

Consultation No. 6 2023

Insurance Business (Jersey) Law 1996: Insurance Business Fees

A consultation on proposals to change fee rates.

Issued: August 2023

Consultation

The Jersey Financial Services Commission (**JFSC**) invites comments on this consultation. Comments should reach Jersey Finance Limited by 15 September 2023.

Responses should be sent to:

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Alternatively, responses may be sent directly to us by 15 September 2023. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, please contact us.

The JFSC contact is:

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It is our policy to provide the content of responses for inspection unless specifically requested otherwise.

It is the policy of Jersey Finance Limited (unless otherwise requested or agreed) to collate all responses and share them verbatim with us on an anonymised basis (with reference made only to the type of respondent, e.g. individual, law firm, trust company etc.) This collated, anonymised response will, typically, be placed in JFL's permanent electronic archive which is currently open to all JFL members.

Glossary

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|----------------|---|
| Commission Law | Financial Services Commission (Jersey) Law 1998, as amended |
| JFL | Jersey Finance Limited |
| JFSC | Jersey Financial Services Commission |

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Consultation

1.1 Basis for consultation

- 1.1.1 We are issuing this consultation in accordance with Article 8(3) of the Commission Law, under which the JFSC “may, in connection with the carrying out of its functions [...] consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate”.
- 1.1.2 In addition, Article 15(3) of the Commission Law requires that before we introduce and publish any fee:
- “[T]he Commission must first publish a report that must include -
- (a) details of the duty or power for or in respect of which the fee is to be determined;
 - (b) details of the proposed fee;
 - (ba) details of the extent (if any) to which any penalties received have reduced the level of fee that would otherwise have been proposed;
 - (c) a request for comments on the level of the proposed fee; and
 - (d) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the Commission”.
- 1.1.3 Article 15(4) of the Commission Law provides that should the JFSC and a Representative Body be unable to agree new fee or above RPI increase that the JFSC must request the Bailiff to appoint three Jurats to consider if the fee proposed is unreasonable.
- 1.1.4 We consider that the proposed fee rates are reasonable and that this consultation paper constitutes such a report as required by the Commission Law.

1.2 Who will be affected by the proposed changes?

- 1.2.1 These fee amendments will affect any person applying for, or already holding a permit to undertake insurance business.

1.3 Responding to the consultation

- 1.3.1 We invite comments, in writing, from interested parties on the content of this consultation.
- 1.3.2 Comments should be shared with either Jersey Finance Limited or us by 15 September 2023.

1.4 Next steps

Following this consultation, we will publish feedback and the final fees notices in September. Fees will be administered via businesses’ myJFSC portal accounts. Businesses will receive an email prompt to notify them that an invoice is awaiting payment.

2 The JFSC

2.1 Overview

- 2.1.1 We are a statutory body corporate established under the Commission Law. We are responsible for the supervision and development of financial services provided in or from within Jersey.
- 2.1.2 Article 15(2) of the Commission Law provides that fees set by the JFSC are to be retained and must, together with any other income:
 - 2.1.2.1 raise sufficient income to meet our liabilities;
 - 2.1.2.2 cover our expenses; and
 - 2.1.2.3 provide a reserve for such amount as we consider necessary.

2.2 The JFSC's functions

- 2.2.1 Article 5 of the Commission Law prescribes that we are responsible for:
 - 2.2.1.1 the supervision and development of financial services provided in or from within Jersey;
 - 2.2.1.2 providing the States of Jersey, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
 - 2.2.1.3 preparing and submitting to the Minister recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure;
 - 2.2.1.4 such functions in relation to financial services or such incidental or ancillary matters:
 - › as are required or authorised by or under any enactment, or
 - › as the States may, by Regulations, transfer; and
 - 2.2.1.5 such other functions as are conferred on the JFSC by any other Law or enactment.

2.3 Guiding principles

- 2.3.1 Article 7 of the Commission Law provides that in exercising our functions, we may take into account any appropriate matter, but that we should consider:
 - 2.3.1.1 the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by, or the financial unsoundness of, persons carrying on the business of financial services in or from within Jersey;
 - 2.3.1.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
 - 2.3.1.3 the best economic interests of Jersey; and
 - 2.3.1.4 the need to counter financial crime in both Jersey and elsewhere

3 Proposals

3.1 Funding requirement

- 3.1.1 In order for us to obtain sufficient funding to carry out our supervisory objectives and to ensure our ongoing financial resilience, we need to raise £1.15m in fees from the insurance sector in 2023.

3.2 Regulatory fee proposals

- 3.2.1 The Commission Law contemplates increases to fees in line with RPI, which was recorded as 10.9% in June 2023. Although the cost of regulation continues to rise in excess of this metric, our ongoing focus on cost control means that the proposed fee increase can be limited to this amount.
- 3.2.2 No Civil Financial Penalties have been levied on entities in the insurance sector which would be applied to reduce these fees.
- 3.2.3 Draft fees notices reflecting the proposals can be found in Appendix A.

- 3.2.4 ***Question: Do you agree with the proposed fee increase of RPI (10.9%) ?***

3.3 Supervisory effort and cost

- 3.3.1 We are closely monitoring and managing our costs and have carefully managed costs for our insurance sector supervision activities in recent years.
- 3.3.2 An important impact of our investment programmes over the last few years has been the focus on operational effectiveness & increased efficiency, both in the handling of data through our customer platforms and in the efficiency of our supervisory staff. One of the key benefits has been the ability to limit cost increase of the JFSC, and further contribute to achieving value for money.
- 3.3.3 The investment and roll-out of system enhancements continues, with an increasing number of the forms and applications being transferred to the online portal. User groups, which reduced during Covid-19, are now becoming increasingly active and are able, and encouraged, to provide input on priorities and the content of these enhancements.
- 3.3.4 To support the ongoing funding of the JFSC, we are in the process of undertaking a fully review of the fee structures & levels. To support this we propose in H2 2023 to undertake, in consultation with industry, further analysis to inform the rationale, assess jurisdictional comparison, understand the expected market impact of fees & consider alternative fee mechanisms.

Appendix A - Draft Insurance Business Fees Notice

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|-------------------------------|--|
| | 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: | Insurance Business |
| Pursuant to: | Articles 6(1) and 43D of the Insurance Business (Jersey) Law 1996, as amended |
| Commencement date: | The fees set out in this notice are effective 1 October 2023 |

1 Interpretation

1.1 In this notice, unless the context otherwise requires -

| | |
|--------------------------------|--|
| cell and cell company | have the meanings assigned to them by the Companies Law |
| Companies Law | means the Companies (Jersey) Law 1991, as amended |
| JFSC | means the Jersey Financial Services Commission |
| Law | means the Insurance Business (Jersey) Law 1996, as amended |
| limited company | has the meaning assigned to it by the Companies Law |
| limited liability partnership | has the meaning assigned to it by the Limited Liability Partnerships (Jersey) Law 1997 |
| permit holder | has the meaning assigned to it by the Law |
| transfer of insurance business | means a scheme for the transfer of insurance business as required by Article 27 of and Schedule 2 to the Law |

2 Application fee

2.1 The fee to accompany an application for a permit to carry on insurance business under the Law shall be the amount set out in Schedule 1.

3 Annual fee

3.1 A permit holder shall pay an annual fee in accordance with the amount set out in Schedule 2.

3.2 The annual fee is payable by permit holders on 1 October of each year.

3.3 The due date for the annual fee is 31 October in the same year.

4 Registration change fee

4.1 A fee of £2,730 is payable in relation to category B permits where:

- a) an insurance company that is registered under the Companies Law as a limited company changes that registration to registration as a cell company or a cell; or
- b) a partnership carrying on insurance business as a limited liability partnership changes that registration to registration as a cell company or a cell.

- 4.2 A registration change fee paid under paragraph **Error! Reference source not found.** shall be taken to include the fee payable by the first cell of that cell company for an application for a category B permit where the insurance business to be written in that first cell is the insurance business that was, prior to the change in registration to a cell company, written by the insurance company or partnership referred to in paragraph **Error! Reference source not found.**
- 4.3 Where the fee specified in paragraph **Error! Reference source not found.** has been paid, paragraph **Error! Reference source not found.** shall apply to the annual fee due next following the grant of the permit (and for each subsequent annual fee due) for that cell company and for that cell.
- 4.4 A fee of £2,595 is payable in relation to a category B permit where a cell company or a cell that is registered as such under the Companies Law changes that registration to registration as a:
- a) A limited company; or
 - b) A limited liability partnership.

Where such a fee is paid, paragraph **Error! Reference source not found.** shall apply to the next annual fee due following the grant of the permit and each subsequent annual fee due for the limited company or the limited liability partnership.

5 Transfer of insurance business

- 5.1 A fee of £10,945 is payable where a permit holder plans to undergo a Transfer of Insurance Business ('transfer'). This fee is payable to the JFSC at the time of submission of draft documentation relating to the transfer, in advance of the associated Direction Hearing.

6 Late payment of fees

- 6.1 If the annual fee is not received by the JFSC by the due date, an additional late payment fee of 5% of the unpaid principal amount will be applied on the day after the due date, and on the first day of each following calendar month.

7 Late filing fees

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

Schedule 1 – application fees

| Category of permit | Application fee |
|--|---|
| Category A | <ul style="list-style-type: none"> i) £10,945 if the permit applied for is to include long-term business of any class; or ii) £5,470 in any other case. |
| Category B <i>(where the applicant is not a cell company or a cell)</i> | <ul style="list-style-type: none"> i) £19,120 if the permit applied for is to include long-term business of any class; or ii) £9,550 in any other case. |
| Category B <i>(where the applicant is a cell company or a cell)</i> | <ul style="list-style-type: none"> iii) £9,550 if the permit applied for is to be granted to a cell company; iv) £5,470 if the permit applied for is to be granted to a cell and is to include long-term business of any class; or v) £2,730 if the permit applied for is to be granted to a cell and is to include general business of any class. |

Schedule 2 – annual fees

| Category of permit | Application fee |
|--|--|
| Category A | <ul style="list-style-type: none"> vi) £10,945 if the permit includes long-term business of any class; or vii) £5,470 in any other case. |
| Category B <i>(where the applicant is not a cell company or a cell)</i> | <ul style="list-style-type: none"> viii) £19,120 if the permit includes long-term business of any class; or ix) £9,550 in any other case. |
| Category B <i>(where the applicant is a cell company or a cell)</i> | <ul style="list-style-type: none"> x) £9,550 if the permit is held by a cell company; xi) £5,470 if the permit is held by a cell and includes long-term business of any class; or xii) £2,730 if the permit is held by a cell and includes general business of any class. |