



Feedback Paper on Consultation Paper No. 9 2018

Financial Services (Jersey) Law 1998

Trust Company Business Fees

General Insurance Mediation Business Fees

Money Services Business Fees

A feedback paper relating to a consultation on proposals regarding fee rates and associated issues.

Consultation Feedback

This paper reports on responses received by the JFSC to the Consultation Paper No. 9 2018 published by the JFSC on 24 October 2018.

Glossary of Terms

Defined terms are indicated throughout this document as follows:

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

Content

- Consultation Feedback2**
- 1 Executive Summary5**
 - 1.1 Overview 5
 - 1.2 Feedback received 5
 - 1.3 Next Steps 5
- 2 Consultation feedback.....6**
 - 2.1 Feedback received 6
 - 2.2 Do you agree with the proposals relating to TCBs? 6
 - 2.3 Do you agree with the proposals relating to GIMBs? 7
 - 2.4 Do you agree with the proposals relating to MSBs? 7
- Appendix A – List of respondents to the CP8**
- Appendix B – Trust Company Business Fees Notice9**
- Appendix C – General Insurance Mediation Business Fees Notice14**
- Appendix D – Money Service Business Fees Notice20**

1 Executive Summary

1.1 Overview

- 1.1.1 On 24 October 2018 the JFSC issued Consultation Paper No. 9 2018, which sought views on proposals to increase fee rates, as well as some other changes to the calculation and collection of fees.
- 1.1.2 The purpose of this paper is to provide feedback on the responses received to the CP.
- 1.1.3 In light of the feedback received, the JFSC will be changing the fee rates to the levels consulted on, effective 1 January 2019. The final form of the fees notices can be found in the Appendices and on our website.

1.2 Feedback received

- 1.2.1 Three respondents, one a representative body, provided comments directly to the JFSC. A full list of respondents is given in Appendix A.
- 1.2.2 Section 2 of this paper presents a summary of the substantive comments received and the JFSC's response.
- 1.2.3 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.
- 1.2.4 The JFSC is grateful to respondents for taking the time to consider and comment on the proposals. Each respondent has been sent a copy of this paper.

1.3 Next Steps

- 1.3.1 The revised fees will take effect from 1 January 2019.
- 1.3.2 Relevant firms will receive notification via the myJFSC portal that an invoice is ready for them or that they need to provide data for their fees to be calculated. The due date for payment is 31 January. Late payment may incur fees as detailed in the fees notice.

2 Consultation feedback

2.1 Feedback received

- 2.1.1 This section summarises the substantive comments received in response to the CP.
- 2.1.2 There were three responses and all were in relation to the first question in respect of TCB fees.

2.2 Do you agree with the proposals relating to TCBs?

- 2.2.1 All respondents agreed to the overall increase in fee rates at the September 2018 Jersey inflation rate of 4.3%. However, one respondent stated that they felt the RPI-Y figure should be employed in respect of inflationary increases.

JFSC response

- 2.2.2 The JFSC recognises there are different inflation rates, but we note that the all items RPI rate is the “headline” figure and “the main measure of inflation” (per Statistics Jersey). Use of the RPI is consistent with Article 15(7) of the Financial Services Commission (Jersey) Law 1998 and other fees consultations.

- 2.2.3 In respect of raising the fees cap, one respondent commented:

- 2.2.3.1 “We do not believe the increase in the fees cap from 80% to 85% is necessary or warranted. No (compelling) reason was provided by the JFSC for that proposal.”

JFSC response

- 2.2.4 In the Feedback to Consultation Paper No.10 2015 the JFSC confirmed that it would be implementing proposals to remove fees caps which, in respect of TCB fees, has been implemented gradually through Consultations No. 11 2015, No. 9 2016 and No. 11 2017, each raising the cap and associated percentage. The continuation of this process sees the cap and percentage raised again for the 2019 fee year. In part this reflects a need to protect the fee base given the continuing consolidation of the industry.

- 2.2.5 All respondents agreed that, in principle, the removal of the provision to refund registration fees in the TCB fees notice was reasonable given the same position for other classes of financial services business.

- 2.2.6 However, two respondents raised concerns around the process of deregistration and fairness for registered persons:

- 2.2.6.1 “[T]he de-registration process can be cumbersome and lengthy and that this can fall over registration payment periods. It was considered unreasonable in those circumstances to require that any registration fee to carry over into the new period during a de-registration process should be non-refundable. Whilst some members proposed that if a Cessation of Business Plan was submitted before the end of the period, some arrangement could then be made in regard to the registration fee that might run over the period, it was thought by other members that simply allowing refunds up until the end of the first quarter (i.e. for the remaining three quarters only) and none thereafter, would be a fairer outcome. The issue with budgeting would not be unduly affected

by that. It was agreed, of course, that where a licence is revoked at the behest of the JFSC (i.e. as a sanction), no refund should be made.”

- 2.2.6.2 “[A]s it can take some time to complete the delicensing process is it possible that the relevant date for fees purposes could be the date when the Cessation of Business Plan is submitted to the JFSC rather than when the actual registration is revoked?”

JFSC response

- 2.2.1 The JFSC expects that Cessation of Business Plans are submitted in good time by all registered persons. Usually, this will be at least 30 working days (6 weeks) prior to the end of a fee period enabling the processing of the Cessation of Business Plan and proper deregistration before the next fee period commences.
- 2.2.2 In circumstances where a properly completed Cessation of Business Plan is submitted, six weeks is usually sufficient to complete the deregistration process. A properly completed Cessation of Business Plan will include, inter alia, audited financial statements and evidence of PII run-off cover being in place.
- 2.2.3 If the Cessation of Business Plan itself is not properly completed or matters arise during the review of the Cessation of Business plan that cause delays, the JFSC is unlikely to consider derogation from the next period’s fees: this is consistent across all classes of firm. We would encourage early submission of Cessation of Business Plans, but not at the expense of their quality or completeness.
- 2.2.4 In circumstances where a Cessation of Business plan is submitted close to the end of a fee period, the JFSC will endeavour to process it in time that the next period’s fees are not levied, however, this cannot be guaranteed.

2.3 Do you agree with the proposals relating to GIMBs?

- 2.3.1 No comments were received in response to this question.

2.4 Do you agree with the proposals relating to MSBs?

- 2.4.1 No comments were received in response to this question.

Appendix A – List of respondents to the CP

Name of Respondent	Type of Business
Affinity Private Wealth	Trust Company Business
Jersey Association of Trust Company Officers	Trade Body
Anonymous contribution	Trust Company Business

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 2019

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	in respect of a registered person, means – (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>(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>
<p>participating member</p>	<p>in respect of an affiliation, means a member of the affiliation who is not its affiliation leader;</p>
<p>relevant date</p>	<p>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.</p>

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 2019, if the firm is already registered on 1 January 2019; and
 - 3.2.2 otherwise 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 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 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.

6 Fee cap

- 6.1 The registration fee is subject to a fee cap of the greater of either £68,015 or 85% 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>£1,415 for an application to register a non-affiliated person</p> <p>£1,415 for an application to register an affiliation leader</p> <p>£180 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£2,000; plus</p> <p>£705 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>£480 for each of the first 10 employees in that count</p> <p>£235 for each of the next 10 employees in that count</p> <p>£210 for each of the next 30 employees in that count</p> <p>£155 for each of the next 50 employees in that count</p> <p>£105 for each of the remainder of the employees in that count.</p> <p>In the case of an affiliation –</p> <p>£2,000 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 £705 multiplied by the number of classes of trust company business undertaken by the member; plus</p>

Classes of trust company business of registered person	Application fee	Registration fee
		<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>£480 for each of the first 10 employees in that count</p> <p>£235 for each of the next 10 employees in that count</p> <p>£210 for each of the next 30 employees in that count</p> <p>£155 for each of the next 50 employees in that count</p> <p>£105 for each of the remainder of the employees in that count.</p>
<p>Class O</p>	<p>£710 for an application to register a non-affiliated person</p> <p>£710 for an application to register an affiliation leader</p> <p>£140 for an application to register a participating member</p>	<p>In the case of a non-affiliated person - £1,610.</p> <p>In the case of an affiliation – £1,610 for the leader of the affiliation, plus £555 for each participating member.</p>
<p>Natural persons carrying on a single class of trust company business</p>	<p>£625</p>	<p>£705</p>

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 schedule are effective for the period from 1 January – 31 December 2019

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.

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 2019.
- 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 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 4.2 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.	£5,565
Q	<p>Carrying on general insurance mediation business (including incidental general insurance mediation business):</p> <p>(a) in addition to carrying on:</p> <p>(i) any class of financial service business other than general insurance mediation business; or</p> <p>(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</p> <p>(b) as a company that is part of a group, where another part of the group carries on:</p> <p>(i) any class of financial service business other than general insurance mediation business; or</p> <p>(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.</p>	£2,785
R	<p>Carrying on incidental general insurance mediation business, if:</p> <p>(a) the business includes the giving of advice on the terms, conditions or suitability of the policy being proposed; and</p> <p>(b) the business to which the general insurance mediation business is incidental:</p> <p>(i) is not within a class of financial service business, and</p> <p>(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.</p>	£2,785

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"> (a) the business does not include 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. 	£95

Schedule 2: Annual Fees (Table 1)

Column 1	Column 2		Column 3
Class	Description		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 £49,999,999	£1,710
		(b) £50,000 to £99,999	£2,815
		(c) £100,000 to £499,999	£3,760
		(d) £500,000 to £999,999	£4,695
		(e) £1,000,000 to £2,499,999	£5,635
		(f) £2,500,000 to £4,999,999	£7,515
		(g) £5,000,000 or more	£9,390
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	£855
		(b) £50,000 to £99,999	£1,425
		(c) £100,000 to £499,999	£1,880
		(d) £500,000 to £999,999	£2,365
		(e) £1,000,000 to £2,499,999	£2,815
		(f) £2,500,000 to £4,999,999	£3,760
		(g) £5,000,000 or more	£4,695
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	£445
		(b) £50,000 to £99,999	£730
		(c) £100,000 to £499,999	£940
		(d) £500,000 to £999,999	£1,185
		(e) £1,000,000 to £2,499,999	£1,425
		(f) £2,500,000 to £4,999,999	£1,880
		(g) £5,000,000 or more	£2,365
S	A person who is within Class S as determined in accordance with Schedule 1 and who is not a person within Table 2.		£60

Schedule 2: Annual Fees (Table 1)

Column 1	Column 2
Description	Annual Fee
<p>A person who:</p> <ul style="list-style-type: none"> (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, <p>and who:</p> <ul style="list-style-type: none"> (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). 	£60

- (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 and the attached schedule are effective for the period from 1 January – 31 December 2019

6 Interpretation

6.1 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;

7 Application Fee

7.1 The fee to accompany an application for registration to carry on money service business shall be £2,475.

8 Annual fee

8.1 A person registered to carry on money service business at any point during the calendar year shall pay a fee of £2,475.

9 Late payment of fees

- 9.1 The due date for the JFSC to receive the annual fee is: 31 January 2019, if the firm is already registered on 1 January 2019; and otherwise on registration.
- 9.2 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.

10 5 Late filing fees

10.1 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.