



Jersey Financial
Services Commission

Consultation No. 1 2023:

On amending the application and amendment fees for certain registered persons under the Supervisory Bodies Law

Issued: 3 January 2023

Consultation

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **31 January 2023**. 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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Alternatively, Lisa Springate at Jersey Finance Limited (**JFL**) is coordinating an Industry response that will incorporate any matters raised by local businesses. Comments should be submitted to JFL by **31 January 2023**.

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It is the policy of the JFSC to make the content of all responses available for public inspection (unless specifically requested otherwise by the respondent).

It is the policy of JFL (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

Defined terms are indicated throughout this document as follows:

an AIF	means a registered person who holds an AIF certificate issued under the Alternative Investment Funds (Jersey) Regulations 2012, as amended
Amending Legislation	package of legislation, including the Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022
AMLSP	Anti-Money Laundering Services Provider
CoBO	Control of Borrowing (Jersey) Order 1958
JFSC, we, us	Jersey Financial Services Commission
JPF	means a registered person in possession of a consent issued under the CoBO who pays an annual fee as a Jersey Private Fund in accordance with the CoBO Fees Notice, issued by the JFSC
registered person	<p>means a person or persons (including but not limited to a sole trader) who:</p> <ul style="list-style-type: none"> (a) carries on business alone or with others that falls within the scope of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, as amended; and (b) who is required to hold a registration under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 <p>This includes persons acting as a governing body on behalf of a legal arrangement.</p>
the Law	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008

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1 Executive Summary

1.1 Overview

- 1.1.1 This consultation paper seeks feedback on proposals relating to the application and amendment fees payable by certain registered persons under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the **Law**).

1.2 What is proposed and why?

- 1.2.1 This consultation:
- 1.2.1.1 reflects the proposed application and amendment fees as set out in Appendix C of [Consultation No. 15 2022](#), issued 29 November 2022;
 - 1.2.1.2 proposes application and amendment fees where
 - › a person will be required to apply for registration and
 - › elects to appoint an Anti-Money Laundering Services Provider (AMLSP),because of a package of legislation, which includes the [Proceeds of Crime \(Amendment No. 6\) \(Jersey\) Law 2022 \(Amending Legislation\)](#) and is anticipated to come into force in early 2023; and
 - 1.2.1.3 proposes application and amendment fees for registered persons that are either an AIF or a JPF.
- 1.2.2 It is proposed that the application and amendment fees for registered persons that elect to appoint an AMLSP, and the AMLSP submits the relevant documentation to us, be discounted by 40%.
- 1.2.2.1 The use of officers already known to us, giving rise to a reduced application process and therefore a discount on the fees.
- 1.2.3 It is proposed that the application and amendment fees for registered persons that are either an AIF (see glossary) or a JPF (see glossary) be set to Zero.
- 1.2.3.1 On application for registration AIFs and JPFs provide significant detail to the JFSC and pay an application fee in excess of that paid by other persons seeking a CoBO consent. However, AIFs and JPFs are not eligible for the notification regime available to regulated persons ([Article 11\(3\) of the Law](#)).
 - 1.2.3.2 Consequently, we consider they should be aligned with the regulated persons that will be submitting notifications with zero fees
- 1.2.4 This consultation does not address annual fees payable by a registered person that has appointed an AMLSP.

1.3 Who would be affected?

- 1.3.1 The proposals in this consultation paper are relevant for:
- 1.3.1.1 persons required to make an application for registration because of the Amending Legislation who engage an AMLSP;
 - 1.3.1.2 registered persons that have engaged an AMLSP who request a change to the name on their registration certificate or a variation of any registration conditions; and
 - 1.3.1.3 registered persons that are an AIF or JPF.

2 Consultation

2.1 Basis for consultation

- 2.1.1 Under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the **Law**), the Jersey Financial Services Commission (we, us) is the supervisory body responsible for supervising registered persons' compliance with specific Jersey enactments as well as the Code of Practice issued by us in accordance with Article 22 of the Law.
- 2.1.2 Article 20 of the Law allows us to charge fees to persons subject to the Law. Article 21(6) of the Law requires that before we introduce and publish any fee "...the [JFSC] must first publish a report that must include:
- (a) details of the proposed fee;
 - (b) a request for comments on the level of the proposed fee; and
 - (c) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the Commission".
- 2.1.3 We consider that this consultation paper constitutes such a report as required by the Law.
- 2.1.4 Article 21(2) of the Law provides that fees set by us are to be retained by us and shall be set at such a level as is necessary that, in aggregate they:
- (a) raise sufficient income to enable us to carry out our functions under the Law; and
 - (b) provide a reserve of such amount as we consider necessary for carrying out such functions.
- 2.1.5 Article 21(3) of the Law provides that fees may be set at different levels for specified cases this includes a level of "no fee" (Article 21(5)).

2.2 Responding to the consultation

- 2.2.1 The JFSC invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 We invite comments from interested parties on the content of this consultation paper which should be received by either JFL, or us, no later than 31 January 2023.

2.3 Next steps

- 2.3.1 The Consultation No. 15 2022 comment period closes on 28 December 2022. A feedback paper and final fees notice has been issued in line with paragraph 1.4 of the consultation paper. These final fees notices will set the 2023 annual fees for existing registered persons and establish the application and amendment fees where an AMLSP is not appointed.
- 2.3.2 Following this consultation, we will publish a feedback paper which will provide:
- 2.3.2.1 an overview of the comments received and the JFSC response to those comments;
 - 2.3.2.2 a revised 2023 fees notice for registered persons that are not lawyers and accountants which will incorporate a new Schedule of fees, including those where an AMLSP is appointed; and
 - 2.3.2.3 the date the revised 2023 fees notice will become effective.

3 Proposals

3.1 Background

- 3.1.1 The Government of Jersey and the JFSC issued a feedback paper on 15 December 2022 relating to the alignment of Jersey's AML/CFT registration regime with the 2012 FATF Recommendations, [Feedback on follow on consultation on AMLCFT scope exemptions](#).
- 3.1.2 The Amending Legislation will replace Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 and some persons will be required to register with the JFSC. These persons may currently enjoy either a registration exemption or a full scope exemption from the AML/CFT regime.
- 3.1.3 An effect of 3.1.2 is that AIFs and JPFs will be required to register under the Law.

3.2 Proposed revised fees

- 3.2.1 The Amending Legislation introduces the concept of an AMLSP through amendments to the Money Laundering (Jersey) Order 2008. The AMLSP will be able to submit the application, and any subsequent amendments, on behalf of the registered persons. Where a person engages an AMLSP, the registered persons application and amendment fees will be discounted to reflect the presence of the AMLSP.
- 3.2.2 Where an application for registration or amendment to a registration certificate is made via an AMLSP the fee will be £300 unless the registered person is a sole trader in which case the fee will be £110.
- 3.2.3 On application the following two registered persons provide significant detail to the JFSC and an application fee is paid in excess of that paid by other persons seeking a CoBO consent:
 - 3.2.3.1 the registered person holds an AIF certificate issued under the Alternative Investment Funds (Jersey) Regulations 2012, as amended, (an **AIF**) or
 - 3.2.3.2 is in possession of a consent issued under the Control of Borrowing (Jersey) Order 1958 (**CoBO**) and pays an annual fee as a Jersey Private Fund in accordance with the CoBO Fees Notice, issued by the JFSC (**JPF**).
- 3.2.4 Consequently, we consider they should be aligned with the regulated persons that will be submitting notifications and the application and amendment fee has been proposed as zero.
- 3.2.5 Annual fees are payable by each person registered with us as at the start of each calendar year. Any person registering part way through the year is not liable to an annual fee. This consultation does not consider the levels and basis for annual fees where the registered person has appointed an AMLSP, this will be subject to consultation as part of the 2024 fee setting process.

3.2.6 Question

Do you have concerns with the proposals outlined in respect of application and amendment fees as set out above and detailed in Appendix B? If so, please detail.

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

- › Association of English Solicitors practising in Jersey
- › Institute of Chartered Secretaries and Administrators, Jersey branch
- › Institute of Directors, Jersey branch
- › Jersey Association of Directors and Officers
- › Jersey Chamber of Commerce and Industry
- › Jersey Estate Agents Association
- › Jersey Society of Chartered and Certified Accountants
- › Law Society of Jersey
- › Jersey Association of Trust Companies
- › Society of Trust and Estate Practitioners
- › Jersey Funds Association

Appendix B: Draft Fees Notice Addendum

Addendum Fees Notice under the Supervisory Bodies Law for registered persons excluding firms of lawyers and firms of accountants

	Addendum Notice of Fees
Published in accordance with:	Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended
Payable by or in relation to:	Registered Persons (Schedule 2 business, including real estate agents and lending but excluding services provided by firms of accountants and firms of lawyers)
Pursuant to:	Article 20 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended
Commencement date:	The fees set out in this notice and the attached schedule are effective following the coming into force of the Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022

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 22 of Part 3 of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a 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 21 of Part 3 of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a registration under the Supervisory Bodies Law
an AIF	means a registered person who holds an AIF certificate issued under the Alternative Investment Funds (Jersey) Regulations 2012, as amended
CoBO	Control of Borrowing (Jersey) Order 1958
JFSC/Commission	means the Jersey Financial Services Commission
JPF	means a registered person in possession of a consent issued under the CoBO who pay an annual fee as a Jersey Private Fund in accordance with the CoBO Fees Notice, issued by the JFSC

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, EXCEPT business that is defined in paragraphs 21 and 22 (lawyers and accountants) of Part 3 of Schedule 2; and (b) who is required to hold a registration under the Supervisory Bodies Law.
Sole Trader	means a person who is the sole proprietor of a Supervised Person and who does not conduct any activities or operations as described in the Schedule to the Proceeds of Crime (Jersey) Law 1999 by way of business with any other person and who does not engage any employees.
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended.

2 Application fee

- 2.1 Registered Persons shall pay an application fee in accordance with the table set out in the Schedule.
- 2.2 The application fee is due at the time of application and is non-refundable.

3 Amendment fee

- 3.1 Registered persons shall pay an amendment fee in accordance with the Schedule when applying for an alteration so as to reflect all or any of the following:
 - 3.1.1 A change of the name of the Registered Person; or
 - 3.1.2 The addition, alteration or removal of conditions to its registration under the Supervisory Bodies Law.

Schedule

Application fees

	Direct Applications		Applications via an AMLSP	
	Application Fee	Application Fee– Sole Trader	Application Fee	Application Fee– Sole Trader
Schedule 2, Part 2: Financial Institutions, except AIFs and JPFs	£500	£185	£300	£110
Schedule 2, Part 2: Financial Institutions that are AIFs and JPFs	£0	£0	£0	£0
Schedule 2, Part 3: Designated non-financial businesses and professions	£500	£185	£300	£110
Schedule 2, Part 4: Virtual Asset Service Providers	£500	£185	£300	£110

Amendment fees

	Direct Applications		Applications via an AMLSP	
	Amendment Fee	Amendment Fee – Sole Trader	Amendment Fee	Amendment Fee – Sole Trader
Schedule 2, Part 2: Financial Institutions, except AIFs and JPFs	£500	£185	£300	£110
Schedule 2, Part 2: Financial Institutions that are AIFs and JPFs	£0	£0	£0	£0
Schedule 2, Part 3: Designated non-financial businesses and professions	£500	£185	£300	£110
Schedule 2, Part 4: Virtual Asset Service Providers	£500	£185	£300	£110