



Jersey Financial
Services Commission

Consultation Paper

No. 1 2018

Financial Services (Jersey) Law 1998: Investment Business Fees

A consultation on proposals to change fee rates.

Issued: February 2018

Consultation Paper

The Jersey Financial Services Commission invites comments on this consultation paper. Comments should reach Jersey Finance Limited by 30 March 2018.

Responses should be sent to:

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Alternatively, responses may be sent directly to the JFSC by 30 March 2018. 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

JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
IB	Investment Business

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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 Financial Services Commission (Jersey) Law 1998, as amended (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 will affect all persons registered under the Financial Services (Jersey) Law 1998 to conduct investment business (IB), and persons that are issued with a registration certificate on or after 1 May 2018.

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 and its likely impact on registered IBs.
- 1.3.2 Comments should be received by either Jersey Finance Limited or the JFSC no later than 30 March 2018.

1.4 Next steps

- 1.4.1 Following this consultation, the JFSC will publish feedback and the final fees notice in the second quarter of 2018. Firms will be notified when either their invoices are ready, or they need to supply information for fees to be calculated, via the myJFSC portal.

2 The Commission

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:
 - 2.2.1.4.1 as are required or authorised by or under any enactment, or
 - 2.2.1.4.2 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 JFSC proposes to increase IB fee rates (including application fees) for 2018/19 by the rate of inflation.
- 3.1.2 No penalties have been received which would reduce these fees.
- 3.1.3 The proposed fees notice reflecting the proposals can be found in Appendix B.
- 3.1.4 As in 2018, fees will be administered via firms' myJFSC portal accounts. Firms will receive an email prompt to notify them that an invoice is awaiting payment, or that they need to supply information for fees to be calculated.

3.2 Regulatory fee proposals

- 3.2.1 We set out in last year's IB fees consultation that we intended to raise £1,350,000 from the sector in the 2018/19 fee period, in accordance with our plan for the JFSC to raise total regulatory fees¹ of some £13m by 2019.
- 3.2.2 Based on the data we recently obtained from licensees about their investment employee numbers, we believe this amount can be raised by putting in place an inflation-only increase in IB fee rates for 2018/19 (that is, no increase in real terms). The fee amount paid by any particular firm may increase by more or less than the rate of inflation if, for example, its investment employee numbers have changed year-on-year.
- 3.2.3 The latest annual inflation figure we have at the time of consultation is for the calendar year 2017, which is 3.6%². Ideally we would use a later twelve-month period, but the next figures are not due to be released until 18 May, which is well into the fee year. We could not wait until then to launch a consultation and then set fee rates, so we propose to use the 3.6% figure.
- 3.2.4 Unlike last year, we do not propose to make any changes to the investment employee fee bands. However we are proposing to amend the rules applying to late payment of fees/late supply of fees information so they have the effect that:
 - 3.2.4.1 fees are due to be paid by 31 May 2018 and interest will start to accrue immediately if the amount due has not been paid in full; and
 - 3.2.4.2 if information to calculate fees has not been supplied by 31 May 2018 a flat rate charge will be made, and then made again every month if the information remains outstanding. This charge will operate in addition to the interest due on overdue payments.

3.3 Question

- 3.3.1 Do you agree with the proposals for changes to IB fee rates and rules around late payment/late provision of fees information?

¹ That is, the JFSC's non-Registry income.

² See <https://www.gov.je/Government/JerseyInFigures/BusinessEconomy/Pages/Inflation.aspx>.

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

- › Chartered Institute for Securities & Investment
- › Jersey Bankers Association
- › Jersey Finance Limited
- › Professional Finance Society

Appendix B - Draft Investment 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:	Investment 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 May 2018 – 30 April 2019

1 Interpretation

1.1 In this notice, unless the context otherwise requires -

investment employee	in respect of a registered person, means: (a) a person employed on the relevant date either under a contract of service or a contract for services by the registered person as: (i) a dealer, (ii) a discretionary investment manager, (iii) an adviser, or (iv) a supervisor; and (b) a person employed on the relevant date either under a contract for service or a contract for services in any of the categories of work specified in paragraph (a) of this definition by a person who is himself or herself employed on the relevant date either under a contract of service or a contract for services by the registered person ³ , and if, on the relevant date, there exists a post in the service of the registered person that is vacant but would normally be occupied by a person to which paragraph (a) of this definition applies, includes that person
JFSC	means the Jersey Financial Services Commission
Law	means the Financial Services (Jersey) Law 1998, as amended

³ In practice this captures ‘indirect’ investment employees who are employed by third parties to conduct these roles on behalf of the registered person.

registered person	means a person registered under the Law to carry on investment business
relevant date	means 1 April 2018, or the date of the application for registration if such application occurs between 1 May 2018 and 30 April 2019
supervisor	means a person who is responsible, either alone or jointly with one or more other persons, for the management, supervision and control of an investment employee who is not a supervisor

2 Application fee

2.1 The fee to accompany an application for registration to carry on investment business shall be the amount specified in the table set out in the Schedule.

3 Annual fee

3.1 A person registered to carry on investment business at any point during the period 1 May 2018 to 30 April 2019 shall pay a fee calculated in accordance with the table set out in the Schedule.

3.2 If a person is registered after 31 December 2018 the annual fee payable on registration shall be half the fee otherwise payable.

3.3 The JFSC may remit an annual fee, in whole or in part, if:

- (a) in its opinion the person liable to pay the fee is a member of an associated group of registered persons; and
- (b) another member of that group has paid a like fee.

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:

4.1.1 31 May 2018, if the firm is already registered on 1 May 2018; and otherwise

4.1.2 the date an application is granted.

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.

4.3 If the firm does not supply the required information to calculate its annual 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 4.2 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

<i>Classes of investment business</i>	<i>Application fee</i>	<i>Annual fee</i>
Class A, B or C or any combination of these classes	£1,744	(i) £2,827; (ii) £1,973 for each of the first 15 investment employees; and (iii) £1,023 for each additional investment employee, up to a maximum of 25 additional investment employees.
Class D only	£869	(i) £2,613; (ii) £1,023 for each of the first 15 investment employees; and (iii) £511 for each additional investment employee, up to a maximum of 25 additional investment employees.
Class E only	£869	£1,023 for each fund in respect of which the applicant or registered person carries on investment business on the relevant date.