



**Jersey Financial  
Services Commission**

# **Consultation Paper No.6 2020**

## **Insurance Business (Jersey) Law 1996: Insurance Business Fees**

A consultation on proposals to change fee rates.

Issued: September 2020

## Consultation Paper

The JFSC invites comments on this consultation paper. Comments should reach Jersey Finance Limited by 29 September 2020.

### Responses should be sent to:

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Alternatively, responses may be sent directly to the JFSC by 29 September 2020. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the JFSC.

The JFSC contact is:

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**It is the policy of the JFSC to provide the content of responses for inspection unless specifically requested otherwise.**

**It is the policy of Jersey Finance Limited (unless otherwise requested or agreed) to collate all responses and share them verbatim with the JFSC on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.) This collated, anonymised response will, typically, be placed in JFL's permanent electronic archive which is currently open to all JFL members.**

## Glossary of terms

Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
JFL	Jersey Finance Limited

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# 1 Consultation

## 1.1 Basis for consultation

1.1.1 The JFSC is issuing this consultation paper in accordance with Article 8(3) of the Commission Law, under which the JFSC “may, in connection with the carrying out of its functions [...] consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate”.

1.1.2 In addition, Article 15(3) of the Commission Law, requires that before the JFSC may introduce and publish any fee

“[T]he Commission must first publish a report that must include:

- (a) details of the duty or power for or in respect of which the fee is to be determined;
- (b) details of the proposed fee;
- (ba) details of the extent (if any) to which any penalties received have reduced the level of fee that would otherwise have been proposed;
- (c) a request for comments on the level of the proposed fee; and
- (d) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the Commission”.

1.1.3 Article 15(4) of the Commission Law provides that should the JFSC and a Representative Body be unable to agree a fee that the JFSC must request the Bailiff to appoint 3 Jurats to consider if the fee proposed is unreasonable.

1.1.4 The JFSC considers that the proposed fee rates are reasonable and that this consultation paper constitutes such a report as required by the Commission Law.

## 1.2 Who will be affected by the proposed changes?

1.2.1 These amendments to fees will affect any person applying for, or having already been granted a permit to undertake insurance business.

## 1.3 Responding to the consultation

1.3.1 The JFSC invites comments, in writing, from interested parties on the content of this consultation paper.

1.3.2 Comments should be received by either Jersey Finance Limited or the JFSC no later than 29 September 2020.

## 1.4 Next steps

1.4.1 Following this consultation, the JFSC will publish feedback and the final fees notice. Firms will be notified when they need to use the myJFSC portal to collect their invoices.

## 2 The JFSC

### 2.1 Overview

- 2.1.1 The JFSC is a statutory body corporate established under the Commission Law. It is responsible for the supervision and development of financial services provided in or from within Jersey.
- 2.1.2 Article 15(2) of the Commission Law provides that fees set by the JFSC are to be retained and must, together with any other income:
- 2.1.2.1 Raise sufficient income to meet the JFSC's liabilities;
  - 2.1.2.2 Cover the JFSC's expenses; and
  - 2.1.2.3 Provide a reserve for the JFSC of such amount as it considers necessary.

### 2.2 The JFSC's functions

- 2.2.1 Article 5 of the Commission Law prescribes that the JFSC shall be responsible for:
- 2.2.1.1 The supervision and development of financial services provided in or from within Jersey;
  - 2.2.1.2 Providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
  - 2.2.1.3 Preparing and submitting to the Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;
  - 2.2.1.4 Such functions in relation to financial services or such incidental or ancillary matters:
    - › As are required or authorised by or under any enactment, or
    - › As the States may, by Regulations, transfer; and
  - 2.2.1.5 Such other functions as are conferred on the JFSC by any other Law or enactment.

### 2.3 Guiding principles

- 2.3.1 Article 7 of the Commission Law provides that in exercising its functions the JFSC may take into account any appropriate matter, but that it shall have particular regard to:
- 2.3.1.1 The reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by, or the financial unsoundness of, persons carrying on the business of financial services in or from within Jersey;
  - 2.3.1.2 The protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;

- 2.3.1.3 The best economic interests of Jersey; and
- 2.3.1.4 The need to counter financial crime in both Jersey and elsewhere.

## 3 Proposals

### 3.1 Proposed fee rate changes

- 3.1.1 The JFSC has decided to adopt the following approach to determining its fee proposal for the insurance sector for the next fee round:
  - 3.1.1.1 to apply the recent rate of Jersey RPI;
  - 3.1.1.2 not to include the financing of any additional supervisory resources for the insurance sector;
  - 3.1.1.3 not to factor in, in advance of the finalisation of the 2021 budget of the JFSC, any higher level of capital spending in 2021; and
  - 3.1.1.4 to reduce the increase in the general fee by increasing transactional fees so that those entities whose own-initiated activity consumes JFSC staff resources make a greater contribution to financing those resources.
- 3.1.2 Although the size of the Jersey insurance industry has not reduced significantly, the number of insurance authorisations issued has reduced and this means that other insurers need to pay more in order to raise a similar amount. This has also meant that there has been a shortfall in the collections from the last fee run. The next fee run needs to be structured to raise the shortfall this has caused from the last fee run and to raise a similar amount for 2021.
- 3.1.3 The effect of our approach is that we propose to raise annual fee rates by 12.5% (rounded to £10). This comprises:
  - 3.1.3.1 0.5%, being the most recent Jersey RPI prior to publication;
  - 3.1.3.2 12% comprising a contribution towards our continuing work
    - › Countering the financial crime threat;
    - › Enhancing risk, data and workflow management capacity; and
    - › Matching the investment industry is making in technology.
- 3.1.4 The JFSC proposes to increase the fee payable in respect of a Transfer of Insurance Business by £2,000 (34%) reflecting the significant work required in respect of the associated Direction Hearing.
- 3.1.5 No Civil Financial Penalties have been levied on entities in the insurance sector which would be applied to reduce these fees.
- 3.1.6 A draft fees notice reflecting the proposal can be found in Appendix B.
- 3.1.7 Fees will be administered via firms' myJFSC portal accounts. Firms will receive an email prompt to notify them that an invoice is awaiting payment.

## 3.2 Covid-19 uncertainty

- 3.2.1 While the JFSC is closely monitoring and managing its costs in light of the current situation, the crucial work that we undertake continues with minimal disruption.
- 3.2.2 Regulatory fees form a very small part of the outgoings of the majority of regulated businesses, however, as stated within the feedback to Consultation Papers No. 1 and No. 2 2020 in respect of Investment Business and fund fees, any firms that are experiencing financial constraints as a result of the Covid-19 outbreak that mean they are unable to pay increased fees as they fall due are encouraged to contact their supervisors at the earliest opportunity.

## 3.3 Fee proposals

- 3.3.1 The proposals in this Consultation Paper seek to ensure that the JFSC obtains sufficient funding to carry out its supervisory objectives; to provide additional funding in support of the JFSC's work in respect of combatting financial crime; to enhance our data analytics capacity and to provide investment in the JFSC's reserves to return them to a level equal to at least six months' expenditure by 2022.
- 3.3.2 The Commission Law contemplates increases to fees in line with RPI, however, the cost of regulation has been and continues to rise well in excess of this metric.
- 3.3.3 The Proposals within this consultation will achieve a level of annual fee income from the insurance sector for the 2020 Financial Year that is slightly below our budgeted income as presented within our Business Plan 2020. This reflects fewer than anticipated application and transfer of business activities during 2020, and the revocation of a small number of licences during the year to date.

## 3.4 Questions

- 3.4.1 Do you agree with the increase of 12.5% in insurance business fee rates?



## **Appendix A - list of bodies which have been sent this consultation paper**

- › Jersey Finance Limited
- › Chartered Insurance Institute

## Appendix B - Draft Insurance Business Fees Notice

### Notice of Fees

Published in accordance with:	<b>Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended</b>
Payable by or in relation to:	<b>Insurance Business</b>
Pursuant to:	<b>Articles 6(1) and 43D of the Insurance Business (Jersey) Law 1996, as amended</b>
Commencement date:	The fees set out in this notice are effective from 1 October 2020.

### 1 Interpretation

#### 1.1 In this notice, unless the context otherwise requires

cell and cell company	have the meanings assigned to them by the Companies Law
Companies Law	means the Companies (Jersey) Law 1991, as amended
JFSC	means the Jersey Financial Services Commission
Law	means the Insurance Business (Jersey) Law 1996, as amended
limited company	has the meaning assigned to it by the Companies Law
limited liability partnership	has the meaning assigned to it by the Limited Liability Partnerships (Jersey) Law 1997
permit holder	has the meaning assigned to it by the Law
transfer of insurance business	means a scheme for the transfer of insurance business as required by Article 27 of and Schedule 2 to the Law

### 2 Application fee

#### 2.1 The fee to accompany an application for a permit to carry on insurance business under the Law shall be the amount set out in Schedule 1.

### 3 Annual fee

- 3.1 A permit holder shall pay an annual fee in accordance with the amount set out in Schedule 2.
- 3.2 The annual fee is payable by permit holders on 1 October of each year.
- 3.3 The due date for the annual fee is 31 October in the same year.

## 4 Registration change fee

### 4.1 Where:

- a) an insurance company that is registered under the Companies Law as a limited company changes that registration to registration as a cell company or a cell or
- b) a partnership carrying on insurance business as a limited liability partnership changes that registration to registration as a cell company or a cell

The fee for a category B permit arising out of that change in registration (**registration change fee**) is £2,100.

### 4.2 If:

- a) A cell company referred to in paragraph 4.1(a) or (b) has paid the fee specified in paragraph 4.1
- b) There is an application for a category B permit made by the first cell of that cell company; and
- c) The insurance business to be written in that first cell is the insurance business that was, prior to the change in registration to a cell company, written by the insurance company referred to in paragraph 4.1(a) or the partnership referred to in paragraph 4.1(b)

Then the registration change fee paid under paragraph 4.1 shall be taken to include the fee payable for the application by that first cell for its category B permit.

- 4.3 Where the fee specified in paragraph 4.1 has been paid, paragraph 3.1 shall apply to the annual fee due next following the grant of the permit (and for each subsequent annual fee due) for that cell company and for that cell.

- 4.4 Where a cell company or a cell that is registered as such under the Companies Law changes that registration to registration as a:

- a) A limited company or
- b) A limited liability partnership

The fee for a category B permit arising out of that change in registration is £1,990 and where that fee has been paid, paragraph 3.1 shall apply to the annual fee due next following the grant of the permit and each subsequent annual fee due for the limited company or the limited liability partnership.

## 5 Transfer of insurance business

- 5.1 If a permit holder plans to undergo a Transfer of Insurance Business (**transfer**) a fee of £7,840 is payable. This fee is payable to the JFSC at the time of submission of draft documentation relating to the transfer, in advance of the associated Direction Hearing.

## 6 Late payment of fees

- 6.1 If the annual fee is not received by the JFSC by the due date, an additional late payment fee of 5% of the unpaid principal amount will be applied on the day after the due date, and on the 1st day of each calendar month after that.

## 7 Late filing fees

- 7.1 If a permit holder 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 permit holder shall be liable to pay a fee of £100 for each complete month or part thereof that the document remains unfiled or undelivered unless the permit holder 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.

## Schedule 1 – application fees

Category of permit	Application fee
Category A	<ul style="list-style-type: none"> <li>i. £8,400 if the permit applied for is to include long-term business of any class; and</li> <li>ii. £4,200 in any other case.</li> </ul>
Category B (where the applicant is not a cell company or a cell)	<ul style="list-style-type: none"> <li>i. £14,680 if the permit applied for is to include long-term business of any class; and</li> <li>ii. £7,340 in any other case.</li> </ul>
Category B (where the applicant is a cell company or a cell)	<ul style="list-style-type: none"> <li>i. £7,340 if the permit applied for is to be granted to a cell company;</li> <li>ii. £4,200 if the permit applied for is to be granted to a cell and is to include long-term business of any class; and</li> <li>iii. £2,100 if the permit applied for is to be granted to a cell and is to include general business of any class.</li> </ul>

## Schedule 2 – annual fees

Category of permit	Application fee
Category A	<ul style="list-style-type: none"> <li>i. £8,400 if the permit includes long-term business of any class; and</li> <li>ii. £4,200 in any other case.</li> </ul>
Category B (where the permit holder is not a cell company or a cell)	<ul style="list-style-type: none"> <li>i. £14,680 if the permit includes long-term business of any class; and</li> <li>ii. £7,340 in any other case.</li> </ul>
Category B (where the permit holder is a cell company or a cell)	<ul style="list-style-type: none"> <li>i. £7,340 if the permit is held by a cell company;</li> <li>ii. £4,200 if the permit is held by a cell and includes long-term business of any class; and</li> <li>iii. £2,100 if the permit is held by a cell and includes general business of any class.</li> </ul>