



Jersey Financial
Services Commission

Consultation No. 4 2023:

On proposals to change fee rates relating to Companies (Jersey) Law 1991: recognized auditor fees

Issued: 31 July 2023

Consultation

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **11 September 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 **11 September 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:

CJL	Companies (Jersey) Law 1991, as amended
JFSC, we, us	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
recognized auditor	a person whose name is entered on the Register of Recognized Auditors maintained by the <i>JFSC</i> pursuant to Article 110 of the <i>CJL</i>

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1 Executive Summary

1.1 Overview

- 1.1.1 This consultation paper seeks feedback on proposals relating to changes in fee rates for recognized auditors under Companies (Jersey) Law 1991 as amended.

1.2 What is proposed and why?

- 1.2.1 This consultation proposes increasing the fees for recognized auditors and any person applying for registration as a recognized auditor to ensure that the funding raised remains commensurate with our costs and effort.
- 1.2.2 The proposed increase is limited to 20% although the Jersey Retail Prices Index has increased by 27.8% since the last adjustment in 2017.

1.3 Who would be affected?

- 1.3.1 The amendments to fees proposed in this consultation paper will affect recognized auditors and any person applying for registration as a recognized auditor.

2 Consultation

2.1 Basis for consultation

- 2.1.1 The JFSC is issuing this consultation paper in accordance with Article 8(3) of the Commission Law, under which the JFSC “may, in connection with the carrying out of its functions [...] consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate”.
- 2.1.2 In addition, Article 15(3) of the Commission Law, requires that before the JFSC may introduce and publish any fee:
“[T]he Commission must first publish a report that must include:
 - (a) details of the duty or power for or in respect of which the fee is to be determined;
 - (b) details of the proposed fee;
 - (ba) details of the extent (if any) to which any penalties received have reduced the level of fee that would otherwise have been proposed;
 - (c) a request for comments on the level of the proposed fee; and
 - (d) 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 Article 15(4) of the Commission Law provides that should the JFSC and a Representative Body be unable to agree a fee that the JFSC must request the Bailiff to appoint three Jurats to consider if the fee proposed is unreasonable.
- 2.1.4 The JFSC considers that the proposed fee rates are reasonable and that this consultation paper constitutes such a report as required by the Commission Law.

2.2 Who would be affected?

- 2.2.1 The amendments to fees proposed in this consultation paper will affect recognized auditors and any person applying for registration as a recognized auditor.

2.3 Responding to the consultation

- 2.3.1 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.
- 2.3.2 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 11 September 2023.

2.4 Next steps

- 2.4.1 Following this consultation, we will publish a feedback paper which will provide:
 - 2.4.1.1 an overview of the comments received and the JFSC response to those comments;
 - 2.4.1.2 a revised 2023 fees notice recognized auditors and any person applying for registration as a recognized auditor; and
 - 2.4.1.3 the date the revised 2023 fees notice will become effective.

3 The JFSC

3.1 Overview

- 3.1.1 The JFSC is a statutory body corporate established under the Commission Law. It is responsible for the supervision and development of financial services provided in or from within Jersey.
- 3.1.2 Article 15(2) of the Commission Law provides that fees set by the JFSC are to be retained and must, together with any other income:
 - 3.1.2.1 raise sufficient income to meet the JFSC's liabilities;
 - 3.1.2.2 cover the JFSC's expenses; and
 - 3.1.2.3 provide a reserve for the JFSC of such amount as it considers necessary.

3.2 The JFSC's functions

- 3.2.1 Article 5 of the Commission Law prescribes that the JFSC shall be responsible for:
 - 3.2.1.1 the supervision and development of financial services provided in or from within Jersey;
 - 3.2.1.2 providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
 - 3.2.1.3 preparing and submitting to the Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;
 - 3.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:
 - › as are required or authorised by or under any enactment, or
 - › as the States may, by Regulations, transfer; and

- 3.2.1.5 such other functions as are conferred on the JFSC by any other Law or enactment.

3.3 Guiding principles

- 3.3.1 Article 7 of the Commission Law provides that in exercising its functions, the JFSC may take into account any appropriate matter, but that it shall have particular regard to:
- 3.3.1.1 the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by, or the financial unsoundness of, persons carrying on the business of financial services in or from within Jersey;
 - 3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
 - 3.3.1.3 the best economic interests of Jersey; and
 - 3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

4 Proposals

4.1 Proposed fee rate changes

- 4.1.1 The recognized auditor regime was introduced in April 2010. Since that date there has only been one change to the fees levied under the regime in August 2017.
- 4.1.2 The JFSC is proposing an inflationary increase limited to 20% (rounded to the nearest £5) for fees levied under the regime.
- 4.1.3 No civil financial penalties have been received which would reduce these fees.
- 4.1.4 A draft fees notice reflecting the proposals can be found in Appendix B.

4.2 Recognized Auditor fee proposals

- 4.2.1 Since the recognized auditor regime fees were last adjusted in 2017, the Jersey Retail Prices Index has increased by 27.8%.
- 4.2.2 The current fee payable by a person that applies to become a recognized auditor is £1,170. The JFSC is proposing to increase this by 20%, to £1,405.
- 4.2.3 The current annual fee paid by a recognized auditor in June of each year is £880. The JFSC is proposing to increase this by 20%, to £1,055.
- 4.2.4 The current fee for the notification of the designation of a responsible individual is £100. The JFSC is proposing to increase this by 20%, to £120.

4.2.5 Question

Do you have concerns with the proposals outlined in respect of 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

- › Jersey Finance Limited
- › Jersey Society of Chartered and Certified Accountants

Appendix B: Draft Recognized Auditor Fees Notice

Notice of Fees

Published in accordance with:	Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended
Payable by or in relation to:	Recognized Auditors
Pursuant to:	Article 111(1)(b) and 111(18) of the Companies (Jersey) Law 1991, as amended
Commencement date:	The fees set out in this notice are effective from 1 January 2024.

1 Interpretation

1.1 In this notice, unless the context otherwise requires

JFSC	means the Jersey Financial Services Commission
Law	means the Companies (Jersey) Law 1991, as amended
recognized auditor	means a person whose name is entered on the Register of Recognized Auditors maintained by the JFSC pursuant to Article 110 of the Law.

2 Application fee

2.1 The fee to accompany an application for registration as a recognized auditor shall be £1,405.

3 Annual fee calculation

3.1 A recognized auditor shall pay an annual fee of £1,055 on each 1 June.

4 Fee to accompany a notification of the designation of a responsible individual

4.1 The fee to accompany a notification by a recognized auditor to the JFSC of the designation of a responsible individual shall be £120.ⁱ

5 Late payment of fees

5.1 If a recognized auditor fails to pay the whole or any part of a fee on or before the date it becomes due the recognized auditor shall be liable to pay, unless otherwise agreed by the JFSC, an additional late payment fee of 5% of the amount unpaid for each complete month it remains unpaid.

6 Late filing fees

6.1 If a recognized auditor fails to file or deliver any document to the JFSC under the provisions of the Law or under the provisions of any Order issued in accordance with the Law on or before the date that the document becomes due, the recognized auditor shall be liable to pay a fee of £100 for each complete month or part thereof that the document remains unfiled or undelivered unless the recognized auditor 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.

ⁱ For the avoidance of doubt, this £120 fee does not apply in respect of the designation of a responsible individual notified to the JFSC as part of an application for registration as recognized auditor.