



**Jersey Financial
Services Commission**

- › **Feedback on Consultation Paper
No. 10 2015**

- › Funding Review

Feedback to a consultation on proposed changes to the way fees paid by *regulated businesses* are calculated and levied

› Consultation Feedback

Please note that terms in *italics* are defined in the Glossary of Terms.

This paper reports on responses received by the *Commission* on the *CP*.

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› Glossary of Terms

AIF	means alternative investment fund.
BBJL	means the Banking Business (Jersey) Law 1991.
CIFJL	means the Collective Investment Funds (Jersey) Law 1988.
COBO	means the Control of Borrowing (Jersey) Order 1958.
Commission	means the Jersey Financial Services Commission.
Commission Law	means the Financial Services Commission (Jersey) Law 1998.
CP	means <i>Commission</i> Consultation Paper No. 10 2015: Funding Review.
DNFBPs	means designated non-financial businesses and professions (being, principally, accountants, estate agents, lawyers and lenders) registered under the <i>SBJL</i> .
FSB	means fund services business.
FSJL	means the Financial Services (Jersey) Law 1998.
GIMB	means general insurance mediation business.
IB	means investment business.
IBJL	means the Insurance Business (Jersey) Law 1996.
Jersey Finance	means Jersey Finance Limited.
licence	means, as the context requires, a: <ul style="list-style-type: none"> • registration granted under the <i>BBJL</i>; • permit or certificate granted under the <i>CIFJL</i>; • consent granted under the <i>COBO</i>; • registration granted under the <i>FSJL</i>; • permit granted under the <i>IBJL</i>; • registration granted under the <i>SBJL</i>.
QSMA Order	means the Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014.
PQ	means a Personal Questionnaire form published by the <i>Commission</i> .
regulated business	means a person who is registered, or holds a permit, certificate or consent, as applicable, under one or more of the <i>regulatory laws</i> .
regulatory laws	means the <i>AIF Regulations</i> , the <i>BBJL</i> , the <i>CIFJL</i> , the <i>COBO</i> , the <i>FSJL</i> , the <i>IBJL</i> and the <i>SBJL</i> .
SBJL	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.
TCB	means trust company business.
UK	means the United Kingdom.

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1 Executive Summary

1.1 Overview

- 1.1.1 The *CP* sought views on a number of proposals related to how the *Commission* is funded by *regulated businesses*, in particular how fees paid by *regulated businesses* are calculated and levied. The most significant of the proposals were:
- 1.1.1.1 the publication of a set of principles that the *Commission* would follow when determining how fees would be set;
 - 1.1.1.2 a move to annual fee reviews at the same time for all Industry sectors;
 - 1.1.1.3 changing the structure of annual fee tariffs so that (in most cases) the fee payable would be linked to the level of a *regulated business's* "relevant income" (broadly speaking, the turnover from a business's regulated activities);
 - 1.1.1.4 the removal of all fee caps;
 - 1.1.1.5 the adoption of mildly progressive annual fee tariffs (with regressive bands at the higher end of the income scale) to gently increase the proportion of the cost of regulation that is borne by larger businesses;
 - 1.1.1.6 significantly extending the range of "discrete fees" (fees that are levied for significant discrete tasks that the *Commission* has to carry out following a request from a *regulated business*).
- 1.1.2 The purpose of this paper is to provide feedback on the responses received to the *CP*.

1.2 Feedback received

- 1.2.1 A full list of respondents is given in Appendix A.
- 1.2.2 Respondents provided comments either directly to the *Commission* or indirectly via *Jersey Finance*.
- 1.2.3 *Jersey Finance* provided the *Commission* with comments it had received from: one accountancy firm; three fund administrators; two banks; a senior member of the banking industry; three investment managers; three trust companies; and one law firm. 14 other respondents provided comments directly to the *Commission*.
- 1.2.4 Section 2 of this Feedback Paper presents a summary of the substantive comments received and the *Commission's* response.
- 1.2.5 The *Commission* is grateful to respondents for taking the time to consider and comment on the proposals. Each respondent has been sent a copy of this Feedback Paper.

1.3 Next steps

- 1.3.1 The *Commission* recognises that some of the proposals in the *CP* would represent a major change from the way that the *Commission* currently calculates and levies fees on *regulated businesses*. Understandably, a number of respondents raised questions or concerns on aspects of the proposals, or suggested modifications to them.
- 1.3.2 In response to the feedback received, the *Commission* is planning to modify some of the original proposals in the *CP*. The modifications are summarised in paragraph 1.3.4 below.
- 1.3.3 In addition, in order to give an appropriate amount of time to fully work through the practical implications of the modified proposals and in response to feedback for a longer lead-in period before the revised fee-setting arrangements take effect, the *Commission* is intending to delay implementation of the revised arrangements by 12 months. This will mean that fee tariffs under the new arrangements will apply from January 2018.
- 1.3.4 The detail of the modifications to the *Commission's* original proposals is set out in section 2 of this paper but, in summary, they are as follows:
- 1.3.4.1 the proposed higher application fee for “complex applications” will not be implemented;
- 1.3.4.2 the proposal in the *CP* to use “relevant income” as the basis for calculating the amount of the annual *licence* fee that would be payable by a *regulated business*, will be implemented save in respect of:
- *FSBs*, where the current metric (number of pools of assets) will continue to be used;
 - *TCBs*, where the current metric (number of *TCB* employees) will continue to be used;
 - captive insurance companies, where a flat fee will continue to be used.
- (N.B. As set out in the *CP*, the existing metrics - rather than “relevant income” - will continue to be used to determine the annual fees payable by *CIFs*, persons utilising the *QSMA Order*, Recognized Auditors and *DNFBPs*.)
- 1.3.4.3 new businesses will be required to submit a projected figure for the relevant fee metric (“relevant income”, “number of *TCB* employees”, etc.) on which its initial annual *licence* fee will be based (rather than, as was proposed in the *CP*, be given a ‘holiday’ from the annual fee in the first year of trading and, instead, be charged a higher application fee);
- 1.3.4.4 for the banking sector, the *Commission* intends to introduce a differential into the annual *licence* fee structure to reflect the fact that the supervisory effort required for a locally-incorporated bank is greater than that for a locally-hosted branch;
- 1.3.4.5 the proposal to extend the range of discrete fees will be implemented with the following modifications:

- the proposal for three pricing points, depending on the complexity of the relevant task, will not be implemented: each discrete task will instead attract a flat fee;
 - a differential fee structure for processing PQs will be introduced: a higher flat fee for processing a 'brand new' PQ and a lower flat fee for processing a PQ where the person involved has an extant 'no objection' confirmation from the *Commission* to act as a principal person or key person.
- 1.3.5 To assist readers, Appendices B to O summarise how, under these modified proposals, the application fee, annual *licence* fee and discrete fee arrangements will look for each Industry sector.
- 1.3.6 In advance of the January 2018 implementation date (probably in Q2 2017) *regulated businesses* will be required to submit relevant fee metric data via an online portal (in cases where the *Commission* does not already have the relevant data) to enable the *Commission* to prepare, and then consult on later in 2017, the new fee tariffs.
- 1.3.7 As the *Commission* explained in paragraph 4.2.4 of the *CP*, because it deliberately limited fee increases during the financial crisis it has become underfunded. The proposed delay in implementing the revised fee arrangements does mean that the *Commission* will need to continue seeking interim fee increases from Industry sectors during 2016/2017 to reduce the underfunding position. In this regard, the *Commission* would draw the attention of readers to the following recent consultations:
- 1.3.7.1 Consultation Paper No.11 of 2015 - *TCB* Fees (consultation period now closed);
 - 1.3.7.2 Consultation Paper No. 1 of 2016 – *IB* fees (consultation period now closed);
 - 1.3.7.3 Consultation Paper No. 2 2016 – Fund fees (consultation period now closed);
 - 1.3.7.4 Consultation Paper No. 4 of 2016 – Registry fees (consultation period closes on 24 June);
 - 1.3.7.5 Consultation Paper No. 5 of 2016 – Deposit-taking fees (consultation period closes on 12 August 2016).

2 Summary of responses

2.1 Structure of this section

- 2.1.1 This section summarises the substantive comments received on the proposals in the *CP* and the *Commission's* response to those comments.
- 2.1.2 The comments that were received can be split into those responding to a specific question posed in the *CP* and those of a general nature. This section is structured on those lines.
- 2.1.3 Where the specific comments of a “respondent” are summarised, the respondent will have been a *regulated business* (or represent a group of *regulated businesses*) unless it is stated that the respondent was a trade association.

2.2 Question 1 [paragraph 5.1.2 of the *CP*]

Do you agree with the proposed principles? If you do not, please give your reasons in detail.

- 2.2.1 Most of the 16 respondents to this question supported the proposed principles.
- 2.2.2 One respondent considered that an eighth principle should be added requiring the *Commission*, when setting fees, to have regard to the competitive position of Jersey.
- 2.2.3 Another respondent suggested that there should be an additional principle requiring the *Commission* to provide value for money and increase its efficiency.
- 2.2.4 One respondent, commenting on the proposed “cost-reflective” principle (which requires that the fee income from each regulated sector should broadly meet the costs of regulating and supervising that sector), questioned how the *Commission* could accurately monitor the resources devoted to each sector without a time recording system.

Commission response

- 2.2.5 The *Commission* intends to apply the principles set out in the *CP* when determining how fees should be set.
- 2.2.6 The *Commission* does not consider it necessary to add a principle specifically referring to the competitive position of Jersey, because in exercising any of its functions, it is required by law (Article 7 of the *Commission Law*) to have regard to, “*the best economic interests of Jersey*”.

- 2.2.7 The *Commission* interprets this as requiring it to, “take full account of the costs and other burden of regulation recognising the international nature of the Island’s finance industry and the need to be competitive from the perspective of persons carrying on the business of financial services and users of such services”*. The *Commission* considers also that this requires it to have regard to value for money and ensuring that it is efficient.
- 2.2.8 On the final respondent’s point, following the recent reorganisation of the *Commission’s* supervisory function around firms, rather than individual *licence* types, the *Commission* will consider whether the benefits of introducing a system to record the time spent on firms in the different Industry sectors would outweigh the inevitable administrative (and opportunity) cost that would be incurred in operating such a system, costs which would, ultimately, have to be borne by *regulated businesses* through their annual *licence* fees.

* See paragraph 3.4 of the Memorandum of Understanding between the *Commission* and the Chief Minister of the States of Jersey (<http://www.jerseyfsc.org/pdf/MoU-Chief-Minister-Dec-2014.pdf>)

2.3 Question 2 [paragraph 5.2.6 of the *CP*]

Do you consider that the Government should continue contributing to the *Commission’s* costs of supervising *DNFBPs* or should *DNFBPs* bear the full cost? Please give your reasons for your answer.

- 2.3.1 Of the 14 respondents to this question, only one (a *DNFBP*) considered that the Government should continue contributing to the *Commission’s* costs of supervising *DNFBPs*.
- 2.3.2 One respondent questioned why *regulated businesses* which are not *DNFBPs* contribute, in aggregate, 15% of the cost of supervising *DNFBPs*.

Commission response

- 2.3.3 The *Commission* considers that the original reasons for the Government contribution (explained in section 5.2 of the *CP*) are no longer compelling. In line with the proposed “cost-reflective” principle (see paragraph 5.1 of the *CP*) the *Commission* considers that *DNFBPs* should bear the full cost of supervision (and not be subsidised by the Government or from fees raised by the *Commission* from other *regulated businesses*).
- 2.3.4 The *Commission* proposes to discuss the matter with the Government. If, as seems likely, the Government agrees that its funding should be withdrawn, the *Commission* will recommend that a phased withdrawal be implemented in order to spread the financial impact on *DNFBPs* over a period of several years.
- 2.3.5 In the case of non-profit organisations however, the *Commission* considers that, given their non-commercial nature, it would be appropriate for the Government to continue covering from taxpayer revenue the costs that the *Commission* incurs in registering these organisations.

2.4 Question 3 [paragraph 5.3.5 of the CP]

Do you agree that annual fee reviews should become the norm? If you do not, please give reasons for your answer.

- 2.4.1 Of the 13 respondents who expressed a firm view on the proposal, nine were in favour of annual reviews. However, a number commented that they would not want to see “annual reviews” become automatic “annual increases”.
- 2.4.2 The Jersey Funds Association, whilst not finding the principle of annual fee reviews objectionable in itself, opined that if annual fee increases became the norm it could erode the fund industry’s ability to provide certainty of outcome and cost and likely mark the Island as a less predictable and competitive domicile than its competitors.
- 2.4.3 Two respondents thought that fee reviews should be biennial. One thought so for practical reasons, given the lead times needed for collating the necessary data, allowing time for consultation and effective implementation. The other respondent considered that a biennial cycle would suit a business’s budget and control purposes better.
- 2.4.4 Two other respondents thought that fee reviews should be triennial, to give *regulated businesses* greater certainty on costs over the period of their business planning cycle.

Commission response

- 2.4.5 Given the strong support for annual fee reviews the *Commission* intends to proceed on that basis. The *Commission* would emphasise that annual fee reviews will not automatically mean that fees will increase annually.
- 2.4.6 However, the *Commission* notes, and is sympathetic to, the arguments made by a number of respondents that annual fee reviews are not ideal for a *regulated business’s* planning purposes and, once the revised fee methodology has had a couple of years to ‘bed’ in, the *Commission* will review again the frequency of fee reviews.

2.5 Question 4 [paragraph 6.2.3 of the CP]

Do you agree with the proposed revised application fee arrangement for money service businesses? If you do not, please give reasons for your answer.

- 2.5.1 Seven of the eight respondents to this question supported the proposed revised application fee arrangement.

Commission response

- 2.5.2 The *Commission* intends to implement the proposal in the form consulted upon. The amount of the fee will be consulted upon in due course.

2.6 Question 5 [paragraph 6.3.3 of the CP]

Do you agree that an application fee should be paid by *DNFBPs*? If you do not, please give reasons for your answer.

2.6.1 All 10 respondents to this question agreed that an application fee should be paid by *DNFBPs*.

Commission response

2.6.2 The *Commission* intends to introduce an application fee for *DNFBPs*. The amount of the fee will be consulted upon in due course.

2.7 Question 6 [paragraph 6.4.5 of the CP]

Do you agree with the proposal to charge a higher application fee for “complex applications”? If you do not, please give reasons for your answer.

2.7.1 Only a minority of the 14 respondents to this question supported the proposal for a higher application fee for “complex applications”.

2.7.2 There was a consistent theme in the comments from those who opposed the proposal. They considered that it would be difficult to adequately define “complex”, which could lead to a subjective application of the higher fee. As a consequence, respondents thought that the proposal would lead to reduced transparency and introduce uncertainty over the cost of an application, which would undermine Jersey’s competitive position.

Commission response

2.7.3 The *Commission* is sympathetic to the arguments put forward by those who opposed the “complex application” fee.

2.7.4 Consequently, the *Commission* will not pursue this proposal further. It intends to continue charging flat fees for applications.

2.8 Question 7 [paragraph 6.5.2 of the CP]

Do you agree that an application fee should not be refunded in the event of an application being refused or withdrawn? If you do not, please give reasons for your answer.

2.8.1 The vast majority of the 15 respondents to this question agreed that an application fee should not be refunded in the event of an application being refused or withdrawn. However, some respondents suggested that the *Commission* should give itself an element of discretion, for example where an application was withdrawn before any substantive amount of time had been spent by the *Commission* reviewing it.

Commission response

2.8.2 The *Commission's* general policy will be to not refund the fee where an application is withdrawn or refused. It will however reserve to itself discretion to refund a fee either partially, or in whole, where the application is withdrawn before a substantive amount of review work has been carried out.

2.8.3 The Jersey Funds Association, whilst supporting the general principle, considered that the fee should be refunded if the application was withdrawn as a result of the *Commission*, "*applying previously unpublished policy or regulation, or as a result of the Commission not meeting its published response times*".

2.8.4 It also considered that there should be a procedure for the review of a decision to refuse an application, if the applicant considered that the refusal was unjust or unreasonable. Another respondent suggested that the definition of "refusal" could be clearer: the example given was whether "refusal" included a situation where an application was not accepted by the *Commission* because it considered the application to be incomplete.

Commission response

2.8.5 On the first point, the *Commission* would dispute the suggestion that it applies "*unpublished policy or regulation*". There will, however, always be some instances where an application does not neatly fit into previously published policy and some flexibility or interpretation is required. In such instances, the *Commission* does not consider it reasonable that the fee should be refunded if the applicant withdraws the application because it is unhappy with the *Commission's* proposed approach.

2.8.6 On the second point - refunding an application fee where the *Commission's* published response time has not been met - the *Commission* does not consider that should be the case. Whilst the *Commission* endeavours to meet published response times there will inevitably be instances where the response time is unable to be met, for example, because of a spike in workloads or where the poor quality of an application means that it takes longer to evaluate than should ordinarily be the case. If the application fee were to be refunded it would be unfair to other *regulated businesses* because the *Commission's* costs in processing the application (for free) would need to be covered by them (through factoring into the annual *licence* fee an additional amount to cover refunded application fees).

2.8.7 On the point about a review of a decision to refuse, this is already covered by statutory appeal provisions. For example, see Article 11 of the *FSJL*.

2.8.8 On the final point – what "refusal" covers - the *Commission* means a situation where it uses a statutory power to refuse to grant a registration, permit, consent etc., that was applied for.

2.9 Question 8 [paragraph 6.5.4 of the CP]

Do you agree that a pro-rated annual fee should continue to be immediately payable upon approval of an application? If you do not, please give reasons for your answer.

2.9.1 All 12 respondents to this question agreed that a pro-rated annual fee should continue to be immediately payable upon approval of an application.

Commission response

2.9.2 The *Commission* will continue with this policy.

2.10 Question 9 [paragraph 7.1.9 of the CP]

Do you agree with the proposal to use “relevant income” as the basis for calculating the amount of the annual fee that would be payable by a *regulated business*? If you do not, please give reasons for your answer and suggest an alternative metric (and give the rationale for it).

2.10.1 This proposal attracted a lot of comment from respondents.

2.10.2 Seven respondents (four banks, one *FSB*, one *TCB* and one group with investment and trust company businesses) expressed in-principle support for a move to use “relevant income” as the metric against which to set annual fees.

2.10.3 Another respondent (an *FSB*), whilst not opposed to the use of “relevant income”, commented that where a *regulated business* received a fee for an activity which was then outsourced to another *regulated business*, only the latter *regulated business* should have the fee included in its “relevant income” calculation.

2.10.4 Similarly, another *FSB* suggested that consideration be given to an exemption or reduction in the fee in circumstances where one group entity received “relevant income” from another group entity, to avoid “relevant income” being taken into account twice for fee purposes. The example given was where one group entity (“A”) receives a fee for managing a fund but then delegates investment management to another group entity (“B”) and out of its management fee A pays B a fee for its investment management function.

2.10.5 A further respondent, whilst not disagreeing with the concept of using “relevant income” as a metric, considered that it should not be used as the only metric. It considered that “relevant income” should be just one metric in a multiple-metric framework. The respondent suggested that in a multiple-metric framework the level of “relevant income” should be combined with other factors such as the number of employees, the *Commission’s* risk-rating of the business, type of *regulated business*, its level of compliance resources, etc. to determine what fee level would be appropriate.

- 2.10.6 Five respondents (two *FSBs*, a *TCB*, an investment manager and a trade association) expressed outright opposition, expressing the view that “relevant income” was not an appropriate metric. One of those respondents preferred the certainty of flat fees and felt that fees based on an income metric would penalise a successful, expanding, business by increasing the amount of the fee it would pay year-on-year. The trade association that opposed the use of “relevant income” as the fee metric - the Jersey International Insurance Association - considered that moving from the present flat fee structure for captive insurance companies would be very damaging to the prospects of expanding this part of the Industry. In particular, it stated that no competitor jurisdiction uses an income measurement for setting fee levels for captives. It also argued that, for captives, an income measurement was not an appropriate proxy anyway for the supervisory effort required.
- 2.10.7 For the funds industry, the Jersey Funds Association expressed significant reservations with the proposal:
- 2.10.7.1 It considered that before moving to a “relevant income” model a detailed impact assessment should be carried out. It advocated “sample testing” across and within the core elements of the wider finance industry (including a cross-section of large, medium and small entities) to compare likely future fee outcomes with current fee rates, before any move to an income fee model was adopted;
- 2.10.7.2 It commented that before supporting any move to income-related fees it would wish to see confirmation that regulators in a sufficiently wide sample of competitor fund jurisdictions (specifically Guernsey, Cayman and Luxembourg) also currently levy (or soon plan to levy) income-related fees. In particular, it considered that moving out of step with Guernsey could be very damaging to Jersey’s fund industry;
- 2.10.7.3 It supported the proposal not to apply income-related fees to collective investment funds. (For the funds sector, the proposal in the *CP* was that it would apply only to *FSBs*). However, it argued strongly that it would not be appropriate to levy income-related fees on “managed entities” with *FSB licences* (such as fund general partners or managing trustees) which are established in Jersey without employees and which rely on the support services of a fully staffed “manager of a managed entity”. It considered that this ought particularly to be the case where the cash-flows of such entities are designed such that, having met their own running costs and expenses, the balance of their fee income is paid to the fund's investment advisor/promoter;
- 2.10.7.4 It also considered that levying an income-related fee on the *FSB*-licensed general partner of a fund which is designed to receive and pay on a carried interest to management or advisory team participants would be perceived very negatively by fund promoters;

- 2.10.7.5 The Association expressed the view that, if following additional consultation and impact assessment, income-related fees were proven to achieve the stated outcomes of the *CP* without putting the funds industry at a competitive disadvantage, it would be appropriate to consider levying them only on substantive *FSB* entities with a physical presence in the Island, with "managed entities" and carry vehicles continuing to pay a fixed fee as is presently the case. It opined that to do otherwise could be very damaging to flourishing parts of the funds industry.
- 2.10.8 A couple of respondents in the banking sector thought that for the calculation of the banking *licence* fee, "relevant income" should exclude a bank's income from investment business activities. They suggested this would avoid "double-dipping" given that the level of the annual fee for holding an investment business *licence* under the *FSJL* would be based on the "relevant income" from the bank's investment business activities.
- 2.10.9 Two respondents (both *FSBs*) expressed no clear opinion on the proposal, either because they considered some modification to it would be needed (for example, retaining a fee cap or excluding certain entities from its scope) or wanted to see first what a tariff using "relevant income" as the metric would look like.

Commission response

- 2.10.10 As the above summary of responses shows, whilst respondents in many sectors of the Industry are not opposed to the use of "relevant income" as the metric on which to base annual fees, many in the funds sector expressed concern over the proposal, as did those operating in the captive insurance market.
- 2.10.11 Taking the funds sector first, the *Commission* acknowledges that the use of "relevant income" as the metric to calculate fees might, for the reasons given by respondents, potentially make the use of Jersey managed entities and 'carry vehicles' less attractive and may negatively impact the Island's competitive offering.
- 2.10.12 Whilst for other types of *FSB* the use of "relevant income" as the metric would, in the *Commission's* view, be consistent with the funding principles set out in section 5.1 of the *CP* (principles that were supported by most respondents), the *Commission* does recognise that it would set the Island apart from its main competitor jurisdictions.
- 2.10.13 In this regard, the *Commission* acknowledges that neither Cayman, Guernsey, Ireland nor Luxembourg use income as the metric against which to calculate fees for *FSBs*. All of those jurisdictions charge either a flat fee per licensee or a fee calculated by reference to the number of funds acted for (as does Jersey presently).

- 2.10.14 Whilst, as mentioned above, the *Commission* considers that the use of “relevant income” as the fee metric for *FSBs* would be consistent with the funding principles set out in section 5.1 of the *CP*, it does recognise that the funds sector is highly competitive and mobile. With that in mind, the *Commission* is sympathetic to the arguments made by respondents that the use of a significantly different fee metric for *FSBs* to that used by the Island’s major competitors might be detrimental to the Island’s competitive position.
- 2.10.15 Consequently, in respect of the annual *licence* fee for an *FSB*, the *Commission* intends to modify its proposal in response to the feedback received and will retain as the metric for calculating the fee the total number of pools of assets in relation to which an *FSB* acts.
- 2.10.16 However, that change to the proposal in the *CP* does raise an issue in relation to those *regulated businesses* that hold both an *FSB* and a *TCB licence*. In such cases, the proposal in the *CP* (paragraph 1.1.10 therein) was that, where such businesses did not record “relevant income” separately for *FSB* and *TCB* activities, the *Commission* would allow the split of income to be estimated by the *regulated business*. Allowing an estimate of the split in “relevant income” in such circumstances was considered by the *Commission* to be an acceptable proposition, given that if there was some inaccuracy in the split, “relevant income” not covered by the *TCB* fee tariff would be covered by the *FSB* fee tariff, and vice versa.
- 2.10.17 However, in the *Commission’s* view, that proposal would no longer be appropriate where only part of a joint *FSB/TCB-licensed regulated business’s* “relevant income” would be used as the metric to set fees, particularly given the significant number of *regulated businesses* that hold both an *FSB* and a *TCB licence*. (Of the 122 *TCB* affiliation leaders licensed by the *Commission*, 54 of them, or one or more of their participating members, also hold an *FSB licence*.)
- 2.10.18 As an alternative to using “relevant income”, the *Commission* has considered internally what other metric might be used in relation to *TCBs* (for example, the “number of entities administered”). Naturally, every metric has pros and cons and no consensus emerged on an alternative metric that was considered to satisfy the Funding Principles set out in section 5.1 of the *CP* significantly better than the present fee metric. Consequently, the *Commission* has decided to retain the present metric, namely the number of “trust company business employees”. (N.B. For Class O *TCBs* and natural persons carrying on a single class of *TCB* the current flat fee methodology will also be retained.)
- 2.10.19 Turning now to the comments of the Jersey International Insurance Association concerning captive insurance companies (see paragraph 2.10.6 above). Having reflected on the Association’s comments, the *Commission* is sympathetic to the argument that “relevant income” may not be the most appropriate metric to use to set fees for pure captives. In particular, the *Commission* notes that whilst “relevant income” can be significant (i.e. the premium paid by the parent group for self-insurance) the resources required by the *Commission* to supervise a pure captive are generally modest, given that only the policyholder-parent, or group entities, are the insured parties.

2.10.20	Consequently, the <i>Commission</i> will retain a flat fee tariff for pure captives. For other types of insurance company, the <i>Commission</i> intends to use “relevant income” as the metric to set fee levels, as proposed in the <i>CP</i> .
2.10.21	As reported in paragraph 2.10.5 above, one respondent suggested that “relevant income” be just one element in a multiple-metric framework for determining the level of fee. The <i>Commission</i> considers that such an approach would be unattractive for both the <i>Commission</i> and <i>regulated businesses</i> . It would add complexity and expense, not least because multiple data sets would have to be collated by <i>regulated businesses</i> and submitted to the <i>Commission</i> .
2.10.22	The <i>Commission</i> has considered the suggestion from a couple of respondents in the banking sector that for the calculation of the banking <i>licence</i> fee, the income figure used should exclude a bank’s income from investment business activities (see 2.10.8 above). The <i>Commission’s</i> view is that it is appropriate to use the consolidated income of a bank (which includes investment business income) as the fee metric. A bank’s income, regardless of whether it arises from investment business, mortgages or income from capital invested etc., is considered a relevant proxy for the prudential supervisory workload placed on the banking team. In practice, applying the proposal that the respondent makes would also add complexity to the calculation whilst not affecting the overall fee required from a bank.
2.10.23	In summary then, the <i>Commission</i> plans to implement the proposal in the <i>CP</i> to use “relevant income” as the basis for calculating the amount of the annual fee that would be payable by a <i>regulated business</i> , save in respect of: <ul style="list-style-type: none"> 2.10.23.1 <i>FSBs</i>, where the current metric (number of pools of assets) will continue to be used; 2.10.23.2 <i>TCBs</i>, where the current metric (number of <i>TCB</i> employees) will continue to be used; 2.10.23.3 captive insurance companies, where a flat fee will continue to apply. <p>(N.B. As set out in the <i>CP</i>, the existing metrics - rather than “relevant income” - will continue to be used to determine the annual fees payable by <i>CIFs</i>, persons utilising the <i>QSMA Order</i>, Recognized Auditors and <i>DNFBPs</i>.)</p>

2.11 Question 10 [paragraph 7.1.13 of the *CP*]

Do you agree with the *Commission’s* fee proposal for new businesses? If you do not, please give reasons for your answer.

- 2.11.1 The *CP* considered how the proposed use of “relevant income” could be applied to new businesses that may not have completed a financial period at the time when their “relevant income” figure was to be electronically submitted to the *Commission* for the purposes of calculating their annual fee. The *CP* noted that in the *UK*, the approach is to require a business to submit a projected income figure. However, the *CP* proposed the adoption of a simpler approach whereby the firm would be given a holiday from the annual fee in the first year of trading and instead be charged a higher application fee

- 2.11.2 Of the 11 respondents who expressed an opinion on this proposal, eight agreed with the proposal and three did not.
- 2.11.3 Of the three respondents who did not support the proposal, one considered that it was not consistent with the proposal for a pro rata annual fee to be paid once an application had been approved (as referred to in paragraph 6.5.3 of the *CP*). The two other respondents considered that a new business should instead be required to provide a projected “relevant income” figure. One of those respondents noted that, when submitting an application for a *licence*, a three year business plan including income forecasts, would be submitted to the *Commission*. The respondent intimated that having its first annual fee based on projected income could act as an incentive for the applicant to not be unrealistically optimistic with the income forecasts in its business plan.

Commission response

- 2.11.4 Whilst many respondents were supportive of the *Commission’s* proposal, in the light of the arguments made by those who did not, the *Commission* has reflected further on it.
- 2.11.5 The proposal for a higher application fee for new businesses (where the business has not completed a financial period at the time when their “relevant income” figure would need to be submitted to the *Commission* for the purposes of calculating their annual fee) has the benefit of simplicity. However, given that there could be substantial differences in the scale of new businesses, deciding what the amount of the “higher” application fee should be in any particular case would inevitably be a subjective process. In addition, the *Commission* accepts that uncertainty as to the fee that would be payable might act as a disincentive to setting up a new business in Jersey.
- 2.11.6 To avoid that, the *Commission* considers that a more objective – and thus fairer - approach will be to require a new business (in sectors where the fee metric will be “relevant income”) to submit a projected “relevant income” figure on which the business’s initial annual fee would be based.
- 2.11.7 Some observers may consider that such an approach could lead to ‘gaming’ of the process, by the submission of an unrealistically low income projection. However, given that to do so would conflict with several regulatory requirements (not least the Code of Practice obligation to act with integrity), the *Commission* considers that risk should be low.
- 2.11.8 (New businesses in sectors where the fee metric to be used is other than “relevant income” will be required to submit an estimate under the relevant metric. So, for example, an applicant for a *TCB licence* will be required to submit an estimate of the number of “trust company business employees” that it expects to have in place upon grant of the *licence*.)

2.12 Question 11 [paragraph 7.3.2 of the CP]

Do you agree with the proposal to adopt mildly progressive fee tariffs (with a regressive ‘tail’)? If you do not agree, please give reasons for your answer.

- 2.12.1 There were mixed views on this proposal, with respondents’ opinions in many cases thought to reflect whether a progressive tariff (with a regressive ‘tail’) would be likely to benefit financially their business or not.
- 2.12.2 Three respondents agreed with the proposal for mildly progressive fee tariffs with a regressive ‘tail’ (although one of those did not agree that “relevant income” should be the metric used).
- 2.12.3 Six respondents considered that a fully regressive tariff would be more appropriate. One of these respondents opined that a progressive tariff would be punitive for a more successful business and would disregard the fact that the incremental cost of supervision diminishes with the increasing size of a *regulated business*. Two other respondents also disagreed with the proposal but did not suggest an alternative.
- 2.12.4 The final two respondents considered that they would need more information in order to express a view.

Commission response

- 2.12.5 Contrary to the assertions of the respondent mentioned in paragraph 2.12.3, the *Commission* does not agree that a progressive fee tariff would, per se, be punitive for a more successful business. Whether it would be punitive or not would depend on the fee rates and, naturally, the *Commission* has no intention of imposing punitive rates. The *Commission’s* proposal to implement a regressive ‘tail’ in fee tariffs would address the second limb of the respondent’s comment, in recognition that beyond a certain point the increase in a *regulated business’s* size would not require a directly correlated increase in supervisory effort.
- 2.12.6 Having considered carefully the (often conflicting) views of respondents, the *Commission* remains of the view that adopting mildly progressive fee tariffs, with a regressive ‘tail’, as proposed in the *CP* would be consistent with funding principles 1 and 7 (see sections 5.1 and 7.2 in the *CP*) and the *Commission* intends to proceed on that basis.
- 2.12.7 The *Commission* recognises that a key element of ensuring that any fee tariff remains consistent with those funding principles will be where the marginal fee rate goes from progressive to regressive (i.e. the point at which the fee payable in relation to the next £1 of income becomes lower than the fee in relation to the previous £1 of income*). The statutorily required consultation on proposed fee tariffs will include seeking respondents’ views on where the regressive ‘tail’ should start.

* Where another fee metric is to be used e.g. employees for TCBs, the point at which the tariff moves from progressive to regressive will be where the fee payable in relation to the next employee number in the tariff is lower than the fee payable in relation to the immediately preceding employee number. For CIFs/FSBs it will be where the fee payable in relation to the next pool of assets is lower than the fee payable in relation to the immediately preceding pool of assets.

2.13 Question 12 [paragraph 7.3.2 of the CP]

Do you agree with the proposal to use increasingly regressive fee rates as “relevant income” increases, rather than implement fixed monetary fee caps? If you do not agree, please give reasons for your answer.

- 2.13.1 Five respondents expressed a firm view on this proposal. Three supported it and two opposed it.
- 2.13.2 Another respondent whilst agreeing with the concept of having increasingly regressive fee rates, rather than having a fixed cap, did not agree that “relevant income” should be the metric used for a fee tariff.
- 2.13.3 Two other respondents indicated that they would need more tariff data in order to come to a definitive view on the proposal.

Commission response

- 2.13.4 The *Commission* notes the majority support for this proposal for a regressive ‘tail’ in the fee tariffs (rather than have fee caps) and intends to implement it. The level of regression in each tariff will be consulted upon in due course.

2.14 Question 13 [paragraph 7.3.4 of the CP]

Do you agree with the proposal to abolish the current fee caps for fees relating to collective investment funds and users of the *QSMA Order*, and instead use an increasingly regressive tariff? If you do not agree, please give reasons for your answer.

- 2.14.1 Seven respondents expressed a firm view on this proposal. Five were in favour and two were not.
- 2.14.2 Given that it would be the funds sector most affected by this proposal, the *Commission* was interested to note that of the four *FSBs* that expressed a firm view, two supported it and two did not. One of the latter *FSBs* commented that abolishing the fee cap relating to collective investment funds may make it more attractive for multi-asset pooled funds to be domiciled in other jurisdictions.
- 2.14.3 Two other respondents indicated that they would need more tariff data in order to come to a definitive view on the proposal.

Commission response

- 2.14.4 The *Commission* notes the majority support for this proposal for a regressive ‘tail’ in the fee tariffs (rather than have fee caps) and intends to implement it.

2.14.5 The *Commission* acknowledges the particularly competitive nature of the funds sector and will take that into account when deciding at what point in the fee tariff for collective investment funds the marginal rate should move from progressive to regressive (and how aggressive the regression should be). As usual, there will be full consultation on the proposed tariff in due course.

2.15 Question 14 [paragraph 7.4.5 of the CP]

Do you agree with the proposed flat fee supplements where the structure of a business results in significant additional supervisory costs? If you do not agree, please give reasons for your answer.

2.15.1 All except one of the 11 respondents to this question supported the proposal.

2.15.2 One respondent from the banking sector, whilst supporting the proposal, commented on the proposed flat fee supplement where the *Commission* is home supervisor in relation to an off-Island branch of a bank. It opined that it would be equitable for a corresponding flat fee deduction to be applied where a regulator in an equivalent jurisdiction is the home supervisor of an on-Island branch. Another respondent in the banking sector made a similar comment that the fee for a subsidiary should be higher than for a branch hosted in Jersey, given that the former requires more intensive supervision (for example, through the Internal Capital Adequacy Assessment Process (ICAAP)).

2.15.3 Another respondent's support was given, "*on the assumption ... that additional monitoring and supervision of [a regulated business] would incur supplementary discrete fees*".

Commission response

2.15.4 The *Commission* welcomes the support for this proposal and intends to implement it.

2.15.5 In relation to the comments from the respondents in the banking sector, the *Commission* intends to introduce a differential into the fee structure to reflect the fact that the supervisory effort required for a locally-incorporated bank is greater than that for a locally-hosted branch.

2.15.6 Turning to the final respondent's comment, the *Commission* does not consider it practicable to introduce discrete supplementary fees where additional monitoring/supervision of a *regulated business* is carried out. However, the *Commission* does now have the power to impose civil financial penalties for breaches of Codes of Practice and the proceeds from such penalties will be used to reduce, or mitigate, the fees paid by *regulated businesses*.

2.16 Question 15 [paragraph 7.4.13 of the CP]

Do you agree with how the *Commission* proposes to allocate support costs across *regulated businesses*? If you do not agree, please give reasons for your answer.

- 2.16.1 Five of the respondents to this question supported the proposal.
- 2.16.2 Two respondents indicated that they disagreed with the proposal. Those two respondents, along with the other five respondents (who did not express a strong view either way on the proposal) also made a number of observations on it. These fall into the following broad themes:
 - 2.16.2.1 Did the *Commission* expect to include in support costs any significant premises or information technology expenditure in the next several years?
 - 2.16.2.2 The allocation of support costs to industry sectors should be based on current year data.
 - 2.16.2.3 It would have been helpful for the consultation paper to describe how the proposed allocation method would alter the balance of support cost currently borne by each sector.
 - 2.16.2.4 The *Commission* should already have enough time/resource data to accurately divide the support costs across sectors on a resources-consumed basis.
 - 2.16.2.5 The proposed system appears overly-complicated.

Commission response

- 2.16.3 Taking firstly the question on anticipated significant premises or information technology expenditure. Whilst no significant premises expenditure is presently anticipated in the near term, as the *Commission* has explained in recent consultations on sectoral fee consultations (see paragraph 1.3.7), the *Commission's* current expenditure on its Change Programme will result in the next few years in increased depreciation costs from the capital investment (in particular, information technology investment) linked to that programme.
- 2.16.4 In terms of which year the allocation of support costs should be based on, the *Commission* considers that it will be simpler, and thus more cost-efficient, to administer, to base the calculation on the previous year's "direct costs" allocation.

- 2.16.5 The *Commission* did not consider it necessary to estimate in the *CP* how the proposed allocation method would alter the balance of support costs per sector, given that it was the principle of how support costs should be allocated going forward that was the key issue being consulted on. The detail relating to the allocation of support costs will be included in future consultations on fees proposed from 2018 under the revised methodology. The *Commission* recognises that the revised methodology is likely to result in some Industry sectors contributing more than at present to the *Commission's* support costs, and some less. Where this is likely to have a significant impact on the fees needed from a particular sector from one year to the next the *Commission* will consider transitional arrangements so that the impact of the change is phased in over time.
- 2.16.6 Finally, turning to the respondent's comment about having enough time/resource data already. The *Commission* does not keep records at such a granular level, not least because it considers that the cost of administering such recordkeeping would be disproportionately high.
- 2.16.7 Having taken into account respondents' comments, the *Commission* remains of the view that, on balance, the proposal in section 7.4 of the *CP* regarding the allocation of "support costs" is a reasonable, practical and cost-efficient method. It is not considered overly-complicated.
- 2.16.8 Accordingly, the *Commission* will, from 2018, allocate "support costs" to the various Industry sectors based on the percentage of the *Commission's* "direct costs" required of each sector.

2.17 Question 16 [paragraph 7.5.4 of the *CP*]

Do you have any comments on the proposed fee-setting process?

- 2.17.1 Four respondents supported the proposed process without comment.
- 2.17.2 The other six respondents to this question made a number of comments, which are summarised in the paragraphs below:
- 2.17.2.1 Some respondents questioned why *regulated businesses* would have to separately submit "relevant income" data to the *Commission* when, in many cases, the *Commission* would have a copy of the business's latest financial statements.
- 2.17.2.2 Questions were also raised by respondents as to whether the "relevant income" figure would have to be that from a *regulated business's* latest audited financial statements, or from more up-to-date management accounts. If the "relevant income" data did not come from the audited financial statements, a respondent asked how the figure would be verified.
- 2.17.2.3 Other respondents suggested that the annual fee-setting process would not give a *regulated business* much notice (for budgeting purposes), especially if the *Commission* found it necessary to significantly increase its budget from one year to the next. If such a scenario arose, a respondent considered that a year-on-year cap on the increase in a *regulated business's* fee should be applied.

- 2.17.2.4 One respondent implied that the proposed process, whilst requiring *regulated businesses* to submit “relevant income” data in Q3 of each year, did not seem to impose set timeframes thereafter on the *Commission* for setting fees.
- 2.17.2.5 The same respondent opined that the proposed fee-setting process appeared to react to the expenditure requirement of the *Commission* and would make it difficult for a *regulated business* to estimate with any certainty the fee levels in advance.
- 2.17.2.6 One respondent had reservations about the functionality of the existing PQ portal and was concerned that this would mean that the portal for the submission of “relevant income” data may not be reliable or easy to use.
- 2.17.2.7 Another respondent asked if the fee-setting process for *DNFBPs* would change and if, not, why not.

Commission response

- 2.17.3 The *Commission’s* responses below are in the same order as the comments in section 2.17.2.
- 2.17.4 (Response to the comment in paragraph 2.17.2.1.) There are a number of reasons why it will be necessary for *regulated businesses* to submit their “relevant income” to the *Commission*:
 - 2.17.4.1 Firstly, not all *regulated businesses* are required to submit financial statements to the *Commission*. (For example, *regulated businesses* that carry on only incidental general insurance mediation business (Classes R and S) or who are regulated in the UK for such business.)
 - 2.17.4.2 Secondly, even where the *Commission* receives the financial statements of a *regulated business*, it will not necessarily be the case that the income figure in the financial statements equates to the “relevant income” figure needed by the *Commission*. This is because “relevant income” would be that solely related to the relevant regulated activity (see paragraph 7.1.4 of the *CP*). Often, a *regulated business* will earn income from activities not regulated by the *Commission*. For example, an investment adviser may earn income from advising on mortgages (unregulated activity) as well as advising on investments (regulated activity).

- 2.17.4.3 Thirdly, the “relevant income” figure on which the fee would be based is that from the *regulated business’s* regulated activities that are carried on in, or from within, Jersey. Where a firm trades in multiple jurisdictions the income figure in its financial statements will not necessarily separate out the level of income arising from its regulated activities in different jurisdictions.
- 2.17.5 (Response to the comment in paragraph 2.17.2.2.) The “relevant income” figure required would be that for the *regulated business’s* most recent financial period (see paragraph 7.1.5 of the *CP*). This will mean that, depending on when a *regulated business’s* audit is carried out, the “relevant income” figure submitted to the *Commission* may or may not have been extracted from audited revenue data. However, as explained in paragraph 7.1.11 of the *CP*, if any doubt as to the accuracy of the “relevant income” figure submitted by a *regulated business* were to arise, the *Commission* would have the statutory power to require the business to have its declared “relevant income” independently verified (at its expense - for example, by its auditor).
- 2.17.6 (Response to the comment in paragraph 2.17.2.3.) For the reasons explained in section 2.4, the *Commission* is intending, at least in the near term, to carry out annual fee reviews.
- 2.17.7 (Response to the comment in paragraph 2.17.2.4.) The proposed timetable would require the *Commission* to consult on fee tariffs no later than in the quarter following the submission of “relevant income” data by *regulated businesses*.
- 2.17.8 (Response to the comment in paragraph 2.17.2.5.) Inevitably, the level of fees required from *regulated businesses* will depend on the expenditure requirements of the *Commission*. But the *Commission* always aims to operate efficiently and keep increases in its expenditure to the minimum practicable. Any fee increases that are required will reflect that.
- 2.17.9 (Response to the comment in paragraph 2.17.2.6.) Based on general user feedback the *Commission* does not believe that there are any significant functionality issues with the existing *PQ* portal. On a more general note, the *Commission* has recently introduced an electronic portal under which *TCBs*, *IBs*, *DNFBPs* and *GIMBs* submit data required for the metrics used under the existing fee tariffs and user feedback has to date been positive with no major functionality issues arising.
- 2.17.10 (Response to the comment in paragraph 2.17.2.7.) Save for the removal of the quarterly payment option (see paragraph 2.20.3) no significant changes are proposed to the fee-setting process for *DNFBPs*, although the relevant data for the metric used - the number of employees – will be submitted via an electronic portal. (Indeed, this has already started with the 2016 fee run). The reasons for making no changes to the existing fee metric used for *DNFBPs* were set out in section 7.1 of the *CP*.

2.18 Question 17 [paragraph 7.6.3 of the CP]

Do you have a preference for either of Model 1 or Model 2 for the issuing of invoices on a staggered basis?

- 2.18.1 Only four respondents to this question indicated a preference and that was for Model 1.
- 2.18.2 Four other respondents indicated that they had no preference.
- 2.18.3 One respondent did not like either model and suggested an alternative (covered in section 2.19 below).

2.19 Question 18 [paragraph 7.6.6 of the CP]

Are there other models for the staggered issuing of invoices that you think the *Commission* should consider?

- 2.19.1 Four alternative models were suggested.
- 2.19.2 The first was not to stagger invoices at all but to simply invoice all *regulated businesses* in the same month (January was suggested by one respondent).
- 2.19.3 The second suggestion was for *regulated businesses* to submit their relevant income figure to the *Commission* at the same time as filing their audited financial statements and for the *Commission* to invoice the business a fixed time after that. Because *regulated businesses* often have different year-ends, this proposal would automatically result in the issuing of invoices being staggered.
- 2.19.4 The third suggestion was to invoice, as a cohort, those *regulated businesses* with multiple *licences*.
- 2.19.5 The final suggestion was to invoice all *regulated businesses* for a minimum fee at the same time (January was suggested) and then invoice for the 'balance' of the annual fee due once the *regulated business* had submitted its annual financial statements.

Commission response

- 2.19.6 The *Commission* remains of the view that, for practical reasons, it may need to stagger the issuing of invoices and, taking into account the feedback received, will consider how best to do that from when the new fee methodology is implemented in 2018.

2.20 Question 19 [paragraph 7.6.8 of the CP]

Do you agree with the proposed removal of the quarterly instalment option for *DNFBPs*? If you do not agree, please give reasons for your answer.

- 2.20.1 Five respondents agreed with the proposal.

- 2.20.2 One other respondent, whilst not opposing the proposal outright, thought the change could have a big impact on smaller businesses and, consequently, should be considered carefully before implementing.

Commission response

- 2.20.3 The *Commission* intends to remove the currently facility under which *DNFBPs* may pay their annual fee in quarterly instalments.

2.21 Question 20 [paragraph 7.7.2 of the *CP*]

Do you agree with the proposed timetable for the new fee process? If you do not agree, please give reasons for your answer.

- 2.21.1 Four respondents were content with the proposed timetable.
- 2.21.2 Three other respondents were not opposed in principle but expressed some reservations (mainly as a result of questions raised or comments made earlier on aspects of the proposed change in fee methodology).
- 2.21.3 The Jersey Funds Association and four other respondents disagreed with the proposed implementation timetable.
- 2.21.4 Taking the latter four first, their opposition was for varying reasons. Two implied that the “relevant income” proposal raised too many uncertainties generally to support early implementation, another respondent considered that past experience of consultations led them to conclude that more time would be needed than was planned for, and the other respondent intimated that the whole funding review consultation so far had been too rushed and had not given *regulated businesses* enough time to consult with clients on the potential implications.
- 2.21.5 The Jersey Funds Association considered that, because of the nature of the concerns it had raised on various aspects of the funding review proposals, additional industry impact assessment work should be done (particularly around the proposed switch to a “relevant income” model). It was of the view that at least one year's delay should be built into the process to allow for that work to be undertaken and to build trust and confidence in the workability and competitiveness of any new proposals. It also commented that the funds industry had only just absorbed its last round of fee increases (in 2015).
- 2.21.6 One other respondent, whilst not directly expressing a view on the proposed implementation timetable, did suggest that whatever timetable the *Commission* decided upon it should take account of the extent of responses to the *CP*.

Commission response

- 2.21.7 Although the *Commission* has addressed the principal concern of the Jersey Funds Association concerning the proposed “relevant income” fee metric for *FSBs* (see section 2.10 of this paper), as this paper indicates the *Commission* is also proposing to amend certain other aspects of the revised fee-setting arrangements that were set out originally in the *CP*.
- 2.21.8 To give an appropriate amount of time to fully work through the practical implications of the modifications to the original proposals and in response to feedback for a longer lead-in period before the revised fee-setting arrangements take effect, the *Commission* is intending to defer implementation of the revised fee-setting arrangements by 12 months. This will mean that fee tariffs under the new arrangements will apply from January 2018 (subject to due consultation on the tariffs beforehand, as required by the *Commission Law*).
- 2.21.9 As was explained in the *CP*, during the financial crisis, the *Commission* was acutely aware of the economic pressures on *regulated businesses* and deliberately limited fee increases. This was despite the *Commission* itself having to meet increased costs – not least as a result of the additional regulatory responsibilities placed on the *Commission* as international standards evolve. This has resulted in the *Commission* being underfunded. Given the proposed delay to the implementation of the revised fee-setting arrangements the *Commission* will need to continue seeking interim fee increases under the existing tariff metrics, on a sector-by-sector basis, during the remainder of 2016 and into 2017.

2.22 Question 21 [paragraph 7.7.4 of the *CP*]

Do you agree with how the *Commission* proposes to deal with *regulated businesses* that fail to submit their “relevant income” data on time? If you do not agree, please give reasons for your answer and suggest an alternative approach (with reasons for it).

- 2.22.1 The 13 respondents to this question were fairly evenly split between those who did not disagree, in principle, with the proposed approach (albeit with caveats in some cases) and those who considered it to be an inappropriate proposal.
- 2.22.2 The principal reasons given by respondents who disagreed with the proposal were: that it was a rather draconian approach; it could potentially lead to the *Commission* making excessive estimates of a *regulated business’s* “relevant income”; the proposal should have provided for the *Commission* to refund part of the fee if the actual “relevant income” figure turned out to be lower than the *Commission’s* estimate; or that a penalty for late submission should instead be applied.
- 2.22.3 One respondent suggested that the proposal should cause the *Commission* to reflect on how it might compensate Industry when its published timescales were not met.

Commission response

- 2.22.4 The proposal in the *CP* for a situation where a *regulated business* failed to submit its “relevant income” figure on time was that the *Commission* would charge a fee based on an estimated “relevant income” figure. Should the actual “relevant income” figure subsequently turn out to be higher than the *Commission’s* estimate, the *regulated business* would be required to pay the difference in fee. However, where the actual “relevant income” figure subsequently turned out to be lower than the estimate on which the fee was based, no refund of any part of the fee previously paid would be made.
- 2.22.5 In the light of feedback to that proposal, the *Commission* will give consideration to introducing an element of discretion, so that in a situation where the actual “relevant income” figure subsequently turned out to be significantly lower than the estimate on which the fee was based, the *Commission* may, upon receipt of an application from a *regulated business*, refund part of the fee paid after taking into account: (i) the *regulated business’s* previous record of compliance with regulatory requirements and co-operation with the *Commission*; and (ii) the level of administrative effort and expense that would be involved in processing the refund.
- 2.22.6 With reference to the final respondent’s comment, the *Commission* does not consider that such compensation would be appropriate. As explained, in paragraph 2.8.6, there are many reasons outside of the *Commission’s* control as to why a timescale might not be able to be met.

2.23 Question 22 [paragraph 8.1.5 of the *CP*]

Do you have any comments on the proposed discrete fees?

- 2.23.1 Ten of the respondents to this question supported the idea of extending the range of discrete fees, although some had comments on certain aspects:
- 2.23.1.1 one respondent considered that additional discrete fees should be levied for investigation, remediation and enforcement tasks carried out in relation to a *regulated business*;
 - 2.23.1.2 another respondent was opposed to a discrete fee for processing *PQs* given that it is a regulatory requirement to submit one (rather than being something a *regulated business* has some discretion over). The respondent suggested that the annual fee should cover the cost of processing *PQs*;
 - 2.23.1.3 a couple of respondents suggested that if a fee is to be levied for processing *PQs* there should be a price difference for a ‘brand new’ *PQ* compared to a *PQ* for a person that had previously been appointed to a principal person or key person position in a *regulated business*;
 - 2.23.1.4 one respondent wanted to be satisfied that the level of the discrete fees would not make Jersey uncompetitive in the funds sector;
 - 2.23.1.5 the same respondent considered that a fee for a change of functionary to a collective investment fund seemed harsh on clients, especially where the change was being made because of poor service;

2.23.1.6 another respondent considered that having three pricing points (depending on the complexity of the particular task) would not give *regulated businesses* or their clients certainty on cost.

2.23.2 Five respondents (one of whom was the Jersey Funds Association) did not support the proposal. The main arguments given by these respondents were that additional discrete fees would add an unwelcome complication to the fee structure and would put Jersey out of line with its key competitors. Some of these respondents considered that the three pricing point proposal, in particular, could lead to arbitrary decisions and result in uncertainty as to the fee that would apply in any given instance.

Commission response

2.23.3 In considering the comments made by respondents the *Commission* has been mindful that the concept of extending the range of discrete fees is consistent with Funding Principle 1 set out in the *CP* (see section 5.1 therein), a principle that was supported by most respondents (see section 2.2 of this paper).

2.23.4 Funding Principle 1 (“Fairness and Equity”) provides, inter alia, that, “..... *To the extent practicable, businesses that make requests that require the Commission to carry out substantive discrete actions only relating to that business should bear the cost of those themselves*”.

2.23.5 Given the level of support for Funding Principle 1, and the number of respondents that provided positive feedback on the proposal to extend the range of discrete fees, the *Commission* intends to implement it, subject to some modification as set out later in this section.

2.23.6 Turning now, in the order they appear above, to the specific comments made by respondents.

2.23.7 (Response to the comment in paragraph 2.23.1.1.) The *Commission* does not consider it practicable to introduce discrete fees for investigation, remediation and enforcement tasks. However, the *Commission* does now have the power to impose civil financial penalties for breaches of Codes of Practice and the proceeds from such penalties will be used to reduce, or mitigate, the fees paid by *regulated businesses*. In addition, when appropriate, the *Commission* already uses the statutory power it has under regulatory legislation to require *regulated businesses* to engage, at their expense, reporting professionals to undertake independent enquiries into compliance issues at a *regulated business*, to report back to the *Commission*, and to assist the business with a remediation plan.

2.23.8 (Response to the comment in paragraph 2.23.1.2.) The *Commission* deals with a significant volume of *PQs* every year and, notwithstanding that it is a regulatory requirement to submit *PQs*, the *Commission* considers it equitable that the relevant *regulated business* involved pays a discrete fee to avoid the general population of *regulated businesses* subsidising the cost of processing through their annual *licence* fees.

Commission response

- 2.23.9 (Response to the comment in paragraph 2.23.1.3.) The *Commission* accepts that where a person is already fulfilling a principal person or key person role and then makes an application to take on a further principal person or key person role, the amount of work involved in processing the *PQ* (doing background checks, etc.) will be less than for a ‘brand new’ *PQ*. Given that, the *Commission* plans to introduce a differential fee structure, so that a lower fee will apply to process a *PQ* in cases where the person involved has an extant ‘no objection’ confirmation from the *Commission* to act as a principal person or key person of a *regulated business*.
- 2.23.10 (Response to the comment in paragraph 2.23.1.4.) When consulting, in due course, on what amount each discrete fee should be the *Commission* will naturally be mindful of the need for the Island to remain competitive.
- 2.23.11 (Response to the comment in paragraph 2.23.1.5.) Whatever the reason for the change in functionary, the *Commission* sees no reason why a discrete fee would not be equitable. Presumably, the client of the unsatisfactory functionary would seek some recompense from that functionary for the poor service.
- 2.23.12 (Response to the comment in paragraph 2.23.1.6.) Having reflected on this respondent’s comment, and on the very similar comments made by those who opposed the “complex application” fee (see section 2.7 herein) the *Commission* has decided not to implement the proposal for three pricing points and will instead adopt a flat fee structure. The *Commission* accepts that having three pricing points depending on the level of “complexity” of the relevant discrete task may, due to the element of subjectivity involved, be unhelpful from a competitive standpoint by reducing the level of transparency and certainty as to the fee that would apply in a given circumstance.
- 2.23.13 Finally, the *Commission* has considered carefully the comments of those who did not support the proposal to extend the range of discrete fees and, in particular, those of the Jersey Funds Association on the competitiveness issue. However, given that a number of discrete fees are already levied for fund-related tasks, the *Commission* is not persuaded that the proposed modest extension of discrete fees would be likely to act as a substantive negative factor when a promoter is considering in which jurisdiction to domicile a fund. The *Commission* also notes that there are precedents elsewhere for a range of discrete fees to be levied. In particular, the Cayman Islands Monetary Authority has a fee tariff that includes a wide range of discrete fees, which apply across a broad range of sectors, including funds. However, when consulting, in due course, on what the amount of each discrete fee should be, the *Commission* will naturally be mindful of the need for the Island to remain competitive.
- 2.23.14 In summary then, the *Commission* intends to implement its proposal to extend the range of discrete fees that it levies, as set out in Appendix C of the *CP* (subject to consultation on the amount of each discrete fee, in due course), save for the following modifications:
- 2.23.14.1 the proposal for three pricing points, depending on the complexity of the relevant task, will not be implemented: each discrete task will instead attract a flat fee;

- 2.23.14.2 a differential fee structure for processing *PQs* will be introduced: a higher flat fee for processing a 'brand new' *PQ* and a lower flat fee for processing a *PQ* where the person involved has an extant 'no objection' confirmation from the *Commission* to act as a principal person or key person.
- 2.23.15 One other minor change will be made to the proposal for discrete fees and that is to align those for Recognized Funds with those that were proposed in the *CP* for certified funds. The detail can be seen in Appendix I.

2.24 Question 23 [paragraph 8.1.7 of the *CP*]

Do you agree with the proposed quarterly invoicing of discrete fees? If you do not, please explain why.

- 2.24.1 Most of the 13 respondents to this question supported quarterly invoicing.
- 2.24.2 Where a respondent did not support quarterly invoicing and suggested an alternative, it was for the fee to be paid at the time of submitting the relevant request to the *Commission*.
- 2.24.3 In relation to discrete fees for COBO-only funds, the Jersey Funds Association sought clarification on who would be invoiced.

Commission response

- 2.24.4 The *Commission* plans to implement the quarterly invoicing of discrete fees.
- 2.24.5 For *COBO*-only funds, the invoice would be addressed to the *COBO* fund and sent c/o the designated *FSB* that submitted the request for the relevant discrete task to be carried out.

2.25 Question 24 [paragraph 9.2.8 of the *CP*]

Do you agree with the proposed revised reserves policy? If you do not, please explain why.

- 2.25.1 Six of the nine respondents to this question who expressed a firm view, supported the proposed revised reserves policy.
- 2.25.2 The three respondents who did not support it, either were unconvinced of the need for change or suggested that the amount of the reserves would be excessive.
- 2.25.3 The Jersey Funds Association, whilst not indicating a view either way on the proposed revised reserves policy, suggested that it would be helpful for the *Commission's* auditors to confirm that the revised reserves policy was prudent without being excessive.

Commission response

- 2.25.4 The *Commission* notes the support of the majority of respondents to the revised reserves policy and plans to implement it in the form consulted on.
- 2.25.5 The *Commission* does not agree with those who thought that the reserves under the proposed policy would be excessive. It has to be recognised that all cash requirements of the *Commission* are funded by internal sources. The *Commission* is not of an appropriate size to raise finance on the capital markets and to protect its independence the *Commission's* policy is to maintain reserves at a level that minimises the possibility that it might need to borrow funds from the finance industry that it regulates. In addition, the *Commission* considers that if it had to approach Government for funding that would also be regarded as potentially compromising its operational independence.
- 2.25.6 In addition, the *Commission* is unable to estimate, with any certainty, the level of funds required for enforcement/legal action. Equally, the timing and amount of recoveries of such costs is inherently difficult to estimate. These costs can run into millions of pounds and can be protracted. The *Commission's* reserves need to be sufficiently deep to be able to meet all enforcement/legal costs as they arise. Enforcement cases often take several years to complete and, consequently, the *Commission* needs to hold sufficient reserves to meet those costs to avoid requesting significant periodic fee increases.
- 2.25.7 As regards requesting the *Commission's* auditors to opine on the proposed reserves policy, the *Commission* does not consider that a role for the auditor. The determination of an appropriate level of reserves is a matter for the Board of Commissioners, as the governing and management body of the *Commission*, to determine.

2.26 Question 25 [paragraph 10.1.3 of the CP]

Do you agree with the proposed amendment to the *BBJL*? If you do not, please explain why.

- 2.26.1 All five respondents to this question supported the proposed amendment to the *BBJL*.

2.27 Question 26 [paragraph 10.2.3 of the CP]

Do you agree with the proposed amendment to the *IBJL*? If you do not, please explain why.

- 2.27.1 Four of the five respondents to this question supported the proposed amendment to the *IBJL*.
- 2.27.2 The one respondent who was opposed to it appears to have misunderstood the reason for the proposed change.

Commission response

2.27.3 On 24 May 2016, the States Assembly adopted the Financial Regulation (Miscellaneous Provisions No. 4) (Jersey) Law 201-, which will make the amendments to the *BBJL* and the *IBJL*. That law is now with Privy Council for approval. Subject to approval being forthcoming, it is expected that the law will come into force in Q4 2016.

2.28 General comments

2.28.1 One respondent requested that, if the proposed change in fee methodology resulted in a significant increase in the annual fee to be paid by a *regulated business* (compared to the fee it would pay under the current methodology), the *Commission* consider setting a cap on the year-on-year increase.

Commission response

2.28.2 The *Commission* will give this suggestion consideration when it is implementing the new methodology for annual *licence* fees.

2.28.3 The Jersey Funds Association suggested that, in order to make a sufficiently strong case to support such radical changes in the way the *Commission* levies fees in future, the *Commission* should provide Industry with more detail on:

2.28.3.1 the efficiencies and value for money the Change Programme are expected to deliver and, having taken account of the Programme's likely infrastructure costs, describe how those changes are expected to impact on future projected deficits; and

2.28.3.2 the extent to which the 2015 fee increases already passed on to Industry will erode the projected deficits.

2.28.4 In relation to the Registry, the Association queried the extent to which any surplus of Registry income over its expenditure was absorbed into the *Commission's* reserves.

2.28.5 The Association also thought that it would be helpful for the *Commission* to confirm where it sees external accountability on fee setting (i.e. on delivering cost effective regulation) actually lying.

Commission response

2.28.6 As explained in the *Commission's* 2016 Business Plan, the Change Programme will make the *Commission* more efficient and effective. The *Commission* published forward financial projections in its recently issued consultation paper on Fund fees consultation (Consultation Paper No. 2 of 2016).

2.28.7 In relation to the 2015 fee increases, those have been factored into the long term financial projections for the *Commission*, as outlined in the Funds fees consultation paper referred to above.

2.28.8 In relation to any surplus Registry income, this is factored into the *Commission's* overall funding and, in recent years, has reduced the level of fees that would otherwise have been required from *regulated businesses*. However, any surplus Registry income over the next several years is expected to reduce given the *Registry's* development requirements and future strategy. In this regard, the *Commission* would draw the attention of readers to the recently published consultation on Registry fees (Consultation Paper No. 4 of 2016).

2.28.9 Finally, in terms of external accountability on the level of fees that the *Commission* wishes to set, the *Commission* would remind readers of the arbitration mechanism set out in Article 15 of the *Commission Law*: where agreement with Industry on fee levels cannot be reached a panel of Jurats will determine whether or not fees proposed by the *Commission* are “*unreasonable having regard to all the circumstances of the case*”.

2.28.10 Another respondent, referring to section 9 of the *CP* [Budgetary Control], requested greater transparency around the *Commission's* cost saving initiatives and what specific benefits have been achieved over the last year/three-year period.

Commission response

2.28.11 By way of an example of the *Commission's* commitment to tight budgetary control, the *Commission* is in the process of reviewing all contractual arrangements with a view to determining whether the services delivered under the contracts are necessary for its operations and competitively priced.

2.28.12 Where contract charges appear to be high in comparison to expectations, comparative quotes and tenders are sought, where necessary, to determine whether the *Commission* can reduce costs without compromising the extent and quality of services received.

2.28.13 A recent example of this was a reduction in insurance costs. By changing insurer the *Commission* has been able to reduce its premiums by £26,000 per annum whilst obtaining cover for a wider range of risks.

2.28.14 Another respondent commented on the proposal (in paragraph 8.1.8 of the *CP*) that the *Commission* would: (i) monitor the speed at which it deals with the discrete tasks for which a separate fee would be payable and; (ii) publish periodic reports on the same.

2.28.15 The respondent suggested that the benefit of doing that would be outweighed by the cost and administration involved. It considered that the *Commission's* resources would be better directed towards completing the tasks in a timely manner. It also felt that such public reporting might create unrealistic expectations in times of “*staff turnover or increased applications*”.

Commission response

2.28.16 Whilst, in the interests of transparency, the *Commission* considers that it would be beneficial to publish periodic reports on the speed with which it deals with discrete tasks that attract a fee, it needs to give further thought as to whether the cost of producing such reports would be proportionate, given that the cost would, ultimately, be borne by *regulated businesses* through their annual *licence* fees.

Appendix A

List of respondents to the CP

- Affinity Private Wealth
- Brevan Howard Capital Management Limited
- ETFS Management Company (Jersey) Limited
- Fiduciary Protector Limited
- HSBC
- Jersey Finance Limited (whose response consisted of comments it had received from one accountancy firm, three fund administrators, two banks, a senior member of the banking industry, three investment managers, three trust companies and one law firm)
- Jersey Association of Directors and Officers
- Jersey Funds Association
- Jersey International Insurance Association
- Rawlinson & Hunter
- Reinet Investment Advisors Limited
- Sanne Group
- State Street Global Services
- The Association of Investment Companies
- UBS AG

Appendix B

Deposit-taking business: revised fee arrangements

Application fee methodology	Notes
A flat fee (i.e. no change from the current methodology)	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (Newly trading businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)

Annual <i>licence</i> fee methodology	Notes
<p>A tiered (mildly progressive) fee tariff based on the “relevant income” of the registered person.</p> <p>plus</p> <p>additional flat fee components for each country in which the bank has an overseas branch or subsidiary where the <i>Commission</i> is the home supervisor. ←</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	<p>“Relevant income” would be defined as Consolidated Income (or, in occasional instances, “Deemed Income”), as per the <i>Commission</i>’s existing fees notice.</p> <p>Component fee for an overseas subsidiary would be 50% higher than for an overseas branch, due to the former requiring <i>Commission</i> oversight for prudential requirements.</p> <p>---</p> <p>There will be a differential in the fee structure to reflect the fact that the supervisory effort required for a locally-incorporated bank is greater than that for a locally-hosted branch.</p> <p>The tariff will set a minimum fee that will be payable, regardless of the level of a registered person’s “relevant income”.</p> <p>(The annual fee will continue to be reduced by 50% where the registration is for business continuity purposes.)</p>

Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
<ol style="list-style-type: none"> 1. A flat fee for considering Article 48D <i>BBJL</i> transfer schemes. (Intra-group transfer schemes will attract a lower fee.) 2. A flat fee for considering changes in controller (Article 14 <i>BBJL</i>) e.g. mergers/acquisitions. 3. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a ‘brand new’ <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant ‘no objection’ confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p>Fee #1 would be payable at the time of application.</p> <p><u>General note:</u> Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector’s fees for the same activity, it would be charged the fee only once.</p>

Appendix C

Investment Business: revised fee arrangements

Class	Application fee methodology	Notes
Class A (Dealing in investments) Class B (Managing investments) Class C (Giving investment advice: allowed to hold client assets)	A flat fee, regardless of how many classes are applied for (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (Newly trading businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Class D (Giving investment advice: not allowed to hold client assets)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (Newly trading businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Class E (Investment business carried on only with respect to <i>COBO</i> -only funds)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Class	Annual <i>licence</i> fee methodology	Notes
Class A (Dealing in investments) Class B (Managing investments) Class C (Giving investment advice: allowed to hold client assets)	A tiered (mildly progressive) fee tariff based on the “relevant income” of the registered person (or, where a branch operation, the relevant income of its Jersey branch). The tariff would apply to a person registered for Class A, B or C, or any combination of those classes (i.e. the fee would not be affected by the number of those classes a person is registered for). Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	“ Relevant income ” would be defined as fees or commission retained (net of any refunds) in respect of the registered person’s investment business covered by its registration. The tariff will set a minimum fee that will be payable, regardless of the level of a registered person’s “relevant income”.
Class D (Giving investment advice: not allowed to hold client assets)	A tiered (mildly progressive) fee tariff based on the “relevant income” of the registered person (or, where a branch operation, the relevant income of its Jersey branch). Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	“ Relevant income ” would be defined as fees or commission retained (net of any refunds) in respect of the registered person’s investment business covered by its registration. The tariff will set a minimum fee that will be payable, regardless of the level of a registered person’s “relevant income”.

Class	Annual <i>licence</i> fee methodology	Notes
Class E (Investment business carried on only with respect to <i>COBO</i> -only funds)	A fee based on the number of <i>COBO</i> -only funds in respect of which the Class E registration relates (i.e. no change from the current methodology). Fee cap: None	There is only one Class E registration and no new registrations are likely.

Discrete fees (applicable to all classes of investment business)	Notes (Payable quarterly in arrears unless indicated otherwise)
<ol style="list-style-type: none"> 1. A flat fee for considering changes in controller (Article 14 <i>FSJL</i>) e.g. mergers/acquisitions. 2. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p><u>General note:</u> Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>

Appendix D

Trust Company Business: revised fee arrangements

Class	Application fee methodology	Notes
All classes (except Class O and natural persons carrying on a single class of <i>TCB</i>)	A flat base fee plus a flat fee per participating member (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit an estimate of the number of “trust company business employees” that it expects to have in place upon grant of the <i>licence</i> – see annual <i>licence</i> fee methodology below.)
Natural persons carrying on a single class of <i>TCB</i> .	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.
Class O (Limited services to local residents, where no trust company business assets are handled or controlled)	A flat base fee plus a flat fee per participating member (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Class	Annual <i>licence</i> fee methodology	Notes
All classes (except Class O and natural persons carrying on a single class of <i>TCB</i>)	A flat base fee plus a fee multiplied by how many classes of business the person (and affiliates, where applicable) is registered for plus a tiered (mildly progressive) fee tariff based on the number of <i>TCB</i> employees. Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	
Natural persons carrying on a single class of <i>TCB</i> .	Flat fee (i.e. no change from the current methodology).	(In the main, this category covers persons who are registered to carry on in business as an independent director.)
Class O (Limited services to local residents, where no trust company business assets are handled or controlled)	Flat fee (i.e. no change from the current methodology).	Very small number of Class O registrations (9).

Discrete fees (applicable to all classes of <i>TCB</i> , except Class O and natural persons carrying on a single class of <i>TCB</i>)	Notes (Payable quarterly in arrears unless indicated otherwise)
<ol style="list-style-type: none"> 1. A flat fee for considering changes in controller (Article 14 <i>FSJL</i>) e.g. mergers/acquisitions. 2. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p><u>General note:</u></p> <p>Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>

Appendix E

General Insurance Mediation Business: revised fee arrangements

Class	Application fee methodology	Notes
Class P (Carrying on <i>GIMB</i> , other than incidentally, and not carrying on any other class of financial service business)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Class Q (Carrying on <i>GIMB</i> , including incidentally, in addition to carrying on some other form of prudentially <i>regulated business</i>)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Class R (Carrying on incidental <i>GIMB</i> if: (a) the <i>GIMB</i> business includes giving advice on the terms, conditions or suitability of a policy, and; the business to which the <i>GIMB</i> is incidental is not a form of prudentially <i>regulated business</i>)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Class S (Carrying on incidental <i>GIMB</i> if: (a) the <i>GIMB</i> business does not include giving advice on the terms, conditions or suitability of a policy, and; the business to which the <i>GIMB</i> is incidental is not a form of prudentially <i>regulated business</i>)	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Class	Annual <i>licence</i> fee methodology	Notes
Class P (Carrying on <i>GIMB</i> , other than incidentally, and not carrying on any other class of financial service business)	A tiered (mildly progressive) fee tariff based on the “relevant income” of the registered person. In relation to a registered person who carries on <i>GIMB</i> from within Jersey, relevant income will be that related to such activities whether the income arises within or outside Jersey.	“ Relevant income ” would be defined as fees or commission retained (net of any refunds) in respect of the registered person’s general insurance mediation business covered by its registration.

Class	Annual <i>licence</i> fee methodology	Notes
	<p>In relation to a registered person who carries on <i>GIMB</i> in Jersey from outside Jersey, relevant income will be that arising from such activities in Jersey.</p> <p>Where the registered person is exempted from the application of the Accounts, Audit & Solvency Order, a 10% discount would be applied. ←</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	<p>The 10% discount would reflect the fact that the <i>Commission</i> does not undertake prudential regulation.</p> <p>The tariff will set a minimum fee that will be payable, regardless of the level of a <i>regulated business's</i> "relevant income".</p>
<p>Class Q (Carrying on <i>GIMB</i>, including incidentally, in addition to carrying on some other form of prudentially <i>regulated business</i>)</p>	<p>A tiered (mildly progressive) fee tariff based on the "relevant income" of the registered person.</p> <p>In relation to a registered person who carries on <i>GIMB</i> from within Jersey, relevant income will be that related to such activities whether the income arises within or outside Jersey.</p> <p>In relation to a registered person who carries on <i>GIMB</i> in Jersey from outside Jersey, relevant income will be that arising from such activities in Jersey.</p> <p>Where the registered person is exempted from the application of the Accounts, Audit & Solvency Order, a 10% discount would be applied. ←</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	<p>"Relevant income" would be defined as fees or commission retained (net of any refunds) in respect of the registered person's general insurance mediation business covered by its registration.</p> <p>The 10% discount would reflect the fact that the <i>Commission</i> does not undertake prudential regulation.</p> <p>The tariff will set a minimum fee that will be payable, regardless of the level of a <i>regulated business's</i> "relevant income".</p>
<p>Class R (Carrying on incidental <i>GIMB</i> if: (a) the <i>GIMB</i> business includes giving advice on the terms, conditions or suitability of a policy, and; the business to which the <i>GIMB</i> is incidental is not a form of prudentially <i>regulated business</i>)</p>	<p>A tiered (mildly progressive) fee tariff based on the "relevant income" of the registered person.</p> <p>In relation to a registered person who carries on <i>GIMB</i> from within Jersey, relevant income will be that related to such activities whether the income arises within or outside Jersey.</p> <p>In relation to a registered person who carries on <i>GIMB</i> in Jersey from outside Jersey, relevant income will be that arising from such activities in Jersey.</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	<p>"Relevant income" would be defined as fees or commission retained (net of any refunds) in respect of the registered person's general insurance mediation business covered by its registration.</p> <p>The tariff will set a minimum fee that will be payable, regardless of the level of a registered person's "relevant income".</p> <p>[N.B. The Accounts, Audit & Solvency Order does not apply to Class R in view of Article 3A of the <i>FSJL</i>.]</p>
<p>Class S (Carrying on incidental <i>GIMB</i> if: (a) the <i>GIMB</i> business does not include giving advice on the terms, conditions or suitability of a policy, and; the business to which the <i>GIMB</i> is incidental is not a form</p>	<p>Flat fee (i.e. no change from the current methodology).</p>	

Class	Annual <i>licence</i> fee methodology	Notes
of prudentially regulated business)		
[A person registered for Class P, Q, R or S <i>GIMB</i> but exempted from the Accounts, Audit & Solvency Order by the <i>Commission</i> (“Table 2 persons”).]	[This current fee category (known as “Table 2”) will be abolished because the present flat fee structure does not adequately reflect the level of supervisory effort required. Table 2 persons will instead pay the fee relevant to their class of registration as shown above.]	

Discrete fees (applicable to <i>GIMB</i> classes P and Q only)	Notes (Payable quarterly in arrears unless indicated otherwise)
<ol style="list-style-type: none"> 1. A flat fee for considering changes in controller (Article 14 <i>FSJL</i>) e.g. mergers/acquisitions. 2. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a ‘brand new’ <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant ‘no objection’ confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p>Both of these discrete fees will apply only to <i>GIMB</i> classes P and Q (because the change of controller and <i>PQ</i> regimes do not apply to classes R and S).</p> <p><u>General note:</u> Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector’s fees for the same activity, it would be charged the fee only once.</p>

Appendix F

Money Service Business: revised fee arrangements

Class	Application fee methodology	Notes
Class T (carrying on money service business), namely: <ul style="list-style-type: none"> bureau de change; providing cheque cashing services; transmitting or receiving funds by wire or electronic means; engaging in money transmission services 	A flat fee for each type of money service business to be carried on. (N.B. “Transmitting or receiving funds by wire or electronic means” and “engaging in money transmission services” will be treated a single type of money service business, rather than two, for application fee purposes).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)

Class	Annual <i>licence</i> fee methodology	Notes
Class T (carrying on money service business), namely: <ul style="list-style-type: none"> bureau de change; providing cheque cashing services; transmitting or receiving funds by wire or electronic means; engaging in money transmission services 	A tiered (mildly progressive) fee tariff based on the “relevant income” of the registered person (or, where a branch operation, the relevant income of its Jersey branch). Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	Relevant income would be defined as fees or commission received (net of any refunds) in respect of the registered person’s money service business covered by its registration. The tariff will set a minimum fee that will be payable, regardless of the level of a registered person’s “relevant income”.

Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
1. A flat fee for considering changes in controller (Article 14 <i>FSJL</i>) e.g. mergers/acquisitions. 2. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a ‘brand new’ <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant ‘no objection’ confirmation from the <i>Commission</i> to act as a principal person or key person.)	General note: Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector’s fees for the same activity, it would be charged the fee only once.

Appendix G

Insurance Business: revised fee arrangements

Category	Application fee methodology	Notes
Category A	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)
Category B	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application. (New businesses, except captives, will be required to submit a projected “relevant income” figure – see annual <i>licence</i> fee methodology below.)

Category	Annual <i>licence</i> fee methodology	Notes
Category A	A tiered (mildly progressive) fee tariff based on the “relevant income” of the permit holder. Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	<p>“Relevant income” would be defined as the gross premium income earned in respect of insurance business covered by its permit, reduced by –</p> <ul style="list-style-type: none"> (i) any rebates, refunds and reinsurance commission payable by the permit holder, and (ii) the gross amount of any premiums for reinsurance ceded by the insurer. <p>The tariff will set a minimum fee that will be payable, regardless of the level of a permit holder’s “relevant income”.</p>
Category B (non-captives)	A tiered (mildly progressive) fee tariff based on the “relevant income” of the permit holder. Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)	<p>“Relevant income” would be defined as the gross premium income earned in respect of insurance business covered by its permit, reduced by –</p> <ul style="list-style-type: none"> (i) any rebates, refunds and reinsurance commission payable by the permit holder, and (ii) the gross amount of any premiums for reinsurance ceded by the insurer. <p>The tariff will set a minimum fee that will be payable, regardless of the level of a permit holder’s “relevant income”.</p>
Category B (captives)	A flat fee (i.e. no change from the current methodology).	

Category	Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
Category A	A flat fee for considering Article 27 <i>IBJL</i> transfer schemes. (Intra-group transfer schemes will attract a lower fee.)	This fee would be payable at the time of application
Category B	<ol style="list-style-type: none"> 1. A flat fee for considering Article 27 <i>IBJL</i> transfer schemes. (Intra-group transfer schemes will attract a lower fee.) 2. A flat fee for considering changes in controller (Article 23 <i>IBJL</i>) e.g. mergers/acquisitions. 3. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p>Fee # 1 would be payable at the time of application.</p> <p><i>PQ</i> regime only applies to Category B.</p> <p><u>General note:</u></p> <p>Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>

Appendix H

COBO Funds Business: revised fee arrangements

Category	Application fee methodology	Notes
COBO-only fund	A flat fee (i.e. no change from the current methodology).	
Private placement fund	A flat fee (i.e. no change from the current methodology).	
Very private fund	A flat fee (i.e. no change from the current methodology).	

Annual licence fees:

As at present, no annual *licence* fee will be levied.

Category	Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
COBO-only fund	<ol style="list-style-type: none"> 1. A flat fee for a change of name of fund/pool. 2. A flat fee for a change to conditions on certificate (at holder's request). 3. A flat fee for a change in functionary (e.g. administrator). 4. A flat fee for any other material change to the fund that requires the consent of the <i>Commission</i>. 	
Private placement fund	<ol style="list-style-type: none"> 1. A flat fee for adding a new pool of assets. 2. A flat fee for conversion into a collective investment fund. 3. A flat fee for a change of name of fund/pool. 4. A flat fee for a change to conditions on certificate (at holder's request). 5. A flat fee for a change in functionary (e.g. administrator). 6. A flat fee for any other material change to the fund that requires the consent of the <i>Commission</i>. 	
Very private fund	None.	

Appendix I

Collective Investment Funds: revised fee arrangements

Category	Application fee methodology	Notes
Recognized fund	A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.
Certified fund	A flat fee per certificate holder plus a flat fee per fund service provider (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable by the certificate holder upon approval of an application.

Category	Annual <i>licence</i> fee methodology	Notes
Recognized fund	<p>A tiered (mildly progressive) fee tariff based on the total number of pools of assets in relation to which the person holds one or more permits.</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	
Certified fund	<p>A tiered (mildly progressive) fee tariff based on the total number of pools of assets in relation to which the person holds one or more certificates.</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	

Category	Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
Recognized fund	<ol style="list-style-type: none"> 1. A flat fee for adding/removing a pool of assets. 2. A flat fee for conversion of fund into a cell company. 3. A flat fee for a change of name of fund/pool. 4. A flat fee for a change of name of certificate holder. 5. A flat fee for a change to conditions on certificate (at holder's request). 6. A flat fee to add another fund service provider. 7. A flat fee for a material change to a constitutional document (e.g. trust deed). 8. A flat fee for a change in functionary (e.g. investment adviser). 9. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p><u>General note:</u></p> <p>Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>
Certified fund	<ol style="list-style-type: none"> 1. A flat fee for adding/removing a pool of assets. 2. A flat fee for conversion of fund into a cell company. 3. A flat fee for a change of name of fund/pool. 4. A flat fee for a change of name of certificate holder. 5. A flat fee for a change to conditions on certificate (at holder's request). 6. A flat fee to add another fund service provider. 7. A flat fee for a material change to a constitutional document (e.g. trust deed). 8. A flat fee for a change in functionary (e.g. investment adviser). 9. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 10. A flat fee for conversion into a <i>COBO</i>-only fund. 	<p><u>General note:</u></p> <p>Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>

Appendix J

Fund Services Business: revised fee arrangements

Application fee methodology	Notes
A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Annual <i>licence</i> fee methodology	Notes
A tiered (mildly progressive) fee tariff based on the total number of pools of assets in relation to which the person is registered to carry on fund services business. Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply).	

Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
<ol style="list-style-type: none"> 1. A flat fee for considering changes in controller (Article 14 <i>FSJL</i>) e.g. mergers/acquisitions. 2. <i>PQ</i> regime. Two levels of flat fee for processing <i>PQs</i> (a higher fee for processing a 'brand new' <i>PQ</i> and a lower fee for processing a <i>PQ</i> where the person involved has an extant 'no objection' confirmation from the <i>Commission</i> to act as a principal person or key person.) 	<p><u>General note:</u> Where a <i>regulated business</i> holds multiple regulatory <i>licences</i> and could thus be liable to a discrete fee under two or more sector's fees for the same activity, it would be charged the fee only once.</p>

Appendix K

AIF and AIF Services Business: revised fee arrangements

Application fee methodology	Notes
A flat fee (i.e. no change from the current methodology).	

Annual licence fee

As at present, no separate annual *licence* fees will apply specifically to AIFs or AIF services businesses.

Discrete fees

As at present, no discrete fees will apply specifically to AIFs or AIF services businesses.

Appendix L

QSMA Order: revised fee arrangements

Application fee methodology	Notes
A flat fee (i.e. no change from the current methodology) for reliance on the QSMA Order in the “Initial Charging Period”.	“Initial Charging Period” has the meaning in the fees notice published by the <i>Commission</i> in respect of “Utilisation of the QSMA Order”.

Annual licence fee methodology	Notes
<p>A tiered (mildly progressive) fee tariff based on the number of relevant QSMA's acted in relation to.</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	

Discrete fees

As at present, no discrete fees will apply.

Appendix M

Recognized Auditors: revised fee arrangements

Application fee methodology	Notes
A flat fee (i.e. no change from the current methodology).	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Annual <i>licence</i> fee methodology	Notes
A flat fee (i.e. no change from the current methodology).	

Discrete fees	Notes (Payable quarterly in arrears unless indicated otherwise)
A flat fee for adding an additional “designated responsible individual” to an audit firm’s entry on the Register of Recognized Auditors.	

Appendix N

DNFBPs: revised fee arrangements

Application fee methodology	Notes
A flat fee.	A pro-rated annual <i>licence</i> fee will be payable upon approval of an application.

Annual <i>licence</i> fee methodology	Notes
<p>A flat base fee plus a tiered (mildly progressive) fee tariff based on the number of “relevant employees”.</p> <p>Fee cap: None (at the higher end of the tariff, regressive marginal fee rates will apply)</p>	Payment of the annual <i>licence</i> fee by quarterly instalment will not be permitted (see section 2.20 of this paper).

Discrete fees

As at present, no discrete fees will be levied

Appendix O

Non-Profit Organisations: revised fee arrangements

As at present, no application, annual or discrete fees will be levied