



Feedback Paper on Consultation No.9 2021

Financial Services (Jersey) Law 1998 Trust Company Business Fees

Feedback relating to a consultation on proposals regarding changes to fee rates

Issued: January 2022

Consultation feedback

This reports on responses received by the Jersey Financial Services Commission (JFSC) on Consultation No. 9 2021 published in November 2021.

Further enquiries concerning the consultation may be directed to:

JFSC Finance team

Jersey Financial Services Commission

PO Box 267

14-18 Castle Street

St Helier

Jersey

JE4 8TP

Telephone: +44 (0) 1534 822000

Email: fscaccountsteam@jerseyfsc.org

Glossary of Terms

Defined terms are indicated throughout this document as follows:

Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
FSJL	Financial Services (Jersey) Law 1998, as amended
TCB	Trust Company Business

Table of contents

Consultation feedback	2
1 Executive Summary	5
1.1 Overview	5
1.2 Feedback received.....	5
1.3 Next Steps	5
2 Summary of responses.....	5
Appendix A – TCB Fees Notice.....	6

Executive Summary

1.1 Overview

- 1.1.1 In November 2021, we issued Consultation No. 9 2021, Trust Company Business fees, which sought views on proposals to change fee rates for the TCB sector.
- 1.1.2 This summarises our feedback on responses to the Consultation.
- 1.1.3 In light of the feedback received, we will be changing the fee rates to the levels consulted on, effective 1 January 2022. The final form of the fees notice can be found in Appendix A and on our website

1.2 Feedback received

- 1.2.1 We received two responses, including a consolidated response from the Jersey Association of Trust Companies (JATCo). The respondents' comments are detailed in Section 0.
- 1.2.2 We are grateful to the respondents and the JATCo for taking the time to consider the proposals and for their constructive comments. We note the request for a higher degree of medium-term surety regarding regulatory fees.
- 1.2.3 We would also like to thank Jersey Finance Limited (JFL) for their efforts in coordinating anonymous responses to our consultation.

1.3 Next Steps

- 1.3.1 The revised fees will take effect from 1 January 2022.
- 1.3.2 Relevant businesses will receive notification via the myJFSC portal that an invoice is ready for them.

Summary of responses

- 1.3.3 One respondent, confirmed they had viewed the consultation however did not have any specific comments.
- 1.3.4 Although the reasons for the proposed increase were confirmed as understood, one respondent raised concerns on the size of the proposed increase and requested this be phased over a number of years or a cap of no further increase for a period of 2 to 4 years was put in place.
- 1.3.5 The proposed increase has already been phased over a number of years, the basis of this along with further detail will be published shortly in the Business Plan and Financial Resilience review.

Appendix A – TCB 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 2022

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 us and the members of the affiliation with respect to compliance with our prudential rules and conduct of business regulation;
average	in respect of the calculation of the average number of employees or licences on the relevant date(s) means the arithmetic mean of each number rounded to the nearest whole number;
due date	means the due date for payment of any fee specified within this Notice of Fees or otherwise the due date for payment specified within an invoice for fees issued by us;
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>
participating member	in respect of an affiliation, means a member of the affiliation who is not its affiliation leader;
relevant date(s)	in respect of a year of registration of a registered person, means the 1st January in that year and each of the preceding four years of registration except for the year the person applied to be registered when it means the date of the application for registration; where there are fewer than five relevant dates for the purpose of a calculation within the Schedule, the averages calculated will be of each relevant date that is available for the calculation until there are sufficient relevant dates to perform the calculation as specified.

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 3.5, 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 We need to receive the registration fee by:
- 3.2.1 28 February, if the firm is already registered on 1 January; or
 - 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 Where a registered person has acquired another person registered to carry on trust company business for each relevant date the registered person shall included in the calculation set out in the Schedule:
- 3.4.1 the trust company business employees of the acquired person; and
 - 3.4.2 the number of classes of trust company business undertaken by the acquired person.
- 3.5 We may remit a registration fee in whole or in part if –
- 3.5.1 the person liable to pay the fee is a member of an affiliation; and
 - 3.5.2 in our opinion 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 Change of control fee

- 4.1 Where a registered person applies to become, to cease being, or to merge with an Affiliation Leader or Participating Member they shall pay a fee calculated in accordance with the Application fee column set out in the Schedule.
- 4.2 Where a shareholder controller acquires an interest in a registered person, either through a one-off, or series of transactions, so that the proportion of the share capital or voting rights held by the person in the registered person reaches or exceeds 20%, 33% or 50%, or so that the registered person becomes the subsidiary of such a shareholder controller, they shall pay a fee calculated in accordance with the Application fee column set out in the Schedule.
- 4.3 The fee referred to in paragraph 4.2 shall be pro-rated according to the proportion of the share capital or voting rights acquired by the shareholder controller.
- 4.4 For registered persons subject to heightened supervision or enforcement, an additional fee of £1,000 shall be payable under paragraph 4.

5 Alteration fee

- 5.1 A fee of £400 shall be paid by a registered person who applies for an alteration so as to reflect all or any of the following:
- 5.1.1 a change of the name of the registered person;
 - 5.1.2 the addition, alteration or removal of each licence condition pursuant to an application from the registered person; or
 - 5.1.3 the removal of each class of licence pursuant to an application from the registered person.

- 5.2 A fee payable in accordance with paragraph 5.1 shall not be payable where a fee payable in accordance with paragraph 4 is also payable.

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

- 6.1 If any fee is not received by us 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.
- 6.2 If the firm does not supply the required information to calculate its registration fee by the due date, an administration fee of £100 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 6.1 which will be calculated once the information has been submitted.

7 Late filing fees

- 7.1 If a registered person fails to file or deliver any document to us 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 we have 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: Fees

Classes of trust company business of registered person	Application fee	Registration fee
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>£1,795 for an application to register a non-affiliated person</p> <p>£1,795 for an application to register an affiliation leader</p> <p>£230 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£2,550; plus</p> <p>£1,030 multiplied by the average number of classes of trust company business undertaken by the non-affiliated person on the relevant dates; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the average number of trust company business employees employed on the relevant dates in the trust company business of the non-affiliated person; and</p> <p>(b) at the rate of –</p> <p>£540 for each of the first 10 employees in that count</p> <p>£270 for each of the next 10 employees in that count</p> <p>£215 for each of the next 30 employees in that count</p> <p>£190 for each of the next 50 employees in that count</p> <p>£130 for each of the remainder of the employees in that count.</p> <p>In the case of an affiliation –</p> <p>£2,550 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 £1,030 multiplied by the average number of classes of trust company business undertaken by the member; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the average number of trust</p>

		<p>company business employees employed on the relevant dates in the trust company business of the affiliation; and</p> <p>(b) at the rate of –</p> <p>£540 for each of the first 10 employees in that count</p> <p>£270 for each of the next 10 employees in that count</p> <p>£215 for each of the next 30 employees in that count</p> <p>£190 for each of the next 50 employees in that count</p> <p>£130 for each of the remainder of the employees in that count.</p>
Class O	<p>£900 for an application to register a non-affiliated person</p> <p>£900 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 - £2,035.</p> <p>In the case of an affiliation – £2,035 for the leader of the affiliation, plus £810 for each participating member.</p>
Natural persons carrying on a single class of trust company business	£815	£1,030