

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) 2019

- 1 This levy scheme is made:
 - on 27 February 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 27 February 2019; and
 - will come into effect on 28 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, 2015³; 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.

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 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.⁴
- 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.

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

- 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 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 £10,386 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 £1,118 per activity for each registered provider (including bank licensees for activities other than deposit-taking).

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

- 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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