



Feedback Paper on Consultation No.8 2023

Banking Business (Jersey) Law 1991: Deposit-taking fees

Feedback relating to a consultation on proposals to change fee rates

Consultation feedback

This feedback paper reports on responses received by the Jersey Financial Services Commission (JFSC) on Consultation No. 8 2023 published in October 2023.

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:

BBJL	Banking Business (Jersey) Law 1991, as amended
Commission/JFSC	Jersey Financial Services Commission
Commission Law	Financial Services Commission (Jersey) Law 1998, as amended
JBA	Jersey Bankers Association
JFL	Jersey Finance Limited

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
2.1 Support for budgeted income	5
Appendix A – Deposit-taking Business Fees Notice.....	6

1 Executive Summary

1.1 Overview

- 1.1.1 In October 2023, we issued Consultation No. 8 2023, Deposit-taking fees, which sought views on proposals to change fee rates for the banking 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 30 November 2023. 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 one response from the Jersey Bankers Association (JBA). The respondent's comments are detailed in Section 2.
- 1.2.2 The consultation period closed on 24 November 2023. No responses were received by Jersey Finance Limited (JFL).
- 1.2.3 We are grateful to industry, the JBA and Jersey Finance Limited for taking the time to consider the proposals and for their constructive comments.

1.3 Next Steps

- 1.3.1 The revised fees will take effect from 30 November 2023.
- 1.3.2 Relevant businesses will receive notification via the myJFSC portal that an invoice is ready for them.

2 Summary of responses

2.1 Support for budgeted income

- 2.1.1 The JBA noted that the method of assessment or calculation in the proposed fees has remained the same as the previous year however acknowledged the Working Group meeting to discuss the Brief to External consultants on the JFSC Funding and Fee Model Review.
- 2.1.2 The JBA remains unclear on the requirement to increase fees by RPI, stating that their understanding was that this was unlikely to be passed onto employees. The increase in fees is not directly linked to employee salary increases, but includes provision for increases in all of the JFSC costs. These include, but are not limited to, our premises costs, computer expenditure, and investment in systems. As with everyone in Jersey, we are seeing all of our costs increase.
- 2.1.3 The difference in the funding levels disclosed in the Consultation and Business Plan was questioned, noting that the RPI increase would not provide the increase disclosed between the two publications. The Business Plan discloses the budgeted income for the Financial Year based on accrual accounting as per the Accounting Standards, while the Consultation includes the anticipated cashflow from the annual and transactional fees. It should be noted that the majority of the anticipated cashflow following the fee notice is recognised in the following financial year. To provide transparency, we will ensure that where disclosures on funding levels are made that the basis and differences are included going forwards.

Appendix A – Deposit-taking Business Fees Notice

Notice of Fees

Published in accordance with:	Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended
Pursuant to:	Deposit-Taking Business
Payable by or in relation to:	Article 9(1) of the Banking Business (Jersey) Law 1991, as amended
Commencement date:	The fees set out in this notice are effective from 30 November 2023.

1 Interpretation

1.1 In this notice, unless the context otherwise requires

advanced approaches	the adoption of advanced approaches to credit risk as defined at section 5 of the Code of Practice for deposit-taking business, issued in accordance with Article 19A of the Banking Business (Jersey) Law 1991, as amended
annual fee period	means the period between 1 February and 31 January in respect of which an annual fee is payable
business continuity	means the continuing in Jersey of business operations that are normally carried on in a place outside Jersey, where those operations are for the time being disrupted in that other place because of any accident, disaster, epidemic, civil unrest or occurrence of a similar nature
home supervisor	means, in relation to a deposit-taking business, and to a person <ol style="list-style-type: none"> i. that carries on deposit-taking business in another country; ii. that is the holding company of a subsidiary company that carries on deposit-taking business in another country; or iii. that is the holding company of a subsidiary company that in turn is the holding company of a subsidiary company that carries on deposit-taking business in another country, an authority that <ol style="list-style-type: none"> i. is based in that other country; and ii. exercises supervision of the deposit-taking business
JFSC	means the Jersey Financial Services Commission

Law	means the Banking Business (Jersey) Law 1991, as amended
registered person	means a person registered to conduct deposit-taking business under the Law

2 Fees payable

2.1 For the purposes of Articles 9(1) and 48E of the Law, the prescribed fee is:

- 2.1.1 In the case of a person applying to be registered under the Law £31,400 on application, plus the annual fee as and when such application is granted; or
- 2.1.2 In the case of a person registered under the Law, the annual fee.

3 Annual fee calculation

3.1 The annual fee is the sum of the following components:

- 3.1.1 A component calculated on the basis of £31,400 for each country (other than Jersey) where the person carries on a deposit-taking business through an office of the person based in the country, if the JFSC is a home supervisor in relation to that business;
- 3.1.2 A component calculated on the basis of £31,400 for each of the person's subsidiary companies that has its registered office outside Jersey and carries on a deposit-taking business, if the JFSC is a home supervisor in relation to that business;
- 3.1.3 A component calculated on the basis of £31,400 for each country where a subsidiary company of the person carries on a deposit-taking business through an office of the subsidiary company based in the country, if:
 - 3.1.3.1 The country is not Jersey, nor the country where the subsidiary company has its registered office; and
 - 3.1.3.2 The JFSC is a home supervisor in relation to that business;
- 3.1.4 A component calculated on the basis of £31,400 for each subsidiary company (hereafter called "X") of a subsidiary company of the person, if:
 - 3.1.4.1 X has its registered office outside Jersey and carries on a deposit-taking business; and
 - 3.1.4.2 The JFSC is a home supervisor in relation to that business;
- 3.1.5 A component calculated on the basis of the Consolidated Income of the registered person:
 - 3.1.5.1 For a Consolidated Income not exceeding £5,000,000 (or a loss or an income of zero), a component of £89,400;
 - 3.1.5.2 For a Consolidated Income exceeding £5,000,000 but not exceeding £10,000,000, a component of £103,300;
 - 3.1.5.3 For a Consolidated Income exceeding £10,000,000 but not exceeding £20,000,000, a component of £117,400;
 - 3.1.5.4 For a Consolidated Income exceeding £20,000,000, a component of £149,500.
- 3.1.6 Where any registered person that is incorporated in Jersey has adopted advanced approaches, the JFSC may amend this Notice to establish an additional component, payable by such registered persons, that is sufficient to meet the JFSC's liabilities;

cover its expenses; and to provide a reserve of such an amount as the JFSC considers necessary, in respect of this work.

4 Calculation notes – overseas operations

- 4.1 The components referred to in paragraphs 3.1.1 to 3.1.4 of the annual fee calculation shall be calculated on the basis of the factors mentioned in each paragraph; save that, in the case of a person applying to be registered under the Law, the components referred to in paragraphs 3.1.1 to 3.1.4 of the annual fee calculation shall be calculated as the person expects the factors to be when the business of the person to which the application relates starts operations.
- 4.2 If a new operation leads to a factor relevant to paragraphs 3.1.1 to 3.1.4 of the annual fee calculation subsequently increasing before the end of the annual fee period, the registered person should calculate a revised annual fee, being the incremental sum of the relevant components (pro rata reduced), being one-twelfth of the incremental sum multiplied by the number of whole or part calendar months between the date of opening and the end of the annual fee period, and notify the JFSC accordingly.
- 4.3 For the purposes of this Fees Notice:
 - 4.3.1 A territory is taken to be a country if the territory is co-extensive with a discrete jurisdiction concerned with the supervision of deposit-taking business;
Jersey is a country;
 - 4.3.2 Guernsey is a country and Alderney and Sark are parts of that country;
 - 4.3.3 The Isle of Man is a country;
 - 4.3.4 Each member state (however described) of the following federations is taken to be a separate country:
 - 4.3.4.1 The United Arab Emirates; and
 - 4.3.4.2 The United States of America.

5 Calculation notes – “Consolidated Income”

- 5.1 The Consolidated Income referred to in paragraph 3.1.5 of the annual fee calculation must be calculated as the higher of the total income and the “Deemed Income” of the person. The total income means the total income of the registered person arrived at in accordance with prudential reporting guidance. This must be calculated on a consolidated basis if the registered person has banking subsidiaries or on a solo basis otherwise. The total income must be that calculated for the relevant period, being:
 - 5.1.1 In the case of a person applying to be registered under the Law, the total income that the person expects to report for the calendar year starting at midnight on 31 December following the making of the application (whether the application relates to that year or to another period);
 - 5.1.2 In the case of a person registered under the Law, whose business to which the registration relates did not operate for the whole of the year ending at midnight on 31 December in the previous year, the total income that the person expects to report for the calendar year starting at midnight on the following 31 December following; or
 - 5.1.3 In any other case, the total income for the calendar year ending on 31 December in the previous year.
- 5.2 The Deemed Income of a registered person means an amount equal to 0.1% of its total assets plus the amount of its total operating expenses, each arrived at in accordance with prudential reporting guidance. The components must be calculated on a consolidated basis if the

registered person has banking subsidiaries or on a solo basis otherwise. The components must be those calculated for the relevant period, being:

- 5.2.1 In the case of a person applying to be registered under the Law:
 - 5.2.1.1 Total operating expenses: the calendar year starting at midnight on 31 December following the making of the application; and
 - 5.2.1.2 Total assets: as at the end of that period;
- 5.2.2 In the case of a person registered under the Law whose business to which the registration relates did not operate for the whole of the year ending at midnight on 31 December in the previous year:
 - 5.2.2.1 Total operating expenses: the calendar year starting at midnight on the following 31 December; and
 - 5.2.2.2 Total assets: as at the end of that period; or
- 5.2.3 In any other case:
 - 5.2.3.1 Total operating expenses: the calendar year ending on the previous 31 December; and
 - 5.2.3.2 Total assets: as at the end of that period.
- 5.3 For the avoidance of doubt, the total income, total operating expenses and total assets of a registered person includes all income, operating expenses and assets of the registered person and not just those relating to its deposit-taking business.

6 Reduced annual fee for applications in respect of a partial year

- 6.1 If an application is made in respect of a period of less than a year, the annual fee may be pro rata reduced, being one-twelfth of the annual fee multiplied by the number of calendar months that the application spans in whole or in part.

7 Reduced application fee for registration for business continuity

- 7.1 This section applies if the JFSC is satisfied that:
 - 7.1.1 A person who is applying for registration under Article 9 of the Law is a member of the same group of companies as another person who is registered under that Article;
 - 7.1.2 The first person is applying for registration so as to be able to use the other person's business facilities in Jersey for, but only for, the purpose of business continuity; and
 - 7.1.3 At the time when the application is made, the first person is not registered under the Law.
- 7.2 This section applies whether or not the applicant's business operations in a place where they are normally carried on outside Jersey have already been disrupted in that other place.
- 7.3 Where this section applies, the part of the prescribed fee for the purposes of Article 9(1) of the Law shall be reduced by 50%.

8 Reduced annual fee where registration is for business continuity

- 8.1 This section applies if the JFSC is satisfied that a person is registered under Article 9 of the Law for, but only for, the purpose of business continuity in the event of the future disruption of the person's business operations in a place where they are normally carried on outside Jersey.
- 8.2 Where this section applies, the part of the prescribed fee for the purpose of Article 48E of the Law shall be reduced by 50%.
- 8.3 However, in the course of a period for which the annual fee is payable:

- 8.3.1 Disruption of the person's business operations in a place where they are normally carried on outside Jersey actually occurs; and
- 8.3.2 The person begins to carry on operations in Jersey for the purpose of business continuity, the balance of the annual fee for that period shall become payable.

9 Late payment of fees

- 9.1 The annual fee is payable:
 - 9.1.1 In the case of a person applying to be registered under the Law, as and when such application is granted; and
 - 9.1.2 In the case of a person registered under the Law, by 31 October in each year.
- 9.2 If a registered person fails to pay the whole or any part of a fee on or before the date it becomes payable, the person shall be liable to pay an additional late payment fee, or fees, of 5% of the unpaid principal amount that shall be applied on the day after the date the fee becomes payable, and on the 1st day of each calendar month after that.

10 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 the 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 unfiled or undelivered unless the 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.