



Feedback on Consultation No.10 2023

Financial Services (Jersey) Law 1998: Trust Company Business fees

This reports on responses received by the Jersey Financial Services Commission (JFSC) on Consultation No. 10 2023 published in November 2023.

Issued: April 2024

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

Table of contents

1	Executive summary	4
1.1	Overview	4
1.2	Next steps.....	4
2	Consultation Feedback.....	4
2.1	Overview	4
2.2	Feedback received.....	4
	Appendix A – TCB Fees Notice.....	7

1 Executive summary

1.1 Overview

- 1.1.1 We issued Consultation Paper 10 in November 2023, proposing an increase of 10.1% in fee rates for Trust Company Businesses.
- 1.1.2 We received two responses to the consultation.
- 1.1.3 We are grateful to respondents for taking the time to consider and comment on the proposals. We set out a summary of the responses and our feedback in the next section.
- 1.1.4 Taking account of the feedback received and the significant decrease in RPI between September and December 2023, we will proceed with a fee increase of 6% rather than the initial 10.1% increase proposed.
- 1.1.5 Since the closure of the consultation, we have appointed KPMG to advise us on our funding model and structure (the **Fee Review**). The output of their work will feed into and help shape our future fee funding model.

1.2 Next steps

- 1.2.1 The revised fees are effective from 1 January 2024.
- 1.2.2 Relevant firms will receive notification via myJFSC that either an invoice is available or that they need to provide data for their fees to be calculated.
- 1.2.3 Where data needs to be provided to us, such data should be provided no later than 24 May 2024.
- 1.2.4 In accordance with the fees notice, the due date for payment of registration fees shall be four weeks from receipt of an invoice.
- 1.2.5 Late payment may incur fees as detailed in the fees notice.

2 Consultation Feedback

2.1 Overview

- 2.1.1 We received two responses to the consultation:
 - 2.1.1.1 one from a TCB licence holder
 - 2.1.1.2 one from the Jersey Association of Trust Companies on behalf of its membership.
- 2.1.2 Jersey Finance confirmed they had not received any industry comments to pass on to us in relation to this consultation.

2.2 Feedback received:

- 2.2.1 Respondents did not agree with the proposed fee increase of RPI (10.1%).
Clarification and transparency:
- 2.2.2 One of the respondents requested further information to support the increase in fees noting in particular that “staff salaries have not increased in line with inflation”.
- 2.2.3 The second respondent challenged the fee increase advising that while the “JFSC has had to increase its human resourcing this year, there has been various service level issues experienced, which has had a resource and cost impact for those TCB’s involved”.

- 2.2.4 One of the respondents also observed that it had been suggested in the 2022 fee consultation feedback that the build-up in reserves and the inflationary increase be separated. The respondent expressed disappointment that this feedback was not addressed in the 2022 feedback paper, suggesting the point remained.

JFSC response:

- 2.2.5 We were seeking an overall increase in the level of fees linked to the September 2023 RPI. This was based on the market conditions at the time, our forecast requirements for 2024 and our financial position at the time.
- 2.2.6 In particular, our assessment considered:
- 2.2.6.1 the need to retain and recruit skilled employees
 - 2.2.6.2 the technology infrastructure necessary to ensure we can continue to meet our international regulatory obligations
 - 2.2.6.3 the fact that our building is now not fit for purpose and incremental improvements are no longer a viable option. We therefore need to move to new office premises which are modest, appropriate and effective
 - 2.2.6.4 the need to maintain our reserves.
- 2.2.7 The assessment of our financial needs for 2024 were based on the assumption that future costs and expense inflation would not vary significantly from the September RPI. The December 2023 RPI decreased significantly however to 7.5%. We have therefore reviewed our forecasting requirements again and will not be proceeding with a 10.1% increase in fees. We will instead be proceeding with a 6% increase in fees.
- 2.2.8 We acknowledge the frustration of the respondent who felt their feedback in 2022 had not been addressed in that year's fee feedback paper. However, our fees must raise sufficient income to meet our liabilities, cover over expenses and provide a reserve as we consider necessary in accordance with Article 15(2) of the Financial Services Commission (Jersey) Law 1998.

Competitiveness:

- 2.2.9 Both respondents expressed concern that the level of fees being levied against TCB's would make Jersey too expensive and therefore uncompetitive compared with other key jurisdictions.

JFSC response:

- 2.2.10 We recognise respondents' concerns about the impact of increasing regulatory costs on their client and customer fees.

Efficiencies:

- 2.2.11 Both respondents queried the efficiencies being achieved within the JFSC as a result of previous fee increases, indicating these were not visible to industry.

JFSC response:

- 2.2.12 Throughout 2023, we delivered a range of improvements, including but not limited to:
- 2.2.12.1 introducing the ability for entities to administer their own users and roles online
 - 2.2.12.2 a new portal user authentication was rolled out, reducing the number of times users need to authenticate

2.2.12.3 introducing the new 'Supervisory Bodies' and 'Material Change' online application forms

2.2.12.4 deploying new highly secure and more universally recognised electronic file sharing software to improve interaction with external agencies.

2.2.13 However, we recognise there is still more to do, and we remain committed to continual improvement that will deliver efficiency for all stakeholders.

Timing:

2.2.14 One respondent asked that we undertake future fee consultations earlier in the calendar year.

JFSC response:

2.2.15 This request is extremely helpful in developing our current and future position regarding fees and will be taken into consideration as part of the wider Fee Review.

Appendix A – TCB 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:	Trust Company Business
Pursuant to:	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
Commencement date:	The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2024

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 four weeks from receipt of an invoice if the firm is already registered on 1 January; or
 - 3.2.2 otherwise on registration
- 3.3 If a person is registered after 1 July but before the following 1 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 include 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 £1,224 shall be payable under paragraph 4.

5 Alteration fee

- 5.1 A fee of £488 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 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 24 May 2024, an administration fee of £200 will be charged the following day, 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 unfiled 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: Fees

Classes of trust company business of registered person	Application fee	Registration fee
Any class or combination of classes (not including class O or natural persons carrying on a single class of trust company business – see below)	<p>£2,194 for an application to register a non-affiliated person</p> <p>£2,194 for an application to register an affiliation leader</p> <p>£281 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£3,116; plus</p> <p>£1,261 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>£663 for each of the first 10 employees in that count</p> <p>£329 for each of the next 10 employees in that count</p> <p>£265 for each of the next 30 employees in that count</p> <p>£233 for each of the next 50 employees in that count</p> <p>£159 for each of the remainder of the employees in that count.</p> <p>In the case of an affiliation –</p> <p>£3,116 for the affiliation leader; plus in respect of each member of the affiliation (that is, the affiliation leader and every participating member) – the sum of £1,261 multiplied by the average number of classes of trust company business undertaken by the member; plus</p>

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>£663 for each of the first 10 employees in that count</p> <p>£329 for each of the next 10 employees in that count</p> <p>£265 for each of the next 30 employees in that count</p> <p>£233 for each of the next 50 employees in that count</p> <p>£159 for each of the remainder of the employees in that count.</p>
Class O	<p>£1,102 for an application to register a non-affiliated person</p> <p>£1,102 for an application to register an affiliation leader</p> <p>£223 for an application to register a participating member</p>	<p>In the case of a non-affiliated person - £2,491.</p> <p>In the case of an affiliation – £2,491 for the leader of the affiliation, plus £991 for each participating member.</p>
Natural persons carrying on a single class of trust company business	£1,007	£1,261