



Feedback Paper on Consultation No.1 2023

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. 1 2023 published in January 2023.

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

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

Table of contents

Consultation feedback	2
1 Executive Summary	5
1.1 Overview	5
1.2 Feedback received.....	5
1.3 Next Steps	5
2 Summary of responses.....	5
Appendix A – Fees Notice under the Supervisory Bodies Law (for specified Schedule 2 business, including estate agency services and lending)	6

1 Executive Summary

1.1 Overview

- 1.1.1 In January 2023, we issued Consultation No. 1 2023, amending the application and amendment fees for certain registered persons under the Supervisory Bodies Law, which sought views on proposals to change application and amendment fees for those required to register and elect to appoint an Anti-Money Laundering Services Provider (AMLSP).
- 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. 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 which is provided in section 2.
- 1.2.2 We are grateful to the respondent for taking the time to consider the proposal and for their constructive comments.
- 1.2.3 We would also like to thank Jersey Finance Limited (JFL) for their willingness to coordinate anonymous responses to our consultation.

1.3 Next Steps

- 1.3.1 A revised Fees Notice is attached at Appendix A. This Fees Notice has effect from 30 January 2023 and covers the period 1 January 2023 to 31 December 2023.

2 Summary of responses

- 2.1.1 The respondent confirmed they had reviewed the consultation and raised concerns on the proposed reduction in fees of 40% where an AMLSP was appointed. The concern is focused on the potential for the client and the service provider being at odds due to the differing fee levels.
- 2.1.2 We do not believe that there will be an unintended consequence of the fee reduction putting the service provider at odds with its customers, given that to act as an AMLSP a person is required to be registered for Trust Company Business or Fund Services Business and will need to submit a Notification not an Application. There will be no additional fee payable to act as an AMLSP.
- 2.1.3 We believe the discount to be appropriate as, in many cases, the people appointed by the service provider into relevant roles will already be known to us and as such the work involved in the review of the application will be less than that required for a direct application.

Appendix A – 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:	Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended
Payable by or in relation to:	Registered Persons (Specified Schedule 2 business, including estate agency services 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 schedules 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 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
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, 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.
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	means an individual who: (a) works under a contract of employment or any other contract of service; (b) practises alone or with others under the terms of a partnership agreement; or (c) is otherwise engaged within the business of a registered person, in all cases where: (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 (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;
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 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 carrying on Schedule 2 business 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 registered person; and
 - (d) 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:

- | | | |
|-----|---|-------------------|
| (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 Registered persons shall pay an annual fee of an amount calculated in accordance with the table set out in the Schedule 1.
- 3.2 The annual fee is payable by all persons registered with the JFSC as at 31 December of the preceding year.
- 3.3 The due date for the annual fee is 31 March. Payment of the annual fee should be made in full, on or before the due date.
- 3.4 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 Registered Persons shall pay an application fee in accordance with the table set out in the Schedule 2.
- 5.2 The due date for the application fee is the time of application and is non-refundable.

6 Amendment fee

- 6.1 Registered persons shall pay an amendment fee in accordance with Schedule 3 when applying 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 to its registration under the Supervisory Bodies Law

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 1 – Annual Fee 2023

	Base Fee	Relevant employee element
--	----------	---------------------------

Sole Trader	£500	Not applicable
All other firms	£1,060	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)

Schedule 2 – 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

Schedule 3 - 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:	£0	£0	£0	£0

Financial Institutions that are AIFs and JPFs				
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