

Consultation Paper 9 **2017 Fee Schemes**

Issued: 11 November, 2016

A: This consultation

The Channel Islands Financial Ombudsman (CIFO) is funded by a system of case fees and levies payable by financial services providers. In 2015, CIFO published its first schemes¹, which set out the detail of the 2015 levies and case fees. In 2016, CIFO published revised Levy schemes, in which the amounts of levy payable in 2016 were a little lower than in 2015. The case fees for 2016 remained unchanged from their 2015 levels.

CIFO is consulting on a proposal to increase case fees in draft new fee schemes for 2017. This is not a consultation about CIFO's total budget for 2017 or about levy schemes for 2017.

CIFO's funding model is based on the initial model proposed by the relevant departments of the States of Jersey² and States of Guernsey³. CIFO plans to carry out and consult on a broad review of the funding approach, informed by sufficient historical complaint volume data from the first two full years of operation, with revisions to come into effect in 2019. As an interim measure, CIFO is proposing that an increased proportion of its funding be provided by case fees. This approach seeks to place a greater funding responsibility upon financial services providers who generate complaints thereby reducing the proportion of cost borne by the industry as a whole through levies.

Interested parties – including representative bodies of financial services providers and the Financial Services Commissions – are invited to respond on the proposed Financial Services Ombudsman Fee Scheme (Jersey) 2017 ['the 2017 Jersey Fee Scheme'] and the proposed Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2017 ['the 2017 Guernsey Fee Scheme'].

Section B explains how to respond. Section C explains the role of CIFO. Section D explains the legal background. Section E explains the issue covered by this consultation. The proposed 2017 Jersey Fee Scheme and the proposed 2017 Guernsey Fee Scheme are shown in the annex.

¹ <https://www.ci-fo.org/resource-room/funding/>

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

³ <https://www.gov.gg/CHandler.ashx?id=92504&p=0>

B: How to respond

Please send any response in writing by email to consultations@ci-fo.org or by post to Channel Islands Financial Ombudsman, P O Box 114, Jersey, JE4 4QG.

Responses may be published. Any sections that respondents consider to be confidential (for example, because they relate to security systems or provide commercially-confidential data) should be clearly marked as such, indicating the reason why they are considered to be confidential. The reason will be taken into account by the Principal Ombudsman in deciding what to publish.

Responses must reach us by no later than Monday 12 December 2016.

C: 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.

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 helps to underpin confidence in the finance sectors, both locally and internationally.

D: 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 the States of Jersey⁶ and States of 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

⁴ <https://www.jerseylaw.je/laws/revised/PDFs/13.255.pdf>

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

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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/CHtppHandler.ashx?id=95899&p=0>

prescribe schemes for case fees and levies to be paid by certain financial services providers in respect of the expenses of CIFO.

The detail of the funding mechanism for CIFO in the form of case fees and levies payable by financial services providers is set out in the following current schemes:

- the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2016¹⁰ [the 2016 Guernsey Levy Scheme]; and
 - the Financial Services Ombudsman Levy Scheme (Jersey) 2016¹¹ [the 2016 Jersey Levy Scheme].
 - the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2015¹² [the Guernsey Fee Scheme];
 - the Financial Services Ombudsman Fee Scheme (Jersey) 2015¹³ [the Jersey Fee Scheme];
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E: Issues covered by this consultation

The cost of CIFO's operations is met by the financial services industry falling within its scope, through annual levies and case fees. The schemes in operation for the year 2016 are provided in footnotes 8, 9, 10, and 11 to this document.

Levies are payable per sector of activity for which a financial services provider is registered with or holds a licence, permit or certificate from the Financial Services Commissions in Jersey and Guernsey. A list of these sectors for 2016 can be found in the 2016 Jersey Levy scheme and the 2016 Guernsey Levy Scheme, see also the 2016 explanatory notes for financial services providers¹⁴. Any such provider must pay to CIFO a levy as specified in an annual levy notice, unless it certifies as zero-rated in accordance with the levy notice as it is sufficiently unlikely to generate eligible complaints.

Each provider must pay to CIFO a case fee for each chargeable complaint against them referred to CIFO. A chargeable complaint means a complaint against a provider that is referred to CIFO, unless, in the opinion of an ombudsman on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or at any time, the complaint is rejected as frivolous or vexatious.

At present financial services providers that are liable to pay a levy will be charged a case fee of £200 per chargeable complaint and providers that are not liable to pay a levy will pay a case fee of £600 per chargeable complaint.

¹⁰ <https://www.ci-fo.org/wp-content/uploads/2016/05/160517-GG-2016-levy-schemes-FINAL.pdf>

¹¹ <https://www.ci-fo.org/wp-content/uploads/2016/05/160517-JE-2016-levy-schemes-FINAL.pdf>

¹² <https://www.ci-fo.org/wp-content/uploads/2016/01/150908-GG-Fee-Scheme-Final.pdf>

¹³ <https://www.ci-fo.org/wp-content/uploads/2016/01/150908-JE-Fee-Scheme-Final.pdf>

¹⁴ <https://www.ci-fo.org/wp-content/uploads/2016/05/160527-2016-explanatory-notes-FINAL.pdf>

In response to informal industry feedback, CIFO is proposing to increase the amount of the case fees so that a larger proportion of its funding is provided by case fees. This approach seeks to place a greater funding responsibility upon financial services providers who generate complaints thereby reducing the proportion of cost borne by the industry as a whole through levies.

It is proposed that case fees are amended in both Guernsey and Jersey as follows -

- i) the case fee for a provider that is liable to pay the levy will increase from £200 per chargeable complaint to £300 per chargeable complaint; and
- ii) the case fee for any other provider will increase from £600 per chargeable complaint to £750 per chargeable complaint.

For the avoidance of doubt it should be noted all additional revenue generated from the increased case fees will be used to reduce the level of levies required to fund CIFO's operations. A separate consultation on the 2017 levies will be carried out in early 2017.

CIFO's 2017 budgeted expenditure requirement will be determined by the CIFO Board subject to approval by the Minister for Economic Development, Tourism Sport and Culture in Jersey and the Committee for Economic Development in Guernsey prior to 31 December 2016.

Planned timing

It is proposed the 2017 Jersey Fee Scheme and 2017 Guernsey Fee Scheme will come into effect on 1 January 2017 and the revised case fee rates will apply to complaints received on or after this date.

Stakeholders are invited to comment as to whether the proposed amendments should be made to the 2017 Guernsey Fee Scheme and the 2017 Jersey Fee Scheme.

Q1: Do you have any comments on the proposed fee schemes?

Annex: A

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]¹⁵

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]¹⁶

Financial Services Ombudsman

Draft Fee Scheme (Bailiwick of Guernsey) 2017

- 1 This fee scheme is made:
 - on [insert date], 2016;
 - by the Office of the Financial Services Ombudsman (OFSO) established by the Law; and
 - in accordance with Article 1 of the Order.
- 2 This scheme:
 - is for 2017 and subsequent years (until any subsequent fee scheme is made);
 - will be published on [insert date] 2016; and
 - will come into effect on 1 January 2017 for all chargeable complaints.
- 3 In this scheme:
 - 'providers' means financial services providers within OFSO's jurisdiction;
 - 'registered providers' has the same meaning as defined in the Order;
 - 'ombudsman' means any CIFO ombudsmen;
 - 'levy' means the levy payable under the relevant levy scheme made by OFSO under the Order; and
 - 'chargeable complaint' means a complaint for which a case fee is payable as shown in paragraph 4.
- 4 Each provider must pay to OFSO a case fee for each complaint against the provider that is referred to OFSO, unless, in the opinion of an ombudsman:
 - on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or
 - at any time, the complaint is rejected as frivolous or vexatious.
- 5 The amount of the case fee for each complaint received on or after 1 January 2017 will be:
 - £300 for any registered provider that is liable to pay a levy; and
 - £750 for any other provider.
- 6 The amount of the case fee for each complaint received prior to 1 January 2017 will be:
 - £200 for any registered provider that is liable to pay a levy; and
 - £600 for any other provider.

¹⁵ <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

¹⁶ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

- 7 Ordinarily, OFSO will invoice any case fees annually in arrears. For registered providers that are subject to the annual levy, OFSO will invoice any case fees in conjunction with the levy.
- 8 But if any provider accumulates 10 or more chargeable complaints OFSO may issue an interim case fee invoice.
- 9 Any case fee invoice (including any interim case fee invoice) is due and payable within 28 days of the date of the invoice. If it remains unpaid, OFSO may add interest at 6% per annum from the due date until paid plus any debt collection costs incurred by OFSO.
- 10 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2017.

*David Thomas
Chairman of the Board of OFSO*

Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹⁷

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]¹⁸

Financial Services Ombudsman Draft Fee Scheme (Jersey) 2017

- 1 This fee scheme is made:
 - on [insert date], 2016;
 - by the Office of the Financial Services Ombudsman (OFSO) established by the Law; and
 - in accordance with regulation 2 of the Regulations.
- 2 This scheme:
 - is for 2017 and subsequent years (until any subsequent fee scheme is made);
 - will be published on [insert date] 2016; and
 - will come into effect on 1 January 2017 for all chargeable complaints.
- 3 In this scheme:
 - 'providers' means financial services providers within OFSO's jurisdiction;
 - 'registered providers' has the same meaning as defined in the Regulations;
 - 'ombudsman' means any CIFO ombudsmen;
 - 'levy' means the levy payable under the relevant levy scheme made by OFSO under the Regulations; and
 - 'chargeable complaint' means a complaint for which a case fee is payable as shown in paragraph 4.
- 4 Each provider must pay to OFSO a case fee for each complaint against the provider that is referred to OFSO, unless, in the opinion of an ombudsman:
 - on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or
 - at any time, the complaint is rejected as frivolous or vexatious.
- 5 The amount of the case fee for each complaint received on or after 1 January 2017 will be:
 - nil for Community Savings Limited;
 - £300 for any registered provider that is liable to pay a levy; and
 - £750 for any other provider.
- 6 The amount of the case fee for each complaint received prior to 1 January 2017 will be:
 - nil for Community Savings Limited;
 - £200 for any registered provider that is liable to pay a levy; and
 - £600 for any other provider.
- 7 Ordinarily, OFSO will invoice any case fees annually in arrears. For registered providers that are subject to the annual levy, OFSO will invoice any case fees in conjunction with the levy.

¹⁷ www.jerseylaw.je/Law/Display.aspx?url=LawsInForce%2fhtm%2flawfiles%2f2014%2fL-14-2014.htm

¹⁸ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cR0Files%5cR%26OYear2015%2fR%26O-009-2015.htm

- 8 But if any provider accumulates 10 or more chargeable complaints OFSO may issue an interim case fee invoice.
- 9 Any case fee invoice (including any interim case fee invoice) is due and payable within 28 days of the date of the invoice. If it remains unpaid, OFSO may add interest at 6% per annum from the due date until paid plus any debt collection costs incurred by OFSO.
- 10 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Jersey) 2017.

*David Thomas
Chairman of the Board of OFSO*
