Policy Statement.

3 The JRA

3.1 Overview

- 3.1.1 The JRA is established under the Resolution Law to minimise the impact of a bank failure and to ensure public funds are protected.
- 3.1.2 The JRA plays a key role in upholding Jersey's status as a leading international finance centre by:
 - 3.1.2.1 reducing the risk of financial loss due to bank failure;
 - 3.1.2.2 protecting and enhancing the reputation and integrity of Jersey; and
 - 3.1.2.3 considering the best economic interests of Jersey.

3.2 Our functions

- 3.2.1 Article 7 of the Resolution Law sets out the JRA's statutory responsibilities to:
 - 3.2.1.1 make preparations to facilitate the resolution of Banks;
 - 3.2.1.2 administer the resolution of Banks;
 - 3.2.1.3 carry out such functions in relation to Bank resolution or recovery or such incidental or ancillary matters as are required or authorized by the Resolution Law or the Regulations; and
 - 3.2.1.4 carry out such other functions as are conferred on it by the Resolution Law or any other enactment.

3.3 Guiding principles

- 3.3.1 Article 8 of the Resolution Law provides that, in exercising our functions, the JRA may take into account any appropriate matter, but that we should have particular regard to:
 - 3.3.1.1 the reduction of the risk to the public of financial loss due to the financial unsoundness of a Bank;
 - 3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters; and
 - 3.3.1.3 the best economic interests of Jersey.

3.4 Resolution Objectives

- 3.4.1 Article 33 of the Resolution Law provides that, in exercising our resolution powers or applying resolution tools in respect of a Bank, we should have regard to and choose resolution tools and powers that best achieve the following resolution objectives:
- 3.4.1.1 to ensure the continuity of banking services in Jersey and the provision of Critical Functions in Jersey;
 - 3.4.1.2 to protect and enhance the stability of the financial system in Jersey, including by preventing contagion and maintaining market discipline;
 - 3.4.1.3 to protect and enhance public confidence in the stability of the financial system in Jersey;
 - 3.4.1.4 to protect public funds, including by minimizing reliance on extraordinary public financial support;
 - 3.4.1.5 to protect eligible depositors to the extent that they have covered deposits; and
 - 3.4.1.6 to protect client assets.

4 Proposed Policy Statement 2023/01

- 4.1.1 The JRA's proposed approach to resolution planning and resolvability is set out in the appended draft Policy Statement (Appendix B).
- 4.1.2 The draft Policy Statement has been developed over the course of the last year based on:
 - 4.1.2.1 review of international standards and guidance (predominantly issued by the Financial Stability Board (FSB), the Bank of England (BoE), and the European Union's (EU) Single Resolution Board (SRB));
 - 4.1.2.2 dialogue with other resolution authorities; and
 - 4.1.2.3 dialogue and correspondence with Jersey Banks.
- 4.1.3 The Policy Statement provides a common risk-based approach to resolution (a Resolution Framework). However, it also allows for flexibility to reflect the specific circumstances of each Jersey Bank and to allow Jersey Banks to request to apply alternative approaches (where the Jersey Bank can demonstrate that these adequately address the Risk to Resolution).
- 4.1.4 The Resolution Framework takes account of the composition of Jersey's banking industry and allows alignment to Group Resolution Plans where applicable and possible.
- 4.1.5 The Policy Statement is structured as follows:
 - 4.1.5.1 Section 1-3 set out the background and a summary of the overriding approach, including a brief explanation of the JRA's approach to determining Critical Functions and Preferred Resolution Strategies;
 - 4.1.5.2 Section 4 sets out general requirements applicable to all Jersey Banks;
 - 4.1.5.3 Section 5 sets out the nine Risks to Resolution identified by the JRA and the associated requirements for Jersey Banks that have been identified as performing Critical Functions in Jersey;
 - 4.1.5.4 Section 6 sets out requirements for Jersey Banks that have not been identified as performing Critical Functions in Jersey;
 - 4.1.5.5 Section 7 and Appendix B set out the proposed phased rollout of the resolution framework including associated requirements; and
 - 4.1.5.6 Appendix A provides a summary of the resolution framework.
- 4.1.6 By publishing the Policy Statement, the JRA aims to:
 - 4.1.6.1 give Banks information on the JRA's rollout of Jersey's bank resolution regime including the timeline for implementation of associated requirements;
 - 4.1.6.2 allow Jersey Banks to better understand the process we take when prioritising resolution planning and performing resolvability assessments;
 - 4.1.6.3 help overseas Resolution Authorities and other interested parties to understand Jersey's planned approach to bank resolution.

5 Consultation Questions

The table below sets out the questions that the JRA seeks feedback on and the corresponding pages of the draft Policy Statement containing content relevant to each question.

Page	Question
11	Question 1: Do you agree with the general requirements applicable to all Jersey Banks? If not, please explain why.
12-13	Question 2: Do you agree with the requirements in relation to MREL? If not, please explain why.
13-14	Question 3: Do you agree with the requirements in relation to Valuations? If not, please explain why.
14-15	Question 4: Do you agree with the requirements in relation to Liquidity and Funding in Resolution? If not, please explain why.
15-16	Question 5: Do you agree with the requirements in relation to Continuity of Financial Contracts? If not, please explain why.
16-17	Question 6: Do you agree with the requirements in relation to OCIR? If not, please explain why.
17-18	Question 7: Do you agree with the requirements in relation to Continuity of Access to Financial Market Infrastructure? If not, please explain why.
18-20	Question 8: Do you agree with the requirements in relation to Restructuring? If not, please explain why.
20-21	Question 9: Do you agree with the requirements in relation to Management and Governance? If not, please explain why.
21	Question 10: Do you agree with the requirements in relation to Communications? If not, please explain why.
12-21	Question 11: Do you agree with the application of requirements to Jersey Branches of Overseas Incorporated Banks? If not, please explain why.
22	Question 12: Do you agree with the requirements for Jersey Banks that do not perform Critical Functions in Jersey? If not, please explain why.
23, 26, 27	Question 13: Do you agree with the prioritisation of Risks to Resolution as set out in the proposed phased rollout of requirements? If not, please explain why.
23, 26, 27	Question 14: Is the timeframe set out in the proposed phased rollout of requirements reasonable? If not, please explain why.
All	Question 15: Are there aspects of Resolution Planning or Resolvability that are not adequately captured by the draft Policy Statement? If so, please explain.
All	Question 16: Do you have any other feedback in relation to the content of the draft Policy Statement?

Appendix A: List of representative bodies and other persons who have been sent this consultation

- 1.1 All persons registered to carry on deposit-taking business in or from within Jersey under the Banking Law
- 1.2 Jersey Banker's Association
- 1.3 Jersey Financial Services Commission
- 1.4 Government of Jersey
- 1.5 Jersey Bank Depositors Compensation Board

Appendix B: Draft Policy Statement 2023/01 'Resolution Planning and Resolvability'

The JRA's draft Policy Statement 2023/01 'Resolution Planning and Resolvability' is appended as a separate document.