

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]¹

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

Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2017

- 1 This levy scheme is made:
 - on 29 March 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 07 April 2017; and
 - will come into effect on 10 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, 2015.³; 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.

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

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

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

- 8 Starting on 10 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 10 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.⁴
- 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

⁴ [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-rate⁵ 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].

⁵ 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 £807 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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