



# Consultation Paper No. 5 2020

## Draft Limited Partnerships (Continuance) (Jersey) Regulations 202-: Limited Partnerships Continuance Fees

### Limited Partnerships (Jersey) Law 1994

A consultation on proposals for fees for an application for a foreign limited partnership to continue as a limited partnership within Jersey.

Issued: July 2020

## Consultation Paper

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation paper by **14 July 2020**. 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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Alternatively, Peggy Gielen at Jersey Finance Limited (**JFL**) is coordinating an Industry response that will incorporate any matters raised by local businesses. Comments should be submitted to JFL by **14 July 2020**.

The JFL contact is:

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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 by the respondent).**

**It is the policy of JFL (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

Defined terms are indicated throughout this document as follows:

Commission Law	Financial Services Commission (Jersey) Law 1998
eligible foreign limited partnership	a limited partnership, without legal personality, formed under the law of a jurisdiction outside Jersey
JFSC	Jersey Financial Services Commission
Draft Regulations	Draft Limited Partnerships (Continuance) (Jersey) Regulations 202-

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# 1 Executive Summary

## 1.1 Overview

1.1.1 This consultation paper seeks feedback on proposals for the fees the JFSC will charge for an application under the Draft Regulations for an eligible foreign limited partnership to continue as a limited partnership within Jersey.

## 1.2 What is proposed and why?

1.2.1 It is proposed that in order to make an application under Regulation 3 of the Draft Regulations, a fee is required to be paid to the JFSC. An application will not be determined by the JFSC unless the fee has been paid.

## 1.3 Who would be affected?

1.3.1 The proposals in this consultation paper will affect any person applying under the Draft Regulations for an eligible foreign limited partnership to continue within Jersey.

# 2 Consultation

## 2.1 Basis for consultation

2.1.1 The JFSC has issued this consultation paper with the intention of publishing the fee outlined in the Draft Fees Notice at Appendix B. Regulation 7(1) of the Draft Regulations provides for the JFSC to require payment of a published fee in respect of an application under the Regulations.

2.1.2 The Draft Regulations will be debated by the States of Jersey on 14 July 2020. If passed, they will come into force on 15 July 2020. For the reasons set out in the explanatory note and background to the Draft Regulations, there is some urgency to bringing in these new provisions. Accordingly a full public consultation in respect of the Draft Regulations was not undertaken (although a working group of experts within the Funds sector has been engaged in the review of the Draft Regulations).

2.1.3 In order to meet this timescale, the proposals within this fee consultation will be implemented on the date on which the Draft Regulations come into force. As such responses to this consultation are sought from representative bodies no later than 14 July 2020.

2.1.4 The JFSC has issued this consultation paper in accordance with Article 8(3) of the Commission Law, as amended, 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”.

2.1.5 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”.

- 2.1.6 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.
- 2.1.7 The JFSC considers that the proposed fee is reasonable and that this consultation paper constitutes such a report as required by the Commission Law.

## 2.2 Responding to the consultation

- 2.2.1 The JFSC invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.
- 2.2.2 Comments should be received by Jersey Finance Limited or the JFSC no later than 14 July 2020.

## 2.3 Next steps

- 2.3.1 Following this consultation, the JFSC will publish feedback to this Consultation Paper and the final fees notice in July 2020. The fees will take effect from 15 July 2020.

# 3 The JFSC

## 3.1 Overview

- 3.1.1 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.
- 3.1.2 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;
- 3.1.2.1 raise sufficient income to meet the JFSC's liabilities;
  - 3.1.2.2 cover the JFSC's expenses; and
  - 3.1.2.3 provide a reserve for the JFSC of such amount as it considers necessary.

## 3.2 The JFSC's functions

- 3.2.1 Article 5 of the Commission Law prescribes that the JFSC shall be responsible for:
- 3.2.1.1 the supervision and development of financial services provided in or from within Jersey;
  - 3.2.1.2 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;
  - 3.2.1.3 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;
  - 3.2.1.4 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
  - 3.2.1.5 such other functions as are conferred on the JFSC by any other Law or enactment.

### 3.3 Guiding principles

- 3.3.1 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:
- 3.3.1.1 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;
  - 3.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matter;
  - 3.3.1.3 the best economic interests of Jersey; and
  - 3.3.1.4 the need to counter financial crime in both Jersey and elsewhere.

## 4 Proposals

### 4.1 Proposed fee

- 4.1.1 The JFSC proposes to introduce a fee for an application under Regulation 3 of the Draft Regulations for an eligible foreign partnership to continue as a limited partnership within Jersey.
- 4.1.2 The JFSC considers the proposed fee for this service to be reasonable and proportionate.
- 4.1.3 The fee is comparable to the fee for registration of a Jersey limited partnership under Article 4 of the Limited Partnerships (Jersey) Law 1994. It is less than the current fee of £750 for an application under Article 127K of the Companies (Jersey) Law 1991 by a body incorporated outside Jersey for continuance as a company incorporated under that Law.
- 4.1.4 Regulation 7(2) of the Draft Regulations provides that the JFSC must not determine an application unless it is accompanied by the published application fee.
- 4.1.5 The proposed fee will be in addition to all other fees for requirements to be satisfied under the Draft Regulations in order to obtain a certificate of continuance..
- 4.1.6 Any other fees payable to the JFSC that may be required for a limited partnership to continue within Jersey, for example in respect of consent required under Article 10 and payable under Article 12A of the Control of Borrowing (Jersey) Order 1958 for a Jersey Private Fund or under the Collective Investment Funds (Jersey) Law 1998 will also be in addition to the fees proposed under the Draft Regulations.

## 5 Question

### 5.1 Do you agree with the proposed fee rate?

## **Appendix A – List of bodies who have been sent this consultation paper**

- › Jersey Funds Association
- › Jersey Finance Limited

# Appendix B - Draft Limited Partnerships Continuance 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: **Limited Partnerships**

Pursuant to: **Regulations 3 and 7(1) of the Draft Limited Partnership (Continuance) (Jersey) Regulations 202-; and  
Article 31 of the Limited Partnerships (Jersey) Law 1994  
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 from 15 July 2020.

### 1 Interpretation

1.1 In this notice, unless the context otherwise requires -

eligible foreign limited partnership	has the same meaning as in the Limited Partnerships (Continuance) (Jersey) Regulations 202-
JFSC	means the Jersey Financial Services Commission
Draft Regulations	Limited Partnerships (Continuance) (Jersey) Regulations 202-

### 2 Application fee

2.1 The fee to accompany an application for an eligible foreign limited partnership to continue as a limited partnership in Jersey under the Draft Regulations shall be £605.