



## Case C-005

# Updates to the Competition (Mergers and Acquisitions) (Jersey) Order 2010

## JCRA Advice

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## 1 Executive summary

- 1.1 In November 2025, the States of Jersey agreed a number of changes to the Competition (Jersey) Law 2005 (the **Law**). The changes bring the Law up to date with international best practice whilst encouraging competition in Jersey's economy, supporting businesses and protecting consumer interests.
- 1.2 The amendments to the Law will bring enhancements to the Jersey's mergers and acquisitions regime. However, to be fully effective, the current mergers and acquisitions regime, set out in the Mergers and Acquisitions (Jersey) Order 2010<sup>1</sup> (the **2010 M&A Order**), needs to be updated. The 2010 M&A Order sets out the jurisdictional thresholds which determine which mergers and acquisitions (referred to as 'mergers' throughout this paper) must be notified to the Jersey Competition Regulatory Authority (the **JCRA**) for approval.
- 1.3 The JCRA has received a request from the Minister (the **Advice Letter**) for advice to support the updating of the 2010 M&A Order. This paper contains the JCRA's advice with recommendations which take into account the unique characteristics of Jersey's markets. On receipt of the advice, and following a public consultation, a new mergers and acquisitions order will be created (the **New M&A Order**).
- 1.4 The JCRA has carried out an analysis of mergers notified to it from 2020 to 2025 which has indicated a 68% reduction in mandatory notifications under its proposals. The JCRA is of the view that the recommended jurisdictional thresholds therefore:
  - Will reduce administrative burden and cost for small businesses (the majority of Jersey's businesses);
  - Will reduce the number of mandatory notifications of mergers which have little to no impact on competition in any market in Jersey; and
  - Strikes sensible and reasonable balance between mandatory notification and over reliance on call in power.

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<sup>1</sup> [Competition \(Mergers and Acquisitions\) \(Jersey\) Order 2010](#)

1.5 The JCRA's recommendations are summarised in Table 1 below which are structured around the areas identified in the Advice Letter.

*Table 1: Overview of the JCRA's advice*

Area	JCRA recommendation
Review of jurisdictional thresholds - Structure of the new test	<p>The structure of the new jurisdictional threshold test should be as follows:</p> <ul style="list-style-type: none"><li>• The combined local (Jersey) turnover of all undertakings involved in the transaction meets or exceeds a specified threshold in the most recent complete financial year; and</li><li>• At least two of the undertakings involved each generate applicable turnover in Jersey meets or exceeds a specified threshold in the most recent complete financial year.</li></ul>
Review of jurisdictional thresholds - Turnover levels	<p>The turnover levels for the new jurisdictional test should be:</p> <ul style="list-style-type: none"><li>• The combined local (Jersey) turnover of all undertakings involved in the transaction meets or exceeds £5 million in the most recent complete financial year; and</li><li>• At least two of the undertakings involved each generate applicable turnover in Jersey that meets or exceeds £2 million in the most recent complete financial year.</li></ul> <p>Careful consideration will have to be given to the local turnover calculation to ensure only an appropriate set of mergers are captured.</p>
Introduction of a call in power	<p>A call in power is a key part of the new framework and will support the effectiveness of the new jurisdictional thresholds.</p> <p>Trigger events - The JCRA is supportive of the proposed call in triggers set out in the Advice Letter, however, considers the four week timeframe to make the call in request may not be viable in practice and this should be set to 40 working days. Notwithstanding this, the JCRA would commit to an administrative target of 30 working days for use of call in.</p> <p>Voluntary notification - The JCRA is committed to a voluntary notification process. This would provide certainty to merging parties where they consider their transaction may have the potential to substantially lessen competition in Jersey but it does not fall within the jurisdictional thresholds and, therefore, may be called in by the JCRA.</p>
Merger exceptions	The JCRA is supportive of the proposed exceptions set out in the Advice Letter.

1.6 The rest of this document is organised as follows:

- Introduction (chapter 2);
- JCRA advice (chapter 3); and
- Next steps (chapter 4).

1.7 One annex is included, which provides an overview of the JCRA's analysis of the last five years of merger notifications, which has been used to inform the recommendations.

## 2 Introduction

2.1 Mergers can bring many benefits, through making businesses more efficient, productive, and innovative which can also result in advantages for consumers. However, concerns may arise when a merger has the potential to lessen competition. When competition is reduced, consumers can face higher prices, reduced product and/or service quality and less choice and innovation. These risks mean mergers require assessment to assess the likelihood of this harm materialising. In Jersey, this assessment process is administered by the JCRA.

2.2 This chapter covers:

- The Jersey economy;
- The current merger control regime;
- EU merger control; and
- The JCRA's approach to making its recommendations.

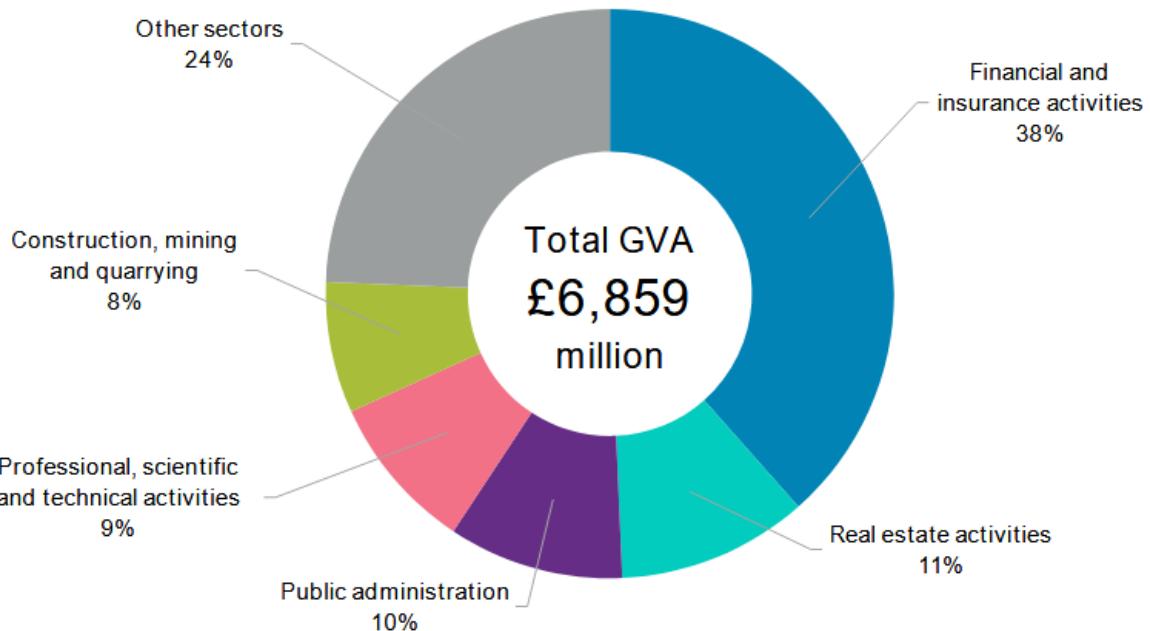
### The Jersey economy

2.3 Jersey is a small island, with a population of a little over 100,000. It has its own distinct economy. In 2024 the estimated Gross Value Added (GVA) generated was £6,859 million.<sup>2</sup> The economy is highly developed and services-focused, with a GDP per capita of £65,800 in 2024. Financial and insurance activities represent the largest economic sector in Jersey in GVA terms.

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<sup>2</sup> See: [R-Jerseys-Economy-2024-SJ20251003.pdf](#)

Figure 1: GVA by sector



- 2.4 There are close links between Jersey and the United Kingdom and many economic activities are functionally integrated. Others are more local in nature and serviced by on-island resource. There are 8500 businesses operating in Jersey's private sector<sup>3</sup> with the majority (59%) being sole traders. There are a small number of larger businesses, with just over 10% of businesses having more than ten staff.
- 2.5 The presence of small domestic markets, such as in Jersey, can limit the potential for competition and increase the scope for market dominance, as there may be limited opportunity to support multiple suppliers. This increases the importance of having an effective merger control regime.
- 2.6 Reflecting Jersey's characteristics an effective regime will differ from larger jurisdictions. For example, in larger jurisdictions, markets are broader and more competitive, so only mergers involving the largest businesses are likely to be scrutinised. In contrast, in Jersey, there will be a focus on smaller transactions, as businesses that appear modest by a large economy standard, can hold market

<sup>3</sup> See: [Number of undertakings by size and sector - Number of private undertakings by size and sector - Government of Jersey Open Data](#)

power locally. These considerations have been taken into account in the JCRA recommendations set out in chapter 3.

## Jersey's current merger control regime

2.7 The Law creates a mandatory merger control regime which provides that a merger must not be executed without the prior approval of the JCRA. The 2010 M&A Order sets out the following jurisdictional thresholds:

- The merging parties are active in the same market and the merger would achieve, or increase, a share of supply or purchase of 25% or more (horizontal mergers);
- One party has a share of supply or purchase of 25% or more, and the other is active up or downstream of that share of supply (vertical mergers); and
- One party has a share of supply or purchase of 40% or more and there is no horizontal or vertical relationship (conglomerate mergers).

2.8 When assessing a proposed merger, the JCRA seeks to establish whether a merger is likely to substantially lessen competition in a market. To do so the JCRA compares the likely state of competition if the merger proceeds with the likely state of competition if the merger does not proceed. The JCRA can only approve a merger, with or without conditions, if it is satisfied the merger is unlikely to have the effect of substantially lessening competition.

2.9 Jersey's approach to jurisdictional thresholds is out of line with best practice, in that it is currently based on the parties' so-called "share of supply" of particular goods or services in Jersey. This approach is intended to be a flexible test, therefore it is more commonly used in systems (such as the UK) that operate a voluntary merger filing system, rather than Jersey's mandatory approach.<sup>4</sup>

2.10 The flexible share of supply test, coupled with the mandatory approach, creates uncertainty for both for prospective merging businesses and for the JCRA when

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<sup>4</sup> International best practice guidelines (ICN Recommended Practice for Merger Notification and Review Procedures) set out that "*Mandatory notification thresholds should be based on objectively quantifiable criteria*".

determining whether a notification is required. Further, it is also broadly drafted – capturing horizontal, vertical, and conglomerate mergers. The combined effect is that the JCRA receives a number of applications for clearance of transactions which present no substantive competition issues. This is both resource intensive and creates an unnecessary administrative burden for businesses.

## EU merger control

2.11 Article 60 of the Law provides that, as far as possible, questions arising in relation to competition must be dealt with in a manner that is consistent with the treatment of corresponding questions arising under EU competition law. Article 60 does not however prevent the JCRA from departing from EU law principles where this is appropriate in light of the particular circumstances in Jersey; EU jurisprudence is therefore treated as persuasive but not binding.

2.12 Therefore, merger control in Jersey draws heavily on concepts contained in the EU Merger Regulation (**EUMR**) and accompanying guideline (the **Consolidated Jurisdictional Notice**). The EU approach has also been considered in making the recommendations set out in this paper and where the JCRA is proposing to diverge from EU competition law, rationale is provided.

## The JCRA's approach to making its recommendations

2.13 The JCRA has made a number of proposals for change since 2015<sup>5</sup>, in line with the developments of the Law. Most recently, in February 2024, the JCRA held a symposium on merger control. This was a closed, invite-only event which brought together:

- Local and UK law firms;
- Local businesses;
- Government Officials and relevant local Arm's Length Bodies; and

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<sup>5</sup> For example, see the following recommendations from 2016: <m1144gi-recommendation-amendments-to-the-jersey-mergers-and-acquisitions-regime.pdf>

- Other Competition Authorities, including the UK’s Competition and Markets Authority (**CMA**), Ireland’s Competition and Consumer Protection Commission (**CCPC**) and the Gibraltar Regulatory Authority (**GRA**).

2.14 The symposium sought views on what jurisdictional thresholds may best work for Jersey. It took into account the current jurisdictional thresholds, the experiences of local business, views on Jersey’s economy and drew the experiences of other jurisdictions and their approaches.

2.15 The symposium output was used to prepare a draft proposed merger control framework which was subject of a closed consultation. The responses received, including responses from the CMA and Government, were taken into account when refining the proposed merger control framework provided to the Government in May 2024.

2.16 The 2024 Proposal had three key elements:

- **Mandatory Notification (jurisdictional threshold)** - The local (Jersey) turnover associated with the proposed transaction is [£5-15million] or greater, in the most recent complete financial year.
- **Call in Power** - Mergers or acquisitions that do not meet the mandatory threshold(s) for notification but that may lead to a substantial lessening of competition in a market for goods or services in Jersey would be called in by the JCRA for approval.
- **Voluntary Notification** - Parties to the transaction may decide to voluntarily notify the JCRA of a proposed transaction in advance, for example, to pre-empt it being called in for assessment.

2.17 Since the 2024 Proposal the JCRA has undertaken significant work in preparing for the changes to the Law and the 2010 M&A Order. A key element of this is market surveillance. This is the JCRA’s ongoing practice of monitoring and analysing Jersey’s markets. It is a structured, systematic, and comprehensive approach to gathering information regarding business and consumer activity in Jersey. It

enhances the JCRA's understanding of Jersey's markets through identifying and monitoring changes and trends in consumer or business behaviour and activity.

2.18 Market surveillance is a key component of the JCRA's approach to merger control. By monitoring developments in market structure, ownership, and patterns of business activity, the JCRA can identify emerging consolidation trends and potential transactions at an early stage. This enables the JCRA to engage proactively, promote awareness of merger control requirements, and reduce the risk of mergers proceeding without appropriate assessment. Market surveillance therefore will support the effective use of the new call in power (see chapter 3).

2.19 The JCRA has given consideration to all the questions set out in the Advice Letter. To support this consideration, a meeting was held between JCRA Officers and Government officials at which the Advice Letter was discussed. The outcomes of this meeting are reflected in the JCRA's recommendations.

2.20 The recommendations also reflect the JCRA's further analysis of mergers completed within the last five years (see Annex 1). Although this analysis reflects only mergers notified under the existing jurisdictional thresholds, it nonetheless provides an indicative view of the mergers that would be captured under the recommended regime.

### 3 JCRA advice

3.1 This chapter sets out the JCRA's recommendations, organised by the points contained in the Advice Letter, namely:

- 1a. Review of notification thresholds - Structure of the new test
- 1b. Review of notification thresholds - Turnover levels
- 2. Introduction of a call in power
- 3. Merger exceptions

3.2 The points raised in the Advice Letter are addressed in the sections below.

#### 1a. Review of notifications thresholds - Structure of the new test (1a)

3.3 The Advice Letter requests the JCRA provides its advice on the structure of the new jurisdictional test to be included in the New M&A Order.

3.4 The 2024 Proposal was for a mandatory jurisdictional test which focused on the combined local (Jersey) turnover of the parties involved in the merger. This reflected feedback from the symposium that, for certain companies with a significant presence in Jersey, it may be appropriate for the JCRA to review all their merger activity, given their scale, market position, and/or strategic importance to the Jersey's economy. However, to reduce administrative burden on these businesses, the proposed jurisdictional test was to be supported by a simplified notification process for unproblematic mergers.

3.5 As noted in chapter 2, since the 2024 Proposal, the JCRA has undertaken significant work in preparing for the changes to the Law and the 2010 M&A Order. This includes the development of market surveillance, which has enabled clearer oversight and monitoring of markets and business activity, such that it is no longer deemed necessary to capture all mergers with a significant presence in Jersey.

3.6 Reflecting this, the JCRA has refined the 2024 Proposal by introducing a two-part jurisdictional test, under which a transaction would be subject to review where:

- **The combined local (Jersey) turnover of all undertakings involved in the transaction meets or exceeds a specified threshold in the most recent complete financial year; and**
- **At least two of the undertakings involved each generate applicable turnover in Jersey that meets or exceeds a specified threshold in the most recent complete financial year.**

3.7 This approach is objective and will provide greater certainty and predictability for both businesses and the JCRA as to whether a transaction is likely to fall within the scope of merger review. By focusing on clearly defined turnover thresholds, the two part test would allow a focus on transactions with the potential to have a material local impact on competition in Jersey, while avoiding the unnecessary capture of transactions that are unlikely to raise competition concerns.

3.8 Under the existing conglomerate test in the 2010 M&A Order, transactions involving certain local businesses with large market shares (over 40%) are automatically notifiable, irrespective of whether those transactions are capable of giving rise to competition concerns.<sup>6</sup> By introducing a two part test, with at least two undertakings required to generate applicable turnover, this approach also helps to avoid inadvertently recreating this issue.

3.9 Lastly, by focusing on the local turnover of the undertakings involved, the test focuses on potential effects on competition in Jersey. The approach is also consistent with practice in EU merger control and other small jurisdictions, such as Guernsey.

3.10 A key determinant of the effectiveness of this approach will be the turnover levels selected.

## 1b. Review of notification thresholds - Turnover levels

3.11 The Advice Letter requests the JCRA provides its advice on the exact level(s) of turnover that should be included in the New M&A Order.

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<sup>6</sup> Local businesses that have regularly been required to notify under this test include operators with a high share of supply in postal services, telecommunications, and tobacco importation.

3.12 The turnover levels set need to strike the balance between effective merger control and administrative efficiency thereby promoting competition whilst minimising unnecessary burden and cost on businesses. The 2024 Proposal focused on the structure of the jurisdictional threshold, rather than turnover levels, however suggested a range of £5-15 million local (Jersey) turnover for further consideration.

3.13 Following receipt of the Advice Letter, the JCRA has revisited its 2024 analysis to finalise its recommendations. Based upon this analysis, which is explained below, the JCRA recommends:

- **The combined local (Jersey) turnover of all undertakings involved in the transaction meets or exceeds £5 million in the most recent complete financial year; and**
- **At least two of the undertakings involved each generate applicable turnover in Jersey that meets or exceeds £2 million in the most recent complete financial year.**

*Approach to determining the appropriate turnover levels*

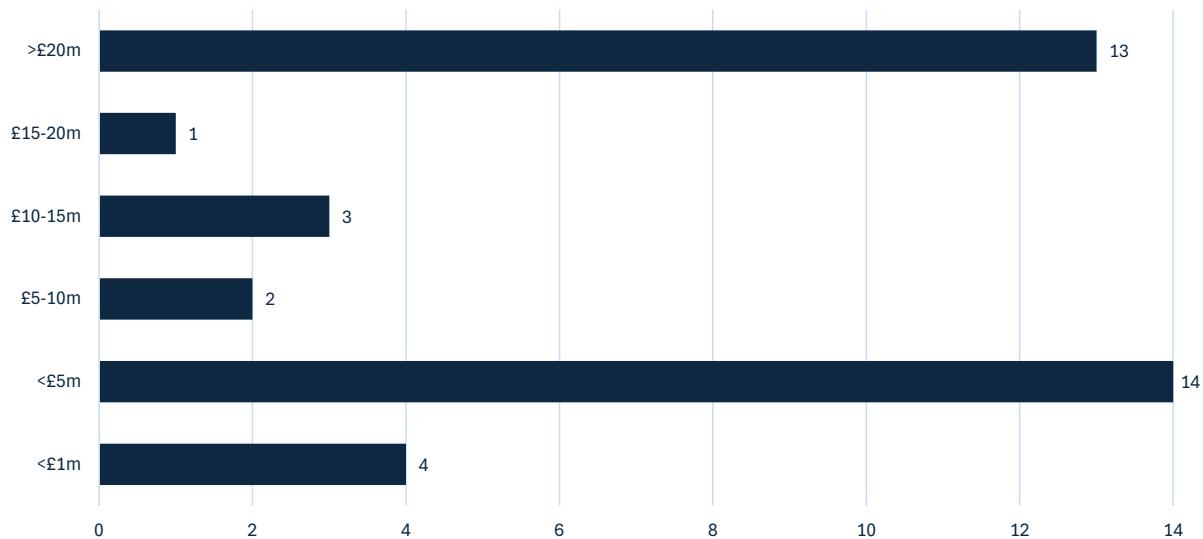
3.14 Conceptually, the turnover threshold level would be aligned with the structure of the economy, particularly the scale of firms relative to the economy as a whole. In an ideal scenario the JCRA would have examined the distribution of business turnover, as this would enable a clear comparison between the proposed threshold and the typical size of a business and help provide evidence on the likely scope of any recommendation.

3.15 However, in the absence of this data being publicly available, the JCRA has relied on an analysis of mergers notified from 2020 to 2025. While this only captures mergers notified under the existing jurisdictional thresholds, it nonetheless provides an indicative view of the businesses involved in mergers and whether similar mergers would be captured under the recommended regime.

3.16 Over the past five years, 50 mergers have been notified to the JCRA however 13 of those mergers were excluded from the analysis, due to a lack of complete data. This reduced the sample group of mergers to 37. A non-confidential summary of the relevant merger data is available at **Annex 1**.

3.17 Taken as a whole, the Figure below shows the combined local (Jersey) turnover across the sample.

*Figure 2: Combined Jersey turnover across the sample*



3.18 The concentration of cases with very high turnover ( $\geq £20m$ ) suggests that merger activity is common among large firms. At the same time, the substantial number of cases involving firms with turnover below £5m shows that a low threshold would bring many small-scale transactions into scope. This risks imposing regulatory burdens on businesses for mergers that are unlikely to have material effect on competition. The relatively small number of cases in the mid-range (£5–20m) indicates that incremental changes to the threshold within this band would have limited impact on overall case coverage, but the higher the level adopted, the greater emphasis there will be on the call in power (discussed under item 2 below).

3.19 Using these turnover numbers, the JCRA's recommended mandatory notification test was applied to the 37 merger sample group:

- 18 out of the 37 mergers would not have been notifiable due to the first part of the turnover test (£5m combined local turnover);
- Seven out of the remaining 19 mergers would not have been notifiable due to the second part of the test (<£2m turnover for both parties); and
- 12 is the number of mergers notifiable under the recommended test. This is a reduction of 25 (68%).

3.20 Reflecting on the outcomes of the analysis, the recommended jurisdictional thresholds captured the vast majority of the mergers that, over the past five years, have had the potential to substantially lessen competition in a market in Jersey. Of the mergers that were not captured, only a small subset would have been considered for call in and this is discussed further under item 2 below.

3.21 In making this recommendation, the JCRA has also considered its previous advice in this area and international precedent.

- The JCRA's advice in 2016 was broadly aligned to this recommendation, as it sought to align the thresholds in Jersey with that in Guernsey (albeit the £5m limb was applied to Channel Islands turnover).<sup>7</sup> The JCRA's view is that as the test focuses on just Jersey generated turnover, it is appropriate to maintain the £5m level. The £2m level is supported by the analysis set out above, and in the JCRA's view still represents a significant local presence and impact, which the JCRA should consider.
- With respect to international precedent, there has been a wide range of different thresholds adopted by jurisdictions across the world, which are of course economy specific. The Government Consultation Paper on Mergers and Acquisition<sup>8</sup> set out details of merger control thresholds in different jurisdictions and noted that the "*Of the jurisdictions considered by Oxera, the JCRA's proposal<sup>9</sup> is broadly in line with the threshold used in Iceland, Slovenia and Bosnia, and slightly higher than the threshold used in Bulgaria and Malta.*"

3.22 Taking all these factors into account, the JCRA is of the view that the recommended jurisdictional thresholds therefore:

- Will reduce administrative burden and cost for small businesses (the majority of Jersey's businesses);
- Will reduce the number of mandatory notifications of mergers which have little to no impact on competition in any market in Jersey; and

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<sup>7</sup> See: [m1144gj-recommendation-amendments-to-the-jersey-mergers-and-acquisitions-regime.pdf](#)

<sup>8</sup> See: [C Competition Law Consultation Paper 2 - Mergers and Acquisitions.pdf](#) (Table 2.2)

<sup>9</sup> At the time, this proposal was £5m and £2m, with the £5m being based on Channel Islands revenue.

- Strikes sensible and reasonable balance between mandatory notification and over reliance on call in power.

3.23 The JCRA recognises that jurisdictional thresholds should not be treated as static. Once the New M&A Order is in force, the JCRA will continue to monitor the operation and effectiveness of the thresholds in practice, including their impact on merger notification volumes and the ability to capture transactions that may raise competition concerns. This will include a post-implementation review in year 2-3 of the New M&A Order being in place.

3.24 If evidence indicates that the thresholds are no longer appropriate or proportionate, the JCRA will recommend amendments to ensure the regime remains effective.

#### *Local (Jersey) turnover calculation*

3.25 There is extensive discussion in the EUMR and Consolidated Jurisdictional Notice regarding the concept of ‘turnover’. Both make it clear that turnover arises in the place where the actual or target customer is located, thereby ensuring that a competition authority only has jurisdiction to review a merger to the extent that it has a local economic impact. So, for example, if a Jersey company makes a sale to a UK consumer, the turnover generated through that sale would be deemed to be UK turnover rather than Jersey turnover. The JCRA recommends this approach to calculating turnover is adopted for Jersey, as this would ensure the JCRA only has jurisdiction to review a merger to the extent that it has a local economic and competitive impact.

3.26 As an exception to the above principle, for financial institutions, credit institutions and insurance undertakings, the EUMR and the Consolidated Jurisdictional Notice considers turnover should be treated as arising where the supplier is based rather than where customers are located. Notwithstanding the EU approach, the JCRA recommends the customer-based calculation of local turnover be adopted in Jersey as this would avoid notifications of transactions involving financial institutions which may have little competitive impact in Jersey (this would be a deviation from the EUMR). By keeping the focus on Jersey-specific turnover rather than, for example, assets under management or funds held in Jersey, a reduction in

mandatory notifications from financial institutions with little competitive impact would be anticipated.

3.27 In order to prevent a merger being carried out in stages to avoid the mandatory notification requirement, the Order would need to include provisions specifying that two or more transactions between the same undertakings which took place within a two year period would be treated as a single transaction. A provision making clear that where a merger consisted of the acquisition of parts of a business, only the turnover relating to the part of the business being acquired should be taken into account, would also be required.

## 2. Introduction of a call in power

3.28 The Advice Letter requests the JCRA provides its advice on the need for a call in power and its views on the Government's proposal set out in the Advice Letter.

3.29 The JCRA's continued view is that a call in power is a key part of the new framework. It would provide the JCRA discretion and flexibility to call in transactions which may, in its opinion, may lead to a substantial lessening of competition in Jersey but that do not meet the financial threshold for mandatory notification. It also allows the JCRA to call in for review transactions in low value but concentrated markets, without the jurisdictional threshold being lowered to a level that would lead to an unacceptably large number of transactions becoming notifiable.

3.30 Being a small economy, the power would have a different purpose to what is envisaged in larger jurisdictions, where the focus is on the risk of 'killer acquisitions'.<sup>10</sup> While small acquisitions in larger economies can lead to reduced competition and innovation, in small island economies, the limited market size and scope mean that the effects of such acquisitions are often more significant and this increases the importance of call in as an agile tool for a competition authority.

3.31 In particular, market power at the local level leads to higher prices and reduced quality for the users of these products and services. The majority of small

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<sup>10</sup> A killer acquisition occurs when a dominant company acquires a smaller, innovative rival. These acquisitions have been a feature of sectors like technology and pharmaceuticals and their purpose is to discontinue the target's projects and eliminate future competition.

acquisitions do not result in market power. Yet a small share of them does. For example if the acquiring company is a major player whose deliberate strategy is to pursue growth through the acquisition of smaller competitors one at a time. A call in power would enable such transactions to be reviewed, thereby complementing the mandatory threshold test.

3.32 Other scenarios where a call in power may be required as in smaller localised markets where the turnover of the businesses involved would fall below the jurisdictional thresholds, but the markets still have a significant local impact and any proposed increase in concentration would merit review. The JCRA may also consider using the power for transactions that have strategic significance for the Jersey economy but again would not be captured by the jurisdictional thresholds. Lastly, where merging parties decline to engage and/or provide sufficient information to the JCRA in response to an enquiry about a transaction, the JCRA may decide to exercise its call in power.

3.33 With respect to the potential scope, as set out above, the JCRA has carried out analysis on mergers notified between 2020 to 2025. The analysis showed that under the recommended jurisdictional thresholds there would be a significant reduction in mergers notified. Of those mergers which were notified, but would not be under the new regime, the analysis suggests that five would be considered for call in.<sup>11</sup>

3.34 At this stage, it is difficult to predict how many transactions may be called in under the New M&A Order. The number will depend on parties' notification behaviour, including use of the voluntary notification process (see below), and the types of transactions coming forward. Further, both the JCRA's market expectations (and engagement) will evolve through time, depending on changing market conditions.

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<sup>11</sup> For the purposes of this analysis, "considered for call in" refers to mergers that, based on a high-level retrospective assessment, may have warranted further examination under the JCRA's call in powers. This does not imply that all such mergers would necessarily have been called in, as the decision to exercise the call in power would depend on the specific facts and evidence available at the time.

### *Trigger events*

3.35 The Advice Letter sets out that any such request must be made within four weeks following the earliest of one of the following ‘trigger events’:

- The time at which (one of) the parties publicly announce(s) the merger;
- The time at which the JCRA becomes aware of (proposed) merger; or
- Six months after the time at which the merger agreement has become effective.

3.36 The JCRA is supportive of the proposed call in triggers set out in the Advice Letter, however, considers the four week timeframe to make the call in request may not be viable in practice.

3.37 The JCRA acknowledges the balance that must be struck between legal certainty for parties to transactions and the need for an effective timeframe within which the call in power can be exercised. The latter is important, as the JCRA would not wish to be placed in a position where the call in power is used more frequently than would otherwise be the case because insufficient time is available to fully assess transactions.

3.38 The JCRA notes that in larger jurisdictions, with significantly higher resources, the time period for call in has been set for a longer period than the four weeks set out in the advice letter. In Ireland, for example, the CCPC has the ability to call in mergers and the requirement is for it to use this power within 60 working days. Indeed, this was the benchmark referenced in the JCRA’s 2024 Proposal.

3.39 To further support this consideration on this area, the JCRA has stated to develop its thinking on the process required for a call in. These steps are anticipated to include i) identification of the transaction, ii) engagement with the parties and iii) consideration of the transaction. Additionally, being a statutory decision, the decision to call in will be supported by a formal governance process.

3.40 Taking these steps into account, potential delays and drawing on the JCRA’s experience of managing other statutory processes (such as merger clearances), the JCRA therefore proposes the timeframe for call in should be a maximum of 40 working days within the New M&A Order. Notwithstanding this, the JCRA is

committed to acting promptly in all matters, and therefore would set an administrative target of 30 working days for use of call in. This can be compared to Phase 1 merger clearance (25 working days); however, the JCRA notes that additional time is required for a call in, as mergers benefit from an established pre-notification process, which would not apply for call in. Further, the JCRA envisages the extra 10 working days included in the New M&A Order would be seen as contingency. This would be used when there are delays in the process, for example, receiving responses from the Parties.

- 3.41 As with the jurisdictional thresholds, the JCRA will monitor the operation of the call in power to assess how it functions in practice. This may allow the time period to be shortened in the future, for example if the JCRA finds it can consistently meet the administrative target without difficulty.
- 3.42 As a final point the JCRA acknowledges parties would not wish for a prolonged period of uncertainty where a transaction may be called in. Therefore to address this and complement the call in power the JCRA will introduce a voluntary notification process.

#### *Voluntary notification process*

- 3.43 To remove potential uncertainty for businesses that a call in power may create, the 2024 Proposal set out a process whereby parties to a transaction may decide to voluntarily notify the JCRA of a merger in advance, for example, to pre-empt it being called in for assessment. The two outcomes of a voluntary notification would be:
  - Issuance of ‘no further questions’ email if there are clearly no competition concerns; or
  - Where the JCRA is satisfied that a risk to competition may exist, it would ‘call in’ the merger and progress using the standard merger review process.

- 3.44 The JCRA’s commitment to a voluntary notification process remains. Such a process would provide certainty to merging parties where they consider their transaction may have the potential to substantially lessen competition in Jersey but it does not meet the jurisdictional thresholds and, therefore, may be called in by the JCRA.

3.45 Linked to the above recommendation, the JCRA notes that having a longer timeframe for call in would also be expected to increase the incentives for parties to undertake voluntary notifications, which will increase the effectiveness of the new regime.

### 3. Merger exceptions

3.46 The Advice Letter requests the JCRA's advice on the introduction of a set of limited exceptions that exclude certain types of transactions from being treated as 'mergers or acquisitions' for the purposes of the Law.

3.47 Having reviewed previous advice and the Irish Competition Act 2002, the JCRA recommends three exceptions to the definition of a merger are included, reflecting those in Article 3 of the EUMR, namely:

- Where credit institutions or other financial institutions or insurance companies, through their normal activities hold securities on a temporary basis, provided they do not exercise voting rights in respect of those securities.
- Where control is acquired by an office-holder according to Jersey law relating to liquidation, winding up, insolvency, cessation of payments, compositions, or analogous proceedings; and
- Where the operations are carried out by the financial holding companies provided however that the voting rights in respect of the holding are exercised, in particular in relation to the appointment of members of the management and supervisory bodies of the undertakings in which they have holdings, only to maintain the full value of those investments and not to determine directly or indirectly the competitive conduct of those undertakings.

3.48 The exceptions listed would be excluded from the scope of application of the merger rules altogether. The ability of the JCRA to grant Exemptions under Article 9 and that of the Minister to grant Exemptions under Article 23 would remain unchanged.

## 4 Next steps

- 4.1 The JCRA is focused on promoting and encouraging competition between businesses in Jersey and an effective merger control regime is fundamental to achieving this. The JCRA has therefore welcomed the opportunity to provide the Minister with advice on the New M&A Order.
- 4.2 The JCRA is committed to the orderly, effective, and timely implementation of the New M&A Order. To support this, the JCRA is developing new guidelines and updating its existing merger guideline, which will be available prior to the changes coming into effect. In addition, the JCRA will carry out a programme of outreach and advocacy. It is envisaged this will include in-person awareness sessions, drop-in sessions with businesses and local law firms and a comprehensive communications plan.
- 4.3 In order to allow this important preparatory work to take place, it is recommended that the implementation date for the New M&A Order is not before 1 October 2026. This will allow the orderly and effective implementation of the new regime.
- 4.4 The JCRA remains available to assist the Minister and officers, as appropriate, in the preparation of the New M&A Order.

## Annex 1: Data annex

### Overview

The JCRA has conducted an analysis of the 50 mergers notified to it from 2020 to 2025. A non-confidential summary of that analysis is provided below.

Note:

- Of the 50 mergers notified to the JCRA between 2020 and 2025, 13 have been excluded due to a lack of the relevant data, e.g. the Jersey turnover for all parties involved;
- The information presented below was provided by merging parties through the merger application process; and
- The potential for local impact and consider for call in have been populated based on JCRA Officer review and have been informed by the characteristics of the merger.

**Table 1: Non-confidential summary of merger data**

ID	Reason for notification	Combined Jersey Turnover	Target Jersey Turnover	Potential local impact	Captured by recommended test	Consider for call in
1	Article 2 of the 2010 M&A Order: horizontal	£5-10m	£5-10m	Yes	Yes	N/a
2	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£5m	Yes	Yes	N/a
3	Article 4 of the 2010 M&A Order: conglomerate	>£20m	<£2m	No	No	No
4	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£2m	No	No	No
5	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£2m	No	No	No
6	Article 2 of the 2010 M&A Order: horizontal	>£20m	<£5m	Yes	Yes	N/a
7	Article 3 of the 2010 M&A Order: vertical	>£20m	>£20m	Yes	Yes	N/a
8	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£2m	No	No	No
9	Article 2 of the 2010 M&A Order: horizontal	>£20m	£10-15m	Yes	Yes	N/a

ID	Reason for notification	Combined Jersey Turnover	Target Jersey Turnover	Potential local impact	Captured by recommended test	Consider for call in
10	Article 2 of the 2010 M&A Order: horizontal	£10-15m	<£2m	No	No	No
11	Article 4 of the 2010 M&A Order: conglomerate	>£20m	>£20m	Yes	Yes	N/a
12	Article 4 of the 2010 M&A Order: conglomerate	>£20m	>£20m	Yes	Yes	N/a
13	Article 4 of the 2010 M&A Order: conglomerate	£15-20m	<£2m	No	No	No
14	Article 2 of the 2010 M&A Order: horizontal	£10-15m	£10-15m	Yes	Yes	N/a
15	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£2m	Yes	No	Yes
16	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£5m	No	No	No
17	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£2m	No	No	No
18	Article 2 of the 2010 M&A Order: horizontal	>£20m	£15-10m	Yes	Yes	N/a
19	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£5m	Yes	No	Yes
20	Article 4 of the 2010 M&A Order: conglomerate	>£20m	<£2m	Yes	No	Yes
21	Article 2 of the 2010 M&A Order: horizontal	>£20m	>£20m	Yes	Yes	N/a
22	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£2m	No	No	No
23	Article 4 of the 2010 M&A Order: conglomerate	>£20m	>£20m	Yes	Yes	N/a
24	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£2m	No	No	No
25	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£2m	No	No	No
26	Article 2 of the 2010 M&A Order: horizontal	>£20m	<£2m	Yes	Yes	N/a
27	Article 2 of the 2010 M&A Order: horizontal	>£20m	£5-10m	Yes	Yes	N/a
28	Article 2 of the 2010 M&A Order: horizontal	<£5m	<£2m	Yes	No	Yes
29	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£5m	No	No	No
30	Article 4 of the 2010 M&A Order: conglomerate	<£5m	<£5m	No	No	No

ID	Reason for notification	Combined Jersey Turnover	Target Jersey Turnover	Potential local impact	Captured by recommended test	Consider for call in
31	Article 4 of the 2010 M&A Order: conglomerate	£5-10m	£5-10m	Yes	Yes	N/a
32	Article 2 of the 2010 M&A Order: horizontal	£10-15m	<£2m	No	No	No
33	Article 4 of the 2010 M&A Order: conglomerate	<£1m	<£2m	No	No	No
34	Article 2 of the 2010 M&A Order: horizontal	<£1m	<£2m	No	No	No
35	Article 4 of the 2010 M&A Order: conglomerate	<£1m	<£2m	No	No	No
36	Article 3 of the 2010 M&A Order: vertical	<£1m	<£2m	No	No	No
37	Article 3 of the 2010 M&A Order: vertical	>£20m	<£2m	Yes	No	Yes