LEGAL
GOVERNANCE
CONSULTING

GUIDE

THE COMPANY SECRETARY'S SURVIVAL GUIDE

LAST REVIEWED: JUNE 2026

mourant

THE COMPANY SECRETARY'S SURVIVAL GUIDE

Contents

This guide outlines the key provisions of legislation that will assist company secretaries and company administrators in the day to day administration of a Jersey company. It is only a general guide. Our advice should be sought where appropriate

WHAT CAPACITY DOES A JERSEY COMPANY HAVE?

The Companies (Jersey) Law 1991 (the **Companies Law**) provides that a company has unlimited capacity, despite anything in its constitutional documents. This is to safeguard third parties in their dealings with a Jersey company.

Nevertheless, the constitutional documents of a company can limit the authority of the directors and if the directors do not observe any limitations they may be in breach of their duties.

WHAT ARE THE CONSTITUTIONAL DOCUMENTS OF A JERSEY COMPANY?

A Jersey company has a memorandum and articles of association (**M&A**). The M&A, which are publicly filed, constitute a contract between the members. The M&A may only be amended by special resolution of the members (see below). Special resolutions (and agreements which amount to special resolutions) must be attached to copies of the M&A.

There is a statutory form of articles of association (**Articles**) known as the Standard Table. However, it is common practice to disapply the Standard Table and adopt a tailored form of Articles which is appropriate for the company.

A member is entitled to be provided with a copy of the M&A by a company on request, subject to the payment of a fee which may not currently exceed 50 pence per page.

WHEN IS A COMPANY A PUBLIC COMPANY?

A company is a public company if its memorandum of association so provides.

A private company may retain its status regardless of the number of its members. However, a private company will be subject to the provisions of the Companies Law as though it were a public company, even if it does not meet the statutory definition of public company, if it:

- circulates a prospectus (except where the relevant securities have been redeemed, cancelled or otherwise dealt with, or the Jersey Financial Services Commission (**JFSC**) consents),
- is a '**market traded company**', being a company with transferable securities admitted to trading on a regulated market in the UK, EU or EFTA; or
- is an '**equivalently regulated company**', being a company with transferable securities admitted to trading on a regulated market in Australia, Canada, Japan or the US.

A public company is required to appoint auditors. A private company is only required to appoint auditors where this is required by its articles of association or by a resolution passed in general meeting.

MUST A COMPANY HAVE A REGISTERED OFFICE?

A company must have a registered office in Jersey.

The occupier of the premises that are the registered office must authorise their use for that purpose. A company's registered office will normally be the address of the licensed trust company that administers it.

A company must give notice to the registrar of companies (**Registrar**) of any change in its registered office.

WHAT IS THE REQUIRED MINIMUM NUMBER OF DIRECTORS?

A private company may have only one director. A public company must have at least two.

WHO MAY NOT BE A DIRECTOR?

Minors, interdicts and disqualified persons may not be directors.

DO DIRECTORS NEED TO BE RESIDENT IN JERSEY?

The Companies Law does not impose any residency restrictions on directors.

If a company carries on a regulated business, it may be required to have Jersey resident directors.

The residency of directors should be considered when assessing where a company is managed and controlled as this will determine its tax residency. If management and control should be in Jersey, a company's Articles may provide that a majority of directors must be resident in Jersey and that a majority of directors must be present in Jersey for a board meeting to be quorate.

MAY A COMPANY HAVE CORPORATE DIRECTORS?

A Jersey company may have corporate directors. However, a body corporate cannot be a corporate director of a Jersey company unless it is registered under the Financial Services (Jersey) Law 1998 and, under the terms of its registration, it is permitted to act as, or fulfil the requirements of, a director. A body corporate cannot act as a corporate director if any of its directors is a body corporate.

MUST A COMPANY APPOINT A SECRETARY?

Every company must have a company secretary. A sole director cannot also be the secretary. A company cannot have a corporate secretary if the secretary's sole director is also the sole director of the company.

The secretary of a public company must be appropriately qualified (eg a chartered accountant) or be a person who appears to the directors to be a person who is capable of acting as secretary.

MUST A COMPANY MAINTAIN A REGISTER OF DIRECTORS AND SECRETARY?

Every company must maintain and keep at its registered office a register of its directors and secretary.

The register must be open to inspection by a member, director or the Registrar without charge.

In addition, in the case of a public company or a subsidiary of it, the register must be open to inspection by any member of the public on payment of such fee which currently may not exceed £5.

Details of a company's directors and secretary must be provided to the JFSC, including in the company's annual confirmation statement. The company must notify the JFSC of any change, error or inaccuracy in this information within 21 days of becoming aware of it.

WHAT INTERESTS MUST A DIRECTOR DECLARE?

Under the Companies Law, a director must disclose any direct or indirect interest of which the director is aware in any transaction entered, or to be entered, into by a company or a subsidiary which to a material extent conflicts or may conflict with the interests of the company.

The disclosure should be made:

- at the first board meeting at which the transaction is considered;
- in writing to the company secretary as soon as reasonably practical after the director becomes aware of the circumstances; or
- by way of general notice of interest to the other directors of the company stating that the director has an interest in a particular entity or is connected with a particular person. A general notice must state the nature and extent of the director's interest or connection with that entity or person. This removes the need for transaction specific disclosures in respect of an entity or person.

A director is not required to disclose an interest where the transaction cannot reasonably be regarded as likely to give rise to a conflict, or where it concerns the terms of the director's service contract that has been, or will be, considered by the board or an authorised committee.

The Articles of a company may provide that a director with an interest in a transaction who has disclosed that interest may (or may not) be counted in the quorum and vote on the transaction.

If a director fails to disclose an interest, the company or a member may apply to court to have the transaction set aside or for an order that the director account to the company for any profit made.

In certain circumstances, a transaction that is voidable as a result of a failure to disclose an interest may be ratified by either a majority of the disinterested directors or by special resolution of the members, provided that the nature and extent of the conflict are disclosed in reasonable detail.

A company is not required to maintain a register of directors' interests.

CAN A COMPANY INDEMNIFY ITS DIRECTORS?

Subject to the Companies Law and provided the company's Articles do not state otherwise, a company may indemnify a director or other officer against expenses, legal fees, judgments, fines and amounts paid in settlement that are reasonably incurred in connection with any proceedings.

An indemnity is only permitted where the director or officer acted honestly and in good faith and in what they believed to be the best interests of the company and, in the case of criminal proceedings, had no reason to believe that their conduct was unlawful.

For further information please refer to our guide on directors' indemnities.

MUST A COMPANY HAVE A MINIMUM NUMBER OF MEMBERS?

A company, whether public or private, must have at least one member.

ARE THERE ANY RESTRICTIONS ON WHO CAN BE A MEMBER?

A subsidiary cannot be a member of its parent company (unless it held shares in the parent when it became a subsidiary) and an allotment or transfer of shares by a company to a subsidiary is void.

A minor or mentally incapacitated person may not become a member of a company except by operation of law on the death of a shareholder.

MUST A COMPANY MAINTAIN A REGISTER OF MEMBERS?

A company must keep a register of members in Jersey. If the register is not kept at a company's registered office, notice of where it is kept must be given to the Registrar.

The register must record details of each member, including (among other things) their name and address, the number and class of shares held, the amount paid up on those shares, the date on which the member became or ceased to be a member and, if the company is listed, whether shares are held in certificated or uncertificated form.

A public company may maintain an overseas branch register.

No notice of any trust should be entered on the register.

MUST A REGISTER OF MEMBERS BE MADE OPEN FOR INSPECTION?

A register of members must be open to inspection during business hours by members without charge and by any other person on payment of a fee which may currently not exceed £5.

A person who is not a member may also require a company to supply a copy of its register of members on payment of such fee which may currently not exceed 50 pence per page. A copy of the register of members must be delivered within ten days of payment or delivery of the declaration referred to below.

A person requesting a copy of a register of members of a public company must also submit a declaration to the company containing an undertaking only to use the information to call a general meeting, to seek to influence voting at any such meeting or to offer to acquire shares in the company.

CAN THE CLASS RIGHTS OF MEMBERS BE VARIED?

A company's M&A or the terms of admission to membership may make provision for the variation of class rights. Where such provision is made, the class rights may only be varied in accordance with those provisions

If no such provision is made, the rights attached to a class of shares may only be varied if the variation is sanctioned either by a special resolution passed at a separate meeting of the relevant class or by written resolution passed by:

- in the case of any class of par value shares, the holders of not less than two thirds in nominal value of the issued shares of that class; and
- in the case of any class of no par value shares, the holders of not less than two thirds in number of the issued shares of that class.

A reduction in the liability of any class of members to contribute to a company's share capital, or otherwise to pay money to the company is treated as a variation of class rights, subject to any provision in the Articles specifying what is or is not to be regarded as a variation of class rights.

An alteration to, or insertion of, provisions in the M&A dealing with the variation of class rights is itself treated as a variation of those rights.

If a public company issues shares with rights not stated in its M&A, a statement of those rights must be filed with the Registrar.

HOW DOES A JERSEY COMPANY EXECUTE CONTRACTS?

The Companies Law provides that any person acting under the express or implied authority of a company may execute a contract on its behalf. The Companies Law does not stipulate any specific formalities concerning the execution of contracts by companies.

Subject to its Articles, a company may execute contracts (including deeds) in the manner authorised by a resolution of the directors. Normally, one or more persons (usually directors) are authorised to sign on a company's behalf.

DOES A COMPANY HAVE TO MAINTAIN A REGISTER OF SECURITY INTERESTS?

A Jersey company does not have to maintain a register of security interests, but if it grants security over its property, the secured party will probably register the security on the Jersey register of security interests, or in the case of land, in the land registry.

MUST A COMPANY HOLD ANNUAL GENERAL MEETINGS?

A private company is not required to hold annual general meetings (**AGMs**) unless:

- it is required to hold AGMs by a provision in its Articles which came into force after 1 August 2014; or
- it was required by a provision in its Articles made before 1 August 2014 to hold AGMs and this requirement is confirmed by a special resolution passed after 1 August 2014.

A public company is required to hold AGMs (not more than 18 months apart) unless all its members agree in writing that such requirement can be dispensed with. However, a member may still, despite any such agreement, require an AGM to be held.

WHAT ARE THE MAIN REQUIREMENTS APPLICABLE TO GENERAL MEETINGS?

All meetings must be called by a least 14 clear days' written notice (unless a prescribed majority of members agree to short notice).

General meetings need not be held in Jersey unless a company's Articles so provide.

Notice of any general meeting must be given to members entitled to attend and vote and to the company's auditors.

Notice of a meeting must include a statement to the effect that a member may appoint a proxy who need not be a member.

A proxy may speak at a meeting of the members of a company but, unless the company's Articles provide otherwise, does not have the right to vote, except on a poll.

Any provision in the Articles that requires a proxy appointment to be received more than 48 hours before the meeting is void. If proxy forms are issued, they must be issued to all members entitled to vote.

Companies may also permit direct voting at general or class meetings. This allows members to vote electronically, by post or in a manner approved by the directors, without attending the meeting in person or appointing a proxy. A valid direct vote constitutes participation in the meeting, and it is counted as a vote cast on the resolutions put to the meeting.

Where a direct vote is cast after a proxy has been appointed, the proxy's authority is revoked. Conversely, where a proxy is appointed after a direct vote has been cast, the direct vote is cancelled. Unless, a company's Articles provide otherwise, attendance at the meeting does not of itself cancel a direct vote, although the member may not vote in person unless notice of cancellation is given to the chairperson before the meeting begins.

To ensure that voting outcomes accurately reflect the intentions of members, the chairperson of a meeting must call for a poll on a resolution if the chairperson believes that, having regard to the direct votes cast or proxies received, the result may differ from that obtained on a show of hands.

A corporate member may appoint more than one corporate representative.

Members holding at least ten per cent of the total voting rights of members (or a class of members) may require the directors to:

- convene a general meeting (or class meeting) to be held as soon as practicable, and in any event, within two months of the requisition being made; or
- circulate written resolutions to members.

Unless a company's Articles require otherwise, members may participate in meetings and vote by telephone or electronic or other means.

WHAT CONSTITUTES A SPECIAL RESOLUTION?

Under the Companies Law, a special resolution is a resolution that is required to be passed by a majority of two thirds (or such higher majority as may be specified in the company's Articles) of members who are entitled to vote at the relevant meeting.

Resolutions that the Companies Law expressly requires to be passed as special resolutions must be filed with the Registrar within 21 days. Therefore, if the Articles of a company require a matter to be approved by special resolution but this is not a requirement of the Companies Law, such a resolution does not have to be filed. Likewise, an agreement between all members of a company, such as a shareholders' agreement, does not need to be filed provided it includes a term stating that, in the event of a conflict with the company's Articles, the agreement will prevail and the Articles will be amended accordingly.

The matters for which a special resolution is required include:

- amending the M&A;
- a change of name, although a company's Articles may provide for another method for the company to change its name;
- an alteration or reduction of share capital; and
- a change of status from a public to a private company or vice versa;

Resolutions (or agreements) agreed to by all the members that would otherwise have to be passed as special resolutions also must be filed.

CAN MEMBERS PASS WRITTEN RESOLUTIONS?

Unless the Articles provide otherwise, members entitled to vote on a resolution may pass a written resolution (other than to remove an auditor).

Written resolutions may be passed either unanimously or by:

- a two-thirds majority for special resolutions;
- a simple majority for ordinary resolutions; or
- any higher majority specified in the Articles.

Any or all members of a company may circulate a written resolution among themselves, which is deemed passed once signed by all, or if appropriate, the necessary majority of, the members

entitled to vote on the resolution. A signed copy must be sent to the company within 14 days of being passed and the company must circulate it to all eligible members within 14 days of receipt.

The Companies Law sets out detailed provisions that must be complied with relating to the circulation of majority written resolutions and it is a criminal offence not to comply with them.

MUST A COMPANY KEEP MINUTES OF MEETINGS?

Every company must ensure that minutes of proceedings of all meetings of the board or any committee and of members or any class of members (signed by the chairperson) are entered in books kept for that purpose.

Minutes of general meetings and class meetings must be kept at the company's registered office and be made available for inspection by members without charge. A member may request a copy of such minutes and the company must, within seven days after the receipt of the request and payment of such sum currently not exceeding 50 pence per sheet, make the copy available at the registered office of the company for collection during business hours.

WHAT MUST APPEAR IN A COMPANY'S CORRESPONDENCE?

A company's:

- name must appear on all its business letters, statements of account, invoices, order forms, notices, negotiable instruments, letters of credit and other official publications;
- registered office address must appear on all its letters and order forms; and
- registered number may, but need not, appear in its stationery.

MUST A COMPANY HAVE A SEAL?

A company may, but need not, have a common seal.

A common seal must have the company's name, but need not have the company's registered number, engraved legibly on it.

A company may have a securities seal and, if authorised by its Articles, an overseas branch seal.

HOW ARE SHARES TRANSFERRED?

A company must not register a transfer of shares unless the transfer is effected by an instrument of transfer in writing or in such other manner as is permitted by its Articles.

A company may dispense with the issue of share certificates if its Articles so permit. A member may also waive its right to receive a share certificate, subject to written revocation of that waiver.

Alternatively, shares may be transferred in uncertificated form in the CREST system or to or from an approved central securities depositary or by means of a computer system where the transfer is in accordance with the relevant laws applicable to, and relevant rules and regulations of, an approved stock exchange on which the shares are listed. Approved stock exchanges include a securities exchange in an EU/EFTA regulated market, the New York Stock Exchange, NYSE Chicago, NYSE American, NASDAQ, Tokyo Stock Exchange, Toronto Stock Exchange, the Australian Stock Exchange and the Johannesburg Stock Exchange.

If a company refuses to register a transfer of shares, it must notify both the transferor and the transferee of the refusal within two months of the transfer being lodged.

Transfers of shares between living persons do not attract Jersey stamp duty. Stamp duty may be payable on the value of the shares in a Jersey company on the grant of probate or letters of administration of a deceased shareholder.

MUST SHARE CERTIFICATES BE ISSUED?

A share certificate must be issued within two months after the allotment of shares or after the date on which a share transfer is lodged with the company unless the shares are held in uncertificated form, the member has waived in writing their right to a share certificate or the company is a company the Articles of which do not require share certificates to be issued.

A share certificate is *prima facie* evidence of the member's title to shares if the certificate is either sealed by the company or signed by one or more directors, the company secretary or any other person authorised by the directors in accordance with the company's Articles.

MUST A COMPANY KEEP ACCOUNTING RECORDS?

A company must keep accounting records that are sufficient to show and explain its transactions and its financial position with reasonable accuracy and that enable its accounts to be prepared. The accounts must be kept at any location approved by the directors and must be available for inspection by directors and the company secretary.

If a public company keeps its accounting records outside Jersey, it must make returns to be sent to, and kept in, Jersey which disclose the financial position of the company at intervals of not more than six months.

The company's accounting records must be retained for ten years.

MUST A COMPANY, OTHER THAN AN EQUIVALENTLY REGULATED COMPANY, PREPARE ACCOUNTS?

Directors must prepare accounts for a period of not more than 18 months beginning with a company's date of incorporation or from the end of the period covered by its most recent accounts.

The Companies Law does not specify what constitutes accounts but accounts must be prepared in accordance with the generally accepted accounting principles chosen for their preparation. The Companies Law does not prescribe the contents of, or format for, the accounts. There is no requirement to prepare a cash flow statement or a directors' remuneration report.

A holding company need only prepare consolidated accounts for the group unless its members resolve by ordinary resolution that it must prepare separate accounts.

Where a company's shares are admitted to trading on a UK or EU/EFTA regulated market, its accounts must be prepared in accordance with prescribed generally accepted accounting principles (**GAAP**) (which currently are those of Canada, China, India, Japan, South Korea, the UK and the US as well as the International Financial Reporting Standards either adopted by Regulation of the EU Commission or issued by the International Accounting Standards Board). In other cases, accounts may be prepared in accordance with any GAAP selected by the company which must be specified in the accounts.

Where a company is required to appoint an auditor, its accounts must show a true and fair view of, or be presented fairly in all material respects so as to show, its profit or loss for the financial period and the state of its affairs at the end of the financial period.

A company's accounts must be approved by its directors and signed by a director on behalf of all the directors.

Within seven months of the end of a financial period, a public company's accounts must be audited and filed (along with the auditor's report) and they must be laid before an AGM unless the members have agreed to dispense with the requirement to hold AGMs. A private company does not have to file its accounts but it must lay its accounts before an AGM within 10 months of the end of a financial year unless it is not required to hold AGMs.

Where a company becomes a private company or otherwise ceases to be treated as a public company during a financial period, the filing requirement is satisfied if the accounts relate either to the whole financial period or only to the part of the period during which the company was a public company or treated as such. Accounts filed in these circumstances are registered only if requested by the company.

Different filing requirements also apply where a public company (including a private company subject to the Companies Law as though it were a public company) enters administration or winding up.

Where a public company is placed into administration, accounts are not required to be filed. Instead, the administrator must file an account of the administrator's acts and dealings and of the conduct of the administration.

On the summary winding up of a public company, accounts must be filed for the period in which the winding up begins and for each subsequent financial period until dissolution, unless a liquidator is appointed. Directors must file a signed statement of assets and liabilities at the commencement of the winding up. Where a liquidator is appointed, the liquidator must file an annual account of the liquidator's acts and dealings and the conduct of the winding up.

Where a public company is wound up on just and equitable grounds or by way of a creditors' winding up, accounts are not required to be filed. Instead, the directors or the liquidator, as applicable, must file the statement of affairs when prepared and verified in accordance with the Companies Law.

A company is not obliged to send a copy of its accounts to its members but a member is entitled to receive a copy free of charge on request.

WHAT ARE THE ACCOUNTS AND AUDIT REQUIREMENTS FOR EQUIVALENTLY REGULATED COMPANIES?

Certain Jersey companies whose transferable securities are admitted to trading on regulated overseas markets may be subject to an alternative accounts and audit regime. In those circumstances, the company may be exempt from the Jersey accounts and audit requirements, subject to notification of the Registrar. This regime applies to Jersey companies, other than exempt companies, whose securities are admitted to trading on markets regulated by the United States Securities and Exchange Commission, the Australian Securities and Investments Commission, the Ontario Securities Commission and the Financial Services Agency of Japan.

A company is an **exempt company** if:

- it is an issuer exclusively of debt securities admitted to trading on a regulated market with a denomination of at least €50,000 (or other currency equivalent) if admitted to trading before 31 December 2010 or €100,000 (or other currency equivalent) if admitted to trading or on or after 31 December 2010; or
- it is an open-ended investment company regulated under the Collective Investment Funds (Jersey) Law 1988 or an unregulated fund for the purposes of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.

Where the relevant conditions are met and the Registrar is notified accordingly, a company may rely on its overseas audited accounts and is not required to prepare or file separate audited accounts to comply with Jersey law.

Equivalently regulated companies remain subject to limited Jersey filing obligations. A copy of the overseas audited annual accounts must be delivered to the Registrar within five working days of those accounts being filed with, or at the direction of, the relevant overseas regulator, and the Registrar must be notified if the company is late in filing any required financial statements under the applicable overseas regime.

If an equivalently regulated company ceases to be listed on the relevant overseas regulated market, it must notify the Registrar as soon as practicable and will thereafter be required to comply with the Jersey accounts and audit requirements.

MUST A COMPANY APPOINT AN AUDITOR?

A company must appoint a qualified auditor if it is a public company, if its Articles so require or if a resolution of the company in general meeting so requires. Companies listed on an EU/EFTA or UK regulated market must appoint a recognised auditor. Where required, auditors must be appointed at every AGM to hold office until the next AGM unless the holding of AGMs has been dispensed with, in which case an auditor will continue in office so long as the agreement to dispense with AGMs remains in force or the company in general meeting resolves that the appointment of an auditor be brought to an end.

Both the obligation to appoint an auditor and the requirement to prepare an auditor's report in a financial period do not apply where a public company (or a private company that is subject to the provisions of the Companies Law as though it were a public company) during that period:

- becomes a private company or otherwise ceases to be treated as a public company;
- enters into a summary winding up; or

- is wound up on just and equitable grounds or by way of a creditors' winding up.

Auditors have a right of access at all times to company records and may seek information from officers and the company secretary.

For more information about the qualifications of auditors and the requirements of the Companies Law relating to accounts please see our guide regarding the accounts and audit rules applicable to Jersey companies.

MUST A COMPANY FILE AN ANNUAL CONFIRMATION STATEMENT?

A company must file an annual confirmation statement with the JFSC by the end of February in each year. This replaces the annual return.

A company's annual confirmation statement verifies to the JFSC that the beneficial owner information, significant person information and any other prescribed information provided to the JFSC in relation to the company is accurate. Late filing fees apply.

CAN A COMPANY MAKE DISTRIBUTIONS?

A company may make a distribution (including a dividend) to its members in accordance with the Companies Law. A company may make a distribution from any source other than nominal capital (if a par value company) or any capital redemption reserve.

A distribution must be supported by a solvency statement made by the directors who authorise the distribution confirming that the company will remain able to carry on business and pay its debts as they fall due for 12 months after the distribution is made.

A distribution made without a prior solvency statement may be ratified by court order or by the directors making a subsequent solvency statement. The latter ratification mechanism is limited to correcting technical breaches or administrative oversights and does not permit the retrospective reclassification of payments, including loans, as distributions.

CAN A COMPANY PURCHASE OR REDEEM ITS OWN SHARES?

The Companies Law permits a company to purchase any of its limited shares, including redeemable shares, whether or not they are fully paid, and to purchase depositary certificates in respect of its shares. A purchase must be authorised by an ordinary resolution of the members unless the company is a wholly owned subsidiary or the shares are purchased for nil consideration.

A company may not make a purchase if, as a result, there would no longer be a member holding shares other than treasury shares. Where the purchase takes place on a securities exchange or under a contract approved by the directors, the approving resolution must specify the maximum number of shares, the price range and an expiry date for the authority, not exceeding five years. Purchases may also be effected under a contract approved in advance by the members or, where the shares are acquired for nil consideration, by the directors. A company may also acquire its own listed shares through a third party, such as a broker or bank, under a contract which must specify the limit on the total value of shares that may be purchased.

If a company is authorised to do so by its Articles, it may issue (or convert non-redeemable limited shares into) limited shares that are liable to be redeemed in accordance with their terms or at the option of either the company or the holder. A company may have only redeemable shares in issue provided that at least one share, other than a treasury share, remains in issue following any purchase or redemption. An open ended investment company is subject to modified requirements and may only purchase or redeem fully paid shares at a price not exceeding their net asset value, subject to a cash flow solvency test.

The directors who authorise the purchase or redemption must make a prior solvency statement in the prescribed form. This requirement does not apply where fully paid shares are purchased for nil consideration or to open ended investment companies. Where the required solvency statement was not made at the time, the directors may ratify the transaction without a court order by making a subsequent solvency statement confirming past, present and future solvency.

A company may fund a share purchase or redemption from any source including its nominal capital account and share premium account (if it is a par value company) or its stated capital account (if it is a no par value company).

Shares which are redeemed or repurchased may be held as treasury shares provided that this is authorised by an ordinary resolution of the members and it is not prohibited by a company's Articles.

CAN A COMPANY REDUCE ITS CAPITAL?

There is a court sanctioned process for a company to reduce its capital and a non-court sanctioned process. A company can pass a special resolution to reduce its capital which is then confirmed by the court. Alternatively, a company's directors can make a statement of solvency in equivalent terms to that required for distributions and its members can then pass a special resolution authorising the reduction.

Although a company can distribute share premium (if a par value company) and stated capital (if a no par value company) without the need for a special resolution or court sanction (and without it constituting a reduction of capital), par value companies frequently reduce their share premium account in order to credit the reduction to their profit and loss account as this will constitute an income source from which dividends can be paid.

WHAT CONSENTS ARE NEEDED AND WHAT OTHER REQUIREMENTS APPLY TO SHARE ISSUES?

A company must have a consent under the Control of Borrowing (Jersey) Order 1958 (**COBO Consent**) to issue shares and may require a COBO Consent to issue other types of securities such as warrants, bonds, notes, loan notes and debentures. COBO Consents to issue shares granted:

- prior to March 2010 authorise the issue of a maximum number of shares; and
- since March 2010 authorise a company to issue an unlimited number of shares.

Most Jersey companies are required to notify any change of beneficial ownership to the JFSC within 21 days.

A company is not required to make filings in respect of share issues or other securities.

A par value company may issue shares at par, at a premium or at a discount.

While the Companies Law does not provide for pre-emption rights or require members to give directors the authority to issue shares, provisions can be included in a company's Articles that confer these rights.

A company may give financial assistance in connection with the purchase of its own shares.

A company may pay commissions in connection with subscriptions for its own shares.

IN WHAT CIRCUMSTANCES CAN A COMPANY MAKE A PUBLIC OFFER OF SECURITIES?

A Jersey company may only make a public offer of securities pursuant to a prospectus that has been approved by the Registrar and which complies with the Companies (General Provisions) (Jersey) Order 2002.

A public offer is an offer or invitation to acquire or apply for securities made to persons (other than qualified investors and professional investors) exceeding 50 in number in Jersey and 150 elsewhere. An exemption applies to employee share schemes.

DOES A COMPANY HAVE TO PAY INCOME TAX IN JERSEY?

If a company is tax resident in Jersey, it will be subject to Jersey income tax at the rate of zero per cent unless it is a financial services company, a utility company, an importer to Jersey or supplier in Jersey of hydrocarbon oil or a company in the cannabis industry.

A Jersey company will not, however, be tax resident in Jersey if:

- its business is centrally managed and controlled outside Jersey in a country or territory where the highest rate at which the company may be taxed is 10 per cent or higher; and
- it is resident for tax purposes in that country or territory.

Whether or not a company is tax resident in Jersey:

- if it holds immovable property in Jersey it will be subject to income tax on any profits or gains arising from the sale of, or rents received from, that property; and

- it must submit an income tax return each year to the Comptroller of Revenue. A return in respect of a company's own charge to tax must be filed by midnight on 30 November in the year following the year of assessment.

DOES A COMPANY HAVE TO LEVY OR PAY GST?

Under the Goods and Services Tax (Jersey) Law 2007 (the **GST Law**), goods and services tax (GST) is charged at five per cent on the supply of goods and services in Jersey.

A special regime applies to international services entities (**ISEs**) (being entities which, among other things, supply less than ten per cent of their goods or services to persons in Jersey unless the supplies are made to ISEs). An ISE is not required to be registered as a taxable person under the GST Law, to charge GST on supplies made by it or (subject to limited exceptions) to pay GST on supplies made to it. An ISE must have its name entered on a list of ISEs maintained by the Comptroller of Revenue or a trust company authorised to maintain such a list and must pay an annual fee (normally £300).

DATA PROTECTION (JERSEY) LAW 2018

The Data Protection (Jersey) Law 2018 and the Data Protection Authority (Jersey) Law, 2018 (together the **DP Laws**) set out rules for the processing of data relating to individuals (**personal data**).

Pursuant to the DP Laws, personal data may be processed by either a 'controller' or a 'processor'. The controller, as the decision maker, is the natural or legal person who "alone or jointly with others, determines the purposes and means of the processing of personal data". The processor "processes personal data on behalf of the controller", acting on the instructions of the controller, but does not include an employee of the controller. The DP Laws impose direct obligations on both the controller and the processor.

Both controllers and processors established in Jersey must be registered with the Jersey Office of the Information Commissioner and comply with data protection principles. The DP Laws set out the requirements for organisations to register with the Office of the Information Commissioner. To register, data controllers and processors are required to submit an online notification which is renewable annually and pay an annual fee.

OTHER CONSENTS AND LICENCES

Depending on the nature of a company's business, regulatory consents may need to be obtained by the company under Jersey legislation including, for example, the Financial Services (Jersey) Law 1998 (if financial services business is being undertaken in or from within Jersey), the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (if the company is conducting a Schedule 2 business under the Proceeds of Crime Law (Jersey) Law 1999) and the Control of Housing and Work (Jersey) Law 2012 (if employees are hired in Jersey).

WINDING UP OR LIQUIDATION

A solvent Jersey company is wound up using the summary winding up procedure in the Companies Law. A company can commence the procedure by passing a special resolution without the need to appoint a liquidator. For further information on this procedure please refer to our guide on summary winding up.

Where a company is insolvent, or is likely to become insolvent, a number of insolvency procedures may be available.

Administration is a soon to be introduced insolvency procedure that provides for the appointment by the Royal Court of an administrator to manage the affairs of a company. An administration order may only be made for the purpose of rescuing a company or all or part of its undertaking as a going concern, or achieving a more advantageous realisation of the company's assets than would be achieved by a winding up. While an administration order is in force, a statutory moratorium applies which restricts unsecured creditors from commencing or continuing legal proceedings or taking steps to wind up the company without the consent of the administrator or leave of the court, although secured creditors may enforce their security. Administration may therefore operate as a rescue or value preservation tool and is not necessarily terminal. An administration order may be

made even if the company is being wound up, but not if the company's assets have been declared *en désastre* (ie bankrupt).

If the company is to be liquidated, this is generally achieved through either bankruptcy proceedings or a creditors' winding up.

A creditor can institute bankruptcy proceedings under the Bankruptcy (Désastre) (Jersey) Law 1990.

Alternatively, an insolvent company may also be placed in a creditors' winding up. This procedure may be commenced by either the members of the insolvent company (by passing a special resolution to this effect) or by a creditor making an application to the Royal Court. The company and the creditors may each nominate a liquidator, however, the creditors' choice will prevail unless the Royal Court determines otherwise.

For further information on both these proceedings please refer to our guide on Liquidating an insolvent Jersey company.

CHECKLISTS

CUSTOMARY FILINGS

The filings that the company will customarily need to make include:

Action or filing	Deadline
Annual confirmation statement	before the end of February
Annual audited accounts	within seven months of the end of the financial year
Any special resolution	within 21 days of being passed
Tax return	midnight on 30 November
Payment of ISE fee	before the end of March
Data protection notification renewal	before expiry
Change of information recorded in register of notifications (data protection)	within 28 days of change
Change of registered office	prior to the change
Change of location of register of members	within 14 days of change
Change of beneficial ownership	within 21 days

NOTIFICATIONS TO REGISTERED OFFICE PROVIDER

To permit the company's registers to be kept up-to-date, the company must notify its registered office provider of any change of (or the details of) the company's:

- directors;
- secretary; and
- (if the company's share are not listed on a securities exchange) members.

In addition, if the company's accounting records are kept outside of Jersey, returns regarding the company's financial position must be sent to the company's registered office at least every six months. This requirement will be satisfied by sending a copy of the company's half yearly management accounts.

CONTACTS

A full list of contacts specialising in corporate law can be found here.