



**Jersey Financial
Services Commission**

Consultation Paper No.5 2019

Insurance Business (Jersey) Law 1996: Insurance Business Fees

A consultation on proposals to change fee rates.

Issued: August 2019

Consultation Paper

The JFSC invites comments on this consultation paper. Comments should reach Jersey Finance Limited by 27 September 2019.

Responses should be sent to:

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Alternatively, responses may be sent directly to the JFSC by 27 September 2019. 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.

The JFSC contact is:

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It is the policy of the JFSC to provide the content of responses for 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 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

“[T]he 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 Article 15(4) of the Commission Law provides that should the JFSC and a Representative Body be unable to agree a fee that the JFSC must request the Bailiff to appoint 3 Jurats to consider if the fee proposed is unreasonable.

1.1.4 The JFSC considers that the proposed fee rates are reasonable and 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 27 September 2019.

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 2019. 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 JFSC proposes to raise fee rates by 11.2% (rounded to the nearest £10). This comprises:

3.1.1.1 2.8%, being the most recent Jersey RPI prior to publication;

3.1.1.2 3.4% comprising a contribution towards meeting the significantly higher costs of a major project to enhance the JFSC's work in respect of countering financial crime which has already been initiated and benefits all sectors of the financial sector equally; and

3.1.1.3 A further 5% comprising a contribution to:

- › investment towards restoring the JFSC's reserves to a level of six months' total expenditure from the prior year.
- › investment towards building an enhanced data analytics function;
- › the final tranche in the increase of 15% in funding overall, in real terms, by end-2019, raised from this sector as from other sectors since 2015 to develop the quality of supervision.

3.1.2 No penalties have been levied on entities in the insurance sector which would be applied, to this sector only, to reduce these fees in the period immediately after receiving such penalties.

3.1.3 Similar fee increases were implemented in respect of FSB, AIF and CIF, CoBO and QSMA fee rates following Consultation Paper No. 4 2019 and will also be proposed to other industry sectors as part of their next fee cycles to ensure the burden of this increased funding requirement is fairly distributed.

3.1.4 A draft fees notice reflecting the proposal can be found in Appendix B.

3.1.5 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 Fee proposals

3.2.1 In Consultation Paper No.5 2017, the JFSC explained that insurance business fee rates had been static since 2008 and that inflation had materially eroded their value. An increase of 18.1% was applied from 1 October 2017 in order to return insurance business fees, in real terms, to their 2008 level.

3.2.2 In Consultation Paper No.4 2017, the JFSC explained its intention to increase the amount of regulatory fees collected from industry by 15% above their 2015 level by 2019. We explained

cost drivers, including the need to recruit, maintain and train effective regulatory staff in a competitive market environment.

- 3.2.3 The proposals in this Consultation Paper seek to ensure that the 15% increase is, in real terms, achieved during 2019; to provide additional funding in support of the JFSC's work in respect of combatting financial crime; to enhance our data analytics capacity and to provide investment in the JFSC's reserves to return them to a level equal to at least six months' expenditure by 2022.
- 3.2.4 In 2021/2022, the Island will undergo its next MONEYVAL assessment. A strongly positive outcome to the assessment is considered crucial to the continued ability of the Island's financial services industry to access international markets efficiently. Jersey's Government has indicated that such an outcome to the assessment is one of its key targets over the course of the current Island Strategic Plan. In any event, the JFSC is of the view that the supervision of financial crime will require a significantly enhanced supervisory capacity in the next period having regard to the increasing sophistication and scale of financial crime risks.
- 3.2.5 The JFSC's efforts towards achieving a strongly positive outcome with regard to the forthcoming MONEYVAL assessment and tackling these financial crime risks are focused on demonstrating effective supervision as a key part of Jersey's AML/CFT regime, adequate remedial and enforcement activities, sufficient development of systems and data as well as ensuring the regime's overall compliance with FATF Recommendations. This work has already begun and the JFSC is currently building its Financial Crime supervision capacity.
- 3.2.6 The JFSC are liaising with Government to explore the possibility of bridging funding towards the cost of meeting the additional regulatory workload that is necessary. Whether or not Government do provide bridging funding, ultimately the cost of regulation will need to be borne by industry over the course of time.
- 3.2.7 Depending on the Insurance sector's perspective on the urgency of current policy development projects and priorities, the JFSC invites comment on the option of a further increase of 1.5% across the board which would be sufficient to fund an additional policy development resource devoted to Insurance-related policy development (products, insurance-sector-related fintech issues and the development of the legal framework for the insurance sector).

3.3 Questions

- 3.3.1 Do you agree with the increase of 11.2% in insurance business fee rates?

Appendix A - list of bodies which 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 2019.

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.
- 3.3 The due date for the annual fee is 31 October in the same 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 £1,860.

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 £1,770 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 £5,840 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 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.

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.

Schedule 1 – application fees

Category of permit	Application fee
Category A	<ul style="list-style-type: none"> i. £7,440 if the permit applied for is to include long-term business of any class; and ii. £3,730 in any other case.
Category B (where the applicant is not a cell company or a cell)	<ul style="list-style-type: none"> i. £13,030 if the permit applied for is to include long-term business of any class; and ii. £6,520 in any other case.
Category B (where the applicant is a cell company or a cell)	<ul style="list-style-type: none"> i. £6,520 if the permit applied for is to be granted to a cell company; ii. £3,730 if the permit applied for is to be granted to a cell and is to include long-term business of any class; and iii. £1,860 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. £7,440 if the permit includes long-term business of any class; and ii. £3,730 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. £13,030 if the permit includes long-term business of any class; and ii. £6,520 in any other case.
Category B (where the permit holder is a cell company or a cell)	<ul style="list-style-type: none"> i. £6,520 if the permit is held by a cell company; ii. £3,730 if the permit is held by a cell and includes long-term business of any class; and iii. £1,860 if the permit is held by a cell and includes general business of any class.