



**Jersey Financial
Services Commission**

Feedback on Consultation Paper

No. 10 2016

Fees for registered persons under the Proceeds of Crime (Supervisory Bodies)
(Jersey) Law 2008 – Feedback to a consultation on proposals to increase fees

Issued: February 2017

Consultation Feedback

This paper reports on responses received by the Jersey Financial Services Commission to its Consultation Paper No.10 2016 (Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008: Fees for registered persons – Consultation on proposals to increase fees).

Glossary of Terms

Commission/JFSC Jersey Financial Services Commission

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1 Executive Summary

1.1 Overview

- 1.1.1 We issued Consultation Paper No.10 2016 in December 2016, proposing a 13.6% increase in fee rates for persons registered under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.
- 1.1.2 One formal response to the consultation was received by the JFSC. This feedback is described in chapter 2.
- 1.1.3 We are proceeding to increase the fees to the levels consulted on. The final fees notices can be found in Appendices B and C and on our website.

1.2 Next steps

- 1.2.1 Relevant firms will shortly receive notification via the myJFSC portal. Firms will be asked to log in to their accounts and indicate whether or not they are a sole trader (and if not to provide employee numbers). An invoice will then be generated for payment.
- 1.2.2 The fees notice sets out payment due dates.

2 Summary of Responses

2.1 Feedback received

- 2.1.1 The JFSC received one formal response to the consultation. A list of respondents can be found in Appendix A.

2.2 Question: Do you agree with the proposed inflation-only fee rate increase of 13.6%?

- 2.2.1 The respondent stated that they agreed with the fee increase, because it was “proportionate” and because “the regulatory landscape is constantly changing and the support and guidance offered by the Commission has been more forthcoming over the past few years.”

JFSC Response:

We will implement the fee rate increase as consulted on.

Appendix A – List of respondents

Responses were received from:

- › Collas Crill

Appendix B - Fees Notice under the Supervisory Bodies Law (for accountants and lawyers)

Notice of Fees

Published in accordance with:	Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended
Payable by or in relation to:	Firms of Accountants and Firms of Lawyers
Pursuant to:	Article 20(1) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, 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 2017.

1 Interpretation

1.1 In this notice, unless the context otherwise requires:

a firm of accountants	means a person or persons (including but not limited to a sole trader) who carry on business alone or with others that falls within the scope of paragraph 2 of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a Level 2 registration under the Supervisory Bodies Law
a firm of lawyers	means a person or persons (including but not limited to a sole trader) who carry on business alone or with others that falls within the scope of paragraph 1 of Part B of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, and who are required to hold a Level 2 registration under the Supervisory Bodies Law
contract of employment, contract of service or partnership agreement	means an agreement between two or more parties whether express or implied and (if it is express) whether oral or in writing
relevant date	means the last working day of the year immediately preceding the calendar year to which the fee relates
relevant employee	means an individual who: <ol style="list-style-type: none"> a. works under a contract of employment or any other contract of service; b. practises alone or with others under the terms of a partnership agreement; or c. is otherwise engaged within the business of a firm of accountants or lawyers,

in all cases where the individual undertakes to do or perform, directly or indirectly, any work or service within a firm of

	accountants or lawyers, whether or not engaged directly by the firm of accountants or lawyers or through another entity forming part of the group of entities of which the firm of accountants or lawyers is a part, and the firm of accountants or lawyers is not by virtue of the contract a client or customer of the individual, and “relevant employee” shall be construed accordingly
sole trader	means a person who is the sole proprietor of a firm of accountants or lawyers and who does not practise law or accountancy with any other person and who does not engage any relevant employee
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended

2 Calculation of number of relevant employees

- 2.1 For clarity, for the purposes of this notice “relevant employee” includes but is not limited to:
 - a. a partner practising law or accountancy whether alone or with others;
 - b. an individual classified as self-employed for tax or social security purposes but in all other respects meets the definition of relevant employee;
 - c. an individual based or working outside Jersey but engaged within the Jersey business of the firm of accountants or lawyers; and
 - d. an individual engaged by a firm of accountants or lawyers which is a Jersey entity wherever in the world that individual works or is based and whether or not that individual is engaged in the Jersey business of that firm of accountants or lawyers.

2.2 For individuals with fixed term contracts that do not span the full calendar year, the hours worked should be annualised and the bandings (see 2.3 below) applied when calculating the number of relevant employees.

2.3 The following bandings should be applied when calculating the number of total relevant employees:

a. up to and including 9 hours per week	0.25 of a person
b. over 9 hours and up to and including 18 hours per week	0.50 of a person
c. over 18 hours and up to and including 27 hours per week	0.75 of a person
d. over 27 hours per week -	1 person

2.4 The calculation of the number of relevant employees should be undertaken as at the relevant date based upon the relevant employee’s engagement over the preceding 12 months. If, on the relevant date, there exists a post that is vacant but would normally be occupied by an individual who meets the definition of a relevant employee the calculation should include that position.

2.5 *Example 1: fixed term contract.* An individual who has a fixed term contract and is contracted to work full time (35 hours per week) for four months would equate to:

35 hours x 4 months ÷ 12 months = 11.67 hours per week

The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees.

2.6 *Example 2: part time working.* An individual who is employed part time for the whole year at 25 hours per week would represent 0.75 of a person in the calculation of the number of relevant employees.

2.7 *Example 3: part time working+fixed term contract.* An individual who is employed part time on a fixed contract (20 hours per week for 6 months) would equate to:

$$20 \text{ hours} \times 6 \text{ months} \div 12 \text{ months} = 10 \text{ hours per week}$$

The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees NOT 0.75 of a person.

3 Annual fee

3.1 Firms of accountants and firms of lawyers shall pay an annual fee of an amount calculated in accordance with the table set out in the Schedule.

3.2 Payment of the annual fee should be made as follows:

- a. on or before 31 March 2017; or
- b. where firms of accountants and lawyers indicate that they intend to pay the annual fee on an instalment basis, then the annual fee is payable in four equal instalments. Payments should be made on or before:
 - i. 31 March 2017;
 - ii. 30 June 2017;
 - iii. 29 September 2017; and
 - iv. 29 December 2017.

3.3 The annual fee is subject to a fee cap of £11,360.

Schedule: Accountants and Lawyers

	Base fee	Relevant employee element
Sole Trader	£227	Not applicable
All other firms	£908	Plus: £113 per relevant employee calculated in accordance with this notice (The total annual fee is capped at £11,360)

Appendix C - Fees Notice under the Supervisory Bodies Law

(For specified Schedule 2 business, including estate agency services and lending)

Notice of Fees

Published in accordance with:	Article 21 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended
Payable by or in relation to:	Registered Persons
Pursuant to:	Article 20(1) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, 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 2017.

1 Interpretation

1.1 In this notice, unless the context otherwise requires -

contract of employment, contract of service or partnership agreement	means an agreement between two or more parties whether express or implied and (if it is express) whether oral or in writing
registered person	means a person or persons (including but not limited to a sole trader): a) who carries on business alone or with others that falls within the scope of Schedule 2 of the Proceeds of Crime (Jersey) Law 1999, as amended, EXCEPT business that is defined in paragraphs 1 and 2 (lawyers and accountants) of Part B of Schedule 2; <u>and</u> b) who is required to hold either a Level 1 or Level 2 registration under the Supervisory Bodies Law
relevant date	means the last working day of the year immediately preceding the calendar year to which the fee relates
relevant employee	means an individual who: a) works under a contract of employment or any other contract of service; b) practises alone or with others under the terms of a partnership agreement; or c) is otherwise engaged within the business of a registered person, in all cases where the individual undertakes to do or perform, directly or indirectly, any work or service within a registered

	person, whether or not engaged directly by the registered person or through another entity forming part of the group of entities of which the registered person is a part, and the registered person is not by virtue of the contract a client or customer of the individual, and “relevant employee” shall be construed accordingly
sole trader	means a person who is the sole proprietor of a registered person and who does not practise Schedule 2 business with any other person and who does not engage any relevant employee
Supervisory Bodies Law	means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, as amended

2 Calculation of number of relevant employees

- 2.1 For clarity, for the purposes of this notice “relevant employee” includes but is not limited to:
- a. a partner carrying on Schedule 2 business whether alone or with others;
 - b. an individual classified as self-employed for tax or social security purposes but in all other respects meets the definition of relevant employee;
 - c. an individual based or working outside Jersey but engaged within the Jersey business of the registered person; and
 - d. an individual engaged by a registered person which is a Jersey entity wherever in the world that individual works or is based and whether or not that individual is engaged in the Jersey business of that registered person.
- 2.2 For individuals with fixed term contracts that do not span the full calendar year, the hours worked should be annualised and the bandings (see 2.3 below) applied when calculating the number of relevant employees.
- 2.3 The following bandings should be applied when calculating the number of total relevant employees:
- a. up to and including 9 hours per week 0.25 of a person
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 - d. over 27 hours per week 1 person
- 2.4 The calculation of the number of relevant employees should be undertaken as at the relevant date based upon the relevant employee’s engagement over the preceding 12 months. If, on the relevant date, there exists a post that is vacant but would normally be occupied by an individual who meets the definition of a relevant employee the calculation should include that position.
- 2.5 *Example 1: fixed term contract.* An individual who has a fixed term contract and is contracted to work full time (35 hours per week) for four months would equate to:

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The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees.

- 2.6 *Example 2: part time working.* An individual who is employed part time for the whole year at 25 hours per week would represent 0.75 of a person in the calculation of the number of relevant employees.
- 2.7 *Example 3: part time working+fixed term contract.* An individual who is employed part time on a fixed contract (20 hours per week for 6 months) would equate to:

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The individual would therefore be equivalent to 0.5 of a person in calculating the number of relevant employees NOT 0.75 of a person.

3 Annual fee

- 3.1 Registered persons shall pay an annual fee of an amount calculated in accordance with the table set out in the Schedule.
- 3.2 Payment of the annual fee should be made as follows:
- a. on or before 31 March 2017; or
 - b. where registered persons indicate that they intend to pay the annual fee on an instalment basis, then the annual fee is payable in four equal instalments. Payments should be made on or before:
 - i. 31 March 2017;
 - ii. 30 June 2017;
 - iii. 29 September 2017; and
 - iv. 29 December 2017.
- 3.3 The annual fee is subject to a fee cap of £11,360.

Schedule: Specified Schedule 2 Business, including Estate Agency Services and Lending

	Base fee	Relevant employee element
Sole Trader	£227	Not applicable
All other firms	£454	Plus: £113 per relevant employee calculated in accordance with this notice (The total annual fee is capped at £11,360)