



Consultation Paper 2023/02

Operational Continuity in Resolution and Communication Planning Guidance Notes

A consultation on the Jersey Resolution Authority's planned Guidance Notes in relation to Operational Continuity in Resolution and Communication Planning for Jersey Banks.

Issued: 15 September 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 (Jersey) Law 1991 that is a Holding Company or a Subsidiary of a person so registered.
Banking Law	Banking Business (Jersey) Law 1991.
Communications Guidance Note	The JRA’s Communication Planning Guidance Note (a draft of which is appended to this consultation paper).
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 IT System	Critical Information Systems, an IT application or software which supports a critical service, and the disruption of which would present a serious impediment or prevent the performance of a critical function.
Critical Shared Service	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.
EBA	European Banking Authority.
Home Resolution Authority	The Resolution Authority in the jurisdiction where a bank or banking group is headquartered.
Jersey Bank	A person registered to carry on deposit-taking business in or from within Jersey under the Banking Law.
JRA	Jersey Resolution Authority.
OCiR	Operational Continuity in Resolution.
OCiR Guidance Note	The JRA’s Operational Continuity in Resolution Guidance Note (a draft of which is appended to this consultation paper).
PS2023/01	Policy Statement 2023/01 ‘Resolution Planning and Resolvability’.
Resolution Law	Bank (Recovery and Resolution) (Jersey) Law 2017.

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1 Executive Summary

1.1 Overview

- 1.1.1 The JRA is established as Jersey's Resolution Authority, under the Resolution Law, to minimise the impact of the failure of a Jersey Bank and to ensure public funds are protected.
- 1.1.2 On 11 August 2023 the JRA issued Policy Statement 2023/01 'Resolution Planning and Resolvability' (PS2023/01), which sets out the overriding requirements and capabilities that the JRA expects Jersey Banks to develop to demonstrate that they are resolvable.
- 1.1.3 This Consultation Paper sets out the JRA's Guidance Notes in relation to Operational Continuity in Resolution (OCiR) and Communication Planning. Each Guidance Note sets 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 Additionally, this Consultation Paper includes the JRA's OCiR Reporting Template. Guidance for completing this template is included in the appendix to the OCiR Guidance Note.

1.2 Feedback

- 1.2.1 Comments are invited from interested parties on the proposals by **no later than 10 November 2023**.
- 1.2.2 Comments should be sent by email to Martin Edwards, Head of the JRA at: info@jra.org.je
- 1.2.3 Whilst we encourage respondents to provide comments directly to us, should you wish to submit comments anonymously, please provide comments via Jersey Finance Limited (JFL). Please submit comments **by 10 November 2023** to Lisa Springate, Head of Legal and Technical at: Lisa.Springate@jerseyfinance.je

1.3 Next Steps

- 1.3.1 The JRA will review and consider all feedback received. Where appropriate, the JRA will amend the Guidance Notes and/or the OCiR Reporting Template.
- 1.3.2 It is intended that a Feedback Paper will be issued in December 2023 along with final versions of both Guidance Notes, and the OCiR Reporting Template.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The JRA has produced the Guidance Notes included in Appendices B and D which set out our guidance in relation to OCiR and Communication Planning, combined with the JRA's OCiR Reporting Template included in Appendix C.
- 2.1.2 The Guidance Notes are not intended to impose any additional requirements on Jersey Banks over and above the requirements in the Resolution Law and PS2023/01. Rather, they provide guidance to Jersey Banks regarding the capabilities they must develop to demonstrate that they are resolvable.
- 2.1.3 We will use the Guidance Notes to assist us in determining whether associated requirements have been met as part of our resolvability assessments of Jersey Banks. Where Jersey Banks cannot demonstrate the requirements have been met, the JRA has powers under the Resolution Law to require them to implement measures to improve their resolvability.
- 2.1.4 Sections 5, 6 and 7 set 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 Guidance Notes and OCiR Reporting Template will 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.

2.3 Responding to the consultation

- 2.3.1 Comments are invited from interested parties on the proposals by **no later than 10 November 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 Should you wish to submit comments anonymously, please provide comments via JFL. JFL will then submit your anonymised comments to the JRA. Comments should be submitted to JFL **by 10 November 2023**. The JFL contact is Lisa Springate, Head of Legal and Technical at: Lisa.Springate@jerseyfinance.je
- 2.3.6 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.

2.4 Next steps

- 2.4.1 The JRA will review and consider all feedback received. Where appropriate, the JRA will amend the Guidance Notes and/or the OCiR Reporting template.
- 2.4.2 It is intended that a Feedback Paper will be issued in December 2023 along with final versions of both Guidance Notes, and the OCiR Reporting Template.

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 OCiR Guidance Note and Reporting Template and Communication Planning Guidance Note

- 4.1.1 The JRA's guidance in respect of OCiR and Communication Planning are set out in the appended Guidance Notes (Appendices B and D).
- 4.1.2 The draft Guidance Notes are the next steps of our phased rollout of Jersey's Resolution Regime, having committed to consult on these in Quarter Three 2023. They have been created using published source documents of other Home Resolution Authorities, primarily the Bank of England (BoE) and the Single Resolution Board (SRB).
- 4.1.3 The OCiR Guidance Note is structured as follows:
- 4.1.3.1 Section 1-3 set out the background, a summary of the overriding objective and general guidance for Jersey Banks.
- 4.1.3.2 Section 4 sets out guidance applicable to Jersey Banks performing Critical Functions, which includes guidance on:
- › identification and mapping of Critical Shared Services;
 - › identification and mapping of Critical IT Systems;
 - › assessment of Operational Continuity Risk;
 - › contractual arrangements;
 - › costing and pricing Structures;
 - › adequate Staffing in Resolution; and
 - › delivery of Critical Shared Service.
- 4.1.3.3 Section 5 sets out guidance applicable to Jersey Banks not performing Critical Functions.
- 4.1.4 Guidance on how to complete the JRA's OCiR Reporting Template (Appendix C) is included in Appendix A of the OCiR Guidance Note. The Reporting Template is based on relevant parts of the EBA Z Template that many banks will have been asked to complete by their group's Home Resolution Authority.
- 4.1.5 The Communications Guidance Note is structured as follows:
- 4.1.5.1 Section 1-3 set out the background, a summary of the overriding objective and general guidance for Jersey Banks.
- 4.1.5.2 Section 4 sets out guidance applicable to Jersey Banks performing Critical Functions, which includes guidance on:
- › stakeholder identification;
 - › communication plans;
 - › governance arrangements for communication planning;
 - › maintaining confidentiality; and
 - › use of group communication capabilities.
- 4.1.5.3 Section 5 sets out guidance applicable to Jersey Banks not performing Critical Functions.

5 OCiR Consultation Questions

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

Page	Question
8-15	Question 1: Are you comfortable with the OCiR guidance provided in relation to Jersey Banks performing Critical Functions? If not, please explain why.
8	Question 2: Are you comfortable that the guidance on completing the JRA's OCiR Reporting Template is sufficient? If not, please explain why.
16	Question 3: Are you comfortable with the OCiR Guidance provided in relation to Jersey Banks not performing Critical Functions? If not, please explain why.
All	Question 4: If applicable, please set out any other areas relating to OCiR that you believe require further guidance?

6 OCiR Reporting Template Consultation Questions

The table below sets out the questions that the JRA seeks feedback on the JRA's OCiR Reporting Template.

Page	Question
All	Question 1: Do you agree with the JRA's approach of adopting the relevant EBA templates with minimal amendments? If not, please explain why and set out the approach you would prefer the JRA to adopt.
All	Question 2: Is there any other information you believe the JRA should add to the OCiR Reporting Template?

7 Communication Planning Consultation Questions

The table below sets out the questions that the JRA seeks feedback on and the corresponding pages of the Communications Guidance Note containing content relevant to each question.

Page	Question
7-10	Question 1: Are you comfortable with the Communication Planning guidance provided in relation to Jersey Banks performing Critical Functions? If not, please explain why.
11	Question 2: Are you comfortable with the Communication Planning guidance provided in relation to Jersey Banks not performing Critical Functions? If not, please explain why.
All	Question 3: If applicable, please set out any other areas relating to Communication Planning that you believe require further guidance?

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
- 1.6 Jersey Finance Limited



Appendix B: Draft OCiR Guidance Note.

The JRA's draft OCiR Guidance Note is appended as a separate document.

Appendix C: Draft JRA's OCiR Reporting Template.

The JRA's draft OCiR Reporting Template is appended as a separate document.

Appendix D: Draft Communications Guidance Note.

The JRA's draft Communications Guidance Note is appended as a separate document.