



# Feedback Paper on Consultation No.15 2022

Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008:  
Fees for registered persons

Feedback relating to a consultation on proposals regarding changes to fee rates

## Consultation feedback

This reports on responses received by the Jersey Financial Services Commission (JFSC) on Consultation No. 15 2022 published in November 2022.

Further enquiries concerning the consultation may be directed to:

**JFSC Finance team**

Jersey Financial Services Commission

PO Box 267

14-18 Castle Street

St Helier

Jersey

JE4 8TP

Telephone: +44 (0) 1534 822000

Email: [fscaccountsteam@jerseyfsc.org](mailto:fscaccountsteam@jerseyfsc.org)

## Glossary of Terms

Defined terms are indicated throughout this document as follows:

AML/CFT	anti-money laundering / countering the financing of terrorism
Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
DNFBP	designated non-financial businesses and professions (a term used to refer to persons registered under the Law)
the Law	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 In November 2022, we issued Consultation No. 15 2022, Fees for registered persons, which sought views on proposals to change fee rates for those businesses which are specified Schedule 2 Businesses.
- 1.1.2 This summarises feedback and responses to the Consultation.
- 1.1.3 In light of the feedback received, we will be proceeding with the proposed changes to the fee levels as consulted on, effective 1 January 2023. The final form of the fees notice can be found in Appendix A and on our website

## 1.2 Feedback received

- 1.2.1 We received one response, a summary of the comments are summarised below.
- 1.2.2 We are grateful to the respondent for taking the time to consider the proposals and for their constructive comments. We note the request for increased transparency and further engagement on the levels of fees.
- 1.2.3 We would also like to thank Jersey Finance Limited (JFL) for their efforts in coordinating anonymous responses to our consultation.

## 1.3 Next Steps

- 1.3.1 The revised fees will take effect from 1 January 2023.
- 1.3.2 Relevant businesses will receive notification via the myJFSC portal that an invoice is ready for them.

# 2 Summary of responses

- 2.1.1 One respondent confirmed they had reviewed the consultation however did not agree with the proposed increases. The respondent felt that there had not been enough engagement between the JFSC and their business sector. There has been, and continues to be, increased engagement across all Industries, specifically in relation to consultations; however we acknowledge the request for an increase in engagement from industry in relation to the setting or amendment to fees.
- 2.1.2 The respondent raised concerns on the size of the proposed increase and whether it was proportionate for the increase to be as much as proposed. The increase was assessed against the cost base and key changes in our expanded remit within the sector. The overall increase was assessed as appropriate.
- 2.1.3 The respondent requested further information to support the increase in fees: this is primarily driven by the increase in the supervisory remit, which has necessitated an increase in investment and staffing. Staff levels are projected to double in the period from 2017 to 2023; this will place us at a comparable level to our peers in similar jurisdictions in 2023.
- 2.1.4 As acknowledged across Jersey staff resources are a challenge for everyone. While we endeavour to mitigate the increase in our staff costs, the need to remain competitive on staff remuneration while ensuring appropriate levels of staff are deployed against the increasing regulatory remit is a core driver of the increase in costs and therefore fees.

## Appendix A – Fees Notice under the Supervisory Bodies Law (for accountants and Lawyers)

### Notice of Fees

Published in accordance with:	<b>Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended</b>
Payable by or in relation to:	<b>Firms of accountants and firms of lawyers</b>
Pursuant to:	<b>Article 20 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended</b>
Commencement date:	The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2023

### 1 Interpretation

1.1 In this notice, unless the context otherwise requires –

a firm of accountants	means a person or persons (including but not limited to a sole trader) who carry on business alone or with others that falls within the scope of paragraph 2 of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a Level 2 registration under the Supervisory Bodies Law;
a firm of lawyers	means a person or persons (including but not limited to a sole trader) who carry on business alone or with others that falls within the scope of paragraph 1 of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a Level 2 registration under the Supervisory Bodies Law;
average	in respect of the calculation of the average number of relevant employees on the relevant date(s) means the arithmetic mean of each number rounded to the nearest 0.25 of a person;
contract of employment, contract of service or partnership agreement	means an agreement between two or more parties whether express or implied and (if it is express) whether oral or in writing;
due date	means the due date for payment of any fee specified within this Notice of Fees or otherwise the due date for payment specified within an invoice for fees issued by the JFSC;
JFSC/Commission	means the Jersey Financial Services Commission
relevant date(s)	means the last working day of each of the five previous years immediately preceding the calendar year to which the fee relates; where there are fewer than five relevant dates for the purpose of a calculation within the Schedule, the averages calculated will be of

	each relevant date that is available for the calculation until there are sufficient relevant dates to perform the calculation as specified;
relevant employee	<p>means an individual who:</p> <ul style="list-style-type: none"> <li>(a) works under a contract of employment or any other contract of service;</li> <li>(b) practises alone or with others under the terms of a partnership agreement; or</li> <li>(c) is otherwise engaged within the business of a firm of accountants or lawyers,</li> </ul> <p>in all cases where:</p> <ul style="list-style-type: none"> <li>(i) the individual undertakes to do or perform, directly or indirectly, any work or service within a firm of accountants or lawyers, whether or not engaged directly by the firm of accountants or lawyers or through another entity forming part of the group of entities of which the firm of accountants or lawyers is a part, and</li> <li>(ii) the firm of accountants or lawyers is not by virtue of the contract a client or customer of the individual, and “relevant employee” shall be construed accordingly;</li> </ul>
sole trader	means a person who is the sole proprietor of a firm of accountants or lawyers and who does not practise law or accountancy with any other person and who does not engage any relevant employee;
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended.

## 2 Calculation of number of relevant employees

2.1 For clarity, for the purposes of this notice “relevant employee” includes but is not limited to:

- (a) a partner practising law or accountancy whether alone or with others;
- (b) an individual classified as self-employed for tax or social security purposes but in all other respects meets the definition of relevant employee;
- (c) an individual based or working outside Jersey but engaged within the Jersey business of the firm of accountants or lawyers; and
- (d) an individual engaged by a firm of accountants or lawyers which is a Jersey entity wherever in the world that individual works or is based and whether or not that individual is engaged in the Jersey business of that firm of accountants or lawyers.

2.2 For individuals with fixed term contracts that do not span the full calendar year, the hours worked should be annualised and the bandings (see paragraph 2.3) applied when calculating the number of relevant employees.

2.3 The following bandings should be applied when calculating the number of total relevant employees:

- (a) up to and including 9 hours per week 0.25 of a person;
- (b) over 9 hours and up to and including 18 hours per week 0.50 of a person;
- (c) over 18 hours and up to and including 27 hours per week 0.75 of a person;
- (d) over 27 hours per week 1 person.

2.4 The calculation of the number of relevant employees should be undertaken as at the relevant date based upon the relevant employee’s engagement over the preceding 12 months. If, on the relevant date, there exists a post that is vacant but would normally be occupied by an individual who meets the definition of a relevant employee the calculation should include that position.

2.5 *Example 1: fixed term contract.* An individual who has a fixed term contract and is contracted to work full time (35 hours per week) for four months would equate to:

$$35 \text{ hours} \times 4 \text{ months} \div 12 \text{ months} = 11.67 \text{ hours per week}$$

The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees.

2.6 *Example 2: part time working.* An individual who is employed part time for the whole year at 25 hours per week would represent 0.75 of a person in the calculation of the number of relevant employees.

2.7 *Example 3: part time working + fixed term contract.* An individual who is employed part time on a fixed contract (20 hours per week for 6 months) would equate to:

$$20 \text{ hours} \times 6 \text{ months} \div 12 \text{ months} = 10 \text{ hours per week}$$

The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees NOT 0.75 of a person.

### **3 Annual fee**

- 3.1 Firms of accountants and firms of lawyers shall pay an annual fee of an amount calculated in accordance with the table set out in the Schedule.
- 3.2 Payment of the annual fee should be in full, on or before 31 March;
- 3.3 The annual fee is subject to a fee cap of £46,160.

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

- 4.1 If the annual fee (or an instalment payment, if relevant) is not received in full to 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.
- 4.2 If the firm does not supply the required information to calculate its fee by 31 March, an administration fee of £100 will be charged on 1 April, 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 4.1 which will be calculated once the information has been submitted.

### **5 Application fee**

- 5.1 An application fee of £185 shall be payable in respect of an application by a sole trader intending to carry on business within the scope of this notice of fees.
- 5.2 An application fee of £500 shall be payable in respect of an application by any other person, or persons, intending to carry on business within the scope of this notice of fees.
- 5.3 The application fee is due at the time of application and is non-refundable.

### **6 Amendment fee**

- 6.1 A fee of £185 shall be paid by a sole trader who applies for an alteration so as to reflect all or any of the following:
  - 6.1.1 A change of the name of the registered person; or
  - 6.1.2 The addition, alteration or removal of conditions pursuant to an application from the registered person.
- 6.2 A fee of £500 shall be paid by any registered person who is not a sole trader who applies for an alteration so as to reflect all or any of the following:
  - 6.2.1 A change of the name of the registered person; or
  - 6.2.2 The addition, alteration or removal of conditions pursuant to an application from the registered person.

### **7 Late filing fees**

- 7.1 If a registered person fails to file or deliver any document to us under the provisions of the Supervisory Bodies Law or under any provisions of any Order issued in accordance with the Supervisory Bodies 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.

## Schedule

	Base Fee	Relevant employee element
<b>Sole Trader</b>	£500	Not applicable
<b>All other firms</b>	£2,130	Plus: £235 multiplied by an average of the number of relevant employees (calculated in accordance with this notice) on each of the relevant dates (the total annual fee is capped at £46,160)

## Appendix B - Fees Notice under the Supervisory Bodies Law (for specified Schedule 2 business, including estate agency services and lending)

### Notice of Fees

Published in accordance with:	<b>Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended</b>
Payable by or in relation to:	<b>Registered Persons</b> (Specified Schedule 2 business, including estate agency services and lending but excluding services provided by firms of accountants and firms of lawyers)
Pursuant to:	<b>Article 20 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended</b>
Commencement date:	The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2023

### 1 Interpretation

1.1 In this notice, unless the context otherwise requires –

average	in respect of the calculation of the average number of relevant employees on the relevant date(s) means the arithmetic mean of each number rounded to the nearest 0.25 of a person;
contract of employment, contract of service or partnership agreement	means an agreement between two or more parties whether express or implied and (if it is express) whether oral or in writing;
due date	means the due date for payment of any fee specified within this Notice of Fees or otherwise the due date for payment specified within an invoice for fees issued by the JFSC;
JFSC/Commission	means the Jersey Financial Services Commission
registered person	means a person or persons (including but not limited to a sole trader): (a) who carries on business alone or with others that falls within the scope of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, <b>EXCEPT</b> business that is defined in paragraphs 1 and 2 (lawyers and accountants) of Part B of Schedule 2; <u>and</u> (b) who is required to hold either a Level 1 or Level 2 registration under the Supervisory Bodies Law;
relevant date(s)	means the last working day of each of the five previous years immediately preceding the calendar year to which the fee relates; where there are fewer than five relevant dates for the purpose of a calculation within the Schedule, the averages calculated will be of each relevant date that is available for the calculation until there are sufficient relevant dates to perform the calculation as specified;

relevant employee	<p>means an individual who:</p> <ul style="list-style-type: none"> <li>(a) works under a contract of employment or any other contract of service;</li> <li>(b) practises alone or with others under the terms of a partnership agreement; or</li> <li>(c) is otherwise engaged within the business of a registered person,</li> </ul> <p>in all cases where:</p> <ul style="list-style-type: none"> <li>(i) the individual undertakes to do or perform, directly or indirectly, any work or service within a registered person, whether or not engaged directly by the registered person or through another entity forming part of the group of entities of which the registered person is a part, and</li> <li>(ii) the registered person is not by virtue of the contract a client or customer of the individual, and “relevant employee” shall be construed accordingly;</li> </ul>
sole trader	means a person who is the sole proprietor of a registered person and who does not practise Schedule 2 business with any other person and who does not engage any relevant employee;
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended.

## 2 Calculation of number of relevant employees

- 2.1 For clarity, for the purposes of this notice “relevant employee” includes but is not limited to:
- (e) a partner carrying on Schedule 2 business whether alone or with others;
  - (f) an individual classified as self-employed for tax or social security purposes but in all other respects meets the definition of relevant employee;
  - (g) an individual based or working outside Jersey but engaged within the Jersey business of the registered person; and
  - (h) an individual engaged by a registered person which is a Jersey entity wherever in the world that individual works or is based and whether or not that individual is engaged in the Jersey business of that registered person.
- 2.2 For individuals with fixed term contracts that do not span the full calendar year, the hours worked should be annualised and the bandings (see paragraph 2.3) applied when calculating the number of relevant employees.
- 2.3 The following bandings should be applied when calculating the number of total relevant employees:
- |     |   |                   |
|-----|---|-------------------|
| (e) | up to and including 9 hours per week                    | 0.25 of a person; |
| (f) | over 9 hours and up to and including 18 hours per week  | 0.50 of a person; |
| (g) | over 18 hours and up to and including 27 hours per week | 0.75 of a person; |
| (h) | over 27 hours per week                                  | 1 person.         |
- 2.4 The calculation of the number of relevant employees should be undertaken as at the relevant date based upon the relevant employee’s engagement over the preceding 12 months. If, on the relevant date, there exists a post that is vacant but would normally be occupied by an individual who meets the definition of a relevant employee the calculation should include that position.
- 2.5 *Example 1: fixed term contract.* An individual who has a fixed term contract and is contracted to work full time (35 hours per week) for four months would equate to:
- $$35 \text{ hours} \times 4 \text{ months} \div 12 \text{ months} = 11.67 \text{ hours per week}$$
- The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees.
- 2.6 *Example 2: part time working.* An individual who is employed part time for the whole year at 25 hours per week would represent 0.75 of a person in the calculation of the number of relevant employees.
- 2.7 *Example 3: part time working + fixed term contract.* An individual who is employed part time on a fixed contract (20 hours per week for 6 months) would equate to:
- $$20 \text{ hours} \times 6 \text{ months} \div 12 \text{ months} = 10 \text{ hours per week}$$
- The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees NOT 0.75 of a person.

### **3 Annual fee**

- 3.1 Registered persons shall pay an annual fee of an amount calculated in accordance with the table set out in the Schedule.
- 3.2 Payment of the annual fee should be made in full, on or before 31 March;
- 3.3 The annual fee is subject to a fee cap of £46,160.

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

- 4.1 If the annual fee (or an instalment payment, if relevant) is not received in full to 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.
- 4.2 If the firm does not supply the required information to calculate its fee by 31 March, an administration fee of £100 will be charged on 1 April, 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 4.1 which will be calculated once the information has been submitted.

### **5 Application fee**

- 5.1 An application fee of £185 shall be payable in respect of an application by a sole trader intending to carry on business within the scope of this notice of fees.
- 5.2 An application fee of £500 shall be payable in respect of an application by any other person, or persons, intending to carry on business within the scope of this notice of fees.
- 5.3 The application fee is due at the time of application and is non-refundable.

### **6 Amendment fee**

- 6.1 A fee of £185 shall be paid by a sole trader who applies for an alteration so as to reflect all or any of the following:
  - 6.1.1 A change of the name of the registered person; or
  - 6.1.2 The addition, alteration or removal of conditions pursuant to an application from the registered person.
- 6.2 A fee of £500 shall be paid by any registered person who is not a sole trader who applies for an alteration so as to reflect all or any of the following:
  - 6.2.1 A change of the name of the registered person; or
  - 6.2.2 The addition, alteration or removal of conditions pursuant to an application from the registered person.

### **7 Late filing fees**

- 7.1 If a registered person fails to file or deliver any document to us under the provisions of the Supervisory Bodies Law or under any provisions of any Order issued in accordance with the Supervisory Bodies 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.

## Schedule

	Base Fee	Relevant employee element
<b>Sole Trader</b>	£500	Not applicable
<b>All other firms</b>	£1,060	<p>Plus: £235 multiplied by an average of the number of relevant employees (calculated in accordance with this notice) on each of the relevant dates</p> <p>(the total annual fee is capped at £46,160)</p>