



**Jersey Financial  
Services Commission**

## **Feedback on Consultation**

### **No. 2 2023**

Investment Business Fees – Feedback to a consultation on proposals to change fee rates

Issued: May 2023

## Consultation Feedback

This paper reports on responses received by the JFSC to its Consultation No.2 2023 (Investment Business Fees – A consultation on proposals to change fee rates).

## Glossary of Terms

Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
IB	Investment Business
JFL	Jersey Finance Limited
JFSC	Jersey Financial Services Commission
Registered Person	means a person registered under the Law to carry on investment business

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 In March 2023, we issued Consultation No. 2 2023, which sought views on proposals to change fee rates for the Investment business 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 May 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; whose 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 are effective from 1 May 2023.
- 1.3.2 Relevant firms will shortly receive notification via the myJFSC portal that an invoice is ready for payment, or that investment employee data needs to be supplied for an invoice to be generated. Any data should be provided by 15 June and the due date for the payment of fees is 30 days from the date of the invoice.
- 1.3.3 Late fees may be incurred as detailed in the fees notice and any firms experiencing difficulty in arranging payment should contact their supervisor in advance of the due date.

# 2 Summary of responses

- 2.1 The respondent stated that the increase over the last 3 years is high and is not being seen in other business costs. There have been specific justifications for the increases in recent years in order to provide us with sufficient funding and resources given the expansion of the remit, increase in AML/CFT regulation while maintaining the regulations across all sectors.
- 2.2 The respondent confirmed that investment business firms are not simply passing on RPI increases to employees in salary increases as we have a collective responsibility to address inflation by maintaining steady and sensible increments in salary and by implementing stricter cost control. We confirm that we are also not simply passing on RPI to employees and are focusing on cost control. We are however conscious of the pressure on the employment market and need to be able to attract & retain the high caliber staff required to fulfill our regulatory activities.
- 2.3 The respondent indicated that in their view we were not prioritising budgetary control and should be looking for efficiencies to minimise cost increases rather than passing these on directly to regulated entities. Cost control and mitigating fee increases is a priority for us and although we disclosed in our Business Plan the expectation that fees would be increased by 2% above RPI, this priority has facilitated reducing the increase to RPI.

- 2.4 We have been asked to confirm if the revenue generated from fines helps to cover the costs and mitigate the need to increase IB Fees. There is no revenue generated from fines and therefore these do not cover any costs or mitigate the need to increase fees. Rather, all fines are currently held until the next sector fee run and utilised to discount the annual Sector fees; these are visible on the invoices produced as a discount line.
- 2.5 The respondent challenged the improvements and enhancements the JFSC has made to the regulations. The JFSC continues to undertake a number of wide ranging enhancements to the IB regime, with consistent consultation and collaboration with industry.
- These changes included guidance updates, code enhancements on suitability, vulnerability, conflicts of interest, benchmarking and transparency. Legislative improvements have been made in regard to pensions, and client asset orders. Enhancements to the derivative definitions and the introduction of arranging are currently under consideration by Government for approval and subsequent implementation.
- 2.6 The respondent requested a comparison to other jurisdictions, such as Guernsey. Guernsey Financial Services Commission increased its fees by RPI to maintain the real value of income for 2023.

# Appendix A - Draft Investment Business 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>Investment 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 May 2023 – 30 April 2024

### 1 Interpretation

1.1 In this notice, unless the context otherwise requires –

average	in respect of the calculation of the average number of investment employees on the relevant date(s), means the arithmetic mean of each number rounded to the nearest whole number;
investment employee	<p>in respect of a registered person, means:</p> <p>(a) a person employed on the relevant date either under a contract of service or a contract for services by the registered person as:</p> <p>(i) a dealer,</p> <p>(ii) a discretionary investment manager,</p> <p>(iii) an adviser, or</p> <p>(iv) a supervisor; and</p> <p>(b) a person employed on the relevant date either under a contract for service or a contract for services in any of the categories of work specified in paragraph (a) of this definition by a person who is himself or herself employed on the relevant date either under a contract of service or a contract for services by the registered person<sup>1</sup>, and if, on the relevant date, there exists a post in the service of the registered person that is vacant but would normally be occupied by a person to which paragraph (a) of this definition applies, includes that person</p>
JFSC	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended;

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<sup>1</sup> In practice this captures 'indirect' investment employees who are employed by third parties to conduct these roles on behalf of the registered person.

Registered Person	means a person registered under the Law to carry on investment business;
relevant date(s)	in respect of a year of registration of a registered person, means 1 May 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 that is available for the calculation until there are sufficient relevant dates to perform the calculation as specified.
supervisor	means a person who is responsible, either alone or jointly with one or more other persons, for the management, supervision and control of an investment employee who is not a supervisor

## 2 Application fee

- 2.1 The fee to accompany an application for registration to carry on investment business shall be the amount specified in the table set out in the Schedule.

## 3 Annual fee

- 3.1 A person registered to carry on investment business at any point during the period 1 May 2023 to 30 April 2024 shall pay a fee calculated in accordance with the table set out in the Schedule.
- 3.2 If a person is registered after 31 December 2023 the annual fee payable on registration shall be half the fee otherwise payable.
- 3.3 The JFSC may remit an annual fee, in whole or in part, if:
- (a) in its opinion the person liable to pay the fee is a member of an associated group of registered persons; and
  - (b) another member of that group has paid a like fee.

## 4 Change of control fee

- 4.1 Where a Registered Person applies to become, to cease being, or to merge with another Registered Person 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 4.2 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 £1,230 shall be payable under paragraph 4.

## 5 Alteration fee

- 5.1 A fee of £490 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



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 5.1 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 The due date for the provision of investment employee data is 15 June 2023.

6.2 The due date for payment of the annual fee is:

6.2.1 30 days from the invoice date, if the firm is already registered on 1 May 2023; and otherwise

6.2.2 the date an application is granted.

6.3 If the annual 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 first day of each calendar month after that.

6.4 If the firm does not supply the required information to calculate its annual fee by the due date, an administration fee of £200 will be charged the day after the due date, and on the fifteenth 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 6.3 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 JFSC 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.

**Schedule**

Classes of investment business	Application fee	Annual fee
Class A, B or C or any combination of these classes	£2,625	(i) £4,255; (ii) £2,980 for each of the first 15 investment employees; and (iii) £1,545 for each additional investment employee. <i>Note:</i> investment employees are calculated on the basis of the average number of investment employees employed on the relevant dates in the investment business.
Class D only	£1,310	(i) £3,935; (ii) £1,545 for each of the first 15 investment employees; and (iii) £775 for each additional investment employee. <i>Note:</i> investment employees are calculated on the basis of the average number of investment employees employed on the relevant dates in the investment business.
Class E only	£1,310	£1,545 for each fund in respect of which the applicant or registered person carries on investment business on the relevant date.