



**Jersey Financial  
Services Commission**

## › **Feedback on Consultation Paper No. 11 2015**

- › Financial Services (Jersey) Law 1998: Trust Company Business Registration Fees

A consultation on proposals to increase annual registration fees and alter the current fee cap.

## › Consultation Feedback

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

This paper reports on responses received by the *Commission* regarding this Consultation Paper.

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## › Glossary of Terms

the Commission	means the Jersey Financial Services Commission
the Commission Law	means the Financial Services Commission (Jersey) Law 1998
TCB	means trust company business

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# 1 Executive Summary

## 1.1 Overview

- 1.1.1 In December 2015, the *Commission* issued Consultation Paper No. 11 2015: Financial Services (Jersey) Law 1998: Trust Company Business Registration Fees, to seek views on proposals to increase annual registration fees and alter the current fee cap.
- 1.1.2 The purpose of this paper is to provide feedback on the responses received regarding the Consultation Paper.

## 1.2 Feedback received

- 1.2.1 The consultation period closed on 29 January 2016. Two responses were received directly by the *Commission* and five responses were made through Jersey Finance. In total, the *Commission* received 7 responses.
- 1.2.2 Section 2 of this Feedback Paper presents a summary of the substantive comments received and the *Commission's* response, as appropriate, to each.
- 1.2.3 The *Commission* is grateful to respondents for taking the time to consider and comment on the proposals. The final *TCB* fees notice can be found in Appendix B.

## 1.3 Next Steps

- 1.3.1 The *Commission* issued the Trust Company Fees Notice (a copy of which may be found in Appendix B) on 19 February 2016. This can also be accessed on the [Commission's website](#).

## 2 Summary of responses

### 2.1 Structure of this section

2.1.1 This section summarises the substantive comments received in response to the Consultation Paper. While not every comment received is individually listed, this section contains summaries of the most commonly made and pertinent comments in relation to each question posed and, as appropriate, the *Commission's* response to those comments.

2.1.2 The Consultation Paper asked two questions, as set out below.

### 2.2 Question at paragraph 3.5.1 of Consultation Paper No. 11 2105

*Are you aware of any operational reasons why paying fees electronically would cause your registered person an issue?*

2.2.1 The majority of respondents confirmed that they were not aware of any such reasons.

2.2.2 One respondent confirmed that they would prefer to pay electronically, agreeing that this improves efficiency.

2.2.3 Other respondents did not identify any potential issues. Their responses were silent on this point.

#### *Commission response*

2.2.4 We would conclude that payment of fees electronically is feasible for TCBs.

### 2.3 Question at paragraph 3.5.2 of Consultation Paper No. 11 2015

*Do you understand and agree with:*

- › the 2% proposed increase; and
- › the proposed basis for applying the fee cap?

2.3.1 The majority of respondents understood and/or agreed with the changes proposed.

2.3.2 One respondent sought clarification as to whether the cap (current and proposed) represents minimum fees to be paid.

2.3.3 Comments were also received which relate to the basis on which fees are charged and the likely development of direct (in particular resourcing-related) and indirect costs. These comments will be considered in respect of Consultation Paper No. 10 2015 on the Commission's Funding Review, which proposes changes to the way fees paid by regulated businesses are calculated and levied.

#### *Commission response*

2.3.4 We can confirm that the fee cap does not represent, nor is it intended to become, the minimum level of fees to be paid. The fee cap is the maximum amount of fees payable.

## Appendix A

List of respondents to the consultation paper.

- HSBC Trustee (CI) Limited
- UBS Trustees (Jersey) Limited
- Fiduciary Protector Limited
- La Ville Formations Limited
- Two responses provided anonymously via Jersey Finance (“TCB Firms”)
- One response provided anonymously via Jersey Finance (“Bank”)

Appendix B

## **Appendix B**

Trust Company Business Fees Notice



## NOTICE OF FEES

Published in accordance with: **Article 15 of the Financial Services Commission (Jersey) Law 1998, as amended**

Payable by or in relation to: **TRUST COMPANY BUSINESS**

Pursuant to: **Articles 8(3) and 9(6) of the Financial Services (Jersey) Law 1998, as amended; and  
Article 15(6) of the Financial Services Commission (Jersey) Law 1998, as amended**

### Commencement date

The fees set out in this notice and the attached schedule are effective for the period from 1 January – 31 December 2016.

### 1 Interpretation

1.1 In this notice, unless the context otherwise requires -

affiliation	in respect of a registered person or an applicant for registration, means a group of persons carrying on or intending to carry on trust company business the members of which have agreed that one member will be the affiliation leader;
affiliation leader	in respect of an affiliation, means the member of the affiliation which has agreed to be the prime source of contact between the Commission and the members of the affiliation with respect to compliance with the Commission's prudential rules and conduct of business regulation;
Commission	means the Jersey Financial Services Commission;
Law	means the Financial Services (Jersey) Law 1998 as amended;
non-affiliated person	in respect of an applicant for registration or a registered person, means a person who is neither an affiliation leader nor a participating member;

trust company business employee	in respect of a registered person, means – (a) a person employed, either under a contract of service or a contract for services, by the registered person to assist in the provision of trust company business (other than solely to provide book-keeping, filing, secretarial, information technology support or any similar general support service); and (b) if, on the relevant date there exists an agreement for the provision to the registered person of the services of such persons by another person not trading in Jersey, shall be taken to include the number of such persons as the registered person estimates would be required to be employed full time to undertake the work undertaken by the persons whose services are to be provided;
participating member	in respect of an affiliation, means a member of the affiliation who is not its affiliation leader;
relevant date	in respect of a year of registration of a registered person, means the 1st January in that year except in the year the person applied to be registered when it means the date of the application for registration.

- 1.2 In calculating for registration fee purposes the number of trust company business employees of a managed trust company, those trust company business employees that form part of the calculation in respect of the manager's own registration shall not be taken into account.
- 1.3 In calculating for registration fee purposes the number of trust company business employees of a registered person on the relevant date any trust company business employee employed for 25 hours or less during the week in which the relevant date occurs shall be taken into account on a 50% headcount basis (with the total number of trust company business employees being rounded up to the next full number where necessary).

## **2 Application fee**

- 2.1 The fee to accompany an application for registration to carry on trust company business shall be the amount calculated in accordance with the table set out in the Schedule.

## **3 Registration fees**

- 3.1 Except as provided by paragraph 3.4, a person registered to carry on trust company business shall pay a registration fee of an amount calculated in accordance with the table set out in the Schedule.
- 3.2 The registration fee is payable –
- 3.2.1 on registration; and
- 3.2.2 in respect of 2016, 31 March 2016.
- 3.3 If a person is registered after 1st July but before the following 1st January the registration fee payable on registration shall be half the fee otherwise payable.
- 3.4 The Commission may remit a registration fee in whole or in part if –

- 3.4.1 the person liable to pay the fee is a member of an affiliation; and
- 3.4.2 in the opinion of the Commission the total of the registration fees payable by the members of the affiliation is unreasonably high having regard to the trust company business carried on by those members.

#### **4 Late payment of registration fees**

- 4.1 If a registered person fails to pay, with value, the whole or any part of a fee on or before the date it becomes due the person shall be liable to pay, unless otherwise agreed by the Commission, an additional late payment fee of 5% of the amount unpaid for each complete month it remains unpaid. With respect to the fee payable under 3.2.2 this means value date 29 April 2016.

#### **5 Refund of registration fee**

- 5.1 If a person's registration to carry on trust company business is revoked on or before 1st July in any year the Commission shall refund to the person half of the registration fee paid by the person in respect of that year.

#### **6 Late filing fees**

- 6.1 If a registered person fails to file or deliver any document to the Commission under the provisions of the Law or under any provisions of any Order issued in accordance with the Law on or before the date that the document becomes due, the registered person shall be liable to pay a fee of £100 for each complete month or part thereof that the document remains un-filed or undelivered unless the registered person has given the Commission prior written notice of the reasons for the late filing or delivery of a document and the Commission has agreed in writing that the filing may be late. Any such later agreed date shall become the due date for the purposes of the calculation and the payment of late filing fees.

#### **7 Fee cap**

- 7.1 The registration fee is subject to a fee cap of the greater of either £60,000 or three quarters of the fee that would be payable absent any fee cap being in place.

**SCHEDULE****FEES**

<b>Classes of trust company business of registered person</b>	<b>Application fee</b>	<b>Registration fee</b>
<p><b>Any class or combination of classes (not including class O or natural persons carrying on a single class of trust company business – see below)</b></p>	<p>£1,250 for an application to register a non-affiliated person</p> <p>£1,250 for an application to register an affiliation leader</p> <p>£160 for an application to register a participating member</p>	<p>In the case of a non-affiliated person –</p> <p>£1,764; plus</p> <p>£622 multiplied by the number of classes of trust company business undertaken by the non-affiliated person; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the trust company business employees employed on the relevant date in the trust company business of the non-affiliated person (up to a maximum of 200 employees); and</p> <p>(b) at the rate of –</p> <p>£423 for each of the first 10 employees in that count</p> <p>£209 for each of the next 10 employees in that count</p> <p>£183 for each of the next 30 employees in that count</p> <p>£137 for each of the next 50 employees in that count</p> <p>£91 for each of the last 100 employees in that count.</p> <p>In the case of an affiliation –</p> <p>£1,764 for the affiliation leader; plus</p> <p>in respect of each member of the affiliation (that is, the affiliation leader and every participating member) – the sum of £622 multiplied by the number of classes of trust company business undertaken by the member; plus</p> <p>a sum calculated –</p> <p>(a) on the basis of a count of the trust company business employees employed on the relevant date in the trust company business of the affiliation (up to a maximum of 200 employees); and</p>

Classes of trust company business of registered person	Application fee	Registration fee
		(b) at the rate of – £423 for each of the first 10 employees in that count £209 for each of the next 10 employees in that count £183 for each of the next 30 employees in that count £137 for each of the next 50 employees in that count £91 for each of the last 100 employees in that count.
<b>Class O</b>	£625 for an application to register a non-affiliated person £625 for an application to register an affiliation leader £125 for an application to register a participating member	In the case of a non-affiliated person - £1,422. In the case of an affiliation – £1,422 for the leader of the affiliation, plus £489 for each participating member.
<b>Natural persons carrying on a single class of trust company business</b>	£550	£622