

Overview of Jersey company law

Briefing Summary: This guide provides an at-a-glance summary of company law in Jersey (The Companies (Jersey) Law 1991, as amended) and a broad overview of the laws applicable in this jurisdiction.

Service Area: Corporate, Corporate Regulation and Compliance, Corporate Structuring

Sector: Trust and Company Business

Location: Jersey

Created Date: 06 January 2021

The basics of company law in Jersey

Companies legislation

The Companies (Jersey) Law 1991, as amended ("CJL").

What types of Jersey companies are available?

A Jersey company (Jco) can be:

- limited by shares (having a par value or no par value);
- a guarantee company;
- an unlimited company;
- a limited life company (limited by time or the occurrence of specified events); or
- a cell company (see also Cells of cell companies, below).

Public/private companies in Jersey

A Jco can be either a private company or a public company.

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Share buybacks/redemptions

Permitted and, for redemptions, if permitted by the articles of association and can convert issued non-redeemable shares into redeemable shares. If Jco is not an open ended investment company (OEIC), all the directors authorising the buyback/redemption must make a solvency statement among other things that immediately following the date on which the payment is proposed to be made Jco will be able to discharge its liabilities as they fall due and that it will be able to continue to carry on business and discharge its liabilities as they fall due until the expiry of 12 months immediately following that date. If Jco is an OEIC, the authorising directors must have reasonable grounds for believing that immediately following the date on which the payment is proposed to be made Jco will be able to discharge its liabilities as they fall due. A buyback must be sanctioned by a special resolution except where the purchase is by a wholly-owned subsidiary. If the shares are to be purchased: (i) otherwise than on a stock exchange, an additional resolution is required to approve the relevant purchase contract; or (ii) 'on exchange', the special resolution above must also specify certain terms of the purchase.

Migrations

It is possible to migrate a Jco to another jurisdiction and vice versa.

Mergers

Permitted (other than in respect of a cell company or cell, a Jco with unlimited shares or guarantee company).

Capital requirement

None.

Currency of shares

Any currency.

Schemes of arrangement

Permitted between Jco and its creditors or shareholders (or a class of either of them). Must be approved by a majority in number representing 75% in value of the creditors (or class of creditors) or a majority in number representing 75% of the voting rights of the shareholders (or class of shareholders) and sanctioned by the court.

Financial assistance for Jersey companies

Permitted.

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What is the process for the formation of Jersey companies?

Timing

Within 2 hours for a 'fast-track' incorporation, and 'out of hours' and '1-5 business days' methods available (see also Fee, below)

A Jco is incorporated on the date of issue of the certificate of incorporation.

Fee

Incorporation fee:

- 'Fast track': £670
- 'Out of hours': £1,210 (minimum fee)
- Within 1 business day: £425
- Within 2 business days: £305
- Within 3 business days: £242
- Within 5 business days: £165

Anti-money laundering (AML)/ Know your client (KYC)

In line with UK standards. Compliance primarily falls on regulated Jersey service providers.

KYC checks are performed on beneficial owners of more than 25%. Rules are adjusted for listed companies.

Directors of Jersey companies

Minimum number

- A public Jco: two directors
- A private Jco: one director.

Individual/corporate directors

May be a natural person or (subject to conditions) a body corporate.

Residence

A director need not be resident in Jersey. For a regulated Jco, there is a general regulatory (not company law) requirement for two directors to be Jersey resident.

Director duties

Jersey provides statutory and common law duty to:

- act honestly in good faith with a view to the best interests of the Jco; and
- exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Members of a Jersey company

Minimum number

A public Jco must have two members unless it is a wholly-owned subsidiary. A private Jco may have one member.

Public information

Publicly available information is registered office, memorandum and articles of association, special resolutions, legal owners and (ordinarily) directors. For a public Jco, also audited accounts and prospectus.

Bearer shares

Not permitted.

Treasury shares

Can be held.

Limited liability

Yes. Similar to the UK.

Resolutions

A special resolution is required to amend the memorandum or articles of association, commence a summary winding up and for certain other purposes. Requires a two-thirds' majority, or such higher majority required by the Articles. Can also be passed by written resolution capable of being passed by majority stipulated in Articles.

Company administration for Jco's

Registered office in jurisdiction

Required. Certain statutory books and records must be held there.

Company secretary

Required. Can be a body corporate.

Nominated person

Required to be appointed under the new Disclosure and Provision of Information (Jersey) Law 2020 ("**DPI Law**") no later than 6 April 2021 (or the appointment is required to be specified in the application for registration of a Jco on or after 6 January 2021). The 'nominated person', locally resident or active, must be appointed from the list of categories set out in that Law. Acts as the main interface between the Jco on the one hand and on the other hand the Jersey Financial Services Commission (the "**JFSC**") and the Registrar of Companies (the "**Registrar**"). For most international clients, the nominated person is expected to be their current regulated corporate services provider (ie it will not be necessary to engage an additional local representative).

Ongoing requirements

From 2021, under the DPI Law, a Jco must provide to the JFSC an annual confirmation statement (which replaces the requirement to deliver an annual return) each year and pay an annual confirmation fee of, depending on the case, £220 or £225.

There is also a standing requirement under DPIL for a Jco to notify the JFSC, within 21 days of becoming aware of it, of a change in "significant persons" (directors and secretary) or, unless the Jco is listed on a regulated market, beneficial owners.

A Jco is not required to hold AGMs unless its articles of association specify otherwise.

A public Jco must prepare and file annual audited accounts.

Accounting requirements for Jersey companies

Accounts

Books of accounts must be kept for 10 years.

Auditors/filing

A private Jco is not required to audit or file its accounts but a public Jco must appoint auditors and file audited accounts.

Typical regulatory consents for Jersey companies

Issue of shares/Securities

A Jco will be issued with a COBO consent as a part of the incorporation process to issue shares.

Circulation of prospectus

The Jersey Registrar's consent is required to circulate a prospectus to more than 50 people.

Regulatory consent is required to circulate a prospectus for a regulated fund in Jersey.

Cells of cell companies

A protected cell company cell does not have separate legal personality. An incorporated cell company cell is a separate company with its own legal identity.

Both provide for segregated assets and credit ring-fencing.

Transfer of Jersey company shares

Process

An instrument of transfer is required.

Shares may trade and settle freely on CREST, the London Stock Exchange paperless settlement system.

Shares may also trade electronically and settle freely on certain other designated markets including NYSE, Nasdaq and Toronto Stock Exchange. It is possible to add new markets to this facility.

Pre-emption rights

There are no statutory pre-emption rights.

UK Takeover Code

Does apply.

Carey Olsen Jersey LLP is registered as a limited liability partnership in Jersey with registered number 80.

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