

# **Consultation Paper**

**No. 5 2016**

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

A consultation on proposals to increase fees.

Issued: 10 June 2016

## Consultation Paper

The Jersey Financial Services Commission (the “Commission”) invites comments on this consultation paper. Comments should reach Jersey Finance Limited by 12 August 2016.

### Responses should be sent to:

#### Thomas Cowsill

Jersey Finance Limited  
4<sup>th</sup> Floor  
Sir Walter Raleigh House  
48-50 Esplanade  
St Helier  
Jersey  
JE2 3QB

Direct Line: +44 (0) 1534 836029  
Office Line: +44 (0) 1534 836000  
Email: [thomas.cowsill@jerseyfinance.je](mailto:thomas.cowsill@jerseyfinance.je)

Alternatively, responses may be sent directly to the Commission by 12 August 2016. 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 Commission.

The Commission contacts are:

#### Mark Sumner

Director, Banking & Risk  
Jersey Financial Services Commission  
PO Box 267  
14-18 Castle Street  
St Helier  
Jersey  
JE4 8TP

#### Andrea John

Head of Banking, Supervision  
Jersey Financial Services Commission  
PO Box 267  
14-18 Castle Street  
St Helier  
Jersey  
JE4 8TP

Telephone: +44 (0) 1534 822117  
Email: [m.sumner@jerseyfsc.org](mailto:m.sumner@jerseyfsc.org)

Telephone: +44 (0) 1534 822073  
Email: [a.john@jerseyfsc.org](mailto:a.john@jerseyfsc.org)

**It is the policy of the Commission to make the content of all responses available for public 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

Banking Law	Banking Business (Jersey) Law 1991, as amended
Commission	The Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
JFL	Jersey Finance Limited
deposit-taker	a person registered under the Banking Law to conduct deposit-taking business

# Contents

<b>1</b>	<b>Consultation .....</b>	<b>5</b>
1.1	Basis for consultation .....	5
1.2	Who will be affected by the proposed changes? .....	5
1.3	Responding to the consultation.....	5
1.4	Next steps.....	5
<b>2</b>	<b>The Commission.....</b>	<b>6</b>
2.1	Overview.....	6
2.2	The Commission's functions .....	6
2.3	Guiding principles .....	6
<b>3</b>	<b>Proposals .....</b>	<b>8</b>
3.1	Proposed fee increase .....	8
3.2	Operational changes.....	8
3.3	Background.....	8
3.4	The Commission's financial position .....	9
3.5	Summary of the Commission's actual and forecast income and expenditure for the period from 2014 to 2019 .....	10
3.6	Regulatory fees.....	10
3.7	Fees for the banking sector .....	11
3.8	Questions.....	12
	<b>Appendix A.....</b>	<b>13</b>
	List of representative bodies who have been sent this consultation paper.....	13
	<b>Appendix B - Draft Deposit-Taking Business Fees Notice .....</b>	<b>14</b>

# 1 Consultation

## 1.1 Basis for consultation

- 1.1.1 The Commission is issuing this consultation paper in accordance with Article 8(3) of the Financial Services Commission (Jersey) Law 1998, as amended (the “Commission Law”), under which the Commission *“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 *Commission* may introduce and publish any fee *“...the 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 The Commission considers 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 will affect any person applying for a registration to undertake deposit-taking business under Article 9 of the Banking Business (Jersey) Law 1991, as amended, or one already registered to do so (a future or existing “deposit-taker”).

## 1.3 Responding to the consultation

- 1.3.1 The Commission invites comments, in writing, from interested parties on the content of this consultation paper and its likely impact on the Jersey banking sector.
- 1.3.2 To assist in analysing responses to the consultation paper, respondents are asked to prioritise comments and to indicate their relative importance.
- 1.3.3 Comments should be received by either Jersey Finance Limited or the Commission no later than 12 August 2016.

## 1.4 Next steps

- 1.4.1 Following this consultation, the Commission will publish feedback and the final fees notice. The fee tariff changes will become effective from 1 October 2016, for the annual registration period commencing 1 February 2017.

## 2 The Commission

### 2.1 Overview

- 2.1.1 The Commission 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 Commission are to be retained and must, together with any other income:
  - 2.1.2.1 raise sufficient income to meet the Commission's liabilities;
  - 2.1.2.2 cover the Commission's expenses; and
  - 2.1.2.3 provide a reserve for the Commission of such amount as it considers necessary.

### 2.2 The Commission's functions

- 2.2.1 Article 5 of the Commission Law prescribes that the Commission 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:
    - 2.2.1.4.1 as are required or authorised by or under any enactment, or
    - 2.2.1.4.2 as the States may, by Regulations, transfer; and
  - 2.2.1.5 such other functions as are conferred on the Commission 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 Commission 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 increase

- 3.1.1 The Commission proposes an overall increase in the regulatory fee tariff for deposit-takers of 19%.
- 3.1.2 The proposed fees notice reflecting this can be found in Appendix B.

### 3.2 Operational changes

- 3.2.1 The Commission is currently undergoing a “change programme” with the aim of improving its regulatory effectiveness and efficiency. More information about this can be found in a recent publication: [A Changing Commission: How it affects you - Issue 2](https://www.jerseyfsc.org/pdf/Issue-2-A-Changing-Commission-How-It-Affects-You.pdf) (available at <https://www.jerseyfsc.org/pdf/Issue-2-A-Changing-Commission-How-It-Affects-You.pdf>).
- 3.2.2 As part of its change programme, the *Commission* has created a new web portal for both the submission of data and the collection of fees; and will not be accepting cheques – registered persons will need to pay their fees using the following bank details:

<b>Bank:</b>	HSBC Bank plc PO Box 14 St Helier Jersey JE4 8NJ
<b>Account Name:</b>	Jersey Financial Services Commission
<b>Account Number:</b>	01483455
<b>Sort Code:</b>	40-25-34
<b>IBAN:</b>	GB35MIDL40253401483455
<b>BIC:</b>	MIDLGB22
<b>Payment reference:</b>	<i>JFSC invoice reference number &amp; licence number</i>

Invoices can be settled by direct bank transfer to the *Commission's* bank account. Please quote your invoice number and/or licence number as the payment reference. Remittances should be emailed to [FSCAccountsTeam@Jerseyfsc.org](mailto:FSCAccountsTeam@Jerseyfsc.org). Please include a listing of the licence number, licensed entity name, fee type, invoice number (where applicable) and fee amount on your remittance advice.

### 3.3 Background

- 3.3.1 This consultation sets out the fees the Commission proposes to charge deposit-takers for the year from 1 February 2017 and also gives an indication of likely fee increases for the sector for subsequent years. In doing so, it follows the approach adopted by the Commission when issuing a consultation paper proposing the amendment of regulatory fees payable by the Jersey funds sector (Consultation Paper No. 2 2016, available at <http://www.jerseyfsc.org/pdf/Consultation-Paper-No-2-2016-FSB-CIF-COBO-Fees.pdf>). This CP follows the same format, with much of the text repeated verbatim, other than where it is necessary to reflect the varying terminology and tariffs of the two sectors.



- 3.3.2 Last year, we issued a paper which consulted on possible changes to the way the Commission charges and collect fees, but not their quantum. This was [Consultation Paper No. 10 2015: Funding Review](http://www.jerseyfsc.org/pdf/Consultation-Paper-No-10-2015-Funding-Review.pdf) (available at <http://www.jerseyfsc.org/pdf/Consultation-Paper-No-10-2015-Funding-Review.pdf>). Subject to consideration of the feedback we received on that consultation, it is intended that any changes to the way in which we charge fees will commence from 1 January 2018. If any of those changes have a consequential effect on the amount of money we need to collect from the banking sector, then the indicative figures given in this paper for future fee periods will be adjusted accordingly (and we will continue to consult as usual on any actual future changes in fees).
- 3.3.3 The Commission's recent financial performance can be summarised as follows:
- 3.3.3.1 in 2014, the Commission's income and expenditure were in balance, but absent an exceptional enforcement cost recovery there would have been a deficit of £958,000 (after restatement due to FRS102);
  - 3.3.3.2 in 2015, the Commission made a loss of around £639,000;
  - 3.3.3.3 whilst the impact of enforcement and litigation costs make forecasting uncertain, our Business Plan for 2016 predicts a loss of £379,000 for the year.
- 3.3.4 Because the Commission holds reserves, these losses have been able to be accommodated, but that position is not sustainable; indeed, as well as bringing the Commission's annual finances back into balance, the reserves need to be rebuilt to appropriate levels over a reasonable period of time. The Commission has previously signalled its intention to increase fees, including for example, at our 2016 Business Plan presentation.

### 3.4 The Commission's financial position

- 3.4.1 The table below shows a summary of the Commission's actual and forecast income and expenditure for the period from 2014 to 2019. Of course, any such projections include a degree of uncertainty and the actual experience could be materially different. Please see paragraphs 3.6.3 and 3.6.4 in respect of forecast income.
- 3.4.2 The Commission's current policy on reserves is to hold an amount equal to six months of expenses plus the annual average of the last five years' investigation and litigation costs. Based on the forecast below, this would require a reserve level of some £8.4m by 2019.
- 3.4.3 As can be seen, the forecast shows that, if fees from regulated entities increase to some £13m by 2019, reserves will still be lower than the amount required by the reserves policy. As the forecast is for annual surpluses by that time, however, the Commission believes that it can extend the period in which it gets to its target reserves figure.
- 3.4.4 The costs incurred by the Commission are a combination of recurring and non-recurring. They include:
- 3.4.4.1 investment in a "change programme", covering technology and people, to create efficiencies for businesses in interacting with the Commission, and to allow the Commission to better demonstrate its effectiveness in international assessments, to facilitate and maintain market access for Jersey businesses;
  - 3.4.4.2 increased depreciation costs from the capital investment linked to the change programme;

3.4.4.3 the need to recruit, maintain and train effective regulatory staff in a competitive market environment; and

3.4.4.4 the increasing demands placed on the Commission in terms of reacting to regulatory policy developments internationally (including the EU).

### 3.5 Summary of the Commission's actual and forecast income and expenditure for the period from 2014 to 2019

	Restated	Actual	Budget	Forecast	Forecast	Forecast
	2014	2015	2016	2017	2018	2019
	£'000	£'000	£'000	£'000	£'000	£'000
<b>Regulatory income</b>						
Regulatory fee income	10,717	11,281	11,353	11,942	12,500	13,000
Registry fee income	3,039	3,362	3,327	3,660	3,750	3,850
<b>Total regulatory income</b>	<b>13,756</b>	<b>14,643</b>	<b>14,680</b>	<b>15,602</b>	<b>16,250</b>	<b>16,850</b>
Other income	83	87	80	76	90	110
<b>Total income</b>	<b>13,839</b>	<b>14,730</b>	<b>14,760</b>	<b>15,678</b>	<b>16,340</b>	<b>16,960</b>
<b>Expenses</b>						
Staff costs	(10,445)	(11,003)	(10,608)	(11,138)	(11,500)	(11,800)
Computer systems	(832)	(873)	(1,070)	(990)	(1,000)	(1,000)
Depreciation of tangible fixed assets	(487)	(437)	(459)	(519)	(580)	(640)
Premises costs	(798)	(741)	(736)	(757)	(770)	(780)
Other operating expenses	(1,380)	(1,764)	(1,666)	(1,402)	(1,350)	(1,300)
<b>Total expenses</b>	<b>(13,942)</b>	<b>(14,818)</b>	<b>(14,539)</b>	<b>(14,806)</b>	<b>(15,200)</b>	<b>(15,520)</b>
Investigation & Litigation (Net of recoveries)	145	(551)	(600)	(650)	(650)	(650)
<b>(Deficit)/surplus for the year</b>	<b>42</b>	<b>(639)</b>	<b>(379)</b>	<b>222</b>	<b>490</b>	<b>790</b>
<b>Reserves</b>	<b>7,119</b>	<b>6,480</b>	<b>6,101</b>	<b>6,323</b>	<b>6,813</b>	<b>7,603</b>
2019 target: £8.4m						

### 3.6 Regulatory fees

- 3.6.1 Total regulatory fees charged by the Commission have increased only modestly in recent times. The Commission's total regulatory fee income has increased by a compound rate of less than 2.5% per annum since 2012, a period that has seen some of the most intensive regulatory effort across the world in the post-crisis period. The fee income has also been volatile – regulatory fee income actually fell between 2013 and 2014, for example.
- 3.6.2 The Commission also receives income from its operation of the Companies Registry. The Registry is consulting on changing some of the fees it charges. The table above does not include the effect of those changes - the increasing demands on technological developments to keep the Registry operating at the forefront of international jurisdictions, as well as the development of improved/additional registers for the benefit of the Island, will likely absorb any income increases achieved, limiting the ability to apply any such extra income for the benefit of the regulated community.
- 3.6.3 Having considered all the circumstances, the Commission believes it is appropriate to undertake a rebalancing exercise to increase the level of its regulatory fees to a sustainable base. After that point, it would be the Commission's intention to restrict further increases to that needed to meet the inflationary costs suffered by the Commission (including salaries) together with the maintenance of reserves at an appropriate level (assuming the Commission's duties are not expanded and there are no unanticipated external events which necessitate changes in resourcing).
- 3.6.4 The Commission considers that targeting a regulated fee income base of some £13m by 2019 would allow its reserves to be rebuilt over a reasonable period of time. This would be an increase of £1.7m (or some 15%) over the comparable 2015 figure. By comparison, the Guernsey Financial Services Commission's regulatory fee income in 2014 was £12.8m.

### 3.7 Fees for the banking sector

- 3.7.1 It is our intention to phase this increase in fees over the next three fee periods. Based on the existing share of regulatory fees paid by the banking sector, this would mean the Commission looking to increase the banking sector's contribution to Commission costs by some £220,500 in total by 2019. Other sectors will be asked for fee increases that will achieve the same proportionate result.
- 3.7.2 In addition, the number of deposit-taking licence numbers is forecast to fall from 32 to 29 this year, and to 25 by 2018, with several of the losses involving larger fee payers. If the fee tariff remained unchanged, these licence losses would result in total fee income from the banking sector falling by over £400,000, approximately 28%.
- 3.7.3 Consequently, we are proposing a greater proportionate level of increase in actual fees compared to the funds sector. If a similar approach to the funds fee proposal was adopted, this would result in a greater increase in the first period with lower increases in the following two years. Whilst the Commission is open to applying a greater increase in the first year, it seems reasonable to instead achieve the overall rise via three equal increases of 19% in actual fees.
- 3.7.4 The Commission is conscious, of, and fully acknowledges, the fact that this places a disproportionately higher financial burden on the remaining deposit-takers, relative to the finance sector overall.

- 3.7.5 Actual licence numbers seen over the next few years might well vary to current expectations, either positively or negatively, resulting in commensurately higher or lower fee income than these proposals forecast. Any difference will be taken into account in the consultation relating to licence fees payable for the registration year beginning 1 February 2019.
- 3.7.6 The current fee tariff, the structure of which can be viewed in Appendix B (with the proposed 19% increase applied), is tiered so as to apply fees relative to size of fee payer. The trend seen in recent years for banking groups with two or more deposit-taking licences consolidating their operations into fewer licence numbers has resulted in such groups paying lower licence fees, whilst often conducting similar levels of business. Conversely, those banks that have historically held only one licence, and those multi-licenced groups that have maintained licence numbers, therefore pay higher fees than envisaged under the original tiered approach.
- 3.7.7 The Commission is willing to consider any proposals made collectively by the banking sector to vary the tariff structure so as to address the above aspect, so long as there would be no reduction in total fee income generated. We would be willing to be involved in any collaborative work in this respect.
- 3.7.8 No financial penalties have been levied or received to the date of issuing this consultation paper.

### 3.8 Questions

- 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?

## Appendix A

### List of representative bodies who have been sent this consultation paper.

- › Jersey Finance Limited
- › Jersey Bankers' Association

## Appendix B - Draft Deposit-Taking Business Fees Notice

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) 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:

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.
Commission	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"> <li>i. that carries on deposit-taking business in another country;</li> <li>ii. that is the holding company of a subsidiary company that carries on deposit-taking business in another country; or</li> <li>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,</li> </ul> an authority that <ul style="list-style-type: none"> <li>i. is based in that other country; and</li> <li>ii. exercises supervision of the deposit-taking business</li> </ul>
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) of the Law, the prescribed fee is:

- 1.1.1 in the case of a person not registered under the Law at the time when the application is made, £10,000 on initial application, plus the annual fee as and when such application is granted; or
- 1.1.2 in the case of a person already registered under the Law at that time, 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 Commission 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 Commission 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 Commission 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 Commission 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:
  - 3.1.1 in the case of a person not registered under the Law at the time when the application is made (or of a person registered under the Law at that time, but whose business to which the application relates has not started operations at that time), as the person expects the factors to be when the business of the person to which the application relates starts operations; or
  - 3.1.2 in any other case, as the factors are when the application is made.

- 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 registration 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 registration period.
- 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 not registered under the Law at the time when the application is made, 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 at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31 December in the year preceding the making of the application, 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; or
  - 4.1.3 in any other case, the total income for the calendar year ending on 31 December preceding the making of the application.
- 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 not registered under the Law at the time when the application is made:
  - 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 at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31 December in the year preceding the making of the application:
  - 4.2.2.1 total operating expenses: the calendar year starting at midnight on 31 December following the making of the application; 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 31 December preceding the making of the application; 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 Commission 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 Commission is satisfied that a person is or is to be 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 9(1) 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 Refund of annual fee**

- 8.1 The Commission must refund to an applicant the annual fee paid in accordance with the Law if the application:
- 8.1.1 is refused; or
  - 8.1.2 withdrawn by the applicant before it is granted or refused.
- 8.2 If an application for registration is refused, the annual fee shall not be refunded until after:
- 8.2.1 the expiration of the period within which, under Article 18 of the Law, notice of appeal may be given; or
  - 8.2.2 if notice of appeal is given, the appeal is determined or abandoned.

## **9 Late payment of fees**

- 9.1 The annual fee is payable:
- 9.1.1 in the case of a person not registered under the Law at the time when the application is made, as and when such application is granted; and
  - 9.1.2 in the case of a person registered under the Law at the time when the application is made, by 31 October in the year preceding the date of re-registration.
- 9.2 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 Commission, an additional late payment fee of 5% of the amount unpaid for each complete month that it remains unpaid.

## **10 Late filing fees**

- 10.1 If a registered person fails to file or deliver any document to the Commission 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 Commission prior written notice of the reasons for the late filing or delivery of a document and the Commission 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.