

Consultation Paper 4 **Feedback and Changes to 2015 Fee and Levy Schemes**

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A: This feedback

The funding structure for the Channel Islands Financial Ombudsman (CIFO) is set out in the Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015¹ and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015². The Jersey Regulations and the Guernsey Order provide for CIFO to prescribe schemes for case-fees and levies to be paid by certain financial services providers in respect of CIFO's operating expenses.

Pursuant to the Jersey Regulations and the Guernsey Order, CIFO published the following schemes on 9 September 2015 on <http://www.ci-fo.org>:

- the Financial Services Ombudsman Levy and Establishment Levy Scheme (Bailiwick of Guernsey) 2015 [the Guernsey Levy Scheme];
- the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2015 [the Guernsey Fee Scheme];
- the Financial Services Ombudsman Fee Scheme (Jersey) 2015 [the Jersey Fee Scheme];
- the Financial Services Ombudsman Levy Scheme (Jersey) 2015 [the Jersey Levy Scheme].

The Jersey and Guernsey Levy Schemes covered the initial establishment and 2015 operating costs of CIFO.

Both the Jersey Regulations and the Guernsey Order require that CIFO consult on the 2015 fee and levy schemes. Bodies representing the interests of financial services providers were invited to comment on the schemes when each of the schemes was published on 9 September 2015.³ Representative bodies of financial services providers and the Financial Services Commissions were invited to respond. There were no formal responses to the consultation. Therefore, as a result of that consultation CIFO is not proposing any changes to the fee schemes or the Jersey levy scheme at this time. However, as a result of stakeholder input during industry discussions following the issuance of the levy notices, a

¹ <http://www.jerseylaw.je/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2FR%26O-009-2015.htm>

² <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

³ See section 11 of each of the Jersey Fee Scheme and the Guernsey Fee Scheme. See also section 13 of the Jersey Levy Scheme and the Guernsey Levy Scheme.

number of minor changes to the levy scheme for Guernsey were adopted. These changes include:

1. Some amendments were made to the wording of the automatic zero-ratings in Schedule A, paragraph 2, to remove registered providers that do not carry out relevant financial services business. This has no material effect (as these registered providers were not sent levy notices) but better reflects the legislative framework which governs the levy schemes.
2. A procedural change to enable a different zero-rating process to meet the unique needs of the Guernsey investment sector. The original approach specified in the Jersey and Guernsey Levy Schemes was to send registered providers levy notices with details on how to apply for zero-rating.

After the levy notices were sent out in September 2015, it was agreed in consultation with representatives of industry, government, and the regulator to withdraw the levy notices in respect of the investment sector for registered providers holding a licence from the Guernsey Financial Services Commission for advising, dealing, or managing category 2 investments. A different process will be used to identify those registered providers who are liable to pay CIFO's levy in accordance with the legislation and those who could not generate an eligible complaint and therefore should be zero-rated.

In order to minimize the administrative burden for those registered providers, CIFO is using more targeted licence-holder data provided by the Commission to issue an invitation to registered providers or their agents/representatives to provide this information. Thereafter the levy notices will be reissued only to the applicable registered providers.

As a result of these changes, the revised Guernsey levy scheme for 2015 is as follows (highlighted to show changes):

<https://www.ci-fo.org/wp-content/uploads/2015/12/211215-GG-Levy-Scheme-as-Amended.pdf>

For the information of stakeholders, Section B of this document explains the role of CIFO and Section C explains the background to the schemes. The schemes are shown in the annex.

B: Financial Ombudsman

CIFO is the joint operation of the statutory bodies established by the Financial Services Ombudsman (Jersey) Law 2014 [‘the Jersey Ombudsman Law’]⁴ and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [‘the Guernsey Ombudsman Law’].⁵

CIFO is independent of the States. The joint operation – working from a shared office in Jersey, with the same board, ombudsman and staff – covers complaints about financial services provided in and from Jersey, Guernsey, Alderney and Sark. It opened for business on 16 November 2015.

⁴ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cLawFiles%5c2014%2fL-14-2014.htm

⁵ www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014

CIFO resolves complaints against financial services providers – independently, fairly, effectively, promptly, with minimum formality and so as to offer a more accessible alternative to court proceedings. This will help to underpin confidence in the finance sectors, both locally and internationally.

C: Legal background

The framework for the funding of the Office of the Financial Services Ombudsman (Jersey) and the Office of the Financial Services Ombudsman (Guernsey) was set out by both of the States of Jersey⁶ and Guernsey⁷ in a joint consultation document.

The Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015⁸ [‘the Jersey Funding Regulations’] and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015⁹ [‘the Guernsey Funding Order’] provide for CIFO to prescribe schemes for case fees and levies to be paid by certain financial services providers in respect of the expenses of CIFO.

CIFO published on 9th September 2015 the Guernsey Levy Scheme, the Guernsey Fee Scheme, the Jersey Levy Scheme and the Jersey Fee Scheme and subsequently issued levy notices in accordance with the schemes. CIFO proposes to prescribe levy schemes and issue Levy Notices in early 2016. A consultation on the proposed 2016 schemes will be conducted in early 2016.

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

⁷ <http://www.gov.gg/article/114386/Financial-Services-Ombudsman-funding-consultation>

⁸ <http://www.jerseylaw.je/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm>

⁹ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

Annex:

- the Financial Services Ombudsman Levy and Establishment Levy Scheme (Bailiwick of Guernsey) 2015 (revised) [the revised Guernsey Levy Scheme] see <https://www.ci-fo.org/wp-content/uploads/2015/12/211215-GG-Levy-Scheme-as-Amended.pdf>
- the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2015 [the Guernsey Fee Scheme] see <https://www.ci-fo.org/fee-scheme-bailiwick-of-guernsey-2015/>;
- the Financial Services Ombudsman Levy Scheme (Jersey) 2015 [the Jersey Levy Scheme] see <https://www.ci-fo.org/levy-scheme-jersey-2015/>;
- the Financial Services Ombudsman Fee Scheme (Jersey) 2015 [the Jersey Fee Scheme] see <https://www.ci-fo.org/fee-scheme-jersey-2015/>.