Guernsey Financial Services Commission

CONSULTATION PAPER

FEE RATE PROPOSALS

Effective from 1 January 2013

CONSULTATION PAPER

The Guernsey Financial Services Commission ("Commission") invites comments on this consultation paper. Comments should reach the Commission by 15 November 2012.

Responses should either be emailed to the Commission Secretary, Fionnuala Carvill, at feeconsultationresponses@gfsc.gg, or be marked for her attention and sent to:

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1 EXECUTIVE SUMMARY

1.1 Fee rate proposal for 2013

1.1.1 The Commission proposes to increase the 2012 fees tariff generally by 2% for 2013, except that it proposes to amend the tariff for insurance cells increased by £580 (41%) for applications and £350 (21%) for annual fees.

2 CONSULTATION

2.1 Basis for consultation

2.1.1 The Commission issues this Consultation Paper in accordance with Section 8(2) of the Financial Services Commission (Bailiwick of Guernsey) Law 1987, as amended ("Law"), under which the Commission *"may, in connection with the carrying out of its functions - ....consult and seek the advice of such persons or bodies as it considers appropriate".*

2.1.2 The Commission invites comments on this Consultation Paper.

2.2 Who will be affected by the proposed increase in the current fees tariff

2.2.1 These provisions will affect all licensees, registered businesses and individuals, and applicants for licences or registration, in accordance with applicable laws and regulations.

2.3 Responding to the consultation

2.3.1 The Commission only accepts comments in writing.

2.3.2 Comments should be received by the Commission no later than 15 November 2012.

3 FEES IN CONTEXT

3.1 The Commission's costs

3.1.1 Fulfilment of the Commission's regulatory objectives, set by the Policy Council on behalf of the States (see appendix D), and the effective discharge of these functions for these purposes, is presently costing the Commission approximately £1million per month. The Commission must - in pursuance of its regulatory objectives - be of comparable standard with its principal competitors, and its regulation must be sufficient to enable Guernsey's government to continue to demonstrate that the Commission's standards are equivalent to those of, and so acceptable to, the international community, particularly the G20. These expenses are dominated by fixed costs: staff costs comprise approximately 70% of total expenses, while long term lease commitments comprise a further 7%.

3.2 Contribution to the GTA

3.2.1 The Commission will benefit in 2013 and beyond from the cessation of the contribution of £440,000 that it has made to the running expenses of the GTA in 2012 and each of the last few years. This saving has been included when calculating the fees tariff required for 2013.

3.3 Reserves

3.3.1 The Commission needs to build and retain an appropriate level of reserves. Its policy is to retain sufficient reserves to cover six months' of operating expenditure. It presently retains less than one month's. Its substantial cash balances are largely a result of needing to cover its liabilities and enable it to fund capital investment and meet exceptional and unforeseeable expenditure such as enforcement.

3.3.2 Currently, reserves are too low and need rebuilding.

3.4 Pensions

3.4.1 The Commission participates in the States' defined benefit pension scheme, though the Commission closed it in 2008 to new entrants, in part, to manage costs with more certainty. Compliance with accounting standard FRS17 results in a pension deficit that is volatile and can result in large variances between budgeted and actual results. The Commission has very limited influence over the scheme costs and benefits, but is striving to mitigate its potential liabilities by making representations to the States' Pensions Review Panel

3.4.2 The final salary pension scheme will continue to impose a high level of uncertainty on the Commission's results for the foreseeable future.

3.5 Enforcement

3.5.1 Enforcement action is unpredictable as to timing and cost to the Commission and is not a discretionary activity, meaning that it is difficult to budget for such costs. Despite the Commission's employment of in-house Legal Counsel, recourse to external lawyers is occasionally necessary. While all efforts are made to recover costs, there are many occasions where this is not possible.

3.6 Ongoing supervision

3.6.1 The Commission must also budget for its ongoing programme of supervision which, in recent times, has been impacted by both the scope and the complexity of continual developments in the international regulatory/good practice landscape (see Appendix B). This can only make supervision more difficult and costly.

3.7 Change activities - general

3.7.1 The Commission is committed to improving efficiency and the independent evaluation report (IER) produced by Ernst & Young and received last winter has formed the basis of project work that is reshaping the Commission to meet the future with better processes, procedures, a higher skilled workforce and reduced need for increasing headcount. This has incurred costs in 2012, but is preparing the Commission for efficiency improvements and cost savings.

3.8 Extranet

3.8.1 A major element of the IER is to implement an extranet to receive licensee submissions electronically, reducing costs both for the Commission and licensees. The indications are that if the Commission does not implement an extranet solution it will become ever more difficult to manage incoming data without increasing headcount. Gathered electronically, the data will be used and be capable of more enhanced analysis, driving up the quality of supervision.

This project is likely to extend over three or more years and incur significant capital expenditure. This will be financed from cash reserves, but will ultimately bring cost savings to the Commission and thus indirectly to licensees. In the short term, the Commission's finances must be structured to meet what is presently an uncertain amount. The Commission will not proceed with the project until after meaningful consultation with external stakeholders. The outlay in 2013 will only be incurred after a positive cost/benefit analysis supports a decision to invest.

4 PROPOSALS

4.1 Overview

4.1.1 2% general fees tariff increase for 2013

It is the Commission's policy to review the level of fees annually for all business sectors. Licensees' annual fees were not increased with effect from 1 January 2012; indeed the creation of a further intermediate fee band in the Fiduciaries' sector tariff for that year had the effect of reducing fees for some licensees for 2012.

The Commission's core financial position is stronger following fee increases in 2010 (approximately 16%) and 2011(approximately 17%), though financial challenges and uncertainties remain, and the pension accounting adjustments imposed by the UK's FRS17 causes the reserves position to be much reduced when compared to previous years.

The Commission proposes a 2% general fees tariff increase for 2013 and approaches the budgets for the years 2013, 2014 and 2015 with the objective of substantially breaking even.

4.1.2 Justification for increasing fees

The saving of £440,000 through withdrawal of support of the GTA will be insufficient to negate the need for a rate rise due to other factors set out below:

- Costs of developing a system enabling licensees to submit data electronically
- Enforcement costs
- Pension costs

The saving relating to the GTA will be utilised towards absorbing the cost of the extranet (subject to consultation as detailed in paragraph 3.8.1), though there remains uncertainty regarding its amount, timing and nature. The proposed 2% general increase in the fees tariff is required to meet the costs set out above and to rebuild the Commission's reserves.

4.1.3 Current and future exceptional costs

The IER has resulted in a significant external consultancy cost in 2012 for assistance with its implementation. Benefits will arise in future years, but this has contributed to a forecast deficit of £466,000 in 2012.

The implementation of extranet will result in significant investment in 2013 and beyond (possibly to 2015), funded from current cash balances and with a commensurate depreciation charge from late 2013.

4.1.4 Monetary and non-monetary benefits of implementing IER recommendations

(i) The centralisation of processes relating to data management and the handling of authorisations, together with the establishment of a Division to conduct AML/CFT work is expected to bring benefits through a reduction of staff , a consistent approach, the concentration of specialist knowledge in one area and co-ordinated inspection visits for licensees.

The up-skilling of staff across the Commission will contain the need to increase staff numbers in future, and is expected to further reduce the need for additional staff in the longer term, particularly when the benefits of extranet are realised.

(ii) The intended centralisation of enforcement in 2013 is aiming to bring cost benefits, through a concentration of specialist knowledge, and a consistent and timely approach to enforcement.

(iii) The establishment of a Project Management Office to deliver change initiatives with close control over timing, costs and quality.

(iv) Extranet, where automated data handling and analysis will lead to improved supervision of licensees, sectors and markets and operational efficiency.

4.1.5 Removal of cross-subsidisation between financial sectors

It is the intention of the Commission to continue the policy pursued in recent years, that the regulatory fee income of each regulatory Division should eventually and approximately cover its direct operating costs and its share of allocated costs. The Commission is of the view that this provides a fairer apportionment of costs of regulation between licensees and between sectors.

4.1.6 Staff costs

The Commission is budgeting to tightly control increases in salary costs for 2013.

4.1.7 Number of licences in issue

The numbers of licensees, split by sector, are shown below, including the numbers forecast as at 1st January 2013.

Division	1st Jan 2012	August 2012	Forecast 1st Jan 2013	Comments
Banking	35	34	32	
Investment	3,275	3,295	3,301	
Insurance	756	805	834	Numerous cell applications received in 2012 and in prospect, relating to specific captive scheme
Fiduciary	188	189	190	5 surrenders anticipated offset by new applications
NRFSBs/PBs*	160	163	165	

*Non-Regulated Financial Services Businesses and Prescribed Businesses registrants.

4.1.8 Fee Comparisons with other jurisdictions

Setting out fee rate comparisons between Guernsey, Jersey and the Isle of Man is not straightforward, given their different structures, funding commitments and expenses e.g. the Jersey Financial Services Commission is thought to benefit from being connected with the Companies Registry.

To draw up a comparison simply comparing licence fees is apt to be misleading, but some conclusions can be drawn.

Banking sector: the banking sectors in each of the Crown Dependencies have their own characteristics, which impact on the risk profile of banks and thus their supervisory demand.

- Jersey focuses on "Top 500" banks/perceived low risk institutions;
- Isle of Man focuses on building societies/mass affluent retail market; and
- Guernsey on a range, from retail systemic to private banks and private equity owned banks.

Guernsey's rates are typically higher than Jersey's and the Isle of Man's.

Insurance sector: Guernsey fees are somewhat higher than Jersey and the Isle of Man. However, the operating expenditure of the Isle of Man Insurance and Pensions Authority is funded by the government out of general public revenue, albeit offset by fees. All Isle of Man fees are automatically increased each year in line with inflation. The Jersey insurance sector is small, and not necessarily comparable.

Fiduciary sector: Guernsey's fees are based on turnover; Jersey's on a combination of fixed fees and staff employed/activities carried out; and the Isle of Man's on the number of entities administered.

Large trust companies: a large trust company would typically be slightly more expensive in Jersey and substantially (25%) less expensive in the Isle of Man.

Medium trust companies: the Isle of Man's approach is less expensive for mid-sized trust companies administering few, but complex, entities. Jersey is likely to be slightly less expensive than Guernsey.

Small trust companies: for a typical small trust company, Jersey can be 50% more expensive than Guernsey, with the Isle of Man possibly less than half of Guernsey's cost.

Investment sector: Jersey and the Isle of Man weight their fees towards licensees rather than investment vehicles and in some cases those fees are large compared to Guernsey's flatter scales, so that the majority of licensees will continue to pay a lower fee in Guernsey than they would in Jersey or the Isle of Man.

A fund in Jersey can be significantly more expensive than Guernsey. Guernsey's fees for funds appear higher than those for Jersey and the Isle of Man but the actual fees paid per fund will depend upon the size and nature of the subject fund. Also, while the fund itself in Jersey pays less, each of the fund's functionaries also pay a fee.

4.1.9 Staff resources

Two new posts are intended to be created in mid-2013, for enforcement purposes, to bring further expertise to this important area of the Commission's work and this is intended to reduce substantial external legal costs incurred by the Commission.

4.1.10 Inflation

This has been included at 3.0% p.a. for relevant costs in 2013. Inflation assumptions will be reviewed again as data is released.

- Salaries are budgeted to rise by less than inflation. There is no increase planned for senior staff. Salaries comprise approximately 70% of all expenses.
- Rent increases are likely to be more than the rate of inflation because the triennial rent review is due in September 2013. Rents comprise approximately 6% of all expenses.

4.2 Background – Banking Division

4.2.1 The Banking Division is forecasting a net deficit of £266,000 for 2012.

4.2.2 Direct costs for 2013 are projected to decrease by £104,000 (10%) as a result of a reduction in headcount as various roles presently within the Division are transferred to the centralised units being created. Headcount is reduced to 10.

4.2.3 In light of this expected deficit for the banking Division, the Commission proposes revising the current tariff of application and annual fee levels upwards for 2013 by 2%.

4.2.4 The table below forecasts licensee numbers and headcount.

	Actual	Forecast
Forecasts	**1/1/12**	**1/1/13**
Number of licensees - banks	16	15
Number of licensees – branches	19	17
Staff (FTE)	11.6	9.1

The Division continues to receive enquiries about licence applications but budget practice is to not assume any conversion into licence issuance.

4.3 Tariff – Banking Division

4.3.1 It is proposed to increase the current tariff by 2% and to retain the current structure of charges for annual and application fees.

4.3.2 The proposed tariff is set out below

	Current Fee	**Revised for 2013**
Income band		
Application fee	£36,700	£37,435
Annual licence fees:		
Under £5 million	£36,700	£37,435
£5 million to £10 million	£42,100	£42,940
£10 million to £20 million	£50,400	£51,410
Over £20 million	£63,100	£64,360
Branches outside jurisdiction	£12,600	£12,850

4.4 Background – Insurance Division

4.4.1 The Insurance Division is forecasting a net deficit of £37,000 for 2012.

4.4.2 Direct costs for 2013 are projected to decrease by £66,000 (4%) as a result of a reduction in headcount as various roles presently within the Division are transferred to the centralised units being created. Headcount is reduced to 15.

4.4.3 The Commission projects a lower level of new licence applications in 2013, following an exceptional increase during 2012. Although the number of licensees is forecast to rise by 4% in 2013, the mix of licence types had shifted towards lower fee categories by the start of 2012, depressing the average fee income for 2012 and beyond. The number of cell applications has risen with a commensurate fall in company applications. Given that the Commission's workload for a PCC or ICC cell is not markedly lower than for a company, it is proposed to increase the tariff by £580 to £2,000 for application fees and £350 to £2,000 for annual fees for PCC and ICC cells. This will compensate for the shift to cells away from companies. It is proposed to increase the tariff for companies by 2% in common with other non-cell licence fees.

4.4.4 The table below forecasts licensee numbers and headcount.

Forecasts	Actual **1/1/12**	Forecast **1/1/13**
Number of licensees	756	834
Staff (FTE)	18.1	14.9

4.5 Tariff – Insurance Division

4.5.1 It is proposed to increase the current tariff by 2% and to retain the structure of charges for annual and application fees, but to increase cell application and annual fees to £2,000.

4.5.2 The proposed tariff is set out below:

	Current Fee	**Revised fee for 2013**
Application fees:		
Insurance Manager	£4,690	£4,785
Insurance Manager – Lloyd's	£2,580	£2,630
Insurer/Reinsurer/Captive	£5,040	£5,140
Protected/Incorporated Cell Company	£5,040	£5,140
Cell of a PCC/ICC	£1,420	£2,000
Domestic Insurer	£2,840	£2,895
Intermediary	£4,740	£4,835
(addition of licence categories)	£170 to £1,630	£173 to £1,660
Member of association for travel insurance	£1,300	£1,325
Annual fees:		
Insurance Managers – pure	£4,450	£4,540
Insurance Managers – commercial	£7,450	£7,600
Insurance Manager – Lloyd's	£2,580	£2,630
Insurer/Reinsurer/Captive	£5,040	£5,140

Protected or Incorporated Cell Company	£5,040	£5,140
Cell of a PCC or ICC	£1,650	£2,000
Transformer cell	£750	£765
Dormant cell	£130	£135
Life Insurer (from/to)	£5,040 to £19,930	£5,140 to £20,325
Domestic Insurer (turnover < £12,000)	£420	£430
Domestic Insurer (turnover £12,000+)	£2,840	£2,895
Intermediary (base fee)	£2,290	£2,335
Intermediary (licence type)	£170 to £1,630	£173 to £1,660
Intermediary (turnover level)	£1,620 to £6,500	£1,650 to £6,630
Member of association for travel insurance	£1,300	£1,325
Other fees:		
Conversion of a company to a regulated PCC or ICC	£950	£970
Conversion of a regulated PCC to a regulated ICC	£950	£970
Conversion of a PCC or ICC to a regulated non-cellular company	£950	£970

4.6 Background – Fiduciary Services Division

4.6.1 The Fiduciary Services Division is forecasting a net surplus of £81,000 for 2012.

4.6.2 Direct costs for 2013 are projected to decrease by £74,000 (7%) as a result of a reduction in headcount as various roles presently within the Division are transferred to the centralised units being created. Headcount is reduced to 11.

4.6.3 The table below forecasts licensee numbers and headcount.

Forecasts

	Actual **1/1/12**	Forecast **1/1/13**
Number of licensees/registrants		
Fiduciary	188	190
Staff (FTE)	14.5	10.8

4.7 Tariff – Fiduciary Services Division

4.7.1 It is proposed to increase the current Fiduciary Services tariff by 2% and to retain the structure of charges for annual and application fees.

4.7.2 The proposed tariff is set out below:

	Current Fee	Revised for 2013
Application fees:		
Personal licence	£860	£877
Full licence	£1,940	£1,980
Joint applicant	£260	£265
Annual licence fees:		
Personal fiduciary licence	£970	£990
Full fiduciary licence		
Income band (annual):		
Under £250,000	£5,820	£5,935
£250,000 to £1 million	£9,690	£9,880
£1 million to £2 million	£19,720	£20,120
£2 million to £4 million	£21,800	£22,235
Over £4 million	£23,910	£24,390
Other fees:		
Personal discretionary exemption	£430	£439
Company/partnership discretionary Exemption	£860	£877
Consent to use a name	£1,640	£1,670

4.8 Background – Investment Division

4.8.1 The Investment Division is forecasting a net deficit of £60,000 for 2012, due to the high level of enforcement legal costs incurred.

4.8.2 Direct costs for 2013 are projected to decrease by £1,051,000 (39%) as a result of a reduction in headcount as various roles presently within the Division are transferred to the centralised units being created and because lower legal costs are anticipated in 2013. Headcount is reduced to 22.

4.8.3 The Commission proposes increasing the current tariff by 2% and to retain the current structure of charges of annual and application fee levels.

4.8.4 The Commission projects a constant level of new licence applications and licence surrenders in 2013 when compared to 2012.

4.8.5 The table below forecasts licensee and licensed scheme numbers and headcount.

Forecasts	Actual **1/1/12**	Forecast **1/1/13**
Number of licensees/collective investment schemes*	3,275	3,301

Staff (FTE)	31.05	20.75

** Included are licensees, authorised and registered collective investment schemes, classes of Guernsey open-ended authorised and registered collective investment schemes, and non-Guernsey open-ended collective investment schemes*

4.9 Tariff – Investment Division

4.9.1 It is proposed to increase the current tariff by 2% and to retain the current structure of charges for annual and application fees.

4.9.2 The tariff is set out below:

	Current Fee	**Revised for 2013**
Application fees:		
Open-ended Collective Investment Schemes		
- Schemes*	£3,100	£3,165
- New classes of existing schemes*	£650	£665
- Non-Guernsey schemes	£1,000	£1,020
- Designated Territories scheme notification		
- (EX) (Jersey schemes remain at nil)	£1,000	£1,020
Closed-ended Collective Investment Schemes		
- Schemes*	£3,100	£3,165
- Additional classes*	£650	£663
Licensees	£2,100	£2,140
Annual fees:		
Open-ended Collective Investment Schemes		
- Schemes*	£3,100	£3,165
- Additional classes*	£200	£205
- Non-Guernsey schemes	£500	£510
- Designated Territories scheme (EX)	£500	£510
Closed-ended Collective Investment Schemes		
- Schemes*	£3,100	£3,165
- Additional classes*	£200	£205
Licensees		
- Designated Persons of open-ended schemes	£3,000	£3,060
- Principal Managers of open-ended schemes	£1,500	£1,530
- Designated Managers of closed-ended schemes	£3,000	£3,060
- Managers of closed-ended schemes	£1,500	£1,530
- Investment exchanges	£11,000	£11,220
- Other Licensees	£3,000	£3,060

** Authorised and Registered*

4.10 Background – Non-Regulated Financial Services Businesses ("NRFSBs") and Prescribed Businesses ("PBs")

4.10.1 The Commission is forecasting a net deficit of £91,000 for 2012.

4.10.2 The table below forecasts numbers of registrants and headcount.

Forecasts

	Actual **1/1/12**	Forecast **1/1/13**
Number of registrants		
NRFSBs and PBs	160	165
Staff (FTE)	2.0	2.0

4.11 Tariff – Non-Regulated Financial Services Businesses and Prescribed Businesses

4.11.1 It is proposed to increase the current NRFSB and PB tariff by 2% and to retain the current structure of charges for annual and application fees.

4.11.2 The tariff for NRFSBs is detailed below:

	Current Fee	**Revised for 2013**
Application fee	£1,090	£1,113
Annual fees:		
Base fee	£1,090	£1,113
Fee for 1-5 additional outlets	£60	£60
Fee for 6-10 additional outlets	£130	£132
Fee for 11-15 additional outlets	£200	£204
Fee for more than 15 additional outlets	£260	£264

4.11.3 The tariff for PBs is detailed below:

Number of full time or full time equivalent staff	**Current Fee**	**Revised for 2013**
1-5	£590	£603
6	£680	£693
7	£770	£786
8	£860	£876
9	£950	£969
10	£1,040	£1,062
11	£1,130	£1,152
12	£1,220	£1,245
13	£1,310	£1,335
14	£1,400	£1,428
15	£1,490	£1,518
16	£1,580	£1,608
17	£1,670	£1,704
18	£1,760	£1,797
19	£1,850	£1,887
20	£1,940	£1,980
21	£2,030	£2,070
22	£2,120	£2,160
23	£2,210	£2,253
24	£2,300	£2,346
25 or more	£2,390	£2,436

APPENDIX A

List of representative bodies who have been sent this Consultation Paper

- States of Guernsey Policy Council
- States of Guernsey Commerce and Employment Department
- States of Alderney Policy and Finance Committee
- Chief Pleas of Sark General Purposes and Advisory Committee
- Guernsey Finance
- Chamber of Commerce Guernsey
- Guernsey International Business Association
- Association of Guernsey Banks
- Guernsey Investment Fund Association
- Guernsey Investment Managers and Stockbrokers Association
- Guernsey International Insurance Association
- Bailiwick Insurance Intermediary Association
- Guernsey Association of Trustees
- Institute of Directors

APPENDIX B

Increased regulatory and supervisory activities to meet international standards and expectations, besides domestic requirements

There are unprecedented levels of activity internationally that come to bear on the regulatory and supervisory landscape. Current and prospective developments include the following.

Matters affecting all sectors:

- Outcomes from the States' financial services strategy

Banking sector:

- Revised Basel Core Principles – leading to more resource-intensive supervision
- Introduction of Basel III – implementing enhanced liquidity monitoring for all banks
- Eurozone situation – requires heightened monitoring
- UK proposals for ring fencing retail banks and building societies – increasing scrutiny of banks both inside and outside the ring fence
- Increasing participation in Colleges of Supervisors – assessing risks in banking groups and sovereign risk
- Monitoring more complex banking situations (effects of upstreaming, sub-participation loans, etc.)
- Divestment of state interests in banks currently in public ownership
- Policing the perimeter in the context of emerging bank-like structures as new products

Insurance sector:

- International standards, including new Insurance Core Principles - local adaptation of rules and regulations; adherence becomes more challenging, with a shift from a compliance-based supervisory regime towards a more risk-based regime
- Closer supervision of life companies, including the use of more internal resources as well as higher-cost actuarial resources
- Closer supervision of key non-life, third party insurers
- Closer supervision of insurance intermediaries, in light of heightened expectations around retail consumer protection
- Industry innovation – the local insurance industry periodically proposes increasingly novel and at times complex business plans

Fiduciary sector/prescribed businesses and non-regulated financial services businesses:

- Introduction of the Foundations Law in Guernsey
- Increased interaction with other regulators as some Guernsey fiduciaries establish overseas operations
- E-money regulations emerging
- Extension of high value dealing, extending the prescribed businesses and non regulated financial services businesses sector
- FATF proposals on fit and proper tests for prescribed businesses
- EU shadow banking regulation effect on non regulated financial services businesses sector

Investment sector:

- EU matters
- Alternative Investment Fund Managers Directive – Guernsey implementation by mid 2013 (acceptability of local regime)
- Markets in Financial Instruments Directive – forthcoming revised directive
- Retail Distribution Review – UK regime commences in January 2013, but wider issue of retail investor protection emerging
- International bodies
- IOSCO Principles – including assessing impact of regulating credit rating agencies
- Gathering momentum to regulate non-retail investor business
- Increasing level of international co-operation
- Increasingly proactive approach to market abuse/insider dealing issues (forthcoming code of market conduct under POI law)

This fees proposal does not take into account those areas where issues may emerge to prompt new areas of regulation, to increase significantly the volumes of business activity supervised by the Commission. In particular, no account is taken of the increased workload that will arise out of establishment of an Ombudsman, through the extension of consumer credit protection, or from an increased focus on financial crime to meet domestic and external expectations.

Ongoing effects of past events which have increased regulatory and supervisory activities

Matters affecting all sectors:

- Introduction of AML handbook; FATF recommendations
- Participation in IMF assessment of Guernsey
- Higher incidence of enforcement matters, sometimes arising as a result of the global financial crisis
- Moneyval involvement

Banking sector:

- Implementing Basel II
- Crisis management for bank failure (Landsbanki, Northern Rock, establishment of the Guernsey Banking Deposit Compensation Scheme)
- Vickers Report issues
- Bank parent vulnerabilities/up-streaming/balance sheet restructuring to reduce reliance on parent banks
- Eurozone issues

Insurance sector:

- A shift away from compliance regulation and towards more risk-based regulation, requiring more interaction with licensees
- Deeper supervision around annual returns and actuarial valuations
- New financial stability reporting obligations
- More demanding international standards (IAIS Core Principles)

Fiduciary sector:

- New markets and products (e.g. QROPS and RATS) sought as the global financial crisis put pressure on traditional areas of work
- Some new markets introduce higher risk business, with consequential effect on regulation and supervision.

Investment sector:

- IOSCO – 30 original Principles from 1998 and then 8 new Principles implemented in 2010; over 250 key issues for consideration and which form the basis of evaluation by external bodies, including the IMF

APPENDIX C

Comparative position if no fee tariff increases made for 2013

The Commission's budget for 2013 will be adversely affected to a significant degree if no fee rate increases are effected.

	"2%" proposal	No increases
	£	£
Fee income	12,485,000	12,097,000
Bank interest	160,000	160,000
Total income	12,645,000	12,257,000
Total expenses	12,561,000	12,561,000
Surplus/(deficit)	**£ 84,000**	**£ (306,000)**

The Commission would move from a surplus that, whilst not particularly significant, would help to restore reserves to a deficit that would further erode a level of reserves that is already very low. The Commission would also be more vulnerable to moving into a position of negative reserves, which would not only be a poor impression for any organisation to present in its annual financial statements, but would also raise the issue of whether it is being financially imprudent when setting the fees tariff.

APPENDIX D

Commission's regulatory objectives and functions

The Policy Council has restated the Commission's regulatory objectives as follows in a letter to the Commission of 19 November 2010:

"Having considered the matter, the Policy Council can confirm that it would expect the Commission to continue to seek to apply international standards and to have the following as its objectives in the discharge of its regulatory functions. Of necessity, these objectives are expressed in general terms, and are in no particular order.

- Maintaining financial stability in the regulated finance sector
- Managing risk to the financial system and maintaining market confidence
- Ensuring fair, efficient and transparent markets
- Protecting financial services' customers
- Countering financial crime and the financing of terrorism

In discharging its functions with a view to achieving these regulatory objectives, the Policy Council would expect the Commission to at all times bear in mind the importance of the financial services sector to Guernsey, and so the economic benefit it brings, and the importance of the regulatory regime to Guernsey's competitiveness (as set out in paragraph 4.7 of the Fiscal and Economic Plan).....The Policy Council is firmly of the view that the approach of the Commission should be to encourage and enhance respect between government, regulator and industry, but not in any way to compromise the operational independence of the Commission in the discharge of its regulatory functions. The Policy Council would expect the Commission to continue, as in the past and as appropriate, to work collaboratively with the financial services sector, whilst recognising that the effective but proportionate enforcement of the regulatory and supervisory regimes for which the Commission is responsible is now expected by the international community."

These objectives are currently under review in conjunction with the Policy Council and the Commerce and Employment Department.

The Commission is responsible by law for:

i. supervising and regulating financial services in the Bailiwick of Guernsey;

ii. providing the Committees with reports, advice and assistance in relation to any matter connected with finance business;

iii. preparing and submitting to the Committees recommendations and schemes for the statutory regulation of financial business and generally for the revision of legislation appertaining to companies and other forms of business undertakings;

iv. countering of financial crime (including fraud, dishonesty, financial market misconduct, misuse of financial market information and handling the proceeds of crime) and the financing of terrorism;

v. 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 to the Commission; and

vi. such other functions as the States may, by Resolution, assign to the Commission.

These, the Commission’s functions, are supplemented by sector specific functions, and given effect by a range of powers set out in the Law.