



Jersey Financial
Services Commission

Consultation Paper No. 8 2017

Companies (Jersey) Law 1991: Recognized Auditor Fees

A consultation on proposals to change fee rates.

Issued: August 2017

Consultation Paper

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **29 September 2017**.

Responses should be sent to:

Stephen de Gruchy

Senior Adviser, Policy

Jersey Financial Services Commission

PO Box 267

14-18 Castle Street

St Helier

Jersey

JE4 8TP

Telephone: +44 (0) 1534 822110

Email: s.degruchy@jerseyfsc.org

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.

It is the policy of the JFSC to make the content of all responses available for public inspection unless specifically requested otherwise.

Glossary of terms

CJL	Companies (Jersey) Law 1991, as amended
Commission/JFSC	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>

Contents

- 1 Consultation5**
 - 1.1 Basis for consultation 5
 - 1.2 Who will be affected by the proposed changes? 5
 - 1.3 Responding to the consultation 5
 - 1.4 Next steps..... 5

- 2 The JFSC6**
 - 2.1 Overview 6
 - 2.2 The JFSC’s functions 6
 - 2.3 Guiding principles..... 6

- 3 Proposals.....8**
 - 3.1 Proposed fee rate changes..... 8
 - 3.2 Application and annual fee proposals..... 8
 - 3.1 Question 8
 - 3.1 New discrete fee proposal 8
 - 3.2 Question 9

- Appendix A - list of bodies who have been sent this consultation paper10**
- Appendix B - Draft Recognized Auditor Fees Notice11**

1 Consultation

1.1 Basis for consultation

- 1.1.1 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*”.
- 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 The amendments to fees proposed in this consultation paper will affect *recognized auditors* and any person applying for registration as a *recognized auditor*.

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 the *JFSC* no later than 29 September 2017.

1.4 Next steps

- 1.4.1 Following this consultation, the *JFSC* will publish feedback and the final fees notice in the fourth quarter of 2017. The revised fees will take effect from 1 January 2018.

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 *recognized auditor* regime was introduced in April 2010. Since that date there have been no changes to the fees levied under the regime.
- 3.1.2 The *JFSC* is proposing an inflationary increase in the application and annual fees levied under the regime.
- 3.1.3 The *JFSC* is also proposing a new discrete fee of £100 for adding an additional “designated responsible individual” to an audit firm’s entry on the Register of Recognized Auditors.
- 3.1.4 No civil financial penalties have been received which would reduce these fees.
- 3.1.5 A draft fees notice reflecting the proposals can be found in Appendix B.

3.2 Application and annual fee proposals

- 3.2.1 Since the *recognized auditor* regime was introduced in April 2010, the Jersey Retail Prices Index has increased by 17.2%.¹
- 3.2.2 The current fee payable by a person that applies to become a *recognized auditor* is £1,000. The *JFSC* is proposing to increase this, in line with inflation, to £1,170.
- 3.2.3 The current annual fee paid by a *recognized auditor* in June of each year is £750. The *JFSC* is proposing to increase this, in line with inflation, to £880.

3.1 Question

- 3.1.1 Do you agree with the proposed changes to the amount of the application and annual fees?

If you do not, please explain why, suggest an alternative figure and provide the rationale for it.

3.1 New discrete fee proposal

- 3.1.1 Under the *recognized auditor* regime, when a *recognized auditor* designates a new responsible individual, the firm is required to notify the *JFSC* (using the “*Notification of the designation of a responsible individual*” form) and request that the individual be

¹ Source: States of Jersey Statistics Unit. The RPI increase quoted is from March 2010 (the closest published RPI to the start date of the Recognized Auditor regime) to June 2017, the most recently published RPI.

added to the list of responsible individuals in the firm's entry on the Register of Recognized Auditors.

- 3.1.2 The proposed new discrete fee of £100 is designed to cover the cost to the *JFSC* of the administrative process involved in adding a person to the list of responsible individuals in a firm's entry on the Register of Recognized Auditors.
- 3.1.3 In 2015, in Consultation Paper No. 10 - "Funding Review", the *JFSC* consulted on the principle (but not the amount) of this new discrete fee. No objections were raised to it.

3.2 Question

- 3.2.1 Do you agree with the amount of the new discrete fee?

If you do not, please explain why, suggest an alternative figure and provide the rationale for it.

Appendix A - list of 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 2018.

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 £1,170.

3 Annual fee calculation

3.1 A recognized auditor shall pay an annual fee of £880 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 £100.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 £100 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.

DRAFT