



Jersey Financial
Services Commission

Consultation Paper No. 4 2017

Insurance Business (Jersey) Law 1996: Insurance Business Fees

A consultation on proposals to change fee rates.

Issued: June 2017

Consultation Paper

The Jersey Financial Services Commission invites comments on this consultation paper. Comments should reach Jersey Finance Limited by 14 July 2017.

Responses should be sent to:

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Alternatively, responses may be sent directly to the JFSC by 14 July 2017. 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.

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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.

It is the policy of Jersey Finance Limited (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

Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
JFL	Jersey Finance Limited

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1 Consultation

1.1 Basis for consultation

- 1.1.1 The Jersey Financial Services Commission (**JFSC**) is issuing this consultation paper in accordance with Article 8(3) of the Commission Law (**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*”.
- 1.1.2 In addition, Article 15(3) of the Commission Law, requires that before the JFSC may introduce and publish any fee “*...the 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”.*
- 1.1.3 The JFSC considers that this consultation paper constitutes such a report as required by the Commission Law.

1.2 Who will be affected by the proposed changes?

- 1.2.1 These amendments to fees will affect any person applying for, or having already been granted a permit to undertake insurance business.

1.3 Responding to the consultation

- 1.3.1 The JFSC invites comments, in writing, from interested parties on the content of this consultation paper.
- 1.3.2 Comments should be received by either Jersey Finance Limited or the JFSC no later than 14 July 2017.

1.4 Next steps

- 1.4.1 Following this consultation, the JFSC will publish feedback and the final fees notice in the third quarter of 2017. Firms will be notified when they need to use the myJFSC portal to collect their invoices.

2 The JFSC

2.1 Overview

- 2.1.1 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.
- 2.1.2 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:
 - 2.1.2.1 Raise sufficient income to meet the JFSC's liabilities;
 - 2.1.2.2 Cover the JFSC's expenses; and
 - 2.1.2.3 Provide a reserve for the JFSC of such amount as it considers necessary.

2.2 The JFSC's functions

- 2.2.1 Article 5 of the Commission Law prescribes that the JFSC shall be responsible for:
 - 2.2.1.1 The supervision and development of financial services provided in or from within Jersey;
 - 2.2.1.2 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;
 - 2.2.1.3 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;
 - 2.2.1.4 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
 - 2.2.1.5 Such other functions as are conferred on the JFSC by any other Law or enactment.

2.3 Guiding principles

- 2.3.1 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:
 - 2.3.1.1 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;

- 2.3.1.2 The protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
- 2.3.1.3 The best economic interests of Jersey; and
- 2.3.1.4 The need to counter financial crime in both Jersey and elsewhere.

3 Proposals

3.1 Proposed fee rate changes

- 3.1.1 The current fee rates for insurance business were set in 2008, almost a decade ago. Since that time inflation has materially eroded their value. The JFSC proposes to increase insurance business fee rates by 18.1%¹, which represents no increase in real terms over their current level since they were last changed.
- 3.1.2 The JFSC also proposes to introduce a flat fee for the work involved with insurance transfer schemes. The detailed proposals are set out in section 3.4 below.
- 3.1.3 No penalties have been received which would reduce these fees.
- 3.1.4 A draft fees notice reflecting the proposal can be found in Appendix B.
- 3.1.5 As in 2016, fees will be administered via firms' myJFSC portal accounts. Firms will receive an email prompt to notify them that an invoice is awaiting payment.

3.2 The work of the JFSC

- 3.2.1 The JFSC is the Island's statutory regulator of financial services. Our work includes the authorisation and supervision of financial services firms, as well as policy development and enforcement activity. The Companies Registry is an integral part of the JFSC.
- 3.2.2 Our Business Plans and Annual Reports set out our priorities and report on outcomes respectively. Some of the work we have carried out in 2015, 2016 and 2017 to date includes:
- › Core 'day to day' supervision of firms, also covering authorisation activity and, where necessary, the progression of a number of complex enforcement cases;
 - › Policy work, including changes to Codes of Practice and making recommendations to the Government of Jersey to amend law or regulations;
 - › A public awareness campaign relating to mis-selling²;
 - › Training for industry, as well as the provision of speakers to industry seminars;
 - › Input into the area of innovative fintech;
 - › Involvement in the Jersey Fraud Prevention Forum as well as a modest contribution to the financial education of young people in the Island;
 - › Continuous improvement of the JFSC's cyber-defences;
 - › Helping to secure an excellent outcome for Jersey in its MONEYVAL assessment, a key determinant of future market access for 'Jersey plc';
 - › Other targeted international engagement, such as through the Group of International Insurance Centre Supervisors, or demonstrating the equivalence of our regime to EU authorities; and
 - › Introduction and progression of a 'change programme' to modernise the JFSC's systems and increase the skills of our staff.

¹ RPI inflation for the period September 2008 to March 2017 (source: Jersey Government website).

² For which a financial contribution was made towards the costs by the UK Personal Finance Society.

- 3.2.3 It is important to emphasise the unprecedented step-change in financial regulation and international relations brought about by the financial crisis in 2007/8. Since then, thousands of pages of requirements have been added to the global rulebook by both international, supranational and national standard setters. International finance centres like Jersey are under greater scrutiny, daily, than ever before.
- 3.2.4 Given our statutory remit, the JFSC's view is that we do not undertake significant amounts of discretionary work compared to what is expected of a modern regulator, and it is not credible to believe our workload will decline in the near future. So, the JFSC needs to be sustainably funded to carry out its current level of activity.

3.3 The JFSC's financial position

- 3.3.1 The JFSC's recent financial position can be summarised as follows:
- 3.3.1.1 In 2014, the JFSC's income and expenditure were in balance, but absent an exceptional enforcement cost recovery there would have been a deficit of over £950,000 (after restatement due to FRS102);
- 3.3.1.2 In 2015, the JFSC made a loss of some £640,000;
- 3.3.1.3 Our 2016 accounts are expected to show a loss of around £430,000.
- 3.3.2 Because the JFSC holds cash reserves, these losses have been able to be accommodated, but that position is not sustainable; indeed, as well as bringing the JFSC's annual finances back into balance, the cash reserves need to be rebuilt to appropriate levels over a reasonable period of time.

3.4 Regulatory fee proposals

- 3.4.1 Given the above facts the JFSC has begun a programme of increasing fees to secure its financial sustainability, with the aim of reaching total income from 'regulated' entities³ of some £13m by 2019 (an increase of 15% above the same fees in 2015).
- 3.4.2 Insurance businesses are the final industry sector – after banking, funds, trust company, general insurance mediation, money service, investment and Schedule 2 businesses - to be put on this 'pathway' for the development of regulatory fees.
- 3.4.3 In the calendar year 2015, insurance business fees received by the JFSC totalled £707,000. Applying the pathway to these fees would mean the JFSC looking to collect an amount of some £813,000 by 2019.
- 3.4.4 Because the number of permit holders has fallen since 2015, it takes a higher increase than 15% in *fee rates* to generate the same percentage increase in fee income.
- 3.4.5 The JFSC proposes to increase fee rates by 18.1% for 2017/8⁴. This represents no increase in real terms from when they were last changed. We estimate this will raise

³ That is, the JFSC's non-Registry income.

⁴ Rounded to the nearest £5.

around £760,000 in insurance business fees for the 2017/8 fee period (i.e. about 7.5% more fee income than in 2015).

- 3.4.6 The JFSC expects to consult next year on fee rates for 2018/9 that will raise the desired £813,000 in insurance business fees. Therefore, we are effectively smoothing the £106,000 difference between the 2015 fees and the desired 2019 fees over the next two fee periods.
- 3.4.7 *Introduction of a fee for transfer schemes.* We also propose to introduce a £5,000 flat fee for transfer schemes (as defined in the fees notice in Annex B). We believe it is inappropriate that the sector as a whole bears the cost of processing these applications which are relevant only to the firms involved.

3.5 Questions

- 3.5.1 Do you agree with the inflation-only increase of 18.1% in insurance business fee rates?
- 3.5.2 Do you agree with the introduction of a £5,000 flat fee for transfer schemes?

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

- › Jersey Finance Limited
- › Chartered Insurance Institute

Appendix B - Draft Insurance Business 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:	Insurance Business
Pursuant to:	Articles 6(1) and 43D of the Insurance Business (Jersey) Law 1996, as amended
Commencement date:	The fees set out in this notice are effective from 1 October 2017.

1 Interpretation

1.1 In this notice, unless the context otherwise requires

cell and cell company	have the meanings assigned to them by the Companies Law
Companies Law	means the Companies (Jersey) Law 1991, as amended
JFSC	means the Jersey Financial Services Commission
Law	means the Insurance Business (Jersey) Law 1996, as amended
limited company	has the meaning assigned to it by the Companies Law
limited liability partnership	has the meaning assigned to it by the Limited Liability Partnerships (Jersey) Law 1997
permit holder	has the meaning assigned to it by the Law
transfer of insurance business	means a scheme for the transfer of insurance business as required by Article 27 of and Schedule 2 to the Law

2 Application fee

2.1 The fee to accompany an application for a permit to carry on insurance business under the Law shall be the amount set out in Schedule 1.

3 Annual fee

3.1 A permit holder shall pay an annual fee in accordance with the amount set out in Schedule 2.

3.2 The annual fee is payable by permit holders on 1 October of each year.

4 Registration change fee

4.1 Where:

- a) an insurance company that is registered under the Companies Law as a limited company changes that registration to registration as a cell company or a cell or
- b) a partnership carrying on insurance business as a limited liability partnership changes that registration to registration as a cell company or a cell

The fee for a category B permit arising out of that change in registration (“registration change fee”) is £1,595.

4.2 If:

- a) A cell company referred to in paragraph 4.1(a) or (b) has paid the fee specified in paragraph 4.1
- b) There is an application for a category B permit made by the first cell of that cell company; and
- c) The insurance business to be written in that first cell is the insurance business that was, prior to the change in registration to a cell company, written by the insurance company referred to in paragraph 4.1(a) or the partnership referred to in paragraph 4.1(b)

Then the registration change fee paid under paragraph 4.1 shall be taken to include the fee payable for the application by that first cell for its category B permit.

4.3 Where the fee specified in paragraph 4.1 has been paid, paragraph 3.1 shall apply to the annual fee due next following the grant of the permit (and for each subsequent annual fee due) for that cell company and for that cell.

4.4 Where a cell company or a cell that is registered as such under the Companies Law changes that registration to registration as a:

- a) A limited company or
- b) A limited liability partnership

The fee for a category B permit arising out of that change in registration is £1,595 and where that fee has been paid, paragraph 3.1 shall apply to the annual fee due next following the grant of the permit (and each subsequent annual fee due for the limited company or the limited liability partnership).

5 Transfer of insurance business

5.1 If a permit holder plans to undergo a Transfer of Insurance Business (“transfer”) a fee of £5,000 is payable. This fee is payable to the JFSC at the time of submission of draft documentation relating to the transfer, in advance of the associated Direction Hearing.

6 Late payment of fees

6.1 If a permit holder fails to pay the whole or any part of a fee on or before the date it becomes due the permit holder 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 that it remains unpaid.

7 Late filing fees

- 7.1 If a permit holder 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 permit holder 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 permit holder 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.

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Schedule 1 – application fees

Category of permit	Application fee
Category A	<ul style="list-style-type: none"> i. £6,375 if the permit applied for is to include long-term business of any class; and ii. £3,190 in any other case.
Category B (where the applicant is not a cell company or a cell)	<ul style="list-style-type: none"> i. £11,160 if the permit applied for is to include long-term business of any class; and ii. (ii) £5,580 in any other case.
Category B (where the applicant is a cell company or a cell)	<ul style="list-style-type: none"> i. £5,580 if the permit applied for is to be granted to a cell company; ii. £3,190 if the permit applied for is to be granted to a cell and is to include long-term business of any class; and iii. £1,595 if the permit applied for is to be granted to a cell and is to include general business of any class.

Schedule 2 – annual fees

Category of permit	Application fee
Category A	<ul style="list-style-type: none"> i. £6,375 if the permit includes long-term business of any class; and ii. £3,190 in any other case.
Category B (where the permit holder is not a cell company or a cell)	<ul style="list-style-type: none"> i. £11,160 if the permit includes long-term business of any class; and ii. £5,580 in any other case.
Category B (where the permit holder is a cell company or a cell)	<ul style="list-style-type: none"> i. £5,580 if the permit is held by a cell company; ii. £3,190 if the permit is held by a cell and includes long-term business of any class; and iii. £1,595 if the permit is held by a cell and includes general business of any class.