



**Jersey Financial
Services Commission**

Consultation Paper Feedback

No.5 2016

Banking Business (Jersey) Law 1991: Deposit-Taking Annual Fees

Feedback to a consultation on proposals to increase fees.

Issued: 9 September 2016

Consultation Feedback

This paper reports on responses received by the Jersey Financial Services Commission (JFSC).

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Glossary of Terms

Banking Law	Banking Business (Jersey) Law 1991, as amended
JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
JFL	Jersey Finance Limited

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1 Executive Summary

1.1 Overview

- 1.1.1 In June 2016 the JFSC issued Consultation Paper No. 5 2016. The purpose of the Consultation Paper was to seek views on proposals to increase annual fees over the next three years.
- 1.1.2 The purpose of this paper is to provide feedback on the responses received regarding the Consultation Paper.

1.2 Feedback received

- 1.2.1 The consultation period closed on 12 August 2016. Two responses were received directly by the JFSC, and a further response was received by JFL.
- 1.2.2 Section 2 of this Feedback Paper presents a summary of the substantive comments received and the JFSC's responses.
- 1.2.3 The JFSC is grateful to respondents for taking the time to consider and comment on the proposals. The final Fees Notice can be found in Appendix B.

1.3 Next steps

- 1.3.1 For the reasons set out in this Feedback Paper, the JFSC will proceed with the increase to fees of 19% as proposed.
- 1.3.2 The Fees Notice has been updated to reflect the increase and will be published on the JFSC's website.
- 1.3.3 The Fees Notice has also been amended to reflect the recent removal from the Banking Law of the provision that resulted in registrations automatically expiring on 31 January of each year (see Article 1 of the Financial Regulation (Miscellaneous Provisions No.4) (Jersey) Law 2016).
- 1.3.4 As stated in the Consultation Paper, the 2017 annual fees will be collected electronically i.e. by bank transfer, and payments will only be accepted by the JFSC from firms who have established a myJFSC account. myJFSC is a web portal designed to facilitate, among other things, the collection of annual fees.
- 1.3.5 Where accounts are not yet held, invitations will be sent out to Compliance Officers (who for the purposes of this fee exercise will be addressed as Fee Contacts) by email in early October to set up a myJFSC account. Please note that for security reasons the invitations will expire after five days. Full banking details for the settlement of fees were provided in the Consultation Paper and will be available via the myJFSC portal.
- 1.3.6 All annual fees are payable by 31 October 2016.

2 Summary of Responses

2.1 Overview

- 2.1.1 This section summarises the substantive comments received in response to the Consultation Paper. While not every comment received is individually listed, this section contains summaries of the most substantive and pertinent comments in relation to the questions posed and, as appropriate, the JFSC's responses to those comments.
- 2.1.2 The Consultation Paper asked four questions, as set out below.

2.2 Questions at paragraph 3.8 of Consultation Paper No.5 2016

- 3.8.1 Do you agree with the proposed fee tariff increase of 19%?
- 3.8.2 If not, do you have alternative proposals?
- 3.8.3 Would you prefer an approach similar to the funds fee proposal, involving a greater increase initially and reduced increases in subsequent years?
- 3.8.4 Would you wish to see, and participate in, an industry-led work stream focused on revising the tariff structure?

- 2.2.1 Respondents recognised that there was a need for increased fees, and generally were supportive of the proposals. Discussions held between the JFSC and the industry in advance of publishing the Consultation Paper meant that the reasons for the increases appeared to be well understood and we take the low response level to be further reflective of Industry support. The increased use of IT for payment of fees and the collection of data was welcomed.

JFSC response

- 2.2.2 JFSC welcomes Industry's acceptance of the proposed fee tariff increases.

- 2.2.3 There was some concern that the approach taken places a disproportionate burden on deposit-takers relative to Jersey's financial sector as a whole, and there was a request for the JFSC's approach of self-funding for each business sector to be changed.

JFSC response

- 2.2.4 The JFSC is grateful for the feedback received and notes the concern raised. Time does not permit reconsideration of the approach taken this year but it is noted for future consideration.

- 2.2.5 Respondents were clear that they would welcome further consultation in three years if further above-inflation increases are then proposed. Additionally, they would welcome a review of the methodology at that stage.

JFSC response

2.2.6 The JFSC intends to consult on fees each year; periodically this will involve a review of the methodology adopted. The JFSC has also recently published the outcome of its wider funding review (<https://www.jerseyfsc.org/pdf/Feedback-Paper-to-CP-No-10-2015-Funding-Review.pdf>).

2.2.7 Suggestions for alternative methodologies were a 'user pays' approach, and also the idea of a contingent fee structure, to be drawn down only if needed.

JFSC response

2.2.8 The JFSC is grateful for these ideas and in the first instance would suggest they are considered by the industry-led work stream.

2.2.9 Respondents did not prefer an alternative approach involving a greater increase initially and reduced increases in subsequent years.

JFSC response

2.2.10 The JFSC notes that respondents did not prefer an alternative approach involving a greater increase initially and reduced increases in subsequent years; the proposed approach of three equal increases will therefore be used.

2.2.11 Respondents were keen to participate in an industry-led work stream focusing on proposals to revise the tariff structure for deposit-taking. It was felt that this would be an appropriate forum to consider a longer-term approach (i.e. after the three years of increases).

JFSC response

2.2.12 The JFSC welcomes respondents' keenness to participate in an industry-led work stream focusing on proposals to revise the tariff structure for deposit-taking. The JFSC would be happy to support and be involved with any such initiative.

2.2.13 There was clear support for the JFSC's change programme's stated aim of increased efficiency; it was suggested that information about whether this is likely to lead to future reductions in fees should feed into any industry-led work stream.

JFSC response

2.2.14 The JFSC is grateful that there is support for the aims of its change programme and would welcome the opportunity to engage on these, and other matters with the industry-led work stream.

Appendix A

List of respondents to the Consultation Paper

- › Jersey Finance Limited
- › UBS AG, Jersey Branch
- › Barclays Private Client International Limited

Appendix B: Deposit-Taking Business Fees

Notice of Fees

Published in accordance with	Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended
Payable by or in relation to	Deposit-Taking Business Fees
Pursuant to:	Article 9(1) and 48E of the Banking Business (Jersey) Law 1991, as amended Article 15(6) of the Financial Services Commission (Jersey) Law 1998, as amended

Commencement date:

The fees set out in this notice are effective from 1 October 2016.

Interpretation

In this notice:

annual fee period	means the period between 1 February and 31 January in respect of which an annual fee is payable
business continuity	means the continuing in Jersey of business operations that are normally carried on in a place outside Jersey, where those operations are for the time being disrupted in that other place because of any accident, disaster, epidemic, civil unrest or occurrence of a similar nature.
JFSC	means the Jersey Financial Services Commission
home supervisor	means, in relation to a deposit-taking business, and to a person <ul style="list-style-type: none"> i. that carries on deposit-taking business in another country; ii. that is the holding company of a subsidiary company that carries on deposit-taking business in another country; or iii. that is the holding company of a subsidiary company that in turn is the holding company of a subsidiary company that carries on deposit-taking business in another country, an authority that <ul style="list-style-type: none"> i. is based in that other country; and ii. exercises supervision of the deposit-taking business
Law	means the Banking Business (Jersey) Law 1991, as amended
registered person	means a person registered to conduct deposit-taking business under the Law.

1 Fees payable

1.1 For the purposes of Article 9(1) and 48E of the Law, the prescribed fee is:

1.1.1 in the case of a person applying to be registered under the Law £10,000 on application, plus the annual fee as and when such application is granted; or

1.1.2 in the case of a person registered under the Law, the annual fee.

2 Annual fee calculation

2.1 The annual fee is the sum of the following components:

2.1.1 a component calculated on the basis of £12,000 for each country (other than Jersey) where the person carries on a deposit-taking business through an office of the person based in the country, if the JFSC is a home supervisor in relation to that business;

2.1.2 a component calculated on the basis of £12,000 for each of the person's subsidiary companies that has its registered office outside Jersey and carries on a deposit-taking business, if the JFSC is a home supervisor in relation to that business;

2.1.3 a component calculated on the basis of £12,000 for each country where a subsidiary company of the person carries on a deposit-taking business through an office of the subsidiary company based in the country, if:

2.1.3.1 the country is not Jersey, nor the country where the subsidiary company has its registered office; and

2.1.3.2 the JFSC is a home supervisor in relation to that business;

2.1.4 A component calculated on the basis of £12,000 for each subsidiary company (hereafter called "X") of a subsidiary company of the person, if:

2.1.4.1 X has its registered office outside Jersey and carries on a deposit-taking business; and

2.1.4.2 the JFSC is a home supervisor in relation to that business;

2.1.5 The following component calculated on the basis of the Consolidated Income of the registered person:

2.1.5.1 for a Consolidated Income not exceeding £5,000,000 (or a loss or an income of zero), a component of £34,250;

2.1.5.2 for a Consolidated Income exceeding £5,000,000 but not exceeding £10,000,000, a component of £39,500;

2.1.5.3 for a Consolidated Income exceeding £10,000,000 but not exceeding £20,000,000, a component of £46,250; and

2.1.5.4 for a Consolidated Income exceeding £20,000,000, a component of £57,250.

3 Calculation notes – overseas operations

3.1 The component referred to in paragraphs 2.1.1, 2.1.2, 2.1.3 or 2.1.4 of the annual fee calculation shall be calculated on the basis of the factors mentioned in each sub-paragraph. Save that, in the case of a person applying to be registered under the Law, the component referred to in paragraphs 2.1.1, 2.1.2, 2.1.3 or 2.1.4 of the annual fee calculation shall be calculated as the person expects the factors to be when the business of the person to which the application relates starts operations.

3.2 If a new operation leads to a factor relevant to 2.1.1, 2.1.2, 2.1.3 or 2.1.4 of the annual fee calculation subsequently increasing before the end of the annual fee period, the registered person should calculate a revised annual fee, being the incremental sum of the relevant components, pro rata reduced, being one twelfth of the incremental sum multiplied by the number of whole or part calendar months between the date of opening and the end of the annual fee period, and notify the JFSC accordingly.

3.3 For the purposes of this notice:

3.3.1 a territory is taken to be a country if the territory is co-extensive with a discrete jurisdiction concerned with the supervision of deposit-taking business;

3.3.2 Jersey is a country;

3.3.3 Guernsey is a country and Alderney and Sark are parts of that country;

3.3.4 the Isle of Man is a country;

3.3.5 each member state (however described) of the following federations is taken to be a separate country:

3.3.5.1 the United Arab Emirates; and

3.3.5.2 the United States of America.

4 Calculation notes – ‘Consolidated Income’

4.1 The Consolidated Income referred to in paragraph 2.1.5 of the annual fee calculation must be calculated as the higher of the total income and the “Deemed Income” of the person. The total income means the total income of the registered person arrived at in accordance with prudential reporting guidance. This must be calculated on a consolidated basis if the registered person has banking subsidiaries or on a solo basis otherwise. The total income must be that calculated for the relevant period, being:

4.1.1 in the case of a person applying to be registered under the Law, the total income that the person expects to report for the calendar year starting at midnight on 31 December following the making of the application (whether the application relates to that year or to another period)

- 4.1.2 in the case of a person registered under the Law, whose business to which the registration relates did not operate for the whole of the year ending at midnight on 31 December in the previous year, the total income that the person expects to report for the calendar year starting at midnight on the following 31 December following or
 - 4.1.3 in any other case, the total income for the calendar year ending on 31 December in the previous year.
- 4.2 The Deemed Income of a registered person means an amount equal to 0.1% of its total assets plus the amount of its total operating expenses, each arrived at in accordance with prudential reporting guidance. The components must be calculated on a consolidated basis if the registered person has banking subsidiaries or on a solo basis otherwise. The components must be those calculated for the relevant period, being:
- 4.2.1 in the case of a person applying to be registered under the Law:
 - 4.2.1.1 total operating expenses: the calendar year starting at midnight on 31 December following the making of the application; and
 - 4.2.1.2 total assets: as at the end of that period;
 - 4.2.2 in the case of a person registered under the Law whose business to which the registration relates did not operate for the whole of the year ending at midnight on 31 December in the previous year:
 - 4.2.2.1 total operating expenses: the calendar year starting at midnight on the following 31 December; and
 - 4.2.2.2 total assets: as at the end of that period; or
 - 4.2.3 in any other case:
 - 4.2.3.1 total operating expenses: the calendar year ending on the previous 31 December; and
 - 4.2.3.2 total assets: as at the end of that period.
- 4.3 For the avoidance of doubt, it is hereby stated that the total income, total operating expenses and total assets of a registered person includes all income, operating expenses and assets of the registered person and not just those relating to its deposit-taking business.

5 Reduced annual fee for applications in respect of a partial year

- 5.1 If an application is made in respect of a period of less than a year, the annual fee may be pro rata reduced, being one twelfth of the annual fee multiplied by the number of calendar months that the application spans in whole or in part.

6 Reduced application fee for registration for business continuity

- 6.1 This section applies if the JFSC is satisfied that:
 - 6.1.1 a person who is applying for registration under Article 9 of the Law is a member of the same group of companies as another person who is registered under that Article;

- 6.1.2 the first person is applying for registration so as to be able to use the other person's business facilities in Jersey for, but only for, the purpose of business continuity; and
 - 6.1.3 at the time when the application is made, the first person is not registered under the Law.
- 6.2 This section applies whether or not the applicant's business operations in a place where they are normally carried on outside Jersey have already been disrupted in that other place.
- 6.3 Where this section applies, the part of the prescribed fee for the purposes of Article 9(1) of the Law shall be reduced by 50 per cent.

7 Reduced annual fee where registration is for business continuity

- 7.1 This section applies if the JFSC is satisfied that a person is registered under Article 9 of the Law for, but only for, the purpose of business continuity in the event of the future disruption of the person's business operations in a place where they are normally carried on outside Jersey.
- 7.2 Where this section applies, the part of the prescribed fee for the purposes of Article 48E of the Law shall be reduced by 50 per cent.
- 7.3 However, if in the course of a period for which the annual fee is payable:
 - 7.3.1 disruption of the person's business operations in a place where they are normally carried on outside Jersey actually occurs; and
 - 7.3.2 the person begins to carry on operations in Jersey for the purpose of business continuity, the balance of the annual fee for that period shall become payable.

8 Late payment of fees

- 8.1 The annual fee is payable:
 - 8.1.1 in the case of a person applying to be registered under the Law, as and when such application is granted; and
 - 8.1.2 in the case of a person registered under the Law, by 31 October in each year.
- 8.2 If a registered person fails to pay the whole or any part of a fee on or before the date it becomes due the person shall be liable to pay, unless otherwise agreed by the JFSC, an additional late payment fee of 5% of the amount unpaid for each complete month that it remains unpaid.

9 Late filing fees

- 9.1 If a registered person fails to file or deliver any document to the JFSC under the provisions of the Law or under the provisions of any Order issued in accordance with the Law on or before the date that the document becomes due, the registered person shall be liable to pay a fee of £100 for each complete month or part thereof that the document remains un-filed or undelivered unless the person has given the JFSC prior written notice of the reasons for the late filing or delivery of a document and the JFSC has agreed in writing that the filing may be late. Any such later agreed date shall become the due date for the purposes of the calculation and the payment of late filing fees.