

Consultation Paper 15 **2019 Levy Schemes**

Issued: 2 January 2019

A: This consultation

The Channel Islands Financial Ombudsman (CIFO) is funded by a system of case fees and levies payable by financial services providers (FSPs).

This consultation is on the proposed 2019 levy schemes, which show the total levy income required for the year and the levy amounts for providers operating in each sector of activity. The total amount to be raised in levies in 2019 needs to be higher than in 2018 and Section F1, page 4, explains that this is due to three principal factors: increased staffing at CIFO after consideration of workload since 2015, the ending of the two-year subsidy of levies from the surplus in CIFO's operating reserves and a modest replenishing of those reserves after unforeseeable expenses in 2018.

2019 will be the last year for the current funding structure under which the levy charged to individual FSPs differs depending on the island in which they are based. In 2018, CIFO's board decided to change to a new funding structure² after concluding an 18-month review of CIFO's funding. This change will take effect from the start of 2020.

This is not a consultation about CIFO's total budget for 2019, which has 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 for CIFO in 2019 should be divided amongst levy-paying FSPs.

Interested parties – including representative bodies of FSPs and the Financial Services Commissions – are invited to respond on the proposed levy schemes for 2019, which are in the Annex on page 8.

Section B explains how to respond. Section C explains the role of CIFO. Section D explains the legal background for the charging of annual levies by CIFO. Section E outlines the recent review of CIFO's funding structure. Section F explains the issues covered by this consultation in respect of the calculation of CIFO's levies for 2019 and other changes to the levy schemes.

² <https://www.ci-fo.org/wp-content/uploads/2018/10/181026-CP14-feedback-statement-1.pdf>

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 1 February 2019.

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’]³ and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [‘the Guernsey Ombudsman Law’].⁴

CIFO is independent of the States and also of financial services providers and their customers. It resolves complaints against FSPs – 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 2015⁵ [‘the Jersey Funding Regulations’] and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015⁶ [‘the Guernsey Funding Order’] provide for CIFO to prescribe schemes for case fees and levies to be paid by certain FSPs in respect of the expenses of CIFO.

Section E1 explains the outcome of a review of CIFO’s funding. The continuation of the current funding structure for one further year required minor amendments to the Jersey Ombudsman Law, the Guernsey Ombudsman Law, the Jersey Funding Regulations and the Guernsey Funding Order. These were amended in 2018 by the following pieces of legislation so that the funding of CIFO continues to be shared on an equal basis between Guernsey and Jersey for the 2019 financial year:

³ www.jerseylaw.je/Law/display.aspx?url=lawsinforce%5chtm%5cLawFiles%5c2014%2fl-14-2014.htm

⁴ www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014

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

⁶ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

- the Financial Services Ombudsman (Case-fee, Levy and Budget - Amendments) (Jersey) Regulations 2018⁷;
- the Financial Services Ombudsman (Bailiwick of Guernsey) [Law, 2014] (Amendment) Ordinance, 2018⁸;
- The Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) (Amendment) Order, 2018⁹.

New levy schemes are published, after consultation and with explanatory notes, for each financial year at www.ci-fo.org/resource-room/funding/. The schemes set out details such as which financial services providers must pay a levy, the amount of the levy for the different sectors of activity, how the levy is calculated and the circumstances in which FSPs can be eligible for zero-rating.

E: CIFO funding review 2017-2018

From April 2017 to June 2018, CIFO carried out a detailed review of its funding with four stages of consultation.

1: Funding review outcome

After the final stage of consultation, CIFO's board decided to adopt a new structure for the annual levies. This is broadly based on the existing model of a fixed charge (by way of annual levy) to be divided among all relevant FSPs in both islands and a user-pays charge (by way of case fees) to be paid by those FSPs about which cases are handled by CIFO.

The new structure will use a different method to divide the total levy amount so that, for example, the levy for a Jersey bank would be the same as for a Guernsey bank and a Guernsey investment business would pay the same as a Jersey investment business. There will also be a change to align the number of sectors in each island, see Section E2, below. Details of the new structure can be found in the feedback paper¹⁰ to consultation paper 14 (CP14) on the new CIFO funding structure. As explained in the feedback paper, it was not possible to develop the necessary changes to legislation to implement the new structure for 2019, so the new funding structure will be put in place for 2020.

2019 will therefore be the last year for the current method of division of the total levy amount and the last in which the levy charged to individual financial services providers differs depending on the island in which they are based.

2: investment sector harmonisation

One part of the new funding structure does not require legislative change and so is intended to be implemented with the 2019 levy schemes.

The CIFO levy is payable per sector of activity for which, at a set date in January of the relevant year, a provider is registered with or holds a licence, permit or certificate from the Financial Services Commissions. As readers may recall, consultation paper 14¹¹ (CP14) on the new CIFO funding structure noted in April 2018 that the sectors of activity in the CIFO levy schemes differ in relation to investments between the Bailiwicks. CP14 proposed that the

⁷ <https://www.jerseylaw.je/laws/enacted/Pages/RO-126-2018.aspx>

⁸ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=116844&p=0>

⁹ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=115534&p=0>

¹⁰ <https://www.ci-fo.org/wp-content/uploads/2018/10/181026-CP14-feedback-statement-1.pdf>

¹¹ [https://www.ci-fo.org/wp-content/uploads/2018/04/CP14-CIFO-Funding-Structure-Final-Consultation-Final-Version-180418\[2\].pdf](https://www.ci-fo.org/wp-content/uploads/2018/04/CP14-CIFO-Funding-Structure-Final-Consultation-Final-Version-180418[2].pdf)

separate Jersey levy sectors of investment business and functionalities of recognized funds should be combined, for consistency with the approach in Guernsey where there is a single investment sector. The feedback paper⁸ to this consultation confirmed that this change would be made in the 2019 levy schemes.

F: Issues covered by this consultation

As explained in section E, 2019 will be the last year for the current funding structure under which the levy charged to individual financial services providers differs depending on the island in which they are based. The levy amount differs because currently 50% of the total amount required to be raised by levies must be raised from FSPs in Guernsey and 50% from FSPs in Jersey, and therefore the different number of FSPs in the banking and other sectors in each island mean the levy amount per FSP is different.

1: Planned timing of levy notice issuance

Stakeholders may observe that the timing of this consultation on this year's levies is earlier than in previous years. This is in order to ensure that income is collected promptly for the year, as the planned operating reserve will be at a lower level than in previous years, see Section F2 below. This year CIFO is planning to publish the levy schemes in February and commence issuing the levy notices in March 2019. As in previous years the levy notices will be issued in tranches, first to the banking sector and subsequently to other sectors.

February 2019:	Prescribe 2019 Jersey Levy Scheme and 2019 Guernsey Levy Scheme.
March 2019:	Commence issuing levy notices to banking sector.
June 2019:	Commence issuing levy notices to other sectors.

2: 2019 levy calculations

The calculations of the 2019 levies are set out in Schedule B of the proposed Financial Services Ombudsman Levy Scheme (Jersey) 2019 [the proposed 2019 Jersey Levy Scheme] and the proposed Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2019 [the proposed 2019 Guernsey Levy Scheme], both of which can be found in the annex to this paper, see page 8.

The total amount to be raised in levies in 2019 needs to be higher than in 2018 and this is due to three principal factors, which are explained in the following paragraphs. In summary:

- the operating expenses have been budgeted at a higher level for 2019;
- the deliberate two-year plan to subsidise the levy through the return of excess cash from the operating reserve concluded in 2018; and
- a modest replenishing contribution to reserves is planned (in part as a result of additional case-related expenses incurred in 2018).

CIFO was established and began its work of resolving complaints in November 2015 as a lean organisation. Without a predecessor complaints handling body, there was no certainty about the volume or nature of complaints that would be referred to CIFO. The CIFO Board kept the required capacity of the office under review and awaited clarity on complaint volume trends and the implications for CIFO's workload to avoid adding capacity prematurely. This approach has, to date, minimised the funding required to be raised through levies from FSPs, though at the risk of under-resourcing case handling for the volume of complaints that subsequently emerged and cutting back on feedback and guidance to industry and consumers regarding complaint themes and CIFO's approach.

In its 2018 mid-year review of CIFO’s operation, the Board noted that CIFO’s workload had grown steadily since commencement of operations with a mixture of single complaints alongside numerous large multiple complaint situations. This growth can be seen in the annual reports and quarterly complaint reports, which are published on CIFO’s website¹². In response, the CIFO Board and management decided to add staff capacity including a fourth case handler. This incremental staff cost is reflected in an operating expense budget for CIFO in 2019 of £918,404 that is just under 16% higher than 2018. A careful review of other individual expense lines sought to obtain savings in other areas to minimise the overall increase. In accordance with CIFO’s statutory requirements, the 2019 budget has been approved by the Guernsey Committee for Economic Development and the Jersey Minister for Economic Development, Tourism, Sport and Culture.

As readers may recall, the calculations of the 2017 and 2018 levies included a subsidy to reduce the levy amount paid by the industry through the planned return of excess cash from CIFO’s operating reserve over the two years. This subsidy enabled CIFO to keep to modest year-over-year increases in the overall levy amount paid by FSPs.

During 2018, CIFO incurred unforeseeable and therefore unbudgeted case-related expenses (including legal fees, consultancy and support costs). These costs can be met from operating reserves and recovered the following year by replenishing the reserves. In order to maintain operating reserves at a level sufficient to safeguard CIFO’s operations through to the end of 2019, the Board has decided that the total levy amount will include the modest budgeted contribution to reserves of £21,000.

CIFO anticipates receiving case fees of £67,000 during 2019, therefore the total amount required to be raised through levies is £872,404, see Schedule B of the proposed levy schemes in the Annex. This total is 33% higher than the total required in 2018.

The method of dividing the levy amongst registered providers in each island is the same as in preceding years. Half of the total 2019 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 2019 Jersey Levy Scheme and 2019 Guernsey Levy Scheme. The proposed levy amounts for 2019 for the banking sector of activity and other sectors are shown in Table 1, with the levy amounts for 2018.

Table 1: CIFO levy amounts	Banking sector levy	Proposed banking sector levy	Other sectors levy	Proposed other sectors levy
	2018	2019	2018	2019
Guernsey	£7,799	£10,905	£963	£1,185
Jersey	£6,551	£8,389	£947	£1,253

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 island is the same.

¹² www.ci-fo.org/news-publications/

The levy amounts in Table 1 have been calculated using a best estimate of the predicted number of levy-payers for 2019 at the current time. This estimate will be reviewed as further information is obtained by CIFO, which may result in slight changes to the levy amounts. The current estimate is based on the numbers of CIFO levy-payers in 2018 and analysis of data provided to CIFO by the Financial Services Commissions in late September and early October 2018 updating the number of registered providers. It therefore takes into account changes in the number of registered providers in the first three-quarters of 2018 and includes conservative estimates on the proportion of new registered providers that will be eligible for zero rating.

Information is being gathered from new registered providers on whether or not they are eligible for zero rating and further data will be provided by the regulators on registered providers as at 2 January 2019. This will be used to refine further the predicted number of levy-payers for 2019 and may result in slight changes to the levy amounts.

3: Harmonisation of investment sectors

Paragraph 3 of Schedule B in both the proposed 2019 Jersey Levy Scheme and the proposed 2019 Guernsey Levy Scheme shows the sectors of activity for which a levy is charged.

In accordance with the outcome of the CIFO funding review, see Section E2: investment sector harmonisation (page 3), the proposed 2019 Jersey Levy Scheme now shows a single investment category which includes investment business and functionaries of recognized funds within the meaning of the Collective Investment Funds (Jersey) Law 1988¹³. In previous years the levy schemes for Jersey have contained a separate sector for functionaries of recognized funds within the meaning of the Collective Investment Funds (Jersey) Law 1988 and another sector for investment business. This meant that a financial services provider active in both those sectors would pay two levies, whereas the equivalent in Guernsey would pay only one as the Guernsey levy schemes in previous years and the proposed 2019 Guernsey Levy Scheme have a single investment sector, which includes fund services providers of Class A funds.

While this change will only affect a very small number of entities and therefore has had a minimal effect on the levy amount, it improves fairness and consistency of approach across the Bailiwicks.

4: Entitlement to zero-rating

Data will be provided by the Financial Services Commissions on registered providers as at 2 January 2019 for the relevant sectors.

Providers that are registered providers on 2 January 2019 in the relevant sectors must pay a levy, unless they are entitled to zero-rating on that date. CIFO has granted automatic zero-ratings to certain registered providers as shown in schedule A of the proposed schemes. The automatic zero-ratings in the proposed schemes remain the same as in the 2018 Jersey Levy Scheme and 2018 Guernsey Levy Scheme. CIFO will also grant zero-rating to registered providers that, throughout 2019, are sufficiently unlikely to generate eligible complaints and that have certified as such in accordance with schedule A of the proposed 2019 Jersey Levy Scheme and 2019 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.

¹³ Chapter 13.100

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.

5: Changes to entitlement to zero rating

Registered providers that cease to be, or have ceased to be, entitled to zero-rating are required to inform CIFO. 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 2019 levy schemes or in response to a levy notice.

6: Consultation questions

Interested parties are asked to provide comments on the proposed 2019 Jersey Levy Scheme and the proposed 2019 Guernsey Levy Scheme.

Annex:

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]¹⁴

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]¹⁵

Draft Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2019

- 1 This levy scheme is made:
 - on xx 2019;
 - 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 2019 year of assessment, which is the spending year ending on 31 December 2019;
 - will be published on x February 2019; and
 - will come into effect on x+1 February 2019.

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, 2015¹⁶; 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 2 January 2019 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.

¹⁴ <http://www.quernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

¹⁵ <http://www.quernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

¹⁶ <http://www.quernseylegalresources.gg/CHttpHandler.ashx?id=95900&p=0>

- 8 Starting on 1 March 2019:
- 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 1 March 2019 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 2019 year of assessment in respect of any provider that, after 2 January 2019 and before 1 January 2020:
- 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 If in the opinion of OFSO's Board there are exceptional circumstances making it fair to do so, OFSO's Board may waive or vary the application of any provision of this levy scheme to a registered provider.
- 12 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.¹⁷
- 13 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2019.

David Thomas
Chairman of the Board of OFSO

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.

¹⁷ [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

- 2 OFSO will automatically zero-rate¹⁸ 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 2019 levy if, throughout 2019, they:
- will not do business, or are sufficiently unlikely to do business, with eligible complainants; or
 - will not, or 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 a preceding 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 = £939,404; and
 - Y = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in Jersey = £67,000;
- making a total of $£872,404 / 2 = £436,202$ [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 £10,905 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 £1,185 per activity for each registered provider (including bank licensees for activities other than deposit-taking).

¹⁸ 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

- 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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Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹⁹

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]²⁰

Draft Financial Services Ombudsman Levy Scheme (Jersey) 2019

- 1 This levy scheme is made:
- on xx February 2019;
 - 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 2019 year of assessment, which is the spending year ending on 31 December 2019;
 - will be published on xx February 2019; and
 - will come into effect on xx+1 February 2019.

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 2014²¹; 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 2 January 2019 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.

¹⁹ <https://www.jerseylaw.ie/laws/enacted/Pages/L-14-2014.aspx>

²⁰ www.jerseylaw.ie/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm

²¹ www.jerseylaw.ie/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2014%2fR%26O-158-2014.htm

- 8 Starting on 1 March 2019:
- 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 1 March 2019 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 2019 year of assessment in respect of any provider that, after 2 January 2019 and before 1 January 2020:
- 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 If in the opinion of OFSO's Board there are exceptional circumstances making it fair to do so, OFSO's Board may waive or vary the application of any provision of this levy scheme to a registered provider.
- 12 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.²²
- 13 This scheme may be cited as the Financial Services Ombudsman Levy Scheme (Jersey) 2019.

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.

²² 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 2019 levy if, throughout 2019, they:
- will not do business, or are sufficiently unlikely to do business, with eligible complainants; or
 - will not, or 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 a preceding 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 = £939,404; and
 - Y = income plus any prior-year surplus of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey = £67,000;
- making a total of $£872,404 / 2 = £436,202$ [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 £8,389 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 £1,253 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;
 - insurance, including general insurance mediation business;
 - investment, which includes investment business and functionaries of recognized funds within the meaning of the Collective Investment Funds (Jersey) Law 1988²³;
 - 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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²³ Chapter 13.100