



Jersey Financial
Services Commission

Feedback on Consultation Paper

No. 9 2017

Financial Services (Jersey) Law 1998:

- › Trust Company Business Fees
- › General Insurance Mediation Business Fees
- › Money Service Business Fees

Issued: December 2017

Feedback to Consultation Paper No. 9

This paper reports on responses received by the JFSC to its Consultation Paper No.9 2017 (Financial Services (Jersey) Law 1998: Trust Company Business Fees / General Insurance Mediation Business Fees / Money Service Business Fees).

Glossary of Terms

GIMB	General Insurance Mediation Business
JFSC	Jersey Financial Services Commission
MSB	Money Service Business
TCB	Trust Company Business

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1 Executive Summary

1.1 Overview

- 1.1.1 We issued Consultation Paper No.9 2017 in October, proposing increases in fee rates for Trust Company Businesses (**TCBs**), General Insurance Mediation Businesses (**GIMBs**) and Money Service Businesses (**MSBs**), as well as some other changes to the calculation and collection of fees.
- 1.1.2 We received a number of responses directly and via Jersey Finance about the proposals relating to TCBs. A summary of the responses and our feedback is set out in the next Chapter. No feedback was received on the proposals for GIMBs and MSBs.
- 1.1.3 Taking account of the feedback received, we are proceeding with both the changes in fee rates and the other proposals set out in the consultation for all three industry sectors. The final fees notices can be found in Appendices B, C and D and on our website.

1.2 Next steps

- 1.2.1 Relevant firms will receive notification via the myJFSC portal that either an invoice is available or that fees data needs to be supplied. Firms' attention is drawn to the changes that have been made on interest charges for late payment and on the charging of 'late' fees on the supply of information for fees purposes.

2 Consultation Feedback

2.1 Feedback received

- 2.1.1 The Jersey Financial Services Commission (**JFSC**) received four responses either directly or via Jersey Finance regarding the fees proposals for TCBs. No responses were received on the GIMB or MSB fee proposals. We would like to thank respondents for taking the time to provide comments. Having taken account of the feedback, we will be proceeding with all the changes consulted on (although see paragraph 2.1.8 below regarding the definition of TCB employees).
- 2.1.2 On the proposal to increase TCB fee rates by 4.5%, one respondent noted that while the increase was not “too usurious” it was higher than headline inflation, and that “desk-based supervision should be cheaper than the previous on-site visit programme”.
- 2.1.3 Another respondent, while being in the main “broadly supportive”, also commented that the proposed increase was greater than inflation, and noted that this was higher than the “previous increase [...] scoped out until 2019.” The respondent commented that the structure of fees should be reviewed to focus on substance rather than having a flat registration fee.
- 2.1.4 All respondents commented on our proposed clarifications in the fees notice to the definition of “trust company business employee”. Respondents argued that because the same definition was used in the Code of Practice for TCBs, but arguably for different purposes, there would be problematic knock-on consequences with regard to issues such as employee categorisation and continuing professional development requirements.
- 2.1.5 Despite the proposed changes, respondents also requested further clarity about who should be included in the employee count. A specific question was asked about individuals providing group compliance support. One respondent commented that their annual fee would significantly increase as a result.
- 2.1.6 **JFSC response:** We can confirm that we have not changed our target TCB fees for 2018 or 2019 from that set out previously. The percentage increase in *fee rates* that is needed to raise the target *cash fees* has increased slightly because the number of licensees and their employees (the fee charging metrics for TCBs) has changed slightly year-on-year. We agree that the percentage fee rate increase (and the cash increase in fees we are seeking) is higher than inflation. We explained in 2016 that the JFSC was looking to increase its regulatory fee income by 15% more than 2015 by 2019, to provide a necessary real terms increase in the JFSC’s funding base. In fact the higher increase in inflation in Jersey particularly this year means that the real terms element of the increased fees by 2019 will be rather smaller than anticipated when the 15% figure was planned.
- 2.1.7 Regarding the structure of fees, although there is a flat fee per licence type, a sliding scale charge also applies for most firms by number of TCB employees, so “larger” firms (measured by employee numbers) pay more. In general, it will probably always be necessary for a material part of the JFSC’s funding to come through base fees given that “size” measures (employee numbers, turnover, etc.) may be more variable year-on-year. However we will keep this point under review. With regard to supervisory methods, we are still carrying out on-site examinations and we do not agree that desk-based supervision necessarily costs less. Specific pan-industry projects including the cyber security survey and PII review are elements of our “desk

based” activities and include valuable feedback for industry as well as supervisory remediation with certain entities as a direct result of the projects.

- 2.1.8 With respect to the definition of TCB employees, we did not intend to change the meaning in the Code of Practice and will amend the Code to maintain the status quo and break the link with the definition in the fees notice. The issues raised by respondents will therefore not arise. Any change to the substantive criteria for TCB employees within the Code of Practice would be consulted on separately.
- 2.1.9 We are not minded at this time to try to provide even more specific guidance about who is or is not a TCB employee for fees purposes. Our proposals were a response to existing queries from firms and we believe the revised material provides a sound basis for firms to make a reasonable analysis of which individuals should or should not be included. We always reserve the right to challenge a firm’s analysis, but operate on the basis that if a firm has taken due care and made reasonable efforts to classify people, we will accept that number. On that point, the over-riding criterion from the definition has not changed – to be included, the individuals need to be “assisting in the provision of trust company business”. A narrow interpretation, such as only including individuals who meet with clients on a face-to-face basis, is not reasonable.
- 2.1.10 Firms were asked to declare employee numbers for our fee modelling on the basis of the new wording, and we have used those figures to set the 2018 fee rates. The fee payable by any one firm will obviously depend on its individual data, but if, for example, across industry as a whole the number of chargeable employees increased by a material percentage then we would be able to raise a specific target cash amount of fees in future years with lower fee rates – the interaction between rates and employee/firm numbers is dynamic.

Appendix A – List of Respondents

- › Affinity Trust Limited
- › A trust company business
- › A bank (via Jersey Finance)
- › An individual (via Jersey Finance)

Appendix B - Trust Company 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:	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 2018

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;
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	<p>in respect of a registered person, means –</p> <p>(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> <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	in respect of a year of registration of a registered person, means the 1st January in that year except in the year the person applied to be registered when it means the date of the application for registration.

- 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 3.4, 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 31 January 2018, if the firm is already registered on 1 January 2018; and otherwise
- 3.2.2 on registration.
- 3.3 If a person is registered after 1st July but before the following 1st January the registration fee payable on registration shall be half the fee otherwise payable.
- 3.4 The JFSC may remit a registration fee in whole or in part if –
- 3.4.1 the person liable to pay the fee is a member of an affiliation; and
- 3.4.2 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 Late payment of registration fees and/or late submission of fees information

- 4.1 If the registration 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.
- 4.2 If the firm does not supply the required information to calculate its registration fee by the due date, an administration fee of £200 will be charged the day after the due date, 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 4.1 which will be calculated once the information has been submitted.

5 Refund of registration fee

- 5.1 If a person's registration to carry on trust company business is revoked on or before 1st July in any year the JFSC shall refund to the person half of the registration fee paid by the person in respect of that year.

6 Late filing fees

- 6.1 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 Commission 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.

7 Fee cap

- 7.1 The registration fee is subject to a fee cap of the greater of either £65,210 or 80% of the fee that would be payable absent any fee cap being in place.

Schedule: Fees

Classes of trust company business of registered person	Application fee	Registration fee
<p>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>	<p>£1,359 for an application to register a non-affiliated person</p> <p>£1,359 for an application to register an affiliation leader</p> <p>£173 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£1,918; plus</p> <p>£676 multiplied by the number of classes of trust company business undertaken by the non-affiliated person; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the trust company business employees employed on the relevant date in the trust company business of the non-affiliated person; and</p> <p>(b) at the rate of –</p> <p>£460 for each of the first 10 employees in that count</p> <p>£227 for each of the next 10 employees in that count</p> <p>£199 for each of the next 30 employees in that count</p> <p>£149 for each of the next 50 employees in that count</p> <p>£99 for each of the remainder of the employees in that count.</p> <p>In the case of an affiliation –</p> <p>£1,918 for the affiliation leader; plus</p> <p>in respect of each member of the affiliation (that is, the affiliation leader and every participating member) – the sum of £676 multiplied by the number of classes of trust company business undertaken by the member; plus</p> <p>a sum calculated –</p>

Classes of trust company business of registered person	Application fee	Registration fee
		(a) on the basis of a count of the trust company business employees employed on the relevant date in the trust company business of the affiliation; and (b) at the rate of – £460 for each of the first 10 employees in that count £227 for each of the next 10 employees in that count £199 for each of the next 30 employees in that count £149 for each of the next 50 employees in that count £99 for each of the remainder of the employees in that count.
Class O	£679 for an application to register a non-affiliated person £679 for an application to register an affiliation leader £136 for an application to register a participating member	In the case of a non-affiliated person - £1,546. In the case of an affiliation – £1,546 for the leader of the affiliation, plus £532 for each participating member.
Natural persons carrying on a single class of trust company business	£598	£676

Appendix C - General Insurance Mediation 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:	General Insurance Mediation 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 schedules are effective for the period from 1 January – 31 December 2018

1 Interpretation

1.1 In this notice, unless the context otherwise requires:

brokerage income	means: (a) in relation to a registered person who carries on general insurance mediation business activities from within Jersey, means the net retained brokerage and other income arising from such activities whether the brokerage or income arises within or outside Jersey; and (b) in relation to a registered person who carries on general insurance mediation business activities in Jersey from outside Jersey, means the net retained brokerage and other income arising from such activities in Jersey by the registered person;
JFSC	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended

2 Application fee

- 2.1 For the purposes of Article 8(3)(c) of the Law (which Article allows fees that are to accompany applications for registration to be published), the fee specified in an entry in column 3 of Schedule 1 is prescribed in respect of applications for registration in relation to the class of general insurance mediation business specified in the entry opposite in column 2 of the Schedule.
- 2.2 Notwithstanding paragraph (1), if an application for registration is made by a person after 30th June in a year in relation to a class of general insurance mediation business specified in

column 2 of Schedule 1, the fee prescribed under paragraph (1) shall be half the fee specified opposite that class in column 3 of the Schedule.

3 Annual fee

3.1 For the purposes of Article 9(6) of the Law (which Article allows fees payable by registered persons to be published):

- a. a person within class S of Table 1, Schedule 2, shall pay for each year of registration (other than the year in which the person is first so registered) the annual fee set out opposite that class in column 4 of Table 1, Schedule 2; and
- b. a person:
 - i. who is within class P, Q or R of Table 1, Schedule 2, and
 - ii. whose brokerage income for the accounting year that ended in the year before the registration year for which the fee is payable is within a range specified opposite that class in column 3 of Table 1, Schedule 2,

shall pay, for each year of registration (other than the year in which the person is first so registered) the annual fee set out in column 4 of Table 1, Schedule 2.

- c. a person:
 - i. who is within class P, Q, R or S specified in Schedule 1, as determined in accordance with column 2 of that Schedule, and
 - ii. who is within the description of general insurance mediation business in column 1 of Table 2, Schedule 2,

shall pay for each year of registration (other than the year in which the person is first so registered) the annual fee set out in column 2 of Table 2, Schedule 2.

4 Late payment of fees and/or late submission of fees information

4.1 The due date for the JFSC to receive the annual fee is 31 January 2018.

4.2 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.

4.3 If the firm does not supply the required information to calculate its registration fee by the due date, an administration fee of £200 will be charged the day after the due date, and on the first 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 4.2 which will be calculated once the information has been submitted.

5 Late filing fees

5.1 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 1: Prescribed classes and application fees

Column 1	Column 2	Column 3
Class Reference	Description of class of business	Application fee
P	Carrying on general insurance mediation business (other than incidental general insurance mediation business), not carrying on any other class of financial service business and not being a business that is within Class Q.	£5,060
Q	Carrying on general insurance mediation business (including incidental general insurance mediation business):	£2,530
	(a) in addition to carrying on:	
	(i) any class of financial service business other than general insurance mediation business; or	
	(ii) any other business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996; or	
	(b) as a company that is part of a group, where another part of the group carries on:	
	(i) any class of financial service business other than general insurance mediation business; or	
	(ii) any other business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996.	
R	Carrying on incidental general insurance mediation business, if: <ul style="list-style-type: none"> (a) the business includes the giving of advice on the terms, conditions or suitability of the policy being proposed; and (b) the business to which the general insurance mediation business is incidental: <ul style="list-style-type: none"> (i) is not within a class of financial service business, and (ii) is not business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996. 	£2,530

Column 1	Column 2	Column 3
Class Reference	Description of class of business	Application fee
S	Carrying on incidental general insurance mediation business, if: <ul style="list-style-type: none"> <li data-bbox="375 365 1161 465">(a) the business does not include the giving of advice on the terms, conditions or suitability of the policy being proposed; and <li data-bbox="375 477 1161 768">(b) the business to which the general insurance mediation business is incidental: <ul style="list-style-type: none"> <li data-bbox="438 555 1141 593">(i) is not within a class of financial service business, and <li data-bbox="438 627 1161 768">(ii) is not business authorized under the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996. 	£88

Schedule 2: Annual fees (Table 1)

Column 1	Column 2	Column 3	Column 4
Class	Description	Brokerage Income Range	Annual fee
P	A person who is within Class P as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999	£1,630
		(b) £50,000 to £99,999	£2,561
		(c) £100,000 to £499,999	£3,416
		(d) £500,000 to £999,999	£4,269
		(e) £1,000,000 to £2,499,999	£5,123
		(f) £2,500,000 to £4,999,999	£6,831
		(g) £5,000,000 or more	£8,538
Q	A person who is within Class Q as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999	£815
		(b) £50,000 to £99,999	£1,296
		(c) £100,000 to £499,999	£1,707
		(d) £500,000 to £999,999	£2,151
		(e) £1,000,000 to £2,499,999	£2,561
		(f) £2,500,000 to £4,999,999	£3,416
		(g) £5,000,000 or more	£4,269
R	A person who is within Class R as determined in accordance with Schedule 1 and who is not a person within Table 2.	(a) £0 to £49,999	£422
		(b) £50,000 to £99,999	£663
		(c) £100,000 to £499,999	£854
		(d) £500,000 to £999,999	£1,075
		(e) £1,000,000 to £2,499,999	£1,296
		(f) £2,500,000 to £4,999,999	£1,707
		(g) £5,000,000 or more	£2,151
S	A person who is within Class S as determined in accordance with Schedule 1 and who is not a person within Table 2.		£51

Schedule 2: Annual fees (Table 2)

Column 1	Column 2
Description	Annual fee
A person who:	£51
(a) has a place of business in Jersey from which the person carries on general insurance mediation business in or from within Jersey; or	
(b) is a company incorporated in Jersey,	
and who:	
(c) is within Class P, Q, R or S as determined in accordance with Schedule 1, and	
(d) is exempted, under an Order made under Article 17 (see (i) below) or Article 20 (see (ii) below) of the Law in relation to general insurance mediation business, from the application of that Order (see (iii) below).	

(i) Where Article 17 of the Law relates to the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005.

(ii) Where Article 20 of the Law relates to the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005.

(iii) Where an exemption under one or other of the General Insurance Mediation Business Orders has been granted by the Commission on the basis that the registered person is an appropriately regulated person in respect of general insurance mediation business in accordance with the criteria set out under:

1. Article 21(3) of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005; and/or
2. Article 20(3) of the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005.

Appendix D - Money Service 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:	Money Service 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 are effective for the period from 1 January – 31 December 2018

1 Interpretation

1.1 In this notice, unless the context otherwise requires:

JFSC	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998, as amended.

2 Application fee

2.1 The fee to accompany an application for registration to carry on money service business shall be £2,371. If an application for registration is made by a person after 30th June in a calendar year, the fee shall be £1,186.

3 Annual fee

3.1 A person registered to carry on money service business at any point during the calendar year shall pay a fee of £2,371.

4 Late payment of fees

4.1 The due date for the JFSC to receive the annual fee is:

- 4.1.1 31 January 2018, if the firm is already registered on 1 January 2018; and otherwise
- 4.1.2 on registration.

4.2 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 1st day of each calendar month after that.

5 Late filing fees

- 5.1 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.