

Consultation Document

Fee Rate Proposal

2021



Guernsey Financial
Services Commission

Introduction

The aim of this consultation document is to detail the fee rate proposals for 2021 and to solicit comments and feedback from industry. The consultation period will be from the 4th of August until the 15th of September 2020. Once the consultation period is complete, any amendment to the fees need to be agreed by both the Commission and the States of Guernsey. The new agreed fees will come into force on the 1st January 2021.

The Commission issues this consultation document in accordance with section 8(2) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended, under which the Commission: *“may, in connection with the carrying out of its general functions ... consult and seek the advice of such persons or bodies as it considers appropriate.”*

The provisions in this document affect all licensees, collective investment schemes, registered businesses, registered individuals and applicants for licences or registration, in accordance with applicable laws and regulations.

Approach to Fees

The Commission’s approach to setting fees is based upon the principle that they should be fair, proportionate and broadly aligned with the costs of regulation.

At the end of 2018 the Commission agreed not to raise its fees for two years (2019 and 2020). During this period the level of work being undertaken to supervise financial services, and the individuals within it, has not reduced and we have absorbed any inflation in our costs. This is not sustainable in the longer term if we are to be able to continue regulating in an effective manner demonstrably meeting International Standards for financial services regulation. In addition, we are aware of the clear expectations of international bodies such as MoneyVal regarding a significant amount of supervisory effort and a high number of onsite visits focusing on anti-money laundering and countering the financing of terrorism. This is particularly pertinent considering the Bailiwick has been told to expect another MoneyVal inspection in the next three years.

The Commission is conscious of the need to play its part in securing the reputation of the Bailiwick as a good and reputable place from which to do financial services business in the new post Covid lockdown economic climate. This is even more vital in light of the impact of Covid-19 on other economic sectors within the Bailiwick.

Prior to this ‘no fee increase’ period fee increases were proposed each year, based on the finance sector’s growth and the Commissions budgetary process. This meant average fee increases of approximately 2% per annum but led to uncertainty, on a year on year basis, as to what the baseline fees would be for each subsequent year.

We continue to exercise tight organisational control to maintain operational effectiveness whilst fulfilling our regulatory responsibilities. We have used some of our reserves to improve our systems and processes, to increase our effectiveness and to improve the online submission of forms and Personal Questionnaires. This has been especially pertinent in light of the recent restrictions increasing the difficulty of providing hardcopy signed documents. In addition, we continue to support the States of Guernsey with technical work relating to post Brexit trade policy which we expect to carry on into 2021.

Our policy is to continue to maintain an appropriate level of reserves to insure against future stress events and to prevent the need to significantly raise fees in any one year, something which we have noted other financial services regulators doing this year with some proposing double-digit increases in fees¹. Therefore, within this fee consultation, we are proposing to set a base for our future fee consultations over the next several years although we do not pretend that we can predict the post-Covid lockdown future with any certainty at this point.

Our proposed policy is to use the mean of the last four quarters’ inflation rate in the Bailiwick to reflect the increase in costs, both general and staff, that the Commission will have experienced over the last year. Whilst this means there will be a time lag between the costs being incurred and any increase in fees we are confident that we can manage the discrepancy and it would be a reasonable, independent reflection of increasing costs.

The States of Guernsey currently publish on a quarterly basis the inflation rates for the Bailiwick, with the Retail Price Index (‘RPI’) including mortgage interest payments. These rates are published shortly after each quarter end but due to the need for appropriate governance and a fee consultation process the last rate used will be March of each year². Therefore any

¹ https://www.jerseyfsc.org/media/3583/cp-consultation_paper_no2_2020_fund_fees.pdf and <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2020/cp420.pdf?la=en&hash=391B97FA7F94303E78B9A0EC9F3DE1FEB12B4794>

² <https://www.gov.gg/rpi>, therefore for 2021 fees the inflation rates used were from June 2019 to March 2020

licensee should be able to calculate our base increase for the next year with some confidence, and build it into their budgeting process, even before our consultation has been issued.

Nevertheless irrespective of this policy, as we have noted in our previous Fee Rate Proposals, should we be asked to undertake new activities, or should we see significant amendments to our regulatory laws, including the activities being charged for, we will include these amendments within our consultation.

Proposals

An overall increase of 2.1% across all sectors, not including fast track applications, is proposed for 2021. Full details of the proposed fees for all sectors are contained in the appendices. There are also a small number of amendments to highlight within this consultation paper.

Fast track applications

As part of our authorisation processes there are a number of investment applications which, based on additional information being provided and subject to a complete application form, we agree to finalise authorisation within a significantly shorter timeframe than normal: a “fast track” application. Whilst these applications are reviewed and processed in a shorter timeframe there is no reduction in our level of regulatory scrutiny, in order to maintain the Bailiwick’s regulatory perimeter. This means these applications receive a significant and more intense period of scrutiny following submission. They also receive the benefit of being able to complete the authorisation process much more quickly. Currently this is done at no additional cost for the applicant.

In order to meet our overall principle that fees should be fair, proportionate and aligned to the cost of regulation we are proposing an additional fee for fast track applications of £500 per Authorised, Registered or Private Investor Fund application. This reflects the shorter time required for completion and the additional authorisation effort required for these applications, which means a higher staffing requirement for our Authorisations and Innovation Division than would otherwise be the case.

Change of Control

Currently within our investment law and one insurance law we have the ability to charge for a change in controller. This was brought in to reflect the amount of work undertaken when

assessing the suitability of someone to control a financial services entity operating within the Bailiwick. However, a change of control can take place at any level of a group structure, and apply to multiple companies related to the financial services entity. The current language of the fee regulations, referencing a change of controller, could apply to all levels of a group structure and enables us to charge multiple times for the same change of control. Practically, we have been only charging for a change of control at the level at which it has occurred and reflecting the number of new controllers who have entered the structure. We plan to amend the wording of the fee regulations to reflect our current practice and provide certainty on the fees for this type of transaction.

Migration of a Limited Partnership

As recently announced by the States of Guernsey regulations have been published allowing for the migration into the Bailiwick of a Limited Partnership that was originally established overseas. These regulations stipulate that a supervised Limited Partnership cannot be registered without our consent and provides the ability for the Commission to charge a fee for this service. In line with our approach to Company migrations we will not look to charge a separate fee for our consent of overseas Limited Partnership migrations into the Bailiwick, but will charge a fee for any Guernsey Limited Partnerships looking to migrate out. This fee will be the same amount as for a Company migration out.

Future considerations

In previous years when we have undertaken our fee consultations we have reviewed and considered any anomalies where we felt that the fees did not match our overall approach to be fair, proportionate and aligned to the costs of regulation. This has led to adjustments in the fees charged in the fiduciary, banking and insurance sectors by moving to turnover or asset based fees reflecting the fact that larger licensees are the focus of more supervisory resources. This approach also reduces a barrier to entry for smaller licensees.

In line with our recent Fund Omnibus consultation paper, which is focused on growth in our investment sector, we have also been considering how our fees could be restructured to encourage growth in this sector. We are not proposing to make any of these changes with respect to our 2021 fees but we have started to consider the pricing structure of our investment sector with an aim to deliver an equitable, logical and proportionate pricing model which would be easily understood and reflect the time spent on larger and more complex firms. We will look to discuss this directly with relevant sector stakeholders over the course of the next year.

Comments

The Commission invites comments on this consultation document. Comments should reach the Commission by 15th September 2020. Responses should either be emailed to the Director of Risk and Financial Stability at feeconsultationresponses@gfsc.gg, or be marked for her attention and sent to:

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Appendix A

List of bodies who have been sent this consultation document:

- States of Guernsey Policy and Resources Committee
- States of Guernsey Committee for Economic Development
- States of Alderney Policy and Finance Committee
- Chief Pleas of Sark Policy and Performance Committee
- Guernsey International Business Association
- Association of Guernsey Banks
- Guernsey Investment Fund Association
- Guernsey International Insurance Association
- Guernsey Association of Trustees
- Guernsey Association of Pension Providers
- Institute of Directors
- NED forum
- Commercial Bar Association
- Guernsey Society of Chartered and Certified Accountants
- Guernsey Association of Compliance Officers
- Guernsey Bar Council

Appendix B – Regulatory Fee Proposed Changes

Regulatory Fee – Banking Sector

	Current fee 2020	Proposed fee 2021
Application fees:		
Bank application	£36,905	£37,680
Amalgamation and Migration fee	£2,220	£2,267
Annual licence fees:		
Assets band:		
Total assets below £500 million	£36,905	£37,680
Total assets of £500 million or more but below £1,000 million		
2020 - in range between £36,905 and £55,995	variable price	
2021 - in range between £37,680 and £57,171		variable price
Total assets of £1,000 million and above	£55,995	£57,171
Premiums added to all annual licence fees, where applicable:		
Premium on annual licence fee for a Guernsey subsidiary bank	25%	25%
Subject to a maximum	£13,995	£14,289
and		
Premium for a retail subsidiary bank or retail branch bank (retail branch bank only)	50%	50%
Subject to a maximum	£27,995	£28,583
and		
Premium for an additional trading name for a bank effectively operating two separate businesses under one licence	50%	50%
Subject to a maximum	£27,995	£28,583
and		
Branches outside the Bailiwick	£13,995	£14,289

Regulatory Fee – Insurance Sector

Note: All references below to 'category' are as defined in the Insurance Business (Solvency) Rules 2015

	Current fee 2020	Proposed fee for 2021
Application fees:		
Insurance Manager	£5,206	£5,315
Insurance Manager – Lloyd's	£2,863	£2,923
Insurer / Reinsurer – category 1, 2, 5, 6	£5,596	£5,714
Commercial Insurer/Reinsurer (including business in PCC core / ICC) – category 3, 4	£8,394	£8,570
PCC/ICC – no business written (category 3,4) or category 1, 2, 5, 6	£5,596	£5,714
Cell of PCC/ICC – category 1, 2, 5, 6 (non SPI)	£1,830	£1,868
Cell of PCC – commercial insurance/reinsurance – category 3, 4	£2,745	£2,803
Cell of ICC – commercial insurance/reinsurance – category 3, 4	£2,745	£2,803
Cell of PCC/ICC – category 6 SPI – new controller of SPI cell or SPI cell transaction	£841	£859
Domestic Insurer; Mutual, Friendly or Provident Society	£3,152	£3,218
Intermediary	£5,268	£5,379
(addition of licence categories)	£187 to £1,796	£191 to £1,834
Change of Control (Insurance Manager or Intermediary)	£2,000	£2,042
Amalgamation and Migration fee	£2,220	£2,267
Annual fees:		
Insurance Managers – pure	£4,943	£5,047
Insurance Managers – commercial	£8,272	£8,446
Insurance Manager – Lloyd's	£2,863	£2,923
Life Insurer (including PCC / ICC) – category 1, 2	£5,596 to £84,045	£5,714 to £85,810
Commercial Insurer/Reinsurer (including business in PCC core / ICC) – category 3, 4	£8,394	£8,570
Insurer/Reinsurer – category 5, 6	£5,596	£5,714
PCC/ICC – no business written (category 3, 4) or category 5, 6	£5,596	£5,714
Cell of PCC/ ICC – category 1, 2, 5, 6 (non SPI)	£1,830	£1,868
Cell of PCC – commercial insurance/reinsurance – category 3, 4	£2,745	£2,803
Cell of ICC – commercial insurance/reinsurance – category 3, 4	£2,745	£2,803
Cell of PCC/ICC – category 6 (SPI) – cell transaction / continuation	£841	£859
Life policy cell	£110	£112
Transformer cell	£841	£859
Dormant cell	£146	£149
Domestic Insurer (turnover < £12,000)	£467	£477
Domestic Insurer (turnover £12,000+)	£3,152 to £16,073	£3,218 to £16,411
Intermediary (base fee)	£2,543	£2,596
Intermediary (licence type)	£187 to £1,796	£191 to £1,834

Intermediary (turnover level)	£1,796 to £7,220	£1,834 to £7,372
Member of association for travel insurance	£1,442	£1,472
Other fees:		
Conversion / transfer / subsumption of regulated entities under Part V of The Companies (Guernsey) Law, 2008	£1,056	£1,078
Application for consent to a scheme for the transfer of long term business	£5,253	£5,363

Regulatory Fee – Fiduciary Sector

	Current fee 2020	Proposed fee for 2021
Application fees:		
Personal Fiduciary licence	£1,019	£1,040
Full licence - Joint applicant	£564	£576
Full licence – Lead applicant	£2,322	£2,371
Personal discretionary exemption	£478	£488
Company/partnership discretionary exemption	£1,071	£1,093
Consent to use a name	£1,818	£1,856
Amalgamation and Migration fee	£2,220	£2,267
Annual licence fees:		
Personal Fiduciary licence	£1,057	£1,079
Full Fiduciary licence	2020	2021
Turnover band (annual):		
1. Under £250,000	£5,150	£5,258
2. £250,000 to £499,999	£10,300	£10,516
3. £500,000 to £999,999	£15,450	£15,774
4. £1,000,000 to £1,999,999	£20,600	£21,033
5. £2,000,000 to £3,999,999	£25,750	£26,291
6. £4,000,000 to £7,999,999	£30,900	£31,549
7. £8,000,000 to £15,999,999	£41,200	£42,065
8. £16,000,000 and above	£51,500	£52,582
Pension regulation annual fees (licensees engaged in pension business)		
Fixed fee	£400	£408
Fee per scheme member	£1	£1

Regulatory Fee – Investment Sector

	Current fee 2020	Proposed fee for 2021
Application fees:		
Open-ended collective investment schemes:		
Authorised Schemes	£3,435	£3,507
Authorised Schemes (Fast Track additional £500*)	£3,435	£4,007
Registered Schemes (Fast Track additional £500)*	£3,435	£4,007
New classes of existing schemes*	£721	£736
"De-QIFing" (QIF = Qualified Investor Fund)	£2,575	£2,629
Non-Guernsey schemes	£1,108	£1,131
Designated Territories scheme notification (EX) (Jersey schemes remain at nil)	£1,108	£1,131
Closed-ended collective investment schemes:		
Authorised Schemes	£3,435	£3,507
Authorised Schemes (Fast Track additional £500)*	£3,435	£4,007
Registered Schemes (Fast Track additional £500)*	£3,435	£4,007
Licensees	£2,322	£2,371
Amalgamation and migration fee	£2,220	£2,267
Change of Control fee	£2,000	£2,042
Annual fees:		
Open-ended collective investment schemes:		
Schemes*	£3,435	£3,507
Additional classes*	£221	£226
Non-Guernsey schemes	£553	£565
Designated Territories scheme (EX)	£553	£565
Closed-ended collective investment schemes*	£3,435	£3,507
Licensees		
Designated Persons of open-ended schemes	£3,322	£3,392
Principal Managers of open-ended schemes	£1,661	£1,696

Designated Managers of closed-ended schemes	£3,322	£3,392
Managers of closed-ended schemes	£1,661	£1,696
Investment exchanges	£65,140	£66,508
Other Licensees	£3,322	£3,392

* Including Private Investment Funds (PIFs) registered under the POI Law

Fee – Non-Regulated Financial Services Businesses

	Current fee 2020	Proposed fee for 2021
Application fee	£3,940	£4,023
Annual fee	£1,288	£1,315

Fee – Prescribed Businesses

The annual fee for Prescribed Businesses is detailed below:

Number of full time or full time equivalent staff	Current fee for 2020	Proposed fee for 2021
1-5	£655	£669
6	£755	£771
7	£855	£873
8	£955	£975
9	£1,055	£1,077
10	£1,155	£1,179
11	£1,255	£1,281
12	£1,355	£1,383
13	£1,455	£1,486
14	£1,555	£1,588
15	£1,655	£1,690
16	£1,755	£1,792
17	£1,855	£1,894
18	£1,955	£1,996
19	£2,055	£2,098
20	£2,155	£2,200
21	£2,255	£2,302
22	£2,355	£2,404
23	£2,455	£2,507
24	£2,555	£2,609
25 or more	£2,655	£2,711