



# Feedback Paper on Consultation No.14 2022

## Financial Services (Jersey) Law 1998 Trust Company Business Fees

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. 14 2022 published in November 2022.

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## Glossary of Terms

Defined terms are indicated throughout this document as follows:

Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
FSJL	Financial Services (Jersey) Law 1998, as amended
TCB	Trust Company Business

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 In November 2022, we issued Consultation No. 14 2022, Trust Company Business fees, which sought views on proposals to change fee rates for the TCB sector.
- 1.1.2 This summarises our feedback on responses to the Consultation.
- 1.1.3 In light of the feedback received, we will be changing the fee rates to the levels 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 six responses, including a consolidated response from Jersey Finance Limited (JFL), as well as two entities who each hold a TCB licence. The respondents' comments are detailed in Section 2.
- 1.2.2 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 felt the increase in fees was not representative of the engagement experienced with the JFSC to date. The respondent felt that there had not been enough engagement between the JFSC and the class G community. 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 There were a few respondents who were concerned with staff resources available, and whether staffing challenges were the root cause for the increase in fees. 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.  
  
The increase in the regulatory remit is the key driver for the increase in staff levels which are projected by the end of 2023 to have doubled in numbers from 2017 when the JFSC was 133 staff; this will place us at a comparable level to our peers.
- 2.1.3 Two respondents raised concerns on the size of the proposed increase and whether it was proportionate for the increase to be as much as proposed. While an increase of 5% above RPI has been consulted on, the increase as a whole was assessed against the cost base and key changes in this. Given our expanded remit within the TCB sector and the above points, the overall increase was assessed as appropriate.
- 2.1.4 One respondent queried whether the increase in fees was to facilitate the supervision of emerging sectors, and if so, whether this burden should be the responsibility of Government.

We can confirm that fees are not utilised to fund emerging sectors and where appropriate discussions are held with Government on funding.

- 2.1.5 There were two respondents who queried whether the 15.4% was to be reduced by c20%, due to the imposition of two civil financial penalties in the TCB sector. In answer to this, yes, Fees following the 15.4% increase will be reduced by c20%. This will mean that fees are likely to be approximately 4% below the prior year levels, the exact levels will be confirmed on the invoices.

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

- › Institute of Directors (Jersey branch)
- › Jersey Association of Trust Companies
- › Jersey Compliance Officers Association
- › Society of Trust and Estate Practitioners (Jersey branch)

## Appendix B – Draft TCB Fees Notice

### Notice of Fees

Published in accordance with:	<b>Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended</b>
Payable by or in relation to:	<b>Trust Company Business</b>
Pursuant to:	<b>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</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 –

affiliation	in respect of a registered person or an applicant for registration, means a group of persons carrying on or intending to carry on trust company business the members of which have agreed that one member will be the affiliation leader;
affiliation leader	in respect of an affiliation, means the member of the affiliation which has agreed to be the prime source of contact between the JFSC and the members of the affiliation with respect to compliance with the JFSC's prudential rules and conduct of business regulation;
average	in respect of the calculation of the average number of employees or licences on the relevant date(s) means the arithmetic mean of each number rounded to the nearest whole number;
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	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended;
non-affiliated person	in respect of an applicant for registration or a registered person, means a person who is neither an affiliation leader nor a participating member;
trust company business employee	in respect of a registered person, means – (a) a person employed, either under a contract of service or a contract for services, by the registered person to assist in the provision of trust company business (other than solely to provide filing, secretarial, information technology support or any similar general support service); and



	<p>(b) if, on the relevant date there exists an agreement for the provision to the registered person of the services of such persons by another person not trading in Jersey, shall be taken to include the number of such persons as the registered person estimates would be required to be employed full time to undertake the work undertaken by the persons whose services are to be provided.</p> <p>With respect to the above:</p> <p>(a) employees who do not have anything to do with trust company business (i.e. in a multi-licensed firm or an entity which also carries out unregulated business) may be excluded;</p> <p>(b) employees who are solely employed to carry out activities for the trust company itself who would never deal with clients/client matters (for example, the firm's own HR or IT support staff) may be excluded;</p> <p>(c) genuine 'facilities'-type staff who might deal with client matters but in a more 'generic' way (for example, receptionists) may be excluded;</p> <p>(d) the mention of 'secretarial' staff as an exemption does not include those carrying out client company secretarial work; and</p> <p>(e) compliance staff who work on trust company business issues are trust company business employees;</p>
participating member	in respect of an affiliation, means a member of the affiliation who is not its affiliation leader;
relevant date(s)	in respect of a year of registration of a registered person, means the 1st January in that year and each of the preceding four years of registration except for the year the person applied to be registered when it means the date of the application for registration; 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.

- 1.2 In calculating for registration fee purposes the number of trust company business employees of a managed trust company, those trust company business employees that form part of the calculation in respect of the manager's own registration shall not be taken into account.
- 1.3 In calculating for registration fee purposes the number of trust company business employees of a registered person on the relevant date any trust company business employee employed for 25 hours or less during the week in which the relevant date occurs shall be taken into account on a 50% headcount basis (with the total number of trust company business employees being rounded up to the next full number where necessary).

## **2 Application fee**

- 2.1 The fee to accompany an application for registration to carry on trust company business shall be the amount calculated in accordance with the table set out in the Schedule.

## **3 Registration fees**

- 3.1 Except as provided by paragraph 3.5, a person registered to carry on trust company business shall pay a registration fee of an amount calculated in accordance with the table set out in the Schedule.
- 3.2 The due date for the JFSC to receive the registration fee is:
- 3.2.1 28 February, if the firm is already registered on 1 January; or
- 3.2.2 otherwise on registration.
- 3.3 If a person is registered after 1st July but before the following 1st January the registration fee payable on registration shall be half the fee otherwise payable.
- 3.4 Where a registered person has acquired another person registered to carry on trust company business for each relevant date the registered person shall included in the calculation set out in the Schedule:
- 3.4.1 the trust company business employees of the acquired person; and
- 3.4.2 the number of classes of trust company business undertaken by the acquired person.
- 3.5 The JFSC may remit a registration fee in whole or in part if –
- 3.5.1 the person liable to pay the fee is a member of an affiliation; and
- 3.5.2 in the opinion of the JFSC the total of the registration fees payable by the members of the affiliation is unreasonably high having regard to the trust company business carried on by those members.

## **4 Change of control fee**

- 4.1 Where a registered person applies to become, to cease being, or to merge with an Affiliation Leader or Participating Member they shall pay a fee calculated in accordance with the Application fee column set out in the Schedule.
- 4.2 Where a shareholder controller acquires an interest in a registered person, either through a one-off, or series of transactions, so that the proportion of the share capital or voting rights held by the person in the registered person reaches or exceeds 20%, 33% or 50%, or so that the registered person becomes the subsidiary of such a shareholder controller, they shall pay a fee calculated in accordance with the Application fee column set out in the Schedule.
- 4.3 The fee referred to in paragraph 4.1 shall be pro-rated according to the proportion of the share capital or voting rights acquired by the shareholder controller.
- 4.4 For registered persons subject to heightened supervision or enforcement, an additional fee of £1,155 shall be payable under paragraph 4.

## **5 Alteration fee**

- 5.1 A fee of £460 shall be paid by a registered person who applies for an alteration so as to reflect all or any of the following:
- 5.1.1 a change of the name of the registered person;

- 5.1.2 the addition, alteration or removal of each licence condition pursuant to an application from the registered person; or

Classes of trust company business of registered person	Application fee	Registration fee
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- 5.1.3 the removal of each class of licence pursuant to an application from the registered person.

- 5.2 A fee payable in accordance with paragraph 5 shall not be payable where a fee payable in accordance with paragraph 4 is also payable.

## 6 Late payment of fees and/or late submission of fees information

- 6.1 If any fee is not received by the JFSC by the due date, an additional late payment fee of 5% of the unpaid principal amount will be applied on the day after the due date, and on the 1st day of each calendar month after that.
- 6.2 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 6.1 which will be calculated once the information has been submitted.

## 7 Late filing fees

- 7.1 If a registered person fails to file or deliver any document to the JFSC 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 the Commission prior written notice of the reasons for the late filing or delivery of a document and the JFSC has agreed in writing that the filing may be late. Any such later agreed date shall become the due date for the purposes of the calculation and the payment of late filing fees.

<p><b>Any class or combination of classes (not including class O or natural persons carrying on a single class of trust company business – see below)</b></p>	<p>£2,070 for an application to register a non-affiliated person</p> <p>£2,070 for an application to register an affiliation leader</p> <p>£265 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£2,940; plus</p> <p>£1,190 multiplied by the average number of classes of trust company business undertaken by the non-affiliated person on the relevant dates; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the average number of trust company business employees employed on the relevant dates in the trust company business of the non-affiliated person; and</p> <p>(b) at the rate of –</p> <p>£625 for each of the first 10 employees in that count</p> <p>£310 for each of the next 10 employees in that count</p> <p>£250 for each of the next 30 employees in that count</p> <p>£220 for each of the next 50 employees in that count</p> <p>£150 for each of the remainder of the employees in that count.</p> <p>In the case of an affiliation –</p> <p>£2,940 for the affiliation leader; plus</p> <p>in respect of each member of the affiliation (that is, the affiliation leader and every participating member) – the sum of £1,190 multiplied by the average number of classes of trust company business undertaken by the member; plus</p>
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### Schedule: fees

Classes of trust company business of registered person	Application fee	Registration fee
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		<p>a sum calculated –</p> <p>(a) on the basis of a count of the average number of trust company business employees employed on the relevant dates in the trust company business of the affiliation; and</p> <p>(b) at the rate of –</p> <p>£625 for each of the first 10 employees in that count</p> <p>£310 for each of the next 10 employees in that count</p> <p>£250 for each of the next 30 employees in that count</p> <p>£220 for each of the next 50 employees in that count</p> <p>£150 for each of the remainder of the employees in that count.</p>
<b>Class O</b>	<p>£1,040 for an application to register a non-affiliated person</p> <p>£1,040 for an application to register an affiliation leader</p> <p>£210 for an application to register a participating member</p>	<p>In the case of a non-affiliated person - £2,350.</p> <p>In the case of an affiliation – £2,350 for the leader of the affiliation, plus £935 for each participating member.</p>
<b>Natural persons carrying on a single class of trust company business</b>	£950	£1,190