

**CONSULTATION PAPER
NO. 7 2010**

**BANKING BUSINESS (JERSEY)
LAW 1991
DEPOSIT-TAKING REGISTRATION FEES**

A consultation on proposals to increase annual registration fees.

CONSULTATION PAPER

The Jersey Financial Services Commission (the “**Commission**”) invites comments on this consultation paper. Heather Bestwick at Jersey Finance Limited is co-ordinating an industry response that will incorporate any matters raised by local businesses. Comments should be submitted by 27 August 2010.

Responses should be sent to:

Heather Bestwick

Technical Director
Jersey Finance Limited
4th Floor,
Sir Walter Raleigh House,
48-50 Esplanade,
St Helier,
Jersey
JE1 3UN

Telephone: +44 (0) 1534 836000
Facsimile: +44 (0) 1534 836001
Email: H.Bestwick@jerseyfinance.je

Alternatively, responses may be sent directly to David Fisher at the Commission by 27 August 2010. 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 Commission. The Commission contact is:

David Fisher

Senior Analyst, Banking
Jersey Financial Services Commission
PO Box 267
14-18 Castle Street
St Helier
Jersey
JE4 8TP

Telephone: +44 (0) 1534 822106
Facsimile: +44 (0) 1534 822047
Email: d.fisher@jerseyfsc.org

It is the policy of the Commission to make the content of all responses available for public inspection unless specifically requested otherwise.

Glossary of terms

the Commission	the Jersey Financial Services Commission
the Commission Law	the Financial Services Commission (Jersey) Law 1998, as amended
2009 Paper	CP No.8 2009 “ <i>Deposit-taking Registration Fees</i> ”
Fees Notice	Deposit-taking Business Fees Notice

Contents

Glossary of terms.....	3
Contents	4
1 CONSULTATION.....	5
1.1 Basis for consultation.....	5
1.2 Who will be affected by the proposed changes	5
1.3 Responding to the consultation	5
2 THE COMMISSION.....	6
2.1 Overview	6
2.2 Commission's functions.....	6
2.3 Guiding principles	6
3 PROPOSALS	7
3.1 Overview	7
3.2 Background.....	7
3.3 Tariff changes	8
3.4 Other proposed changes to fee calculations.....	9
4 SUMMARY OF QUESTIONS.....	11
APPENDIX A	12
List of representative bodies who have been sent this consultation paper.	12
APPENDIX B.....	13
Draft revised Fees Notice for 2010 - showing tracked changes	13
APPENDIX C.....	21
Draft revised Fees Notice for 2010	21

1 CONSULTATION

1.1 Basis for consultation

- 1.1.1 The Commission is issuing this Consultation Paper in accordance with Article 8(3) of the Financial Services Commission (Jersey) Law 1998, as amended (the “**Commission Law**”), under which the Commission “*may, in connection with the carrying out of its functions -consult and seek the advice of such persons or bodies whether inside or outside the Island as it considers appropriate*”.
- 1.1.2 In addition, Article 15(3) of the Commission Law, as amended, requires that before the Commission 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;*
 - (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 The Commission considers that this Consultation Paper may be taken to constitute such a report as required by the Law.

1.2 Who will be affected by the proposed changes

- 1.2.1 These provisions will affect all deposit takers registered under the Banking Business (Jersey) Law 1991.

1.3 Responding to the consultation

- 1.3.1 The Commission invites comments, in writing, from interested parties on the content of this Consultation Paper and its likely impact on registered deposit takers.
- 1.3.2 Comments should be received by the Commission no later than 27 August 2010.

2 THE COMMISSION

2.1 Overview

2.1.1 The Commission 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.

2.2 Commission's functions

2.2.1 The Commission Law prescribes that the Commission 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 Commission by any other Law or enactment.

2.3 Guiding principles

2.3.1 The Commission's guiding principles require it to have particular regard to:

2.3.1.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence, malpractice, 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 Overview

- 3.1.1 Article 9(1) of the Banking Business (Jersey) Law 1991 provides for the payment of fees to the Commission in respect of deposit-taking registrations. These fees are due to be reviewed, having last been set in 2009 for the year 2010, in turn following a period of three years during which they remained constant.
- 3.1.2 It is the policy of the Commission that each of the regulated business sectors is self-funding and, consequently, the regulatory fee income of each Supervision Division should cover its total allocated operating expenses.
- 3.1.3 In CP No.8 2009 "*Deposit-taking Registration Fees*" (the "**2009 Paper**"), the Commission provided estimates in respect of its costs for 2010 and 2011 but proposed fee levels for registered deposit-taking businesses in respect of only 2010, noting that further consultation on fees for future years will be undertaken following conclusion of the Commission's then planned wider review of the fee setting process. This paper provides an update on those estimates, reflecting cost savings made but also reductions in projected fees due to a continuing fall in the number of registrations.
- 3.1.4 The paper also proposes measures to ensure that fees remain appropriate in circumstances where extraordinary drops in registered persons' incomes occur.
- 3.1.5 Clarification is provided regarding the measurement of "consolidated income", a key determinant of the fee payable. This links the measure to that reported in the registered person's prudential return.

3.2 Background

- 3.2.1 In the 2009 Paper, an increase of 7.8% in deposit-taking registration fees was proposed for 2010. This reflected the Banking Division's operating and allocated expenses for 2009, which were forecast to be £1,402,000 and allowed for inflationary increases of 2% and 3% respectively in the following two years, therefore projecting a rise to £1,431,000 in 2010 and £1,474,000 in 2011. The proposed fee tariff was set to generate sufficient income to meet forecast costs for 2010 but was projected to result in a shortfall of 11.5% in 2011, given expected falls in registrations.
- 3.2.2 Since the date of the 2009 Paper, the estimated costs for 2011 have reduced significantly by 8%, to £1,352,000, partly reflecting a reduction in headcount.
- 3.2.3 In considering this matter, the following key facts are considered pertinent:
 - 3.2.3.1 The current headcount of the Banking Division is considered modest but adequate at present. No changes are envisaged during the next year;
 - 3.2.3.2 Overheads are forecast to rise generally in line with inflation; and

3.2.3.3 Inflation has been assumed at 2%.

3.2.4 Estimated income has been revised downwards to £1,259,000 for 2011, reflecting:

3.2.4.1 The number of banks exiting and planning to exit has been higher than previously anticipated, the impact exacerbated by the comparatively large scale of some of the banks involved. As a result of this, estimated fee income is quite significantly reduced; and

3.2.4.2 Partly offsetting this, the Commission considers that projected income should reflect four new registrations, at the lowest income band. This, though, is considered to be at the most optimistic end of the possible actual outcome.

3.2.5 The table below incorporates the above assumptions on deposit-taking registration numbers and Commission costs. It can be seen from this that the current tariff would generate a shortfall of £93,000 in 2011 if no change is made to the annual fee levels.

Forecasts	2009 Paper¹	Current Estimate	Change
Registration numbers	43	44	+1
Income	£1,332,000	£1,259,000	£(73,000)
Direct Expenditure	£728,000	£622,000	£(106,000)
Allocated Expenditure	£746,000	£730,000	£(16,000)
Total Expenditure	<u>£1,474,000</u>	<u>£1,352,000</u>	<u>£(122,000)</u>
Surplus/(Deficit)	£(142,000)	£(93,000)	£49,000

3.2.6 In summary, although estimated costs have been significantly reduced, this has not been sufficient to eliminate the forecast shortfall due to further declines in estimated income.

3.3 Tariff changes

3.3.1 It is not proposed to increase the application fee, which currently stands at £10,000. That figure has not changed in recent years but it seems inappropriate to increase costs for new applicants in the current climate. Neither is it proposed to change the policy of charging a reduced (50%) annual fee where a registration is for business continuity purposes only.

3.3.2 An overall increase of 7.4% in the tariff for annual registrations is proposed in order to avoid the forecast loss in 2011. The Commission will consult further on fees payable for 2012 and beyond.

¹ After taking into account the increase proposed in that paper.

3.3.3 The increase of 7.4% (rounded to the nearest £100) would be spread proportionately across the tiered tariff (relative to business levels) and is detailed below:

3.3.3.1 Application fee to remain at £10,000.

3.3.3.2 Annual registration fees:

Income Band	Current Fee	2011 Revised Fee
Under £ 5 million	£18,500	£19,900
Over £ 5mn, under £ 10mn	£21,500	£23,100
Over £ 10mn, under £ 20mn	£25,000	£26,800
Over £ 20million	£31,000	£33,300
Overseas branches and subsidiaries	£6,500	£7,000

3.3.4 A full draft of the proposed revised Deposit-taking Business Fees Notice (“**Fees Notice**”) for 2011 is provided, with tracked changes, at Appendix B and a clean version is included as Appendix C. The changes made to the annual fee levels appear in the section headed “Fees payable”.

3.3.5 **Question 1: Do you agree that the proposed increase to the annual fee levels for 2011 is reasonable? If not, please explain why.**

3.4 Other proposed changes to fee calculations

3.4.1 The current Fees Notice defines income by reference to the term “Consolidated Income”, with further guidance contained within a schedule to the Notice. Two issues have arisen:

3.4.1.1 The guidance in respect of the calculation of Consolidated Income was originally in line with prudential reporting guidance but subsequent revisions, including the introduction of Basel II, have not been reflected; and

3.4.1.2 In recent years, certain registered persons have reported significantly lower income, and hence have been eligible for lower registration fees, due to trading losses and lower net interest income, the latter as a result of current very low interest rates. In several cases, the Consolidated Income, calculated in line with the current Fees Notice guidance, has become negative.

3.4.2 It is therefore proposed that the calculation of Consolidated Income should be changed to be the higher of:

3.4.2.1 The total income reported to the Commission in the prudential return; and

3.4.2.2 A “Deemed Income” factor of 0.1% of total assets plus total operational expenses. This is not expected to affect many banks, since typically the return on assets exceeds 0.1%, but there are a small

number of large banks that have seen distortions which would otherwise result in an inappropriately reduced fee.

- 3.4.3 For the avoidance of doubt, the total income of a registered person is:
- 3.4.3.1 If the registered person has one or more banking subsidiaries: the total income reported within the prudential return submitted on a consolidated basis; or
 - 3.4.3.2 If the registered person has no banking subsidiaries: the total income reported within the prudential return submitted on a solo basis.
- 3.4.4 Where a registered person has a financial year end that is not 31 December, Consolidated Income should be computed for the calendar year.
- 3.4.5 **Question 2: Is the proposed income floor set at an appropriate level?**
- 3.4.6 **Question 3: Are the proposals in respect of the calculation of Consolidated Income clear?**
- 3.4.7 The current Fees Notice states that, for a re-registration, the number of overseas subsidiaries or branches included for the purpose of determining the fee should be the number at the point of application for re-registration.
- 3.4.8 This does not allow for any payment in respect of a new overseas subsidiary or branch created after the date of application (during October). It is proposed to provide for an additional annual fee to become due in the event that a new overseas subsidiary or branch is created in such circumstances, calculated on a pro rata basis.
- 3.4.9 **Question 4: Are the proposed revisions in the tariff for new overseas branches and subsidiaries sufficiently clear?**
- 3.4.10 It is proposed to amend the Fees Notice so as to state when the registration fee is payable and, in so doing, to reflect existing practice. This has been for the fee to be paid by the end of October, with the application for re-registration three months in advance of the commencement of the relevant registration period.
- 3.4.11 It is proposed that the definition of business continuity should be included in the Fees Notice, given the 50% discount applied to related registrations. This will be in line with the definition established by the Banking Business (General Provisions) (Jersey) Order 2002.
- 3.4.12 It is further proposed to make certain alterations, as shown in Appendix B, to improve the readability of the Notice, principally by:
- 3.4.12.1 Reordering text and adding subheadings to identify relevant subsections; and
 - 3.4.12.2 Using clearer language.

4 SUMMARY OF QUESTIONS

REFERENCE	QUESTION
3.3.5	Question 1: Do you agree that the proposed increase to the annual fee levels for 2011 is reasonable? If not, please explain why.
3.4.5	Question 2: Is the proposed income floor set at an appropriate level?
3.4.6	Question 3: Are the proposals in respect of the calculation of consolidated income clear?
3.4.9	Question 4: Are the proposed revisions in the tariff for new overseas branches and subsidiaries sufficiently clear?

APPENDIX A

List of representative bodies who have been sent this consultation paper.

- Jersey Bankers' Association
- Jersey Finance Limited

APPENDIX B

Draft revised Fees Notice for 2011 - showing tracked changes



JERSEY FINANCIAL SERVICES COMMISSION

DEPOSIT-TAKING BUSINESS FEES

Published in accordance with

Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended

Article 9(1) of the Banking Business (Jersey) Law 1991, as amended

Commencement date

The fees set out in this notice ~~and the attached schedule~~ are effective from 1 ~~October 2009~~ **September 2010**.

Interpretation

In this notice:

“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;

~~“consolidated income” of a person means the total annual income of the person and the person’s subsidiary companies arrived at after determining each item set out in column 2 of the Schedule in respect of the person and each subsidiary company, and using the guidance set out opposite that item in column 3 of the Schedule;~~

~~“home country supervisor”~~ means, in relation to a deposit-taking business, and to a person –

- (a) ~~who~~ **that** carries on ~~the~~ deposit-taking business in another country;
- (b) ~~who~~ **that** is the holding company of a subsidiary company that carries on ~~the~~ deposit-taking business in another country; or
- (c) ~~who~~ **that** is the holding company of a subsidiary company that in turn is the holding company of a subsidiary company that carries on ~~the~~ deposit-taking business in another country,

an authority that –

- (i) is based in the ~~that~~ **other** country ~~where the person is registered~~; and
- (ii) exercises supervision of the deposit-taking business ~~for the purposes of international agreements, or norms, for the regulation of deposit taking by international banking groups~~ and their cross-border establishments.

~~For the avoidance of doubt, it is hereby stated that income of a person (or subsidiary company) includes all income of the person (or subsidiary company) arrived at in accordance with the Schedule, and not just income from the deposit-taking business of the person (or subsidiary company);~~

“Law” means the Banking Business (Jersey) Law 1991, as amended;

“registered person” means a person registered to conduct deposit-taking business under the Law.

Fees payable

For the purposes of Article 9(1) of the Law, the prescribed fee is:

- ~~in~~**In** the case of a person not registered under the Law at the time when the application is made, £10,000 on initial application, plus the annual fee as and when such application is granted; or
- ~~in~~**In** the case of a person already registered under the Law at that time, the annual fee.

Annual fee calculation

The annual fee is the sum of the following components:

- (a) ~~a~~**A** component calculated on the basis of ~~£7,000~~ **£6,500** 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 Commission is a home ~~country~~ supervisor in relation to that business ~~of the person in that country~~;
- (b) ~~a~~**A** component calculated on the basis of ~~£7,000~~ **£6,500** for each of the person's subsidiary companies that has its registered office outside Jersey and carries on a deposit-taking business, if the Commission is a home ~~country~~ supervisor in relation to that business ~~of the subsidiary company~~;
- (c) ~~a~~**A** component calculated on the basis of ~~£7,000~~ **£6,500** 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:
 - (i) ~~the~~**The** country is not Jersey, nor the country where the subsidiary company has its registered office; and
 - (ii) ~~the~~**The** Commission is a home ~~country~~ supervisor in relation to that business ~~of the subsidiary company in that country~~;
- (d) ~~a~~**A** component calculated on the basis of ~~£7,000~~ **£6,500** for each subsidiary company (hereafter called “X”) of a subsidiary company of the person, if:
 - (i) X has its registered office outside Jersey and carries on a deposit-taking business; and

- (ii) ~~the~~**The** Commission is a home-country supervisor in relation to that business of ~~X~~;
- (e) The following component calculated on the basis of the ~~consolidated income~~**Consolidated Income** of the ~~registered~~ person:
- (i) ~~For a consolidated income~~**For a Consolidated Income** not exceeding £5,000,000 (or a loss or an income of zero), a component of ~~£19,900~~**18,500**;
- (ii) ~~For a consolidated income~~**For a Consolidated Income** exceeding £5,000,000 but not exceeding £10,000,000, a component of ~~£23,100~~**21,500**;
- (iii) ~~For a consolidated income~~**For a Consolidated Income** exceeding £10,000,000 but not exceeding £20,000,000, a component of ~~£26,800~~**25,000**; ~~and~~
- (iv) ~~For a consolidated income~~**For a Consolidated Income** exceeding £20,000,000, a component of ~~£33,300~~**31,000**.

Calculation notes – overseas operations

The component referred to in paragraphs (a), (b), (c) or (d) above shall be calculated on the basis of the factors mentioned in ~~that~~ **each** sub-paragraph:

- ~~in~~**In** the case of a person not registered under the Law at the time when the application is made (or of a person registered under the Law at that time, but whose business to which the application relates has not started operations at that time), as the person expects the factors to be when the business of the person to which the application relates starts operations; or
- ~~in~~**In** any other case, as the factors are when the application is made.

~~The consolidated income referred to in paragraph (e) above is –~~

- (f) ~~in the case of a person not registered under the Law at the time when the application is made, the consolidated income that the person expects to report as at the end of the year starting at midnight on 31st December following the making of the application (whether the application relates to that year or to another period);~~
- (g) ~~in the case of a person registered under the Law at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31st December in the year preceding the making of the application, the consolidated income that the person expects to report as at the end of the year starting at midnight on 31st December following the making of the application; or~~
- (h) ~~in any other case, the consolidated income that the person to whose business the application relates reported as at midnight on 31st December preceding the making of the application.~~

~~If an application is made in respect of a period of less than a year, the annual fee shall be varied to a proportion of the fee that would have been payable in respect of a year, being a proportion that corresponds to the proportion that the period bears to a year.~~

If a new operation leads to a factor relevant to (a), (b), (c) or (d) subsequently increasing before the end of the registration 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 registration period.

For the purposes of this notice:

- ~~a~~**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;
- Guernsey is a country and Alderney and Sark are parts of that country;
- ~~the~~**The** Isle of Man is a country;
- ~~each~~**Each** member state (however described) of the following federations is taken to be a separate country:
 - (i) ~~the~~**The** United Arab Emirates; **and**
 - (ii) ~~the~~**The** United States of America.

Calculation notes – “Consolidated Income”

The Consolidated Income referred to in paragraph (e) above 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 person arrived at in accordance with prudential reporting guidance. This must be calculated on a consolidated basis if the person has banking subsidiaries or on a solo basis otherwise. The total income must be that calculated for the relevant period, being:

- In the case of a person not registered under the Law at the time when the application is made, the total income that the person expects to report for the calendar year starting at midnight on 31st December following the making of the application (whether the application relates to that year or to another period);
- In the case of a person registered under the Law at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31st December in the year preceding the making of the application, the total income that the person expects to report for the calendar year starting at midnight on 31st December following the making of the application; or
- In any other case, the total income for the calendar year ending on 31st December preceding the making of the application.

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

- In the case of a person not registered under the Law at the time when the application is made:
 - (a) Total operating expenses: the calendar year starting at midnight on 31st December following the making of the application; and
 - (b) Total assets: as at the end of that period;
- In the case of a person registered under the Law at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31st December in the year preceding the making of the application:

- (a) Total operating expenses: the calendar year starting at midnight on 31st December following the making of the application; and
- (b) Total assets: as at the end of that period; or
- In any other case:
 - (a) Total operating expenses: the calendar year ending on 31st December preceding the making of the application; and
 - (b) Total assets: as at the end of that period.

For the avoidance of doubt, it is hereby stated that 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.

Reduced annual fee for applications in respect of a partial year

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.

Reduced application fee for registration for business continuity

This section applies if the Commission is satisfied ~~that~~:

- ~~that a~~ 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;
- ~~that the~~ 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
- ~~that at~~ At the time when the application is made, the first person is not registered under the Law.

This section ~~so~~ 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.

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 per cent.

~~In this section, "business facilities" means the facilities that are available in Jersey, to a person who is registered under the Law, for the purposes of the business for which the person is so registered.~~

Reduced annual fee where registration is for business continuity

This section applies if the Commission is satisfied that a person is or is to be 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.

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 per cent.

However, if in the course of a period for which the annual fee is payable:

- (a) ~~disruption~~**Disruption** of the person's business operations in a place where they are normally carried on outside Jersey actually occurs; and
- (b) ~~the~~**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.

Refund of annual fee

The Commission must refund to an applicant the annual fee paid in accordance with the Law if the application:

- (a) ~~is~~**Is** refused; or
- (b) ~~withdrawn~~**Withdrawn** by the applicant before it is granted or refused.

If an application for registration is refused, the annual fee shall not be refunded until after:

- (a) ~~the~~**The** expiration of the period within which, under Article 18 of the Law, notice of appeal may be given; or
- (b) ~~if~~**If** notice of appeal is given, the appeal is determined or abandoned.

Late payment of fees

The annual fee is payable:

- (a) **In the case of a person not registered under the Law at the time when the application is made: as and when such application is granted; and**
- (b) **In the case of a person registered under the Law at the time when the application is made: by 31 October in the year preceding the date of re-registration.**

If a **registered** person ~~registered to carry on deposit-taking business~~ fails to pay the whole or any part of a fee on or before the date it becomes due the person shall be liable to pay an additional late payment fee of 5% of the amount unpaid for each complete month that it remains unpaid.

Late filing fees

If a ~~person registered to carry on deposit-taking business~~ **person** fails to file or deliver any document to the Commission 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 ~~person registered to carry on deposit-taking business~~ **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 ~~person registered to carry on deposit-taking business~~ **person** has given the Commission prior written notice of the reasons for the late filing or delivery of a document and the Commission 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
INCOME

Column 1	Column 2	Column 3
<i>Line No.</i>	<i>Item</i>	<i>Guidance</i>
142	Income	-
143	Interest income	Include under these headings both interest actually received and paid and interest receivable and payable that has accrued but has not yet been received or paid. Amounts accrued should be based on the latest date to which these calculations were made; thus for an institution which accrues profits on a daily basis, accruals should include amounts up to and including the reporting date. Also include under this heading income accrued in respect of the amortisation of discounts (and premiums) on the purchase of fixed maturity investments which are not held for dealing (e.g. Treasury Bills).
144	Interest expenses	
145	Dividend income	Dividends received from investments etc.
146	Fees etc income	Income from fees and commissions (except fiduciary income). Include charges made for services, e.g. for the provision of current account facilities, corporate advice, investment management services, guarantees and indemnities, commission on the sale of insurance or travellers' cheques etc.
147	Fees etc expenses	Expenses in connection with line 146.
148	Investment securities	Net income. Include all profits or losses (including revaluation profits or losses) other than those arising from the sale of investments in subsidiary or associated companies, trade investments or the amortisation of premiums or discounts on the purchase of fixed maturity investments which are not held for dealing.
149	Currency dealing	Net income. Revaluations of foreign exchange positions and, if identifiable, fees and commissions of foreign exchange business should be included under this heading. If it is not possible to identify fees and commissions derived from this activity separately, they should be included with other fees and commissions. Where the registered person or any of its subsidiaries is engaged in deposit swap dealing (also sometimes known as interest arbitrage dealing) and does not distinguish between profits and losses on the foreign exchange element of the transaction and the interest differential, the whole transaction should be shown as interest income. A deposit swap profit should be treated as income and a loss as an

Column 1	Column 2	Column 3
<i>Line No.</i>	<i>Item</i>	<i>Guidance</i>
		expense.
150	Fiduciary cash and deposits	Income arising from acting in a fiduciary capacity in the management of cash and deposits.
151	Fiduciary securities	Income arising from acting in a fiduciary capacity in the management of securities.
152	Fiduciary other	Income arising from acting in a fiduciary capacity in the management of assets other than amounts in lines 150 and 151.
153	Other income	Any income which does not fall into any of the other categories should be included here.
154	Total income	-

APPENDIX C

Draft revised Fees Notice for 2011



JERSEY FINANCIAL SERVICES COMMISSION DEPOSIT-TAKING BUSINESS FEES

Published in accordance with

Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended

Article 9(1) of the Banking Business (Jersey) Law 1991, as amended

Commencement date

The fees set out in this notice are effective from 1 September 2010.

Interpretation

In this notice:

“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 –

- (a) that carries on deposit-taking business in another country;
- (b) that is the holding company of a subsidiary company that carries on deposit-taking business in another country; or
- (c) 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 –

- (i) is based in that other country; and
- (ii) exercises supervision of the deposit-taking business.

“Law” means the Banking Business (Jersey) Law 1991, as amended;

“registered person” means a person registered to conduct deposit-taking business under the Law.

Fees payable

For the purposes of Article 9(1) of the Law, the prescribed fee is:

- In the case of a person not registered under the Law at the time when the application is made, £10,000 on initial application, plus the annual fee as and when such application is granted; or
- In the case of a person already registered under the Law at that time, the annual fee.

Annual fee calculation

The annual fee is the sum of the following components:

- (a) A component calculated on the basis of £7,000 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 Commission is a home supervisor in relation to that business;
- (b) A component calculated on the basis of £7,000 for each of the person’s subsidiary companies that has its registered office outside Jersey and carries on a deposit-taking business, if the Commission is a home supervisor in relation to that business;
- (c) A component calculated on the basis of £7,000 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:
 - (i) The country is not Jersey, nor the country where the subsidiary company has its registered office; and
 - (ii) The Commission is a home supervisor in relation to that business;
- (d) A component calculated on the basis of £7,000 for each subsidiary company (hereafter called “X”) of a subsidiary company of the person, if:
 - (i) X has its registered office outside Jersey and carries on a deposit-taking business; and
 - (ii) The Commission is a home supervisor in relation to that business;
- (e) The following component calculated on the basis of the Consolidated Income of the registered person:
 - (i) For a Consolidated Income not exceeding £5,000,000 (or a loss or an income of zero), a component of £19,900;
 - (ii) For a Consolidated Income exceeding £5,000,000 but not exceeding £10,000,000, a component of £23,100;
 - (iii) For a Consolidated Income exceeding £10,000,000 but not exceeding £20,000,000, a component of £26,800; and

-
- (iv) For a Consolidated Income exceeding £20,000,000, a component of £33,300.

Calculation notes – overseas operations

The component referred to in paragraphs (a), (b), (c) or (d) above shall be calculated on the basis of the factors mentioned in each sub-paragraph:

- In the case of a person not registered under the Law at the time when the application is made (or of a person registered under the Law at that time, but whose business to which the application relates has not started operations at that time), as the person expects the factors to be when the business of the person to which the application relates starts operations; or
- In any other case, as the factors are when the application is made.

If a new operation leads to a factor relevant to (a), (b), (c) or (d) subsequently increasing before the end of the registration 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 registration period.

For the purposes of this notice:

- 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;
- Guernsey is a country and Alderney and Sark are parts of that country;
- The Isle of Man is a country;
- Each member state (however described) of the following federations is taken to be a separate country:
 - (i) The United Arab Emirates; and
 - (ii) The United States of America.

Calculation notes – “Consolidated Income”

The Consolidated Income referred to in paragraph (e) above 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:

- In the case of a person not registered under the Law at the time when the application is made, the total income that the person expects to report for the calendar year starting at midnight on 31st December following the making of the application (whether the application relates to that year or to another period);

- In the case of a person registered under the Law at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31st December in the year preceding the making of the application, the total income that the person expects to report for the calendar year starting at midnight on 31st December following the making of the application; or
- In any other case, the total income for the calendar year ending on 31st December preceding the making of the application.

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:

- In the case of a person not registered under the Law at the time when the application is made:
 - (a) Total operating expenses: the calendar year starting at midnight on 31st December following the making of the application; and
 - (b) Total assets: as at the end of that period;
- In the case of a person registered under the Law at the time when the application is made whose business to which the application relates did not operate for the whole of the year ending at midnight on 31st December in the year preceding the making of the application:
 - (a) Total operating expenses: the calendar year starting at midnight on 31st December following the making of the application; and
 - (b) Total assets: as at the end of that period; or
- In any other case:
 - (a) Total operating expenses: the calendar year ending on 31st December preceding the making of the application; and
 - (b) Total assets: as at the end of that period.

For the avoidance of doubt, it is hereby stated that 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.

Reduced annual fee for applications in respect of a partial year

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.

Reduced application fee for registration for business continuity

This section applies if the Commission is satisfied that:

- 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;
- 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
- At the time when the application is made, the first person is not registered under the Law.

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.

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 per cent.

Reduced annual fee where registration is for business continuity

This section applies if the Commission is satisfied that a person is or is to be 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.

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 per cent.

However, if in the course of a period for which the annual fee is payable:

- (a) Disruption of the person's business operations in a place where they are normally carried on outside Jersey actually occurs; and
- (b) 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.

Refund of annual fee

The Commission must refund to an applicant the annual fee paid in accordance with the Law if the application:

- (a) Is refused; or
- (b) Withdrawn by the applicant before it is granted or refused.

If an application for registration is refused, the annual fee shall not be refunded until after:

- (a) The expiration of the period within which, under Article 18 of the Law, notice of appeal may be given; or
- (b) If notice of appeal is given, the appeal is determined or abandoned.

Late payment of fees

The annual fee is payable:

- (a) In the case of a person not registered under the Law at the time when the application is made: as and when such application is granted; and
- (b) In the case of a person registered under the Law at the time when the application is made: by 31 October in the year preceding the date of re-registration.

If a registered person fails to pay the whole or any part of a fee on or before the date it becomes due the person shall be liable to pay an additional late payment fee of 5% of the amount unpaid for each complete month that it remains unpaid.

Late filing fees

If a registered person fails to file or deliver any document to the Commission 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 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 person has given the Commission prior written notice of the reasons for the late filing or delivery of a document and the Commission 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.