

Consultation No. 10 2021

**Consultation on fee rates and associated issues for:
Financial Services (Jersey) Law 1998
General Insurance Mediation Business Fees
Money Service Business Fees**

A consultation on proposals to change fee rates.

Issued: November 2021

Consultation Paper

We invite comments on this Consultation Paper. Those who wish to do so, are invited to respond directly in writing.

We have also put in place arrangements with Jersey Finance to provide a coordinated response. Lisa Springate at Jersey Finance is co-ordinating this. Jersey Finance have asked us to advise those interested in pursuing this option, to provide comments to Jersey Finance by 24 December 2021.

Responses should be sent to:

Lisa Springate

Jersey Finance Limited

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St Helier

Jersey

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Direct Line: +44 (0) 1534 836029

Office Line: +44 (0) 1534 836000

Email: lisa.springate@jerseyfinance.je

Alternatively, responses may be sent directly to us by 24 December 2021. If you require any assistance, clarification or wish to discuss any aspect of the proposals prior to formulating a response, it is of course appropriate to contact us.

The JFSC contact is:

JFSC Finance team

Jersey Financial Services Commission

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14-18 Castle Street

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Jersey

JE4 8TP

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Email: fscaccountsteam@jerseyfsc.org

Our policy is to provide the content of responses for inspection unless specifically requested otherwise.

JFL's policy (unless otherwise requested or agreed) to collate all responses and share them verbatim with us 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
FSJL	Financial Services (Jersey) Law 1998, as amended
GIMB	General Insurance Mediation Business
MSB	Money Service Business

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1 Consultation

1.1 Basis for consultation

- 1.1.1 We are issuing this consultation paper in accordance with Article 8(3) of the Commission Law, under which we “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 we introduce and publish any fee
- “[The JFSC] 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 we and a Representative Body be unable to agree a fee that we must request the Bailiff to appoint 3 Jurats to consider if the fee proposed is unreasonable.
- 1.1.4 We consider the Representative Bodies for the GIMB and MSB sectors to be those listed at Appendix A; that each of the proposals within this consultation is reasonable; and that this consultation 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 will affect all persons registered under the Financial Services (Jersey) Law 1998 (**FSJL**) to conduct general insurance mediation business (**GIMB**) and/or money service business (**MSB**) and persons that are issued with a registration certificate for such business on or after 1 January 2022.

1.3 Responding to the consultation

- 1.3.1 We invite comments from interested parties on the content of this consultation paper which should be received by either JFL, or by us, no later than 24 December 2021.

1.4 Next steps

- 1.4.1 Following this consultation, we will publish feedback. The final fees notice will take effect on or before 1 January 2022. Firms will be notified when they need to use myJFSC to collect their invoices.

2 The JFSC

2.1 Overview

- 2.1.1 We are 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 us are to be retained and must, together with any other income:
 - 2.1.2.1 Raise sufficient income to meet our liabilities;
 - 2.1.2.2 Cover the our expenses; and
 - 2.1.2.3 Provide a reserve for us of such amount as it considers necessary.

2.2 The JFSC's functions

- 2.2.1 Article 5 of the Commission Law prescribes that we 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 us 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 we may take into account any appropriate matter, but that we 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 fees

- 3.1.1 In order to raise sufficient income to meet our liabilities; cover its expenses; and to provide a reserve of such an amount as it considers necessary, we need to raise approximately £163k in fees from the GIMB sector and approximately £25k from the MSB sector in 2022.
- 3.1.2 This budgeted income of approximately £188k represents an increase of 5% above RPI in the overall fees levied. As detailed below all possible measures have been taken to minimise the increases in fees, however with the expanding remit and enhancements in requirements across all sectors not all of the increase could be absorbed internally.
- 3.1.3 We are closely monitoring and managing our costs in light of the current situation and, as detailed at 3.2, we have carefully managed costs in respect of its MSB and GIMB supervision activities in recent years. While a robust focus on cost management and, where appropriate, reduction remains a priority for us, as for the businesses we supervise, the crucial work that we undertakes continues with minimal disruption and regulatory fees form a small part of the outgoings of the majority of regulated businesses.
- 3.1.4 Our funding targets are designed to ensure that we can deliver on our Strategic Framework 2021-24 A critical component of our Strategic Framework is our contribution to the Island's successes in the forthcoming MONEYVAL assessment as well as the need for us to deliver stretching goals in respect of demonstrating even more effective supervision, embedding risk-focused choices throughout our work and strengthening our organisational resilience.
- 3.1.5 As stated within all recent consultations in respect of other regulatory 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.
- 3.1.6 No Civil Financial Penalties have been received that will reduce the fees payable by GIMBs or MSBs during 2021.

3.2 Supervisory effort and cost reduction

- 3.2.1 In line with our assessment of risk, MSBs and GIMBs generally receive pooled supervision, being subject to regular, yet less intense engagement than other regulated sectors. This is reflected in the generally lower quantum of GIMB and MSB fees by comparison to other regulated businesses.
- 3.2.2 Nevertheless, as we have focused efforts on financial crime supervision the volume of GIMB and MSB supervisory activity has increased.
- 3.2.3 It is important to note that we have carefully managed the direct cost of our supervisory resource for all sectors in recent years, particularly at a senior level where we have carefully recruited when vacancies have arisen.

4 GIMB fee proposals

4.1 Proposed changes to fee rates

- 4.1.1 We propose to increase GIMB fee rates by 8.5%, being the most recently published Jersey RPI plus 5%, rounded to the nearest £5.
- 4.1.2 The draft fees notice reflecting the proposals can be found in Appendix B.
- 4.1.3 Because of changes in licensees and their business levels, we may end up collecting more or less than our budgeted level of fee income of approximately £163k for 2022.

4.2 Question

- 4.2.1 Do you agree with the proposals relating to GIMBs?

5 MSB fee proposals

5.1 Proposed changes to fee rates

- 5.1.1 We propose to increase GIMB fee rates by 8.5%, being the most recently published Jersey RPI plus 5%, rounded to the nearest £5.
- 5.1.2 The draft fees notice reflecting the proposals can be found in Appendix C.
- 5.1.3 Because of changes in licensees, we may end up collecting more or less than our budgeted level of fee income of approximately £25k for 2022.

5.2 Question

- 5.2.1 Do you agree with the proposals relating to MSBs?

Appendix A - list of representative bodies who have been sent this consultation paper

- › Chartered Insurance Institute, Jersey branch
- › Jersey Finance
- › Jersey International Insurance Association

Appendix B – Draft GIMB fees notice

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:	General Insurance Mediation Business
Pursuant to:	Articles 8(3) and 9(6) of the Financial Services (Jersey) Law 1998, as amended; and Article 15(6) of the Financial Services Commission (Jersey) Law 1998, as amended
Commencement date:	The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2022

1 Interpretation

1.1 In this notice, unless the context otherwise requires –

Brokerage income	means: (a) in relation to a registered person who carries on general insurance mediation business activities from within Jersey, means the net retained brokerage and other income arising from such activities whether the brokerage or income arises within or outside Jersey; and (b) in relation to a registered person who carries on general insurance mediation business activities in Jersey from outside Jersey, means the net retained brokerage and other income arising from such activities in Jersey by the registered person;
JFSC	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended;

2 Application fee

2.1 For the purposes of Article 8(3) (c) of the Law (which Article allows fees that are to accompany applications for registration to be published), the fee specified in an entry in column 3 of Schedule 1 is prescribed in respect of applications for registration in relation to the class of general insurance mediation business specified in the entry opposite in column 2 of the Schedule.

3 Annual Fee

3.1 For the purposes of Article 9(6) of the Law (which Article allows fees payable by registered persons to be published):

- (a) a person within class S of Table 1, Schedule 2, shall pay for each year of registration (other than the year in which the person is first so registered) the annual fee set out opposite that class in column 4 of Table 1, Schedule 2; and
- (b) a person:
 - (i) who is within class P, Q or R of Table 1, Schedule 2; and

- (ii) whose brokerage income for the accounting year that ended in the year before the registration year for which the fee is payable is within a range specified opposite that class in column 3 of Table 1, Schedule 2,

shall pay, for each year of registration (other than the year in which the person is first so registered) the annual fee set out in column 4 of Table 1, Schedule 2.

- (c) a person:

- (i) who is within class P, Q, R or S specified in Schedule 1, as determined in accordance with column 2 of that Schedule, and
- (ii) who is within the description of general insurance mediation business in column 1 of Table 2, Schedule 2,

shall pay for each year of registration (other than the year in which the person is first so registered) the annual fee set out in column 2 of Table 2, Schedule 2.

4 Late payment of fees and/or late submission of fees information

- 4.1 The due date for us to receive the annual fee is 29 February.
- 4.2 If the annual fee is not received by us 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.
- 4.3 If the firm does not supply the required information to calculate its registration fee by the due date, an administration fee of £200 will be charged the day after the due date, and on the 1st day of each calendar month after that while the information is still outstanding. This is in addition to the late payment fee set out in paragraph 4.2 which will be calculated once the information has been submitted.

5 Late filing fees

- 5.1 If a registered person fails to file or deliver any document, including in respect of supervisory risk data, to us under the provisions of the Law or under any 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 registered person has given us prior written notice of the reasons for the late filing or delivery of a document and 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: Prescribed classes and application fees

Column 1	Column 2	Column 3
Class reference	Description of class of business	Application fee
P	Carrying on general insurance mediation business (other than incidental general insurance mediation business), not carrying on any other class of financial service business and not being a business that is within Class Q.	£7,190
Q	<p>Carrying on general insurance mediation business (including incidental general insurance mediation business):</p> <p>(a) in addition to carrying on:</p> <ul style="list-style-type: none"> (i) any class of financial service business other than general insurance mediation business; or (ii) any other business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996; or <p>(b) as a company that is part of a group, where another part of the group carries on:</p> <ul style="list-style-type: none"> (i) any class of financial service business other than general insurance mediation business; or (ii) any other business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996. 	£3,595
R	<p>Carrying on incidental general insurance mediation business, if:</p> <p>(a) the business includes the giving of advice on the terms, conditions or suitability of the policy being proposed; and</p> <p>(b) the business to which the general insurance mediation business is incidental:</p> <ul style="list-style-type: none"> (i) is not within a class of financial service business, and (ii) is not business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996. 	£3,595
S	Carrying on incidental general insurance mediation business, if:	£120

	<ul style="list-style-type: none">(a) the business does not include the giving of advice on the terms, conditions or suitability of the policy being proposed; and(b) the business to which the general insurance mediation business is incidental:<ul style="list-style-type: none">(i) is not within a class of financial service business, and <p>is not business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996.</p>	
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Schedule 2: Annual Fees (Table 1)

Column 1	Column 2		Column 3
Class	Description		Annual fee
P	A person who is within Class P as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999,999	£2,210
		(b) £50,000 to £99,999	£3,635
		(c) £100,000 to £499,999	£4,855
		(d) £500,000 to £999,999	£6,065
		(e) £1,000,000 to £2,499,999	£7,280
		(f) £2,500,000 to £4,999,999	£9,710
		(g) £5,000,000 or more	£12,130
Q	A person who is within Class Q as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999	£1,100
		(b) £50,000 to £99,999	£1,840
		(c) £100,000 to £499,999	£2,430
		(d) £500,000 to £999,999	£3,055
		(e) £1,000,000 to £2,499,999	£3,635
		(f) £2,500,000 to £4,999,999	£4,855
		(g) £5,000,000 or more	£6,065
R	A person who is within Class R as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999	£575
		(b) £50,000 to £99,999	£945
		(c) £100,000 to £499,999	£1,215
		(d) £500,000 to £999,999	£1,535
		(e) £1,000,000 to £2,499,999	£1,840
		(f) £2,500,000 to £4,999,999	£2,430
		(g) £5,000,000 or more	£3,055
S	A person who is within Class S as determined in accordance with Schedule 1 and who is not a person within Table 2.		£75

Schedule 2: Annual Fees (Table 2)

Column 1	Column 2
Description	Annual Fee
<p>A person who:</p> <ul style="list-style-type: none"> (a) has a place of business in Jersey from which the person carries on general insurance mediation business in or from within Jersey; or (b) is a company incorporated in Jersey, <p>and who:</p> <ul style="list-style-type: none"> (c) is within Class P, Q, R or S as determined in accordance with Schedule 1, and (d) is exempted, under an Order made under Article 17 (see (i) below) or Article 20 (see (ii) below) of the Law in relation to general insurance mediation business, from the application of that Order (see (iii) below). 	£75

- (i) Where Article 17 of the Law relates to the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005.
- (ii) Where Article 20 of the Law relates to the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005.
- (iii) Where an exemption under one or other of the General Insurance Mediation Business Orders has been granted by the Commission on the basis that the registered person is an appropriately regulated person in respect of general insurance mediation business in accordance with the criteria set out under:
 1. Article 21(3) of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005; and/or
 2. Article 20(3) of the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005.

Appendix C – Draft MSB fees notice

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:	Money Service Business
Pursuant to:	Articles 8(3) and 9(6) of the Financial Services (Jersey) Law 1998, as amended; and Article 15(6) of the Financial Services Commission (Jersey) Law 1998, as amended
Commencement date:	The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2021

1 Interpretation

1.1 In this notice, unless the context otherwise requires –

JFSC	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended;

2 Application Fee

2.1 The fee to accompany an application for registration to carry on money service business shall be £3,110.

3 Annual fee

3.1 A person registered to carry on money service business at any point during the calendar year shall pay a fee of £3,110.

4 Late payment of fees

4.1 The due date for us to receive the annual fee is: 29 February, if the firm is already registered on 1 January; and otherwise on registration.

4.2 If the annual fee is not received 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.

5 Late filing fees

5.1 If a registered person fails to file or deliver any document, including in respect of supervisory risk data, to us under the provisions of the Law or under any 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 registered person has given us prior written notice of the reasons for the late filing or delivery of a document and we have 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.