

CICRA Merger Application Form

1. Preliminary Information

- 1.1 Provide the contact details of all parties, including the business website address where applicable. For corporate undertakings, please state where the company is incorporated. If any of the parties or their parent entities are listed companies, please state the locations of listing.

Acquirer

Co-operative Group Limited (CGL):

[Redacted]

CGL is incorporated in England and Wales
<https://www.co-operative.coop/>

CGL which is acquiring the Target through its subsidiary **Co-operative Group Holdings (2011) Limited (CGH2011)** (same contact details as above).

Target

Nisa Retail Limited (Nisa):

[Redacted]

Nisa is incorporated in England and Wales
<https://www.nisaretail.com/>

- 1.2 If any party is part of a larger corporate group, provide the contact details for the ultimate parent entity and state where it is incorporated.

Acquirer Parent Entity

N/A

Target Parent Entity

N/A

1.3 Provide the contact details for each party's authorised legal representative(s).

UK legal representatives

CGL

[Redacted]

Nisa

[Redacted]

Channel Islands legal representatives

CGL & Nisa

Helen Wyatt
Mourant Ozannes
1 Le Marchant Street
St Peter Port
Guernsey
GY1 4HP
Helen.wyatt@mourantozannes.com
+44 1481 731 408

1.4 Provide the contact details of the person who should receive the filing fee receipt (and the invoice for a fee for a second detailed review).

[Redacted]

1.5 Indicate whether the application is made under Article 21 of the *Competition (Jersey) Law 2005* and/or regulation 5 of *The Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012*, and explain why the parties are required to seek approval for the merger under that legislation.

Application is made under both Article 21 of the Competition (Jersey) Law 2005 and regulation 5 of The Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012 (the **Guernsey Regulations**). This is further to Article 20(1) of the Jersey Law and Section 13 of the Guernsey Ordinance, which in each case provide that a person must not execute a merger of a type prescribed either in an Order (in the case of the Jersey Law) or by Regulation (in the case of the Guernsey Ordinance) without CICRA approval.

Jersey

Under Article 2 of the Competition (Mergers and Acquisitions) (Jersey) Order 2010 (the **Order**) a merger will require prior approval where it results in a share of supply or purchase of 25% or more being achieved, or increased (the **Horizontal Threshold**). As the parties are active in the wholesale supply of groceries in Jersey and estimate that their combined shares of supply or purchase will, following the acquisition satisfy the Horizontal Threshold.

Guernsey

Under the Guernsey Regulations, the thresholds for determining whether a merger must be notified to CICRA are based on the turnover of the undertakings involved in the merger. In the previous financial year, CGL had sales in Guernsey of [over £2 million] and Nisa had sales in Guernsey of [over £2 million], [with combined sales of over £5 million]. The parties therefore consider that these turnovers exceed the prescribed thresholds. Therefore the acquisition will need to be notified to CICRA pursuant to Regulation 1 of the Guernsey Regulations.

Jersey and Guernsey

Despite the fact that the acquisition is a notifiable transaction in both Jersey and Guernsey, the parties do not believe that the acquisition will lead to a substantial lessening of competition in either Jersey or Guernsey (as further explained at section 4).

1.5 Indicate whether the parties are making a joint application.

CGL and Nisa are making a joint application.

1.6 What is the expected timescale for exchange of contracts and completion of the merger?

Nisa is being acquired by CGL's subsidiary CGH2011 pursuant to a court sanctioned scheme of arrangement under the UK Companies Act 2006 (the **Proposed Transaction**). [Redacted] The Proposed Transaction was approved by over 75% of Nisa's shareholders¹ on 10 November 2017.

The Parties are aiming to complete the Proposed Transaction [Redacted]. Completion is subject to the satisfaction of certain conditions set out in the Scheme Documents including, amongst other things, merger approval from both CICRA and the Competition and Markets Authority in the UK (the **CMA**) and an order from the High Court of Justice in England and Wales sanctioning the Proposed Transaction.

¹ Nisa refers to its shareholders as "members".

1.7 Indicate whether any of the parties or their parent entities has previously received merger approval in Guernsey or Jersey.

Neither CGL nor CGH2011 has previously received merger approval in Guernsey or Jersey.

Nisa has not previously received merger approval in Guernsey or Jersey.

1.8 List any other competition authorities to whom the merger has been notified.

The Proposed Transaction is also being notified to the CMA. The CMA announced the launch of its Phase 1 merger enquiry on 22 February 2018.²

1.9 List any other regulatory body, whether in Guernsey or Jersey or elsewhere, that has been notified or will be notified of the merger. Please describe any pre-completion requirements that have been imposed and the expected satisfaction date of any such requirements.

No notification has been made to any other regulatory body in Guernsey, Jersey or elsewhere (with the exception of the CMA, as per paragraph 1.8 above) but as the Proposed Transaction is by way of a court sanctioned scheme of arrangement, an order from the High Court of Justice in England and Wales sanctioning the Proposed Transaction must be obtained before the Proposed Transaction can complete. This will take place within 14 days of merger clearance being granted by the CMA and CICRA.

2 Description of the Merger

Provide an executive summary of the merger, describing the parties involved and their areas of activity, a brief description of the business/es being acquired and their areas of activity, the reasons for the merger and the nature of the transaction (i.e. statutory merger, share or asset acquisition, joint venture, public offer).

Executive Summary

Neither CGL nor Nisa have any presence in the grocery retail market in Jersey or Guernsey. As explained further below, CGL provides wholesale grocery supplies to the Channel Islands Co-operative Society (**CI Co-op**) through a buying group arrangement known as the Federal Retail Trading Services (**FRTS**) [Redacted]. Nisa provides wholesale grocery supplies to a limited number of customers in the Channel Islands, including Sandpiper CI Ltd (**Sandpiper CI**) [Redacted].

² <https://www.gov.uk/cma-cases/co-operative-group-nisa-retail-merger-inquiry>

However, Sandpiper CI recently announced that it had entered into a long term franchise and wholesale supply agreement with Morrisons³ [Redacted] Sandpiper CI has said the intention is for most of its mini-supermarkets to be rebranded into 'Morrisons Daily' stores where Morrisons own-brand products will be supplied alongside branded products. It is also worth noting that even historically Nisa was not Sandpiper CI's exclusive supplier as it had also had other wholesale supply relationships in place with other wholesalers in Guernsey and Jersey including, for example, Marks & Spencer, Iceland and Waitrose.

At the wholesale level, the Parties consider it unlikely that the Proposed Transaction would reduce the number of grocery wholesaler options available to grocery retailers in Guernsey and Jersey. As explained further below, this is because pre-merger, CGL would not be available as a wholesale supplier to non-FTRS member stores.

[Redacted] Further, there is no intention by CGL, post-merger, to restrict Nisa's offering to existing customers, reduce its existing customer base or vary/terminate any existing contracts in the Channel Islands. As a result, the Proposed Transaction should not have any direct effect in the market for the wholesale supply of groceries.

In any event, the wholesale grocery market in Guernsey and Jersey currently includes a number of major active players as well as a number of other smaller or independent wholesalers that could provide credible alternatives to grocery retailers in the event of a decreased level of service or an increase in wholesale prices from the merged parties following the Proposed Transaction.

Therefore, existing competition in the relevant markets is already sufficiently strong to ensure that the Proposed Transaction would not enable the parties to profitably increase prices or reduce service for grocery retailers and, in turn, consumers.

The Parties Involved

CGH2011

1. CGH2011 is a [Redacted]⁴ subsidiary of CGL [Redacted].

³ Sandpiper CI's press release - <http://www.sandpiper-ci.com/news/morrisons-to-become-sandpiper-s-franchise-and-wholesale-supply-partner> and Morrisons' press release - <https://www.morrisons-corporate.com/media-centre/corporate-news/morrisons-announces-new-agreement-with-sandpiper/>

⁴ [Redacted]

2. CGL intends to acquire 100% of the shares in Nisa indirectly through CGH2011 pursuant to a court sanctioned scheme of arrangement. [Redacted]

CGL

1. CGL is a registered society owned by circa eight million members.
2. CGL's total revenue across the UK for 2016 was £9.5 billion, of which £7.1 billion was from food sales.
3. CGL is active in a range of activities including grocery retailing, insurance, funeral care and legal services.
4. Of particular relevance to this application and CGL's activities in the Channel Islands:
 - a. *Grocery (Retail)*: CGL and its wholly owned subsidiaries own and operate [Redacted] grocery retail stores across the UK under the Co-op fascia. However, it does not own or operate any grocery retail stores in the Channel Islands; and
 - b. *Grocery (Wholesale)*:
 - i. CGL is a member of the buying group known as the Federal Retail Trading Services (**FRTS**). [Redacted]
 - ii. [Redacted]
 - iii. In the Channel Islands, CGL provides grocery products to The Channel Islands Co-operative Society Limited (**CI Co-op**) under the FRTS arrangement referred to above. Whilst both are involved in the FRTS it should be noted that CGL and the CI Co-op are independent organisations [Redacted].
 - iv. [Redacted]

Nisa

1. Nisa is a mutual company owned by its [over 1000] shareholders.
2. In contrast to CGL, Nisa itself is not a retailer.

3. Nisa's principal activities are the wholesale supply of grocery products and the provision of symbol group services to its shareholders throughout the UK.
4. Collectively, Nisa's shareholders operate [Redacted] stores [Redacted]. Nisa itself does not own or operate any of these stores. These grocery stores can be broken down further into the following categories:
 - i. Independent retailers (around [Redacted] stores);
 - ii. Multi-site retailers (such as [Redacted]); and
 - iii. Symbol group (around [Redacted] stores) under the following fascia:
 - *Nisa Extra*: supermarkets or one stop stores;
 - *Nisa Local*: convenience stores; and
 - *Loco*: small stores.
5. In the Channel Islands, Nisa has a wholesale grocery supply agreement with Sandpiper CI [Redacted]. Nisa does not have any symbol stores in the Channel Islands. Sandpiper CI purchases products from a number of other sources including Waitrose, Marks & Spencer and Iceland. Nisa estimates that [a high proportion] of Sandpiper CI's purchases in the financial year ending 2 April 2017 were from sources other than Nisa. As noted above, Sandpiper CI has recently announced a new wholesale and franchise agreement with Morrisons [Redacted].
6. Nisa also provides wholesale grocery supplies to a small number of other businesses (both retail and wholesale) in the Channel Islands under its standard Terms and Conditions.
7. [Redacted]

Reasons for the merger

CGL's food strategy is to be the leading convenience retailer in the UK. To deliver that strategy, CGL needs to grow scale through wholesale and franchise channels. That need is even more evident in light of Tesco/Booker and likely further consolidation in the grocery sector. [Redacted]

Nisa has a mutual history, as well as a community and charity focused ethos, that is aligned to that of CGL and therefore is a good fit for CGL.

[Redacted]

Economic Benefits

[Redacted]

Nature of the Proposed Transaction

The Proposed Transaction is to be effected by way of a court sanctioned scheme of arrangement between Nisa and CGL through CGH2011. The Proposed Transaction was approved by a majority of over 75% of shareholders of Nisa on 13 November 2017, and as noted above, the Proposed Transaction will now, subject to the satisfaction of certain conditions (including merger approval from both CICRA and the CMA), need to be sanctioned by the High Court of England and Wales before it can be completed.

- 2.1 Indicate whether the merger involves the whole of the parties involved, or whether some divisions or subsidiaries of the parties are not involved in the merger.**

The Proposed Transaction involves the whole of the parties involved.

- 2.2 Provide a diagram showing the structure of the parties involved (including any companies which have ultimate control of the parties to the merger) before and after completion of the merger.**

Diagrams showing the ownership structure of CGL's group and Nisa's group both pre and post completion of the Proposed Transaction [have been provided to CICRA on a confidential basis].

[Redacted]

- 2.3 Provide details of any ancillary arrangements between the parties or their parent entities that you believe are directly related and necessary to implement the merger.**

N/A

- 2.4 Provide a copy of the agreement between the parties effecting the merger (if available), and all ancillary agreements.**

The Scheme Documents are included at Appendix 3.

- 2.5 Provide copies of all internal and/or external studies, analyses, reports, and surveys prepared by or for any of the parties for the purpose of assessing or analysing the benefits or effects of the merger on markets, market shares, competition, competitors, potential for sales growth or expansion into new markets, and indicate (if not otherwise contained in the document itself) the**

date of preparation, and the name and title of the principal person who prepared each document. This includes any documents submitted to or prepared for any member/s of the board of directors and/or the shareholders' meeting for the purposes of assessing and analysing the merger.

The Parties' internal documents do not relate specifically to the Channel Islands. However, [CICRA have been provided with the Parties'] documents [on a confidential basis]:

[Redacted]

- 2.6 If the proposed transaction is a public bid, provide a copy of the Offer Document and Listing Particulars.**

N/A

- 2.7 Provide a copy of any press release (including those in specialist or trading journals) announcing the merger and details of any official notifications to stock exchanges.**

CGL

<https://www.co-operative.coop/media/news-releases/nisa-board-recommends-co-op-group-offer-to-nisa-members>

<https://www.co-operative.coop/media/news-releases/nisa-retail-members-vote-in-favour-of-co-op-group-offer>

Nisa

<http://corporate.nisaretail.com/press-office/nisa-retail-members-vote-in-favour-of-co-op-group-offer-to-nisa-members>

3 Details of the Parties

- 3.1 Specify the industries, in Guernsey and/or Jersey and abroad, in which the parties to the merger, or, if different, their corporate groups, are active.**

CGL

1. In the Channel Islands, CGL wholesales grocery products to CI Co-op under the FRTS arrangement referred to above. Whilst both are involved in the FRTS, it should be noted that CGL and the CI Co-op are independent organisations. CGL does not operate any retail stores in the Channel Islands.

2. In the UK, CGL is active in a range of activities including grocery wholesaling and retailing, insurance, funeral care and legal services.

Nisa

3. In the Channel Islands, Nisa supplies wholesale grocery products to a small number of retailers and wholesalers. [Redacted]. Nisa does not operate any retail stores in the Channel Islands.
4. In the UK and Ireland, Nisa's principal activities are the wholesale supply of grocery products and the provision of symbol group services to its shareholders.

3.2 Provide the turnover for each party involved in the merger and, if different, their corporate groups, (i) worldwide, (ii) in Guernsey and (iii) in Jersey, for the last financial year for which such information is available and for any available interim period in the current year.

- a) CGL has provided turnover figures for its financial year ending in 2016 as 2017 figures are not yet available.
- b) Nisa has provided turnover figures turnover figures for its financial year ending 2 April 2017.

Turnover in British Pounds Sterling (£)	CGL ⁵	Nisa	Aggregate
Guernsey turnover:	[Redacted]	[Redacted]	[Redacted]
Jersey turnover:	[Redacted]	[Redacted]	[Redacted]
World-wide turnover:	9,500,000,000	1,251,657,000	10,751,657,000

3.3 Provide copies of the most recent annual reports, or (if no annual reports are available) the most recent audited financial statements, of the parties to the merger and, if different, their corporate groups.

CGL

⁵ [Redacted]

[https://assets.contentful.com/5ywmq66472jr/2smNzLOuyoUsQKMWueuuwW/e769409c38659291329ce11c437154d0/Coop Annual Report 2016.pdf](https://assets.contentful.com/5ywmq66472jr/2smNzLOuyoUsQKMWueuuwW/e769409c38659291329ce11c437154d0/Coop%20Annual%20Report%202016.pdf)

Nisa

Annual report and accounts for year ended 2 April 2017 [are available on Companies House].

4 Effects on Competition

- 4.1 Specify each category of good or service produced, supplied, distributed or otherwise sold in Guernsey and/or Jersey during the previous two years by each party involved in the merger and provide each party's sales in Guernsey and/or Jersey for each category listed.

CGL

The wholesale supply of groceries to CI Co-op (who operate 25 stores across Guernsey and Jersey) accounts for CGL's entire turnover in Guernsey and Jersey [Redacted].

Nisa

The wholesale supply of groceries to [a number of] different retailers and wholesalers in Guernsey and Jersey (including Sandpiper CI who operates 38 stores across Guernsey and Jersey)⁶, which together accounts for Nisa's turnover in Guernsey and Jersey [Redacted]. These customers are listed below with their value to Nisa in its last financial year.

Customer	Value (£)	Type of customer
[Redacted]	[Redacted]	[Redacted]

- 4.2 With reference to CICRA Guideline 7 - Market Definition, explain what you consider to be the economic market(s) for the purpose of assessing the competition effects of the merger, giving reasons. Markets should be defined in terms of (i) product; and (ii) geography.

⁶ [Redacted]

i. **Relevant product market:**

Wholesale Supply of Groceries

As set out above, both Parties are active in the wholesale supply of groceries, with CGL providing grocery products to CI Co-op under the FRTS arrangements and Nisa providing grocery products to a small number of retailers and wholesalers.

For the purpose of this application, the Parties submit that the relevant product market may be considered as the **wholesale supply of groceries** based on the previous decisional practice of CICRA and the CMA.

The UK Competition Commission (the predecessor to the CMA in the UK) has previously considered whether this market should be further segmented on a product basis between grocery products (i.e. meat, canned goods and alcoholic products) and related non-grocery products (i.e. disposable cutlery and cleaning equipment). However, as customers will often source these products from the same supplier, the CMA concluded that the market should not be segmented in this way.⁷ The Parties consider that the same reasoning applies in this instance, as customers can obtain a full range of grocery and non-grocery products from the Parties in the same order.

The UK Competition Commission has also previously considered five wholesale supply channels for grocery retailers, in addition to retailers purchasing directly from suppliers: (i) cash and carry wholesale; (ii) delivered wholesale; (iii) specialist wholesale; (iv) symbol groups; and (v) buying groups.⁸ The Parties submit that in this instance it is not necessary to further sub-divide the product market by supply channel given that there would be no competition concerns on the basis of a wider or narrow product market.

The Parties further submit that the market should not be sub-divided by type of customer. [Redacted]

Therefore, for the purposes of this application, the Parties submit that the relevant product market should be considered as the **wholesale supply of groceries**.

⁷ Paragraphs 7.8 to 7.14 of Booker Group Plc / Makro Holdings Limited Report, 19 April 2013.

⁸ Booker Group Plc / Makro Holdings Limited Report, 19 April 2013 and paragraph 6.37 of Tesco / Booker final report, 20 December 2017.

ii. Relevant geographic market

Guernsey and Jersey

Whilst CICRA considered Guernsey and Jersey as separate geographic markets for the purpose of assessment in its report on the grocery **retail** market in the Channel Islands⁹ the authority has not offered any specific guidance (in any consultation or indeed in any previous decision) on the relevant geographic market for the grocery **wholesale** market in the Channel Islands.

When considering the wholesale supply of other products in the Channel Islands, i.e. fuel, CICRA again considered Guernsey and Jersey as separate geographic markets for the purpose of assessment. This decision was arguably reached on the basis that fuel is imported into Guernsey and Jersey by sea from various points of origin and on the fact that the supply arrangements are different for each island due to the different port and storage facilities available specifically for fuel products.

In this case the relevant products are mainly imported into each island from the same point of origin (i.e. both parties (and indeed their competitors) are based in the UK and import products for resale in the Channel Islands [Redacted]). Whilst there are local wholesalers operating in the Channel Islands, in the event that an existing customer of either Party was looking for an alternative wholesale supplier to deliver a similar range and volume of products as the Parties, we consider it more likely that the customer would look to the UK rather than locally for that alternative supplier.

In its recent Tesco/Booker decision, the CMA did not reach a conclusion on the geographic scope of the wholesale markets. However, it noted that competition for delivered grocery wholesale was likely to be regional, although there are some national wholesalers.¹⁰

The Parties consider that there is likely to be some constraint from wholesalers operating in the UK, who could choose to import products from ports on the south coast of the UK (such as Portsmouth or Southampton) into the Channel Islands. This is likely to be more achievable for wholesalers which are already operating depots within the catchment areas of the UK ports. However, the Parties recognise that there are additional logistical requirements in shipping the products to

⁹ CICRA (2014), "Review of the grocery market in Jersey and Guernsey", Document No CICRA 14/06, 31 Jan.

¹⁰ For instance Booker.

the Channel Islands and, potentially, organising the further distribution of products in the islands.¹¹

The Parties therefore submit that the relevant geographic market should be a single market of Jersey and Guernsey together, although recognising the constraint and possible entry of other wholesalers based in the UK. However, the Parties also recognise that the customers are likely to look outside the Channel Islands if they wished to change wholesaler and as such the geographic market may be as wide as the UK and the Channel Islands. In any event, the Parties do not consider there to be any competition concerns in either instance.

4.3 For each of the market(s) identified in 4.2, identify the areas of overlap between the parties to the merger, as appropriate.

While both Parties wholesale supply grocery products to their customers, the area of overlap in this case is minimal.

[Redacted] CGL would not offer wholesale supply of grocery products to any other companies in Guernsey and Jersey other than to the CI Co-op [Redacted].

Due to these limitations, Nisa's customers, and indeed any other retailers in Jersey and Guernsey, would not be able to switch to wholesale supply from CGL under the FRTS arrangement and therefore the Proposed Transaction does not alter the current competitive conditions in the Channel Islands.

[Redacted]

However, the Parties note that Sandpiper CI announced on 12 February 2018 that it had entered into a franchise and wholesale supply agreement with Morrisons. According to Sandpiper CI's press release it will commence a 12 month conversion programme in late spring to convert most of its mini-supermarkets into 'Morrisons Daily' stores. [Redacted]

4.4 For each of the market(s) identified in 4.2, specify market shares in Guernsey and/or Jersey (as relevant), before and after the merger, for each competitor (including the merging parties). Explain how you have calculated market shares and provide supporting evidence (e.g. turnover of the parties in the relevant market compared to turnover in Guernsey/Jersey as a whole).

The Parties do not have a clear view of the market shares in the Channel Islands given their limited involvement in the Channel Islands. Further, the Parties are not aware of any third party data provider (such as Kantar or Nielsen) which

¹¹ [Redacted]

provides market share data in the Channel Islands. However, the Parties have tried to estimate the size of the market based on their limited knowledge and publically available information relating to the retail market. The Parties note that CGL is primarily a retailer and not a wholesaler and therefore only has a limited view of the wholesale market from public information and that neither Party has extensive operations in the Channel Islands (the turnover of each Party in the Channel Islands accounts for less than 1.5% of the relevant Party's turnover).

In the "Proposed Purchase of Spar (Channel Islands) Limited by Sandpiperci Retail Limited – Consolidated submission by Sandpiperci Retail Limited as to market definition and competition effects", dated 29 November 2016 the following market shares of the retail market in Jersey were submitted to CICRA:

Retail Market Share¹²

Sandpiper	[40 - 50]%
Waitrose	[25 – 30]%
Co-op	[30 – 40]%
Alliance	[0 – 5]%
Total	100%

The Parties also note that there is a Best One that operates in the retail market in Jersey.

The Parties are not aware of any estimates that have been submitted to CICRA about the size of the retail market in Guernsey. However the Parties note that all of the retailers mentioned above (with the exception of Costcutter which is now part of the Sandpiper CI group) are also present in the Guernsey market, where Marks & Spencer additionally operates as a franchise of Creasey's (Franchise) Limited¹³.

Using the above market shares for the retail market, it is possible to roughly estimate a size for the wholesale market over both islands. The Parties acknowledge that this estimate is not a perfect representation of the wholesale market in Guernsey and Jersey (for instance it cannot take into account the different retailer margins and does not account for the presence of Marks &

¹² Proposed Purchase of Spar (Channel Islands) Limited by Sandpiperci Retail Limited – Consolidated submission by Sandpiperci Retail Limited as to market definition and competition effects", 29 November 2016. Pg.13 – this table has been updated to reflect that Sandpiper CI now owns the Costcutter stores.

¹³ The Parties understand that Marks and Spencer's in Jersey operates as a franchise of Sandpiper CI.

Spencer and Iceland who provide wholesale supply to their respective franchises on the islands).

[Redacted] This leaves an estimated market size of between £257 million to £369 million for wholesale grocery supply in Guernsey and Jersey.

[Redacted]

Under that assumption, the shares of wholesale grocery supply for CGL and Nisa would be as follows:

Party	Turnover	Estimated Market Share
CGL	[Redacted]	[15 – 25%]
Nisa	[Redacted]	[0–5%]
Combined	[Redacted]	[15 – 25%]

Further, [Redacted] on the assumption that Sandpiper CI is of a similar size to CI Co-op (as the market shares provided by Sandpiper CI indicate), Nisa only provided Sandpiper CI with a proportion of its wholesale supply of groceries. The Parties understand that Sandpiper CI also obtains wholesale grocery supplies from UK retailers such as Iceland, Marks & Spencer and Waitrose. As stated above, the above estimates do not take into account the margin or the wholesale supply of companies such as Iceland, Marks & Spencer or Best Way who are all active in the Channel Islands.

4.5 Provide a description of how competition works in the market(s) identified in 4.2 above. For example, do businesses compete on price, service, quality or innovation? What are the customary terms with suppliers and customers?

As described above, CGL only has a wholesale supply arrangement with CI Co-op and does not intend to offer wholesale supply to any other potential customers outside of the Proposed Transaction.

Nisa has a limited number of contracts in the Channel Islands. These include the supply to Sandpiper CI [Redacted] and smaller accounts to [Redacted] other customers who are active as either retailers or wholesalers in the Channel Islands. [Redacted]

[Redacted] The Parties note that according to Sandpiper's website, it has Iceland and Marks & Spencer franchises and stocks Waitrose products in its Foodhall supermarkets. As noted above, Sandpiper CI has also recently announced its intention to enter into a franchise and wholesale agreement with Morrisons [Redacted].

[Redacted]

The Parties are unaware of the nature of the relationship other grocery wholesalers have with their customers and whether wholesalers such as Iceland or Marks & Spencer would only supply directly to their franchises or whether they would also supply to other customers.

4.6 Provide the contact details for each of the parties' top five competitors (whether located in Guernsey and/or Jersey or abroad) in the market(s) identified in 4.2.

Major grocery wholesalers¹⁴ which operate in Guernsey and Jersey¹⁵ include:

1. Waitrose;
2. Marks & Spencer;
3. BestWay;
4. Tesco/Booker; and
5. Iceland

The Parties do not have appropriate contact details for these competitors in the Channel Islands.

The Parties also note that Today's and Landmark buying groups have members in Jersey, which indicates that they supply grocery wholesale services to the Channel Islands.

The Parties additionally note that the following wholesalers were recognised as being competitors of Booker in the recent CMA Tesco/Booker investigation and therefore are wholesale grocery suppliers in the UK. These include the following wholesalers not listed above: Costco, Blakemore, Dhamecha, Hyperama, Parfetts and Musgrave. This list does not include P&H as it entered administration in November 2017.

4.7 Provide the contact details for each of the parties' top five suppliers (whether located in Guernsey and/or Jersey or abroad) in the market(s) identified in 4.2

¹⁴ Relevant product market

¹⁵ Relevant geographical market

CGL:

[Redacted]

Nisa:

[Redacted]

4.8 Provide the contact details for each of the parties' top five customers (whether located in Guernsey and/or Jersey or abroad) in the market(s) identified in 4.2.

CGL

[Redacted]

Nisa

[Redacted]

4.9 Provide the contact details for any trade association or other industry organisation in Guernsey and/or Jersey concerned with the market(s) identified in 4.2.

N/A

4.10 Provide details of any joint ownership, agreements or joint ventures among the competitors identified in 4.4.

The Parties are not aware of any.

4.11 Discuss the extent to which imports provide actual or potential competition in the market(s) identified in 4.2. (Cover factors such as transport costs, tariffs, quotas, standards, government regulations etc).

CGL and Nisa are both based in the UK and import their products for resale into Guernsey and Jersey. Neither Party supplies locally produced products to their customers. All of the competitors listed in 4.6 are based in the UK and import products into the Channel Islands and provide competition in the relevant markets as they also provide the wholesale supply of groceries to Guernsey and Jersey from their depots in the UK.

The Parties do not have any information on how retailers obtain products from local suppliers or wholesalers, as the Parties themselves do not obtain products through these channels. The Parties consider that retailers in the Channel Islands would be better placed to answer questions about the procurement of local goods.

As regards potential competition, the parties are not aware of any specific relevant restrictive costs, tariffs or quotas or existing standards or regulations which would prevent other similar wholesalers based in the UK from potentially expanding into Guernsey and Jersey.¹⁶

4.12 Describe the barriers to entry or expansion that exist for the market(s) identified in 4.2, including, but not limited to, the capital expenditure required, permits or approvals required, planning restraints, health and safety restraints, availability of raw materials, R&D requirements, the necessary intellectual property or expertise, advertising/promotional requirements, and where possible, an estimate of the time required and resources needed to overcome these factors, including an estimate of the extent to which costs are recoverable.

The Parties consider that barriers to entry/expansion are low in the grocery wholesale services sector.

[Redacted]

The Parties note that there are multiple companies who offer freight services between the UK and the Channel Islands [Redacted]. Many of these allow customers to either deliver their freight to depots on the south coast (such as Poole, Portsmouth or Southampton) or offer door to door services (i.e. collection).

The Parties therefore consider that wholesalers in the UK could easily choose to wholesale supply groceries to the Channel Islands from their UK based depots without requiring access to freight or storage in the Channel Islands, [Redacted].

The CMA noted in the Tesco/Booker final report that substantial expansion by wholesalers is possible in a timely manner, and while entry may be more difficult, in the UK there has been recent entry by new players not previously active in wholesale, such as Morrisons. The Parties also note the recent activities of Sainsbury's in the UK wholesale market, including its bid for Nisa and its arrangement with Euro Garages.

¹⁶ However the Parties note that any wholesaler importing into the Channel Islands would have to consider duty and HMRC inspections.

4.13 Identify separately any competitors that have entered, significantly expanded in, or exited the market(s) identified in 4.2 in the past three years.

On 12 February 2018, Morrisons announced that it had entered into a franchise and wholesale supply contract with Sandpiper CI. The conversion period for this contract is due to commence in late Spring 2018 and will take a year.

Although it falls just outside of the 3 year period referred to above, it is relevant to note that Alliance established a partnership with Tesco in 2013 which indicates that the wholesale grocery market in Guernsey and Jersey is open and flexible and that new entry is possible.

[Redacted]

4.14 Identify any firms, currently not in the market(s) identified in 4.2 that could reasonably enter such markets.

As noted above at 4.11 and 4.13, the parties take the view that as they supply grocery retailers from their depots in the UK there is nothing to stop any of the other wholesalers currently active in the UK from expanding their business into Guernsey and Jersey if so inclined.

In particular, the Parties consider that wholesalers with depots on the south coast (and therefore near to the necessary port facilities) such as Costco¹⁷ could expand their business into Guernsey and Jersey if so inclined.

The Parties additionally believe that there would be nothing to prevent European, and particularly French, wholesalers from importing products to the Channel Islands. However, the Parties are not active in these markets and cannot provide further information on any European wholesalers who could enter the market.

4.15 Provide an assessment of any effects the merger may have within any part of Guernsey or Jersey (identifying any particular parishes/local areas affected), if different than those already described.

As noted above, neither CGL nor Nisa have any presence in the grocery retail market in Jersey or Guernsey. This means that a similar analysis to the one used by the CMA in the Tesco/Booker merger investigation¹⁸ is not necessary.

At the wholesale level, the Parties consider that the Proposed Transaction would not reduce the number of grocery wholesaler options available to grocery

¹⁷ Costco's website indicates that it has a warehouse in Southampton.

¹⁸ Including its 'vGUPPI economic assessment'.

retailers in Guernsey and Jersey. This is because, pre-merger, CGL would not be available as a wholesale supplier to non-FTRS member stores. [Redacted] As a result, the Proposed Transaction should not have any direct effect in the market for the wholesale supply of groceries.

[Redacted]

In any event, the wholesale grocery market in Guernsey and Jersey currently includes a number of major active players (as well as a number of other smaller or independent local wholesalers) that could provide credible alternatives to grocery retailers in the event of a decreased level of service or an increase in wholesale prices from the merged parties following the Proposed Transaction. The Parties also note there are a number of other wholesalers active in the UK and in the recent Tesco/Booker investigation the CMA concluded that competition in the wholesale sector was strong.

[Redacted]

Further, in relation to Sandpiper CI [Redacted], it is worth emphasising its recent decision to enter into a long term franchise and wholesale supply agreement with Morrisons,¹⁹ [Redacted]. It is also worth noting that Sandpiper already has other wholesale supply relationships in place with other wholesalers in Guernsey and Jersey including, for example, Marks & Spencer, Iceland and Waitrose.

The Parties also note that there is a Best One symbol store in Jersey and that the buying groups, Landmark and Today's, list members in the Channel Islands and further that, as discussed in paragraph 4.12, barriers to entry are generally low.

Therefore, existing competition in the relevant markets is already sufficiently strong to ensure that the Proposed Transaction would not enable the parties to profitably increase prices or reduce service for grocery retailers and in turn consumers.

4.16 Describe any efficiencies and/or customer benefits that the parties expect the merger to bring and provide copies of any documents describing or quantifying efficiencies, cost savings or other benefits, and indicate (if not otherwise contained in the document itself) the date of preparation.

[Redacted]

¹⁹ Sandpiper CI's press release - <http://www.sandpiper.ci.com/news/morrisons-to-become-sandpiper-s-franchise-and-wholesale-supply-partner> and Morrisons' press release - <https://www.morrisons-corporate.com/media-centre/corporate-news/morrisons-announces-new-agreement-with-sandpiper/>

- 4.17 Identify any product(s) (including raw material(s) or service(s)) for which the combined purchases of the parties will account for more than 10% of the total sales in Guernsey or Jersey of that product or service.**

N/A as neither CGL nor Nisa purchase products in the Channel Islands.

- 4.18 Are there any markets in which one or more of the undertakings concerned is engaged in business activities which are upstream or downstream of a product market in which any of the other parties or undertakings are engaged, regardless of whether there is an existing customer/ supplier relationship?**

Nisa operates in the wholesale grocery market in the UK and Channel Islands and CGL operates in the retail grocery market in the UK [Redacted]. There is no existing vertical relationship between the parties in Jersey, Guernsey or the UK.

- 4.19 Provide a brief assessment of any other features that should be taken into account in considering the effect of the merger.**

None.

- 4.20 Identify any trade websites or other sources of information, not previously identified, which to your knowledge may contain information relevant to the assessment of the merger.**

NA

5 Public interest considerations (mergers notifiable in Guernsey only)

For mergers that are notifiable in Guernsey, provide an explanation of why the parties consider that the merger will not be to the prejudice of: consumers, or any class or description thereof; the economic development and well-being of the Bailiwick of Guernsey; and the public interest.

The Parties do not consider that the Proposed Transaction will be to the prejudice of consumers or to the prejudice of the economic development and well-being of the Bailiwick of Guernsey, nor to the public interest. As stated above, the Parties do not consider that the Proposed Transaction will substantially alter the market in the Channel Islands, as pre-merger CGL would not have been available to non-FRTS members as a wholesale supplier. The Parties further consider that the merger will be to the benefit of consumers, [Redacted].

6 Calculation of fees (mergers notifiable in Jersey only)

For mergers that are notifiable in Jersey, provide details of how you calculated the merger's fair market value for the purpose of determining the appropriate filing fee.

Declaration

I declare that:

- The information given herein and in any appendices and attachments hereto is, to the best of my knowledge and belief, accurate and complete, and any opinions expressed herein are sincere.
- All estimates are identified as such and are the best estimates of the underlying facts.
- Photocopies of any documents submitted with this Merger Application Form are exact duplicates of the original documents.
- I have read and am aware of the provisions of Sections 13, 16, 17 and 48 of *The Competition (Guernsey) Ordinance, 2012* and/or Articles 20, 21, 22 and 25 of the *Competition (Jersey) Law 2005* (as applicable).
- I have the authority to sign this declaration on behalf of Co-operative Group Limited.
- The initial fee required for conducting a first detailed review of the merger has been paid or is submitted with this Merger Application Form.

Co-operative Group Limited

Signed:



Name: Jon Wormald

Company: Co-operative Group Limited

Position: Director of Corporate Development

Date:

For and on behalf of: Co-operative Group Limited

Declaration

I declare that:

- The information given herein and in any appendices and attachments hereto is, to the best of my knowledge and belief, accurate and complete, and any opinions expressed herein are sincere.
- All estimates are identified as such and are the best estimates of the underlying facts.
- Photocopies of any documents submitted with this Merger Application Form are exact duplicates of the original documents.
- I have read and am aware of the provisions of Sections 13, 16, 17 and 48 of *The Competition (Guernsey) Ordinance, 2012* and/or Articles 20, 21, 22 and 25 of the *Competition (Jersey) Law 2005* (as applicable).
- I have the authority to sign this declaration on behalf of Nisa Retail Limited.
- The initial fee required for conducting a first detailed review of the merger has been paid or is submitted with this Merger Application Form.

Nisa Retail Limited

Signed: 

Name: James Clark

Company: Nisa Retail Ltd

Position: Financial Controller

Date: 22 February 2018

For and on behalf of: Nisa Retail Ltd