



Case M1380G

Proposed acquisition of Deutsche Bank International wealth management and investment businesses by Butterfield Bank (Guernsey) Limited

Decision – Preliminary Review

Document No: CICRA 18/25

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Jersey Competition Regulatory Authority
2nd Floor Salisbury House, 1-9 Union Street,
St Helier,
Jersey, JE2 3RF
Tel 01534 514990, Fax 01534 514991 Web:
www.cicra.je

Guernsey Competition & Regulatory Authority
Suite 4, 1st Floor,
La Plaiderie Chambers, La Plaiderie,
St Peter Port,
Guernsey, GY1 1WG
www.cicra.gg

Summary

1. Butterfield Bank (Guernsey) Limited (**Butterfield**) proposes to acquire the Deutsche Bank International Limited wealth management banking and custody businesses from Deutsche Bank International Limited (**DBIL**).
2. The transaction has been notified to the Guernsey Competition and Regulatory Authority (**GCRA**) pursuant to Section 16(1) of the Competition (Guernsey) Ordinance 2012 (the **2012 Ordinance**).
3. The GCRA has determined that the proposed acquisition will not lead to a substantial lessening of competition in any relevant market and hereby approves the notified transaction.

The Notified Transaction

4. On 31 May 2018, the GCRA received a joint application from Butterfield Bank (Guernsey) Limited (the **Purchaser**) and Deutsche Bank International Limited (the **Seller**) for the proposed acquisition of the Seller's wealth management banking and custody businesses (the **Target**) through the transfer of client relationships together with the relevant customer agreements and certain staff.
5. As the Purchaser is a qualifying 'financial institution or credit institution'¹, the application for approval was made by way of preliminary review in Guernsey in accordance with regulation 4(1) of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012.
6. The Channel Islands Competition and Regulatory Authorities² (**CICRA**) registered the application on its website with a deadline for comments of 7 June. No submissions were received.

The Parties

7. Butterfield is a Guernsey registered company (company number 21061). Its ultimate parent is The Bank of the N T Butterfield & Son Limited (**Butterfield Bank**), which is listed on the New York Stock Exchange and listed on the Bermuda Stock Exchange. In the financial year ended 31 December 2017, the Butterfield's income in Guernsey was £8.5m.
8. Butterfield is a direct subsidiary of Butterfield Bank and is the Guernsey business unit of the Butterfield Group which provides wealth management, banking and custody services to individual and corporate clients of the Butterfield Group from Guernsey.

¹ 'Credit Institution' means a deposit taking business as defined in section 3 of the Banking Supervision (Bailiwick of Guernsey) Law 1994; 'Financial Institution' means a controlled investment business as defined in the Protection of Investors (Bailiwick of Guernsey) Law 1987 and a financial services business as defined in the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law 2008

² The JCRA and GCRA co-ordinate their activities with respect to competition law enforcement in the Channel Islands. For the purposes of this document, the JCRA and GCRA are together referred to as CICRA, and all references to CICRA should therefore be read as references to each of the JCRA and GCRA unless the context otherwise requires.

9. Deutsche Bank International Limited, is a Jersey registered company (company number 5905). It is regulated by the Jersey Financial Services Commission and through its Guernsey branch by the Guernsey Financial Services Commission. The annual turnover for DBIL in 2017 was £3.

Guernsey: Requirement for GCRA Approval

10. Pursuant to s.61(1)(b) of the 2012 Ordinance, a merger or acquisition occurs for the purposes of that Ordinance when: *“an undertaking [...] directly or indirectly acquires or establishes control of another undertaking or the business of another undertaking”*.
11. As a result of the transaction, Butterfield will acquire the wealth management, banking and custody businesses of DBIL. The notified transaction is therefore a merger, as defined by the 2012 Ordinance.
12. Under Regulation 2(a) and (b) of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations 2012 (the **Regulations**), an undertaking is involved in a merger or acquisition if it is acquiring, or being acquired by, another undertaking.
13. Under s.13(1) of the 2012 Ordinance, certain mergers must be notified to, and approved by the GCRA before they can be put into effect. Regulation 1 of the Regulations provides that mergers must be notified to the GCRA for clearance if:
- a. The combined Channel Islands turnover of the undertakings involved in the merger exceeds £5 million, and
 - b. Two or more of the undertakings involved in the merger have Guernsey turnover exceeding £2 million.
14. According to information provided by the notifying parties, the combined and individual applicable turnover of the Parties in the Channel Islands and Guernsey exceeds these thresholds (see above). On this basis, the GCRA’s approval is required before the acquisition is executed.

Market Definition

15. Under s.13 of the 2012 Ordinance, the GCRA must determine if the merger would substantially lessen competition within any market in Guernsey for goods or services. To this end, CICRA will identify the markets which are likely to be affected by the merger and then assess whether competition in these markets will be substantially lessened³.
16. The relevant product market is defined primarily by reference to the likely response of consumers and competitors⁴. It will comprise products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the product’s characteristics, prices and intended

³ In many cases, a market may already have been investigated and defined by CICRA or another competition authority. CICRA may take note of market definitions applied by other competition authorities, although these are not precedents. Competition conditions may change over time, changing the market definition. Market definition will always depend on the prevailing facts.

⁴ CICRA Guideline 7 – Market Definition

use. An undertaking cannot have a significant impact on the prevailing conditions of a market if customers can easily switch to other service providers.

17. Both Butterfield and DBIL are active in the provision of custodial services, fiduciary banking services and private banking. The applicants consider the relevant product market to be the provision of a full range of private banking, custody and wealth management services.
18. In previous cases, the European Commission has found that there are distinct markets for retail banking, corporate banking, and investment banking⁵. It considered the market to be at least national or regional in scope.
19. However, for the purposes of the present decision, the exact product market definition can be left open as the competitive assessment would not change on the basis of any market definition considered.

Effect on Competition

20. After defining the relevant market, CICRA estimates the respective market shares of the competitors in that market, both before and after the proposed transaction. These shares can be used as an indication of the overall level of market concentration which will be brought about as a result of the merger.
21. The information provided by the notifying parties, and confirmed by publically available sources⁶, indicates that the banking sector in Guernsey is highly fragmented. According to the Guernsey Financial Services Commission website, there are 21 holders of banking licences in Guernsey other than Butterfield and DBIL, of which 12 have the necessary licenses to provide custody.
22. Given the fragmented nature of the market, the transaction is unlikely to lead to any substantial lessening of competition on any market in Guernsey.

Decision

23. Based on the preceding analysis the GCRA concludes that the acquisition will not substantially lessen competition within any market in Guernsey for goods or services.
24. The GCRA is also satisfied that the merger would not be to the prejudice of:
 - (a) consumers or any class or description thereof;
 - (b) the economic development and well-being of the Bailiwick; or
 - (c) the public interest.

53. The merger is therefore approved under s.13 of the 2012 Ordinance.

12 June 2018

By Order of the Board of the GCRA

⁵ See - http://ec.europa.eu/competition/mergers/cases/decisions/m8553_573_3.pdf

⁶ <https://www.gfsc.gg/commission/regulated-entities>