

Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]²

Financial Services Ombudsman Levy Scheme (Jersey) 2015

- 1 This levy scheme is made:
 - on 9 September 2015;
 - by the Office of the Financial Services Ombudsman [OFSSO] established by the Law; and
 - in accordance with regulation 4 of the Regulations.

- 2 This scheme:
 - is for the 2015 year of assessment, which is the spending year ending on 31 December 2015;
 - will be published on 9 September 2015; and
 - will come into effect on 10 September 2015.

It will be published at www.ci-fo.org – the website of the Channel Islands Financial Ombudsman (CIFO), which is the joint operation of OFSSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey.

- 3 In this scheme:
 - 'levy notice' has the meaning as defined in the Regulations;
 - 'providers' means financial services providers within OFSSO's jurisdiction;
 - 'registered providers' has the same meaning as defined in the Regulations;
 - 'higher case fee' means the higher case fee payable under the fee scheme made by OFSSO under the Regulations; and
 - 'relevant financial services business' has the same meaning as defined in the Financial Services Ombudsman (Exempt Business) (Jersey) Order 2014.³

- 4 Any provider that is a registered provider on 8 May 2015 must pay to OFSSO a levy, unless it is entitled to zero-rating under schedule A below.

- 5 Any registered provider that claims a zero-rating incorrectly will be liable to pay the levy retrospectively plus interest at 6% per annum until paid. An adjustment will be made for any higher case fees already paid.

- 6 The total levy will be calculated, and divided among registered providers, as explained in schedule B below.

- 7 OFSSO will invoice the levy by issuing a levy notice. The levy is due and payable within 28 days of the date of the notice. If it remains unpaid, interest will accrue at 6% per annum from the due date until paid.

¹ www.jerseylaw.je/Law/Display.aspx?url=LawsInForce%2fhtm%2fawfiles%2f2014%2fL-14-2014.htm

² www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm

³ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2014%2fR%26O-158-2014.htm

- 8 Starting on 10 September 2015, OFSO will start the process to contact all registered providers that are potentially liable to pay the levy – sending them a levy notice consisting of an invoice with a covering letter of explanation. The levy notice will include links to further information on the website www.ci-fo.org and details of how to apply for zero-rating. Note that the actual date of the levy notice received may be after 10 September 2015 due to the staged process for mail-out of the levy notices.
- 9 No adjustment will be made to the levy payable, or to eligibility for zero-rating, for the 2015 year of assessment in respect of any provider that, after 8 May 2015 and before 1 January 2016:
- becomes (or ceases to be) a registered provider; or
 - becomes (or ceases to be) entitled to zero-rating.
- Such changes will only be given effect from the beginning of the subsequent year of assessment.
- 10 If, during or at the end of the assessment year, a levy assessment turns out not to have been accurate a corresponding adjustment will be made to the subsequent year of assessment's levy to recover or reimburse the difference caused by the previous year's inaccuracy.
- 11 OFSO has taken into account information received from the Minister for Economic Development on the outcome of steps taken by the Minister to discuss the potential provisions of the levy scheme with appropriate persons among providers and their representatives [the Consultation].⁴
- 12 OFSO confirms that it has made the following material departures from the provisions contained in the Consultation:
- Paragraph 9, above: The Consultation indicated that there would be transitional provisions but did not give any details. OFSO has adopted the provisions in the paragraph to provide simplicity for those concerned.
 - Schedule B, paragraph 3, below: OFSO has adopted a fixed-sum provision for reserves and is collecting a larger amount (£175,000 in each of Guernsey and Jersey) than that stated in the consultation, in view of the uncertainty about: the number and nature of complaints that may be expected, and hence the costs incurred; the number of registered providers that will claim zero-rating; and the amount of levy payments that may be delayed or remain unpaid.
- 13 To assist OFSO in reviewing this scheme, OFSO invites any body representing the interests of registered providers to comment on this scheme within two months of its publication.
- 14 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Jersey) 2015.

David Thomas
Chairman of the Board of OFSO

⁴ www.gov.je/SiteCollectionDocuments/Industry%20and%20finance/ID%20Joint%20funding%20consultation%20paper%20Final%2020140925%20LB.pdf

Schedule A: entitlement to zero-rating

- 1 Under paragraph 7 of the Regulations, OFSO:
 - must zero-rate any description of provider where it appears to OFSO that any complaint could not be, or is sufficiently unlikely to be, eligible; and
 - may zero-rate other descriptions of registered providers.
- 2 OFSO will automatically zero-rate Community Savings Limited in respect of all its activities and other registered providers in respect of:
 - all functionaries of non-recognized funds;
 - general insurance mediation business (GIMB) in class S; and
 - insurance business in class A.
- 3 Other registered providers may apply to OFSO for zero-rating if they:
 - only do business with those who could not be, or are sufficiently unlikely to be, eligible complainants; or
 - do not, and are sufficiently unlikely to, carry on relevant financial services business in or from within Jersey.
- 4 OFSO will only grant zero-rating under paragraph 3 of this schedule, above, if the registered provider:
 - follows the process in the documents accompanying the levy notice; and
 - fully completes and submits the website certificate within 28 days of the levy notice.

Otherwise, the registered provider will be liable to pay the levy.

Schedule B: calculation and division of levy

- 1 It was agreed between the States of Jersey and the States of Guernsey that the total initial costs for the establishment and operation of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey are to be shared equally between Jersey and Guernsey, until the end of 2016.
- 2 Under the Regulations, the total levy payable by (Jersey) registered providers is $(X-Y) / 2$ where:
 - X = costs plus reserves plus any prior-year deficit of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey = £1,081,463; and
 - Y = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey = nil;making a total of $£1,081,463 / 2 = £540,732$ [the total Jersey levy].
- 3 The total Jersey levy of £540,732 comprises:
 - a £214,097 Jersey total start-up component of the levy for one time establishment costs plus reserves, comprising:
 - £7,633 one-time establishment costs incurred before 1 January 2015;
 - £31,464 one-time establishment costs for the 2015 year of assessment; and
 - £175,000 to establish a prudent level of reserves; and

- a £326,635 Jersey operational component of the levy for running costs, comprising:
 - £50,364 operational costs incurred before 1 January 2015; and
 - £276,271 operational costs for the 2015 year of assessment.
- 4 The Jersey start-up levy component is to be divided equally among registered providers on a per sector of activity basis. This amounts to £952 per sector of activity for each registered provider.
- 5 The Jersey operational levy component is to be divided among registered providers in proportions reflecting the expectation that some are likely to generate more complaints:
- Half is to be divided among bank licensees in respect of their deposit-taking licence. This will amount to £6,281 for each bank licensee.
 - The other half is to be divided equally among registered providers on a per sector of activity basis. This will amount to £821 per activity for each registered provider (including bank licensees for activities other than deposit-taking).
- 6 For the purpose of dividing the Jersey levy components, the sectors are broadly based on the Jersey Financial Services Commission's categories and will comprise:
- banking;
 - functionaries of recognized funds within the meaning of the Collective Investment Funds (Jersey) Law 1988⁵;
 - insurance, including general insurance mediation business;
 - investment business;
 - money service business (MSB); and
 - providers of credit that are required to register with the Jersey Financial Services Commission under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.
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⁵ Chapter 13.100