
Consultation Paper 10

2017 Levy schemes

Issued: 03 February 2017

A: This consultation

The Channel Islands Financial Ombudsman (CIFO) is funded by a system of case fees and levies payable by financial services providers. New schemes are published each year in respect of the CIFO levies, showing the total levy income required for that year and the levy amounts for providers operating in each sector of activity.

CIFO has prepared new draft schemes for the 2017 levies. This is not a consultation about CIFO's total budget for 2017, which has already been approved by Guernsey's Committee for Economic Development and Jersey's Minister for Economic Development, Tourism, Sport & Culture, but a consultation about how the total cost should be divided amongst levy-paying financial services providers.

The 2017 CIFO budget and determination of 2017 levy amounts has taken into account the projected case fee revenue resulting from the recent change to case fees (see section D).

CIFO's budgeted expenditure for 2017 has increased but with careful management of the reserves and the income from case fees, the increase in the total levy amount required from 2016 to 2017 is 5.7% (see section F on page 4). The amounts payable by individual levy-payers are also affected by changes in the numbers of providers licensed in each sector of activity.

After this consultation closes, CIFO will start a multi-phase consultation during 2017-8 on revising CIFO's funding model, with any changes effective for the 2019 financial year, see Section E.

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

Section B explains how to respond. Section C explains the role of CIFO. Section D explains the legal background. Section E explains the background on CIFO funding and the planned review of the whole funding approach. Section F explains the issues covered by this consultation. The proposed 2017 Jersey Levy Scheme and the proposed 2017 Guernsey Levy Scheme are shown in the annex.

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 20 March 2017.

C: The Channel Islands Financial Ombudsman (CIFO)

CIFO is the joint operation of the Office of the Financial Services Ombudsman (Jersey) and the Office of the Financial Services Ombudsman (Guernsey) established by the Financial Services Ombudsman (Jersey) Law 2014 [‘the Jersey Ombudsman Law’]¹ and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [‘the Guernsey Ombudsman Law’].²

CIFO is independent of the States. It 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. 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 commenced resolving complaints on 16th November 2015.

D: Legal background

The Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015³ [‘the Jersey Funding Regulations’] and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015⁴ [‘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.

The Jersey Ombudsman Law, the Guernsey Ombudsman Law, the Jersey Funding Regulations and the Guernsey Funding Order were amended in 2016 by the following pieces of legislation so that the funding of CIFO for the 2017 and 2018 financial years continues to be shared on an equal basis between Guernsey and Jersey:

- the Financial Services Ombudsman (Case-Fee and Levy) (Amendment) (Jersey) Regulations 2016⁵;

¹ <https://www.jerseylaw.je/laws/revised/Pages/13.255.aspx>

² www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014

³ <http://www.jerseylaw.je/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm>

⁴ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

⁵ <https://www.jerseylaw.je/laws/enacted/Pages/RO-117-2016.aspx>

- the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (Amendment) Ordinance, 2016⁶;
- The Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) (Amendment) Order, 2016⁷.

New levy schemes are published for each financial year at www.ci-fo.org/resource-room/funding/. CIFO consulted in November 2016⁸ on a proposed Financial Services Ombudsman Fee Scheme (Jersey) 2017 [‘the 2017 Jersey Fee Scheme’] and a proposed Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2017 [‘the 2017 Guernsey Fee Scheme’]. These increase case fees for complaints received on or after 1 January 2017. The fee schemes⁹ were made and were published with a feedback paper on the consultation¹⁰ on 20 December 2016.

E: Background on the funding of CIFO and planned review

The original proposed framework for the funding of CIFO was set out by the States of Jersey and the States of Guernsey in a joint consultation document¹¹ in the autumn of 2014. This included a 50/50 split of the total levies payable by relevant financial services providers in Jersey and the Bailiwick of Guernsey.

The Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015¹² and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015¹³, gave CIFO power to make schemes for levies and case fees for 2015 and subsequent financial years.

As noted in Section D, on the recommendation of CIFO, amending legislation was implemented in 2016 to extend the current approach of dividing the overall costs of CIFO’s operation evenly between Jersey and Guernsey through to the end of 2018 (see Feedback on Consultation Paper 7: Funding of the Channel Islands Financial Ombudsman¹⁴). The extended period will provide for sufficient historical complaint volume data from the first two full years of CIFO’s operation to inform consideration of potential alternative approaches to funding the joint operation of CIFO (see below).

CIFO intends to consult during 2017 on the broad principles of different funding approaches to allocate CIFO’s operating costs and will be seeking views from all stakeholders in due course. CIFO will then consult on the detail of alternative approaches in 2018, with the benefit of two years’ data on complaint volumes, with a view to implementation of a revised funding approach in 2019, after any necessary legislative amendments.

⁶ <http://www.guernseylegalresources.gg/article/156922/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014-Amendment-Ordinance-2016>

⁷ <http://www.guernseylegalresources.gg/article/156055/No-44---The-Financial-Services-Ombudsman-Case-Fee-and-Levies-Bailiwick-of-Guernsey-Amendment-Order-2016>

⁸ Consultation Paper 9: 2017 Fee Schemes, www.ci-fo.org/resource-room/cifo-consultations/closed-consultations/

⁹ <https://www.ci-fo.org/resource-room/funding/>

¹⁰ <https://www.ci-fo.org/wp-content/uploads/2016/12/CP9-Feedback-paper-final.pdf>

¹¹ <https://www.gov.je/government/consultations/pages/ofsofunding.aspx>;
<http://www.gov.gg/CHttpHandler.ashx?id=92504&p=0>

¹² <http://www.jerseylaw.je/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm>

¹³ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

¹⁴ <https://www.ci-fo.org/wp-content/uploads/2016/11/161028-CP7-Feedback-Proposed-Revisions-to-CIFO-Funding-Scheme.pdf>

F: Issues covered by this consultation

CIFO is proposing to issue levy schemes for 2017 in the form set out in the attached annex. As outlined in Section E, CIFO will commence a wide-ranging consultation during 2017 on potential alternative approaches to funding the joint operation of CIFO from 2019. The proposed 2017 schemes maintain the existing funding approach for another year.

Stakeholders are invited to comment on the proposed 2017 Guernsey Levy Scheme and proposed 2017 Jersey Levy Scheme, which are shown in full in Annex A.

The following sections give more background on the levy calculations and the zero-rating process under the proposed schemes. Paragraph [10] of the schemes has been amended to change the word 'will' to 'may'.

Calculation and division of levy

CIFO's expenditure for 2017 has increased but with careful management of the reserves and the income from case fees, the increase in the total levy amount required has been kept to 5.7%.

A principal reason for CIFO's increased costs is additional staffing. The office monitored staffing and workload carefully after commencing operations in November 2015. During 2016, CIFO's first full year of operation, CIFO experienced higher than anticipated complaint volumes compared to the assumptions used during the initial planning for its establishment. As a result, an additional case handler has been added for 2017. For a small operation, where staffing is a major part of the budget, adding one staff member means a step-change increase in the budget. The current funding model, which was planned as a simple but fair approach, has proved quite expensive to operate. CIFO has taken steps to mitigate future costs and improve efficiency by bringing various finance functions that were previously outsourced, including billing and collection, in-house. The total budgeted costs for 2017 are £794,168, in accordance with the 2017 budgets that have been approved by Guernsey's Committee for Economic Development and Jersey's Minister for Economic Development, Tourism, Sport & Culture.

Mindful of the need to minimise year-on-year variability of levy amounts for the benefit of levy-payers, CIFO has undertaken scenario analysis to plan for 5.7% year-on-year increases to total levies for 2017 and, provided working assumptions on case numbers remain valid, for 2018 whilst maintaining operating reserves at a level sufficient to safeguard CIFO's operations through to the end of 2018. This approach seeks to provide both CIFO and industry with a period of stability in advance of a new funding model to be implemented effective 1 January 2019.

As shown in Schedule B of the proposed 2017 Jersey Levy Scheme and 2017 Guernsey Levy Scheme, CIFO seeks to raise £619,617 in total through levy income in 2017, which represents a 5.7 % increase on the 2016 required levy income. The calculation of the total levy income is shown in paragraph 1 of Schedule B; calculated from the 2017 budgeted costs, less the estimated case fee income and the surplus from reserves. This total divided by two gives the total levy payable by Jersey's and Guernsey's registered providers.

The case fee income for 2017 has been estimated at £62,100, based on 2016 complaint volumes. Case fees will ordinarily be collected with the following year's levies, as set out in paragraph 7 of the Guernsey Fee Scheme and the Jersey Fee Scheme¹⁵.

CIFO's Board seeks to have an operating reserve equal to approximately 6 months' worth of annualised operating expense to allow for issues such as volatility in case volumes and changes in the number of CIFO levy payers and to ensure sufficient cash on-hand to fund operations through the year. No contribution to CIFO reserves is planned for 2017 and approximately £112,500 from the reserves will be used to reduce the amount of funding required to be raised through the 2017 levy whilst maintaining the reserves at an appropriate level.

The method of dividing the levy amongst registered providers in each island is the same as for the operational levy in 2016. Half of the total 2017 levy to be raised will be divided among bank licensees in respect of their deposit-taking licence. The balance is to be divided equally among registered providers in respect of the other sectors on a per sector of activity basis. See schedule B, paragraph 2 of the proposed 2017 Jersey Levy Scheme and 2017 Guernsey Levy Scheme. The planned levy amounts for the banking sector of activity and other sectors are shown in table 1. The planned levy amounts have been calculated using a best estimate, at the current date, of the predicted number of levy-payers for 2017. This estimate is based on the numbers of levy-payers in 2016 and initial analysis of the data provided by the regulators on the number of registered providers as at 3 January 2017, see below. It takes into account changes in the number of registered providers and includes estimates on the number of new registered providers that will be eligible for zero rating. Further information from new registered providers may refine the estimate further.

Table 1	Banking sector levy 2016	Banking sector planned levy 2017	Other sector levy 2016	Other sector planned levy 2017
Guernsey	£5,426	£6,454	£616	£794
Jersey	£4,726	£5,342	£701	£794

Differences in the number of registered providers in each sector in each island and the number of these that could generate eligible complaints mean the actual levy amount for each licence or sector of activity can differ between the islands, even though the total levy amount to be raised from each is the same. The current predicted number of levy-payers for sectors other than banking for 2017 is the same in each island. The predicted number of levy-payers is lower than that used to calculate the 2016 levies, for both the banking and non-banking sectors in each island. While CIFO has kept the increase to the total required to be raised by the levy to 5.7%, the lower number of predicted 2017 levy-payers means the levy payable for each sector of activity has increased by more than 5.7% from 2016 levels. This has particular effect in the Guernsey non-banking sector; however, the 2017 levy amount for the Guernsey non-banking sector is no more than the equivalent for Jersey.

Entitlement to zero-rating

Data has been provided by the Financial Services Commissions on registered providers as at 3 January 2017 for the relevant sectors.

Providers that are registered providers on 3 January 2017 in the relevant sectors must pay a levy, unless they are entitled to zero-rating. CIFO has granted automatic zero-ratings to

¹⁵ <https://www.ci-fo.org/resource-room/funding/>

certain registered providers as shown in schedule A of the proposed schemes. CIFO will also grant zero-rating to registered providers that are sufficiently unlikely to generate eligible complaints and that have certified as such in accordance with schedule A of the proposed 2017 Jersey Levy Scheme and 2017 Guernsey Levy Scheme.

Because of the way in which the data are classified by the Financial Services Commissions, it is not consistently apparent whether or not a particular provider is entitled to zero-rating – so CIFO needs to seek such information from some providers themselves.

The automatic zero-ratings in the proposed schemes remain the same as in the 2016 Jersey Levy Scheme and 2016 Guernsey Levy Scheme.

CIFO will carry forward the status of registered providers that have previously certified their eligibility for zero-rating.

Other registered providers will be sent levy notices, which will include an option to certify as zero-rated within 28 days of the levy notice.

Changes to entitlement to zero rating

Existing registered providers that have become entitled to zero-rating will be able to certify their eligibility via CIFO's website either before the publication of the proposed 2017 levy schemes or in response to a levy notice.

A new paragraph [6] of Schedule A requires registered providers that cease to be, or have ceased to be, entitled to zero-rating to inform CIFO. Paragraph 5 of the scheme has also been amended accordingly as regards liability to pay the levy retrospectively in the event of a failure to notify of a change in entitlement. CIFO will keep under review the question of how often registered providers should be asked to certify eligibility for zero-rating.

Planned timing

April 2017: Prescribe 2017 Jersey Levy Scheme and 2017 Guernsey Levy Scheme and commence issuing levy notices to banking sector.

May 2017: Issue levy notices to other sectors.

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

Q2: Do you have any feedback on the 2016 levy process, such as on the ease of use of the zero-rating certification form and the clarity of the documentation?

Annex:

Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹⁶

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]¹⁷

Draft Financial Services Ombudsman Levy Scheme (Jersey) 2017

- 1 This levy scheme is made:
 - on [xx April] 2017;
 - by the Office of the Financial Services Ombudsman [OFSO] established by the Law; and
 - in accordance with regulation 4 of the Regulations.
- 2 This scheme:
 - is for the 2017 year of assessment, which is the spending year ending on 31 December 2017;
 - will be published on [xx April] 2017; and
 - will come into effect on [xx+1 April] 2017.

It will be published at www.ci-fo.org – the website of the Channel Islands Financial Ombudsman (CIFO), which is the joint operation of OFSO 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 OFSO'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 OFSO under the Regulations;
 - 'relevant financial services business' has the same meaning as defined in the Financial Services Ombudsman (Exempt Business) (Jersey) Order 2014¹⁸; 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 3 January 2017 must pay to OFSO a levy, unless it is entitled to zero-rating under schedule A below.
- 5 Any registered provider that claims a zero-rating incorrectly, or fails to inform OFSO that it is no longer eligible for zero-rating, will be liable to pay the levy retrospectively. OFSO may add interest at 6% per annum from the original due date of the levy until paid plus any debt-collection costs incurred by OFSO. 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.

¹⁶ <https://www.jerseylaw.je/laws/revised/Pages/13.255.aspx>

¹⁷ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm

¹⁸ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2014%2fR%26O-158-2014.htm

- 7 OFSO 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, OFSO may add interest at 6% per annum from the due date until paid plus any debt-collection costs incurred by OFSO.
- 8 Starting on [xx+1] April 2017:
- OFSO will start the process to send levy notices to registered providers, in the sectors of activity shown in schedule B, paragraph 4, that are not zero-rated. Note that the actual date of the levy notice received may be after [xx+1] April 2017 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 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 2017 year of assessment in respect of any provider that, after 3 January 2017 and before 1 January 2018:
- 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 may 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 may serve a levy notice on a registered provider's agent/representative (instead of on the registered provider), or on a registered provider at the address of its agent/representative, if:
- the registered provider has nominated that agent/representative or that address; or
 - OFSO is otherwise satisfied that the agent/representative is the registered provider's agent/representative for this purpose.¹⁹
- 12 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Jersey) 2017.

David Thomas
Chairman of the Board of OFSO

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.

¹⁹ Financial Services Ombudsman (Case-fee and Levy) (Amendment) (Jersey) Regulations 2016
www.jerseylaw.ie/laws/enacted/Pages/RO-117-2016.aspx

- 3 Other registered providers may apply to OFSO for zero-rating in respect of the 2017 levy if they:
- 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 Jersey.
- 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, above, if the registered provider:
- certified its eligibility for zero-rating in respect of the 2015 or 2016 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.
- 6 Registered providers that have been granted zero-rating must advise OFSO if they are, or become, no longer eligible for zero-rating.
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Schedule B: calculation and division of levy

- 1 Under the Regulations, the total levy payable by Jersey registered providers is $(X-Y) / 2$ where:
- X = costs plus contribution to reserves plus any prior-year deficit of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey = £794,168; and
 - Y = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey = £174,551;
- making a total of $£619,617 / 2 = £ 309,809$ [the total Jersey levy].
- 2 The total Jersey 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 £5,342 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 £794 per activity for each registered provider (including bank licensees for activities other than deposit-taking).
- 3 For the purpose of dividing the total Jersey levy, the sectors of activity 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 1988²⁰;
 - 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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²⁰ Chapter 13.100

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]²¹

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]²²

Draft Financial Services Ombudsman

Levy Scheme (Bailiwick of Guernsey) 2017

- 1 This levy scheme is made:
 - on [xx April] 2017;
 - by the Office of the Financial Services Ombudsman [OFSO] established by the Law; and
 - in accordance with articles 3 and 8 of the Order.
- 2 This scheme:
 - is for the 2017 year of assessment, which is the spending year ending on 31 December 2017;
 - will be published on [xx April] 2017; and
 - will come into effect on [xx+1 April] 2017.

It will be published at www.ci-fo.org – the website of the Channel Islands Financial Ombudsman (CIFO), which is the joint operation of OFSO 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 OFSO'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 OFSO under the Order;
 - 'relevant financial services business' has the same meaning as defined in the Financial Services Ombudsman (Exempt Business) (Bailiwick of Guernsey) Order, 2015.²³; 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 3 January 2017 must pay to OFSO a levy, unless it is entitled to zero-rating under schedule A below.
- 5 Any registered provider that claims a zero-rating incorrectly, or fails to inform OFSO that it is no longer eligible for zero-rating, will be liable to pay the levy retrospectively. OFSO may add interest at 6% per annum from the original due date of the levy until paid plus any debt-collection costs incurred by OFSO. 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 OFSO 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, OFSO may add interest at 6% per annum from the due date until paid plus any debt-collection costs incurred by OFSO.

²¹ <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

²² <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

²³ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95900&p=0>

- 8 Starting on [xx+1 April] 2017:
- 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 [xx+1 April] 2017 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 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 2017 year of assessment in respect of any provider that, after 3 January 2017 and before 1 January 2018:
- 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 may 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 may serve a levy notice on a registered provider's agent/representative (instead of on the registered provider), or on a registered provider at the address of its agent/representative, if:
- the registered provider has nominated that agent/representative or that address; or
 - OFSO is otherwise satisfied that the agent/representative is the registered provider's agent/representative for this purpose.²⁴
- 12 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2017.

David Thomas
Chairman of the Board of OFSO

²⁴ [Financial Services Ombudsman \(Case Fee and Levies\) \(Bailiwick of Guernsey\) \(Amendment\) Order, 2016](http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=104109&p=0)
www.guernseylegalresources.gg/CHttpHandler.ashx?id=104109&p=0

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-rate²⁵ 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 2017 levy if they:
 - 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 its eligibility for zero-rating in respect of the 2015 or 2016 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.
- 6 Registered providers that have been granted zero-rating must advise OFSO if they are, or become, no longer eligible for zero-rating.

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 = £794,168; and
 - Y = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in Jersey = £174,551;

making a total of £619,617 / 2 = £ 309,809 [the total Guernsey levy].

²⁵ 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

- 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 £6,454 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 £794 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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