

## **Bailiwick of Guernsey**

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]<sup>1</sup>

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]<sup>2</sup>

### **Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2016**

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- 1 This levy scheme is made:
  - on 19 May 2016;
  - by the Office of the Financial Services Ombudsman [OFSSO] established by the Law; and
  - in accordance with articles 3 and 8 of the Order.
  
- 2 This scheme:
  - is for the 2016 year of assessment, which is the spending year ending on 31 December 2016;
  - will be published on 19 May 2016; and
  - will come into effect on 20 May 2016.

It will be published at [www.ci-fo.org](http://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 Jersey.
  
- 3 In this scheme:
  - 'levy notice' has the same meaning as defined in the Order;
  - 'providers' means financial services providers within OFSSO's jurisdiction;
  - 'registered providers' has the same meaning as defined in the Order;
  - 'higher case fee' means the higher case fee payable under the fee scheme made by OFSSO under the Order;
  - 'relevant financial services business' has the same meaning as defined in the Financial Services Ombudsman (Exempt Business) (Bailiwick of Guernsey) Order, 2015.<sup>3</sup>; and
  - 'sector of activity' means the area of activity for which a levy is incurred as shown in paragraph 3 of schedule B.
  
- 4 Any provider that is a registered provider on 4 January 2016 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. OFSSO may add interest at 6% per annum from the original due date of the levy until paid plus any debt-collection costs incurred by OFSSO. 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, OFSSO may add interest at 6% per annum from the due date until paid plus any debt-collection costs incurred by OFSSO.

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<sup>1</sup> <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

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

<sup>3</sup> <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95900&p=0>

- 8 Starting on 20 May 2016:
- OFSO will start the process to send levy notices to registered providers, in the sectors of activity shown in schedule B, paragraph 3, that are not zero-rated. Note that the actual date of the levy notice received may be after 20 May 2016 due to the staged process for mail-out of the levy notices.
  - Ordinarily, the levy notice will include links to further information on the website [www.ciffo.org](http://www.ciffo.org) and details of how to apply for zero-rating. Exceptionally (at OFSO's discretion), OFSO may first send an invitation to consider zero-rating to the registered provider or agent/representative of one or more registered provider(s).
- 9 No adjustment will be made to the levy payable, or to eligibility for zero-rating, for the 2016 year of assessment in respect of any provider that, after 4 January 2016 and before 1 January 2017:
- 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 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2016.

*David Thomas*  
*Chairman of the Board of OFSO*

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### **Schedule A: entitlement to zero-rating**

- 1 Under article 6 of the Order, 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<sup>4</sup> registered providers in respect of:
- General Partners carrying on the restricted activities of advising, managing or dealing in connection with a category 2 controlled investment under the Protection of Investors (Bailiwick of Guernsey) Law, 1987;
  - Category 5 and 6 insurers under the Insurance Business (Solvency) Rules, 2015;
  - Insurance managers.
- But registered providers involved in category 2 investment activities as General Partners will need to identify themselves to OFSO and be granted zero-rating as set out in paragraph 5 of this schedule. That is because – unlike the other automatically zero-rated categories – they cannot be identified from the data held by the Guernsey Financial Services Commission and provided to OFSO.
- 3 Other registered providers may apply to OFSO for zero-rating in respect of the 2016 levy if they:

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<sup>4</sup> Please note that the following fall outside OFSO's jurisdiction and do not have to pay the levy: service providers of funds other than class A funds; and category 2 and 4 insurers

- do not do business, or are sufficiently unlikely to do business, with eligible complainants; or
  - do not, and are sufficiently unlikely to, carry on relevant financial services business in or from within Guernsey.
- 4 Zero-rating may be in respect of one or more applicable sectors of activity.
- 5 OFSO will only grant zero-rating under paragraph 3 of this schedule if the registered provider:
- certified their eligibility for zero-rating in respect of the 2015 year of assessment; or
  - follows the process set out in the documents accompanying the levy notice and fully completes and submits the website certificate within 28 days of the levy notice; or
  - fully completes and submits the website certificate within 28 days of being invited to do so by OFSO.

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

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### **Schedule B: calculation and division of levy**

- 1 Under the Order, the total levy payable by Guernsey 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 Jersey = £636,054; and
  - $Y$  = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in Jersey = £50,000;
- making a total of  $£586,054 / 2 = £293,027$  [the total Guernsey levy].
- 2 The total Guernsey levy 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 £5,426 for each bank licensee.
  - The balance is to be divided equally among registered providers on a per sector of activity basis. This will amount to £616 per activity for each registered provider (including bank licensees for activities other than deposit-taking).
- 3 For the purpose of dividing the total Guernsey levy, the sectors of activity are broadly based on the Guernsey Financial Services Commission's categories and will comprise:
- banking;
  - insurance including intermediation;
  - investment, specifically those entities licensed to carry on the restricted activities of advising, managing or dealing in connection with a category 2 controlled investment under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 and fund services providers of Class A funds);
  - money service; and
  - credit providers that are required to register with the Guernsey Financial Services Commission under the Registration of Non-Regulated Financial Services Business (Bailiwick of Guernsey) Law 2008.
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