



## Introduction

Jersey's reputation as one of the world's leading international finance centres has been consistently recognised and endorsed by independent bodies and institutions of the highest standard. Robust regulation, political and economic stability, tax neutrality and a sophisticated modern and flexible legal system combined with a wealth of experience and expertise offered by highly skilled financial services providers keep Jersey at the forefront of global finance.

Jersey's continued commitment to meet the highest international standards on tax transparency has been recognised by the most senior political figures in the European Union (the "**EU**") and by the Secretary General of the Organisation for Economic Co-Operation and Development (the "**OECD**").

Jersey is an associate member of the OECD but it is not a member of the EU. Securities issued by a Jersey SPV are treated as been issued by an OECD domiciled issuer. The sovereign rating assigned by Standard and Poor's ratings services to Jersey gives a AAA rating ceiling for securities issued by Jersey SPVs.

Jersey continues to remain the jurisdiction of choice for corporate entities seeking to list. The greatest number of FTSE 100 companies registered outside of the United Kingdom are registered in Jersey.

Jersey SPVs have long been used for a variety of capital markets transactions, such as securitisations, repackagings, tier 1 capital raising, commercial paper programmes, derivatives, car fleet securitisations, sukuk structures and real estate asset financing.

## Regulatory Regime

There is a single regulatory authority in Jersey called the Jersey Financial Services Commission (the "**Commission**") which is responsible for the regulation, supervision and development of the financial services industry in the Island of Jersey.

Prior consent from the Commission to the issue of securities by a Jersey SPV is required pursuant to the Control of Borrowing (Jersey) Order, 1958, as amended (the "**COBO Order**") where the number of persons in whose name the securities are to be registered or held (for bearer securities) exceeds ten ("**COBO Consent**").

In addition to consent under the COBO Order, where there is a "public" offer of securities (broadly speaking, an offer to more than fifty persons), the SPV will be issuing a "prospectus" (as defined in the Companies (Jersey) Law, 1991, as amended (the "**Companies Law**") and must be incorporated as a public company for Jersey law purposes. The Companies Law imposes stricter filing requirements for public companies with the most important being that a public company must prepare and file annual audited accounts together with the relevant auditor's report.

Prior consent (the "**Registrar's Consent**") to the circulation of a prospectus by the SPV in Jersey or elsewhere must be obtained from the Jersey registrar of companies (the "**Registrar**"). The prospectus will be subject to the provisions of the Companies (General Provisions) (Jersey) Order 2002 (the "**GPO**") and a signed copy of a Memorandum of Compliance will need to be filed with the Registrar, together with a final



printed copy of the prospectus signed by, or on behalf of, the directors of the SPV. Certain derogations from the requirements of the GPO may be obtained provided that the Registrar is satisfied that the derogations do not affect the substance of the prospectus or are not calculated to mislead. The Registrar will require a true and fair English translation of any prospectus or information document that is to be issued in a foreign language. A copy of the prospectus will be placed in the Public Registry.

The general policy of the Commission in relation to the issues of securities by a Jersey SPV is to strengthen further the Island's reputation as a high quality and well regulated financial centre.

Whilst the Commission has certain general requirements in relation to the issues of securities by Jersey SPVs, in the interests of maintaining maximum flexibility, the Commission keeps such requirements to a minimum. Subject to the Commission being satisfied that Jersey's reputation will not be prejudiced by being associated with a securities issuing scheme, it generally adopts a "hands-off" approach to the regulation of securities issues and reviews its procedures on a regular basis and the relevant legislation to achieve this.

When considering an application for a Jersey company to issue securities the Commission will have regard to the following three key areas:

- the type of investor(s) – the Commission will wish to be advised of the target market for the securities;
- the parties involved – all major parties to the transaction should be disclosed. The Commission may seek evidence of their experience, stature, competence and good reputation; and
- the proposed activity of the SPV – in addition to receiving information, on a confidential basis, regarding the beneficial ownership of the SPV, the Commission will wish to receive information on, for example, the type of security to be issued, the minimum denomination and the issue amount, the purpose of the issue, proposed application of the issue proceeds, funding of the SPV, any investor protector measures, expected credit ratings (if any) and the name(s) of any stock exchange(s).

The route to obtaining consent pursuant to the COBO Order for a securities issue can be divided into four stages, which are as follows:

- preliminary discussions;
- initial review stage;
- document review stage; and
- registration and/or consent.

At the initial review stage, the Commission will normally respond within five working days from the receipt of the application. At the document review stage, at least five further working days should be allowed from the moment the Commission receives the draft documentation to the issue of any comments thereon. It may be possible to combine the initial review stage and the document review stage resulting in a total timescale of just five working days. The registration/consent stage normally takes one or two days.

There is no charge for the issue of a COBO Consent or a Registrar's Consent. The only charges that need to



be considered are a company incorporation fee (ranging between £150 (within 5 business days) and £550 (within 2 hours (fast track)) and an annual return fee (£200 per annum for online filing).

The Commission does not undertake any on-going proactive supervision of securities issues. Any “post-launch” requirements are principally governed by the terms of the COBO Consent and the Registrar’s Consent.

## Company Law regime

Companies in Jersey are constituted in accordance with, and governed by, the provisions of the Companies (Jersey) Law, 1991, as amended (the “**Law**”).

The Law provides great flexibility to structured finance transactions. Examples of such flexibility, are as follows:

- ultra vires – there are no statutory limits on the capacity of a Jersey company to undertake business transactions;
- capitalisation – there is no minimum authorised or issued share capital for a Jersey company;
- share capital – a Jersey company may issue shares with a par value or no par value with limited or unlimited liability. There is no stamp duty payable in Jersey on the authorised share capital of a Jersey company or in connection with the creation, issue, transfer or redemption of its shares (except in the case of a Jersey company owning real estate in Jersey). A Jersey company’s share capital may be denominated in any currency and different classes of shares may be denominated in different currencies. Shares may be issued as nil-paid, partly paid, fully paid or at a premium. Fractional shares and treasury shares are permitted. A Jersey company may issue shares at a discount and pay commissions in connection with a person subscribing for shares. The redemption or purchase by a Jersey company of its own shares may be made by way of a cash consideration or a non-cash consideration or a combination of both. A Jersey company may reduce its capital without court approval;
- directors – a Jersey company must have at least one director. Whilst there is no requirement for a director to be resident in Jersey, for a typical capital markets SPV, one Jersey resident director with appropriate experience will be required. Corporate directors are permitted in Jersey;
- secretary – a Jersey company must have a company secretary (not necessarily in Jersey). Corporate secretaries are permitted in Jersey;
- accounts – a Jersey private company is not required to audit or file its accounts;
- directors’ duties – a resolution authorising or ratifying a breach by a director of his statutory duties under article 74 of the Law may be passed as an ordinary resolution or as a special resolution of the members;
- special resolutions – different thresholds can be applied to different special resolutions of the members (which also includes shareholder written resolutions);
- annual general meetings – a Jersey private company is not required to hold an AGM; and
- overseas branch register – a company may enter the names of all its members on an overseas branch register and not just those who are resident overseas. This will assist with listings as certain stock exchanges require a register of all members to be held within its territory.



## Other key structural considerations

- taxation – a 0% general rate of corporate tax was introduced in Jersey with effect from 1 January 2009 replacing the previous exempt company regime. A Jersey SPV may issue, redeem, exchange or pay interest on its securities without being subject to taxation in Jersey. Jersey does have a Goods and Services Tax (“**GST**”) which is a tax on the supply of goods and/or services in Jersey. The SPV may opt for “international services entity” status (annual fee £200) and not be liable to pay or charge GST;
- incorporation – the SPV may be incorporated quickly (within a few hours using the fast-track procedure referred to above);
- corporate administration – should the SPV require the services of a corporate services provider, that entity should be incorporated in Jersey, be an entity of stature, have a relevant track record and have a physical presence in the Island.
- trusts – all Jersey trusts are governed by the Trusts (Jersey) Law 1984, as amended (the “**Trust Law**”). The SPV will frequently be held as an independent or “orphan” entity with its entire issued share capital held by a charitable trust in order to promote the independence of the structure from the promoter or sponsor. A Jersey trust can be established very quickly. No licence, consent or other authorisation is necessary in order to establish a Jersey trust (other than a unit trust). There is no register of trusts in Jersey. Pursuant to the Trust Law, trust assets are protected from the creditors of a Jersey trustee if the trustee becomes bankrupt. The trustee’s own assets are distinguished from those held in the trustee’s capacity acting as trustee. These latter assets will not be available to the trustee’s creditors;
- security – pursuant to article 13 of the Security Interests (Jersey) Law 2012, a Jersey company is deemed to have capacity under Jersey law to grant security governed by a foreign law over property situated outside Jersey;
- strong legal opinion – Jersey’s commitment to continuously developing and enhancing its modern and comprehensive infrastructure of laws ensures that robust Jersey legal opinions can be provided; and
- listing – securities issued by a Jersey SPV can be listed on a recognised stock exchange in order to meet investor requirements. The International Stock Exchange (“**TISE**”) provides a listing facility and a market for companies to raise capital from international investors based on a bespoke trading platform. TISE has received a number of international recognitions making it an attractive and increasingly popular option for the listing of securities. TISE is designated as a Recognised Stock Exchange under section 1005 of the UK Income Tax Act 2007 which permits securities listed on TISE to qualify as quoted Eurobonds for UK tax purposes – please see our [Listing Eurobonds on the International Stock Exchange](#) Briefing Note on this matter. TISE has also been officially recognised by the US Securities & Exchange Commission and the Australian Securities Exchange. TISE is also an affiliate member of the World Federation of Exchanges.

## Voisin’s capital markets and structured finance team

Voisin’s capital markets and structured finance team is highly experienced and has advised on many complex and innovative transactions. Our focussed, proactive and friendly team provides efficient, seamless and prompt advice and boasts a portfolio of clients which includes some of the world’s leading



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financial institutions. Our close relationship with local regulatory authorities, listing authorities, service providers and advisers worldwide enables us to work as part of any team. We are passionate about our work and strive for excellence in everything we do.

For further information or specific advice, please contact [Kate Anderson](#) or [Chris Le Quesne](#) of Voisin.

*This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.*