CONSULTATION PAPER
ON PROPOSALS FOR

FEE RATES FOR 2023

ISSUED 20 JULY 2022

Guernsey Financial
Services Commission

Contents

1. Executive Summary

1.1. Consultation Overview

1.1.1. The Guernsey Financial Services Commission (the "Commission") is issuing this Consultation Paper on proposals for the fee rates and administrative penalties to apply from 1 January 2023, including:

- an overall proposed increase in fees of 9%, to maintain the real value of our income considering current inflation rates,
- proposals for application and annual fees in respect of our increased responsibilities for firms licensed under the Credit and Finance legislative framework,
- proposals to charge fees for consent requests to incorporate a non-regulated Protected Cell Company ("PCC") or Incorporated Cell Company ("ICC"),
- fast track fees for additional elements to open-ended fast track funds,
- to update the returns in scope of late filing penalties, and
- proposals to create an explicit administrative penalty regime for returns submitted to the Commission that are materially inaccurate.

1.1.2. The purpose of these changes is to ensure that the Commission continues to have sufficient financial resources to meet its statutory objectives, including by having the skilled staff needed to supervise firms in a proportionate manner and being able to make continued investment in our IT infrastructure.

1.1.3. The goal for this Consultation Paper is to elicit feedback on the proposed 2023 fee rates and administrative penalties.

1.2. Affected and Interested Parties

1.2.1. These proposals would directly affect all existing licensees, registered entities, and authorised entities, as well as any applicants for licensing or registration. This Consultation Paper has also been shared with governmental bodies, as required by law, and industry bodies, where appropriate. A full list of parties with whom this Consultation Paper has been shared is included in section 3.3.

1.3. Providing Feedback

1.3.1. Responses to this Consultation Paper are requested by 14 September 2022.

1.3.2. We welcome and strongly encourage respondents to provide feedback or comment. Responses are most useful when they:

- directly address a specific issue or question,
- provide a rationale and support for the opinions expressed, and
- suggest alternative solutions in the event of disagreement.

1.3.3. Feedback may be provided online through the Consultation Hub section of the Commission's website, https://consultationhub.gfsc.gg/. We also welcome meetings with industry bodies, or firms, when they have specific feedback that they would like to give.

1.3.4. Following appropriate consideration of any feedback received the Commission will consult with the States of Guernsey and provide a summary of feedback received, along with the final fees that will come into force from 1 January 2023.

2. The Commission's Mission Statement

2.1.1. The Commission seeks to regulate and supervise financial services in the Bailiwick of Guernsey with integrity, proportionality, and professional excellence, and in doing so help uphold the international reputation of the Bailiwick of Guernsey as a finance centre.

3. Purpose and Scope of this Consultation Paper

3.1. Purpose

3.1.1. This Consultation Paper seeks to detail the Commission's proposals for fee rates and administrative penalties for 2023, including changes to existing fees and proposals to create new fee types, where appropriate.

3.1.2. This Consultation Paper is on proposed fees and administrative penalties to be issued under:

- The Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020,
- The Companies (Guernsey) Law, 2008 ("the Companies Law"),
- The Limited Partnerships (Guernsey) Law, 1995,
- The Limited Liability Partnerships (Guernsey) Law, 2013,
- The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, and
- the following laws, collectively referred to as "the Supervisory Laws":
  - The Banking Supervision (Bailiwick of Guernsey) Law, 2020,
  - The Insurance Business (Bailiwick of Guernsey) Law, 2002,
  - The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,
  - The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020,
  - The Protection of Investors (Bailiwick of Guernsey) Law, 2020,
  - The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022[1], and
  - The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008.

3.2. Approach to Setting Fees

3.2.1. The Commission aims to set fees that are fair, proportionate, and broadly aligned with the costs of regulation, as far as is reasonably practicable in each case.

3.2.2. The overriding principle is that the "user pays", such that cross-subsidisation between firm types, sectors, and activity levels are reduced to the extent possible.

[1] Subject to Royal Assent.

3.2.3. For supervised firms, this is reflected through our use of bandings for charging fees. For most sectors this means that larger firms pay a higher fee, which reflects the additional resources the Commission dedicates to supervising such firms.

3.2.4. For applications, individuals and firms that make a request requiring due consideration by the Commission, such as a new licence application or change of controller, pay for it.

3.3. Parties with whom we are consulting

3.3.1. This Consultation Paper will affect all licensees, collective investment schemes, registered business, registered individuals, and applicants for licensing, registration, or authorisation, pursuant to the Supervisory Laws.

3.3.2. As required by section 13(b) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, and the relevant provisions of the Supervisory Laws, this Consultation Paper has been shared with the following bodies:

- States of Guernsey, Policy & Resources Committee,
- States of Guernsey, Committee *for* Economic Development,
- States of Alderney, Policy & Finance Committee, and
- Chief Pleas of Sark, Policy & Finance Committee.

3.3.3. This Consultation Paper has also been shared with the:

- Guernsey International Business Association,
- Association of Guernsey Banks,
- Guernsey Investment and Funds Association,
- Guernsey International Insurance Association,
- Guernsey Association of Trustees,
- Guernsey Association of Pension Providers,
- Guernsey Branch of the Institute of Directors,
- NED Forum,
- Commercial Bar Association,
- Guernsey Bar Council,
- Guernsey Association of Compliance Officers, and
- Guernsey Society for Chartered and Certified Accountants.

4. Proposals

4.1. Overall Increase in Fees

4.1.1. The Commission is seeking an overall increase in the level of fees for licensed or registered entities linked to inflation, with our rationale set out below. This has been set at 9% for the purposes of this paper, based on current market conditions, our forecast requirements for the next year and our current financial position, given our performance against budget to-date in 2022 and levels of usable reserves.

4.1.2. In particular, our assessment takes into account the need to retain and recruit skilled staff and the IT and data management systems and infrastructure necessary to ensure the Commission can continue to meet its international regulatory obligations.

Rate of Inflation

4.1.3. As noted within our 2022 Fee Consultation Paper[2], our internal financial modelling suggested that the Commission would be capable of sustaining its operations over 2023 and 2024 with fee increases benchmarked to inflation.

4.1.4. Inflation has since then increased far more than rates seen in the last 30 years. This appears to be in response to several macroeconomic factors, including:

- the impact of quantitative easing on money supply, leading to an excessive amount of fiat currency chasing a finite supply of goods,
- the conflict in Ukraine,
- the continuing impact of COVID-19 in Southeast Asia, and
- supply-chain factors following the COVID-19 pandemic.

Actual rates of inflation experienced in the UK and Crown Dependencies in 2021 and 2022, so far, are shown in Figure 1. More broadly, CPI in the OECD rose by 9.2% year-on-year to April 2022[3]. In fact, the UK's Office of National Statistics indicated CPI inflation had risen to 9.1% in the 12 months to May 2022[4] whilst recording RPI inflation as exceeding 11% in April 2022. These rates are a lagging indicator that do not reflect inflation which will be experienced to the end of 2022, or in 2023, when our proposed fee rates would take effect.

4.1.5. In its May 2022 monetary policy report, the Bank of England estimated that UK CPI inflation was likely to reach 10% in 2022[5]. Yet when it raised interest rates on 16 June 2022, it acknowledged that CPI inflation was set to outstrip this figure and hit 11% in the autumn. It is clear from this that, whatever the published current rate of inflation, future UK inflation is highly likely to exceed this value in the near term and remain high for a longer period than originally expected.

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[2] Refer to GFSC - 2022 Fee Consultation Paper - Issued.pdf, pages 9 to 10
[3] Refer to Consumer Prices, OECD - Updated: 2 June 2022 - OECD
[4] Refer to Inflation and the cost of living for UK households, overview: June 2022 – Office for National Statistics
[5] Refer to the Bank of England's May 2022 Monetary Policy Report

4.1.6. The Bailiwick is exposed to some of the same factors driving inflation globally, as can been seen by the marked increase in Guernsey RPIX in Q1 2022. While Guernsey is somewhat less exposed to some of those drivers than the UK (for example, as is the case with energy prices) it is perhaps more exposed to drivers such as increased housing costs, due to our limited supply. Our assessment of an 9% inflationary increase is based both on the data and forecasts seen, alongside factors specific to the Commission and regulatory bodies more generally.

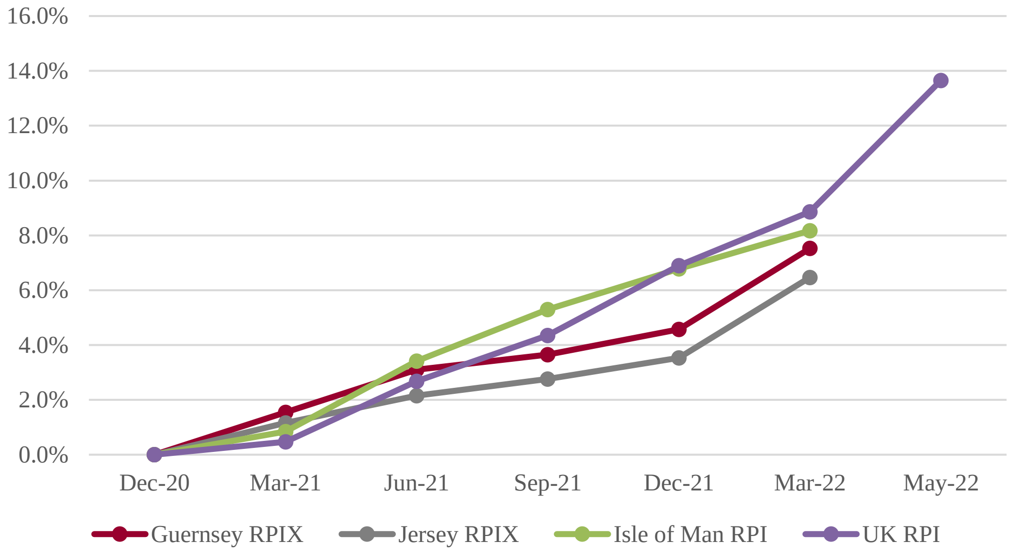

Figure 1: Percentage change in inflation indices from December 2020 to March 2022. Sources:

- Guernsey: https://gov.gg/rpi
- Jersey: https://www.gov.je/Government/JerseyInFigures/BusinessEconomy/pages/inflation.aspx
- IoM: https://www.gov.im/about-the-government/departments/cabinet-office/statistics-isle-of-man/inflation/
- UK: https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/chaw/mm23

Staff Resources

4.1.7. As highlighted in our 2021 annual report[6],the Commission has experienced high staff turnover rates over the past two years, 21% in 2021 and 16% in 2020. We identified several root causes behind this, including:

- staff being offered higher salaries by the financial services industry than we can afford,
- the costs connected with junior staff visiting family and friends in the UK being high, resulting in them relocating to be closer to them, and
- high rental and house purchase costs in the Bailiwick putting upward pressure on the cost of living.

4.1.8. Retention and recruitment of the talented staff necessary to authorise, supervise, and investigate firms is vital to ensuring we continue to meet international standards. This was highlighted as part of the findings from the inspection of the Commission by the IAIS in 2018[7] and will be pertinent to the upcoming MONEYVAL inspection in 2023/24.

[6] Refer to https://www.gfsc.gg/sites/default/files/2022-05/1962 GFSC Annual Report %26 Accounts 2021 %28web%29.pdf
[7] Refer to https://www.gfsc.gg/sites/default/files/uploads/Assessment_Report_MAP_Guernsey_2018-2019.pdf, page 29, summary of recommendations to Insurance Core Principle 2.

4.1.9. We have taken steps to mitigate some of the above. In January 2022 we gave staff an across the board, but sub-inflationary, pay rise for the first time in eight years. We have also supported housing for our graduates, who are most exposed to the Guernsey rental market.

4.1.10. To attract and retain staff, in an unusually competitive financial services market, we believe it is necessary to increase salaries based on our standard performance framework, taking into account recent growth in financial services, a buoyant job market and global market trends, and to provide further accommodation support for non-local staff. As such, the proposed fee increase is necessary given we are lightly staffed compared to our peers and we are concerned about the impact caused by high staff turnover rates.

The Costs of Regulation

4.1.11. As highlighted in our prior report, the Commission has sought to contain the level of historic fee increases beyond those necessary. Fee increases on the part of the Commission have averaged 2.25% over the last eight years. A comparison against other, comparable regulatory bodies is shown in Figure 2, demonstrating the Commission has imposed significantly lower fee increases to other regulatory bodies internationally.

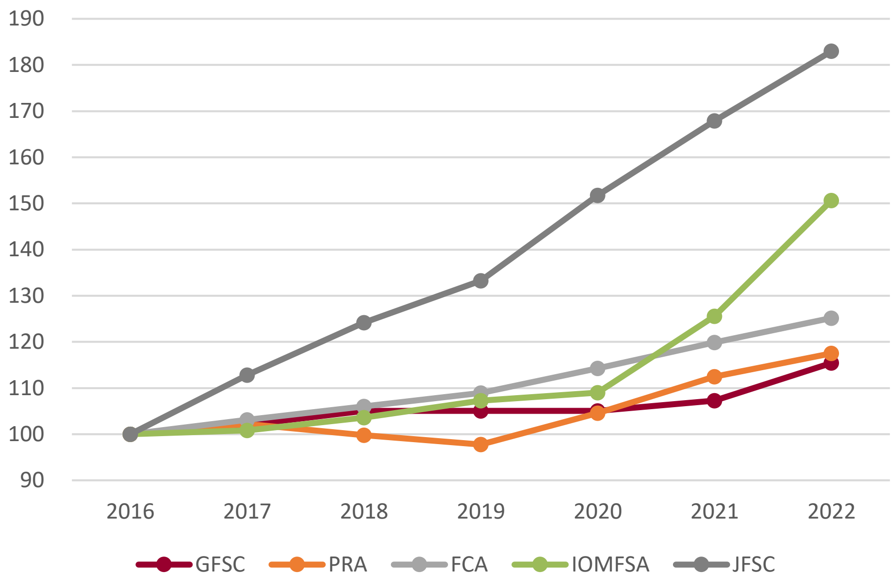

Figure 2: Average change in fees per year for selected regulatory bodies from 2017 to 2022 (2016 = 100) Source data taken from regulator news releases and websites.

4.1.12. Our comparatively lower level of fee increases has only been accomplished through cost discipline. This is despite increasing legal costs associated with enforcement cases, those costs associated with the large volume of international standards against which the Commission, and the Bailiwick, are measured, and additional responsibilities (such as the addition of pensions regulation to our mandate). As noted in previous annual reports and the 2022 fee consultation paper the volume of international standards has continued to increase. We need to reflect those increasing responsibilities and costs through a fee increase in line with inflation.

4.1.13. While the Commission experienced a small operating surplus in 2021, this was due to a combination of unanticipated factors – including the high staff turnover rates experienced and COVID-19 restrictions reducing several areas of operating expenditure – that we do not anticipate persisting going forward given the factors and actions outlined above.

4.1.14. The estimates of the Commission's financial needs for 2023 and 2024 outlined in the 2022 fee consultation paper were predicated on the assumption that future costs and expense inflation would be approximately 2%. In light of current market conditions we believe a higher, but still inflationary, fee increase is necessary to sustain the Commission's operations, given the challenges outlined above, during 2023.

Question 1: Do you have any comments on the overall proposed fee increase?

4.2. Proposed Fees for Lending, Credit and Finance Firms

4.2.1. From 1 January 2023, the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (“the Lending, Credit and Finance Law”) will come into effect, with a 1 July 2023 date for full implementation. This will widen the scope of the Commission’s prudential and conduct supervisory responsibilities to include a broad range of firms, including lenders, lending platforms, ancillary credit services, and Virtual Asset Service Providers.

4.2.2. These firms will be subject to fees that are proportionate to the cost of authorising and supervising them, consistent with our overall policy for setting fees as outlined in section 3.2.

Application Fees

4.2.3. All firms conducting regulated activity under the Lending, Credit and Finance Law will be required to apply for a licence under that law, except for those firms described in 4.2.11. The Commission will be required to assess all applicants, including those already registered or licensed by the Commission under other Supervisory Laws.

4.2.4. Proposed application fees are outlined in Appendix B.6.

4.2.5. The application review process will be consistent with those undertaken for other categories of licensee. A wide range of different types of firm are captured within the scope of the Lending, Credit and Finance Law. While some firms will be familiar to the Commission in some cases, particularly where applicants are currently registered for AML/CFT purposes only, the application review will be conducted against a higher standard than exists under the present regulatory framework and this will necessitate a greater amount of information and intensity of review.

4.2.6. In addition, some categories of firm in the scope of the Lending, Credit and Finance Law are not presently regulated by, or registered with, the Commission, such as credit brokers or Virtual Asset Service Providers. In the case of the latter such firms would undergo a higher degree of scrutiny by the Commission, necessitating review by technical experts not currently employed by the Commission. Fees for such firms have been set with this in mind.

4.2.7. It is vital that the Commission receives applications in a timely manner once the Lending, Credit and Finance Law comes into effect, so that the Commission can appropriately review applications made by existing firms ahead of the proposed 1 July 2023 implementation date. As such, where the Commission receives a comprehensive and accurate application by 28 February 2023, the relevant application fee will be discounted by 50%. All other applications will be charged the full application fee.

4.2.8. Given the anticipated volume of applications, the Commission cannot guarantee that those received after 31 March 2023 will be reviewed and, if appropriate, a licence granted by 1 July 2023, when this is fully implemented. A temporary licence may be granted in such situations, as set out below.

Annual Fees

4.2.9. Proposed annual fees are outlined in Appendix B.6. The proposed fees have been set such that, as far as is reasonably possible, the Lending, Credit and Finance sector is self-funding from a regulatory perspective.

4.2.10. Firms licensed to conduct more than one activity under the Lending, Credit and Law will only be required to pay the highest applicable fee.

4.2.11. Firms licensed under any other Supervisory Law will not require further licensing to carry out a Financial Firm Business activity (part III (B) of the Lending, Credit and Finance Law), as is presently the case with Non-Regulated Finance Services Businesses ("NRFSB"). Such firms will not be required to pay a separate annual fee for these activities.

4.2.12. Given the size of the annual fee already levied on Banking licensees, and the overlap between the supervision of deposit taking and lending activities already undertaken and those envisaged under the Lending, Credit and Finance Law, it is proposed that a 50% discount is applied to the fee applicable under the Lending, Credit and Finance regime for banking licensees.

4.2.13. Where a firm is currently registered with the Commission as an NRFSB it will be charged a pro-rata fee for registration under the NRFSB Law for the first 6 months of 2023. Those firms that are solely Finance Firm Businesses under the Lending, Credit and Finance Law will be charged a pro-rata fee for the remainder of 2023, from 1 July, following licensing.

4.2.14. Where an application has been received after 31 March 2023 and the Commission has not completed its review and approved that application, as described above, a temporary licence may be granted for the six months to 31 December 2023. This would only be available for firms that are currently licensed or registered under a Supervisory Law. This would enable the firm to continue to operate while the Commission concludes its considerations of whether to grant a full licence. A full annual fee would be charged for firms granted a temporary licence, rather than the fee being pro-rated for six months.

Question 2: Do you have any comments on the design of the proposed fee structure for the Credit and Finance regime?

4.3. Application Fees – PCC / ICC Incorporation Consent Requests

4.3.1. Incorporation of a PCC or ICC in the Bailiwick requires written consent from the Commission, pursuant to sections 438 and 468 of Companies Law, respectively. This is even when the PCC or ICC is not carrying out regulated financial activities.

4.3.2. The Commission proposes to charge a fee of £500 for each request to incorporate any PCC or ICC, as permitted under Companies Law[8]. This charge would only be levied for PCC and ICC structures that will not themselves be regulated by the Commission.

4.3.3. By way of background, in considering whether it is appropriate for a PCC or ICC to be incorporated the Commission must have regard to the protection of the public interest. This includes the need to:

- protect the public, in Guernsey and elsewhere, against the effects of dishonesty, incompetence or malpractice,
- counter financial crime and the financing of terrorism in Guernsey and elsewhere, and
- protect and enhance the reputation of the Bailiwick as a financial centre.

The Commission is required to consider the above both generally and in determining the extent any person would, in its opinion, be appropriate to be concerned in the prospective business of the PCC or ICC.

4.3.4. The Commission also confirms that the PCC or ICC will be administered by a licensed person with a place of business in the Bailiwick, and that the structure itself will not conduct business as a licensed insurance manager, insurance intermediary, bank, or fiduciary.

4.3.5. PCC and ICC structures have seen increasing use in the Bailiwick. This has in turn necessitated the Commission spending a significant, and increasing, amount of staff time and resource to review and respond to incorporation consent requests. Companies Law permits the Commission to charge a fee for these applications but currently no fee is charged for such a review. We do not believe this aligns to the "user pays" model the Commission aims for when setting fees, hence the proposal above.

Question 3: Do you have any comments on the proposed £500 fee for consent to incorporate requests for non-regulated PCC or ICC structures?

[8] Refer to Section 438(3)(b) of the Companies Law for PCCs and Section 469 (3)(b) of the Companies Law for ICCs.

4.4. Fee for Prospectus Registration not part of a fund application

4.4.1. The Commission proposes to charge a £500 fee for review of a prospectus seeking registration in the Bailiwick when not connected to a wider application for fund registration.

4.4.2. The Prospectus Rules and Guidance, 2021 (“the Prospectus Rules”) apply to:

- registered collective investment schemes,
- offers by entities domiciled in the Bailiwick of any Category 2 controlled investment, and
- offers of any Category 2 controlled investment to the public within the Bailiwick, irrespective of where the offeror is domiciled.

4.4.3. Where a prospectus is reviewed by the Commission as part of an application for a registered fund, the accompanying application fee considers the overall work required by the Commission for that review.

4.4.4. When a submission is made to register a prospectus that is not connected to a registered fund application no fee is charged. The Commission is still required to ensure that all necessary disclosures, as set out in the Prospectus Rules, have been included in any prospectus seeking registration. This is to ensure potential investors are in possession of all relevant information prior to deciding whether to invest in an offering.

4.4.5. The fee proposed in 4.4.1. above reflects the fact that we do not believe the current charging regime takes account of the staff resources necessary for the Commission’s review., which does not align to the “user pays” model the Commission aims for when setting fees.

Question 4: Do you have any comments on the proposed £500 fee for review of a prospectus registration not connected to a wider registered fund application?

4.5. Fast Track Fees for Additional Elements to Open-Ended Funds

4.5.1. The Commission is frequently advised that speed to market is a key component of the Bailiwick's fund regime. A fast track fee has been previously introduced for new fund applications submitted under the fast track regime. The Commission is now seeking to extend the scope of this fast track fee to include additions, such as cells, sub-funds, or share classes, to existing funds already established under the fast track regime.

4.5.2. The Commission proposes to extend the scope of this fee to include components, such as cells, sub-funds, or share classes, added to already existing fast track open-ended funds.

4.5.3. The proposed fast track fee would be in addition to the current application fee. The £500 fast track fee will be a flat fee, irrespective of how many additional elements are added to an existing fund.

Question 5: Do you have any comments on the proposed extension of the £500 fast track fee to include additions to an open-ended fast track fund?

4.6. Amending the Returns in Scope of Late Filing Penalties

4.6.1. The administrative penalty regime[9] currently includes Late Filing Penalties where specified returns or documents, such as the annual return and accounts, are submitted after their stipulated deadline date.

4.6.2. The returns within the scope of such a penalty have not been reviewed and updated for a significant period of time. As such, it does not currently reflect all of those returns that are important to the Commission's risk-based supervisory processes. For example, no returns relating to financial crime data are included within the scope of such a penalty, where these form an important component of the Commission's approach to AML/CFT supervision.

4.6.3. We propose expanding the scope of the definition of a relevant document, under the Late Filing Penalty regime, to include the following additional returns within its scope:

- the Financial Crime Risk Return,
- the Financial Crime Risk - Multi-Scheme Intermediary Annual Return
- the Investment Designated Administrator Quarterly Return,
- the Investment Quarterly Return,
- the Quarterly Financial Data Return – Investment, Fiduciary and Pension[10],
- the Investment Overseas CIS Annual Return,
- the Pension Scheme or Gratuity Scheme Annual Return,
- the Pension Scheme or Gratuity Scheme Annual Statistical Return,
- the Insurer Half-Yearly Solvency Return,
- the Life Insurer Quarterly Return[11],
- the Banking Quarterly BSL/2 Return,
- the Banking Monthly LCR Return, and
- the Financial Flows Return.

4.6.4. We do not propose to change the submission deadlines for any of the returns outlined above from those currently in place.

4.6.5. The above filing penalties would apply to all firms licensed under our Supervisory Laws but would not apply to Prescribed Businesses or NRFSBs.

4.6.6. From time to time the Commission may consult on, or trial, new returns that are requested from firms. Until any consultation or trial period is completed a late filing penalty would not be charged for those returns.

Question 6: Do you have any comments on the additional returns proposed to be included within the scope of the Late Filing Penalty regime?

[9] Currently set pursuant to The Financial Services Commission (Administrative Penalties) (Bailiwick of Guernsey) Regulations, 2021

[10] This is a new return that has been made a permanent return on specific firms' timelines and is being requested under section 33 of the Protection of Investors (Bailiwick of Guernsey) Law, 2020 and section 26 of the Regulation of Fiduciaries, Administration Business and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, as applicable.

[11] This would only apply to the parts of the return completed by the licensed entity, rather than that completed by the trustee appointed pursuant to the standard condition.

4.7. Inaccurate Filing Penalties

4.7.1. The Commission attaches great importance to the quality, accuracy and timeliness of data provided by firms in returns submitted to it. That data is core to the Commission's risk-based supervisory approach, including as part of our assessment of the risk exposures of licensed firms, their capital adequacy, the scale, nature and complexity of their operations and their exposure to, and mitigation of, financial crime risks.

4.7.2. Inaccurate data could result in the Commission not being able to make an appropriate assessment of the risks to which a firm is exposed in a timely manner. Should inaccuracy in a return not be identified and corrected it could mask, in extremis, an underlying solvency issue, or other material non-compliance, where a firm's customers could be exposed to undue risk.

4.7.3. As highlighted in past publications, such as thematic reviews of insurer annual returns in 2018[12] and the pension transfer landscape in the Bailiwick in 2022[13], the Commission has historically identified instances where a significant proportion of returns submitted to the Commission were materially inaccurate. The concerns raised in those papers do not appear to have been wholly addressed by industry, as we are continuing to see materially inaccurate returns submitted. This has resulted in the Commission applying Late Filing Penalties to returns where significant errors were identified by the Commission requiring correction.

4.7.4. There is currently no separate automatic penalty regime where returns submitted to the Commission are inaccurate. Currently where a return is resubmitted at a later point in time a Late Filing Penalty is charged with reference to the original submission date.

4.7.5. While the existing regime is functional, in our opinion, it is not suited to, or appropriate for, the issues outlined above. A separate regime would better align with the Commission's wider, "user pays" approach to fee setting, while being easier for firms to understand and the Commission to consistently apply. The Commission therefore proposes creating a new category of administrative financial penalty, referred to as an Inaccurate Filing Penalty.

4.7.6. The Inaccurate Filing Penalty would apply to all firms licensed under the Supervisory Laws but would not apply to Prescribed Businesses or NRFSBs.

4.7.7. The Inaccurate Filing Penalty would apply to all relevant documents under the existing Late Filing Penalty regime. This would include annual returns as well as the additional returns proposed for inclusion in section 4.6.

[12] Refer to Report on the 2018 Thematic Review of Insurer Annual Returns_0.pdf (gfsc.gg)
[13] Refer to page 3 of Report on 2021-22 Thematic Review of the Pension Transfer Landscape in the Bailiwick

4.7.8. An Inaccurate Filing Penalty would only apply to data within returns considered necessary for the Commission to carry out its statutory functions. This would include, but not be limited to, material misstatement or misrepresentation of data relating to:

- financial resources,
- capital or liquidity requirements,
- attestation of whether the firm has received an emphasis of matter or qualified audit opinion,
- the firm's exposure to AML/CFT risks (for example, the number of its high-risk relationships),
- a firm's compliance with the Supervisory Laws and the underlying regulations, codes, and rules, and/or
- a firm's compliance with the Handbook on Countering Financial Crime and Terrorist Financing.

4.7.9. To ensure the regime is proportionate, an Inaccurate Filing Penalty would only apply to those errors deemed by the Commission to be material, so that the penalty regime aligns to the Commission's broader "user pays" concept. We would not seek to apply a penalty to small, one-off errors and in applying a materiality basis, the Commission would consider:

- the quantum of any error and its implication for the items listed in 4.7.8,
- the length of time taken to detect an error and correct it on the part of the firm, and
- the frequency with which a firm submits incorrect information in returns.

4.7.10. It is proposed that the value of the penalty will be calculated in a similar manner to the existing penalty regime, based on: (i) whether the error was first identified by the firm or the Commission, and (ii) the time taken to correct that error to the Commission's satisfaction. The proposed fee schedule is as follows:

Inaccurate Filing Penalty	**Error Identified by Firm**	**Error Identified by the Commission**
On identification of the error and return of the submission for correction by the firm	£125	£500
Each subsequent month taken to correct the error	£125	£500

4.7.11. The Commission would not charge a Late Filing Penalty when a relevant document is returned to a firm for correction of errors; only an Inaccurate Filing Penalty would apply. A Late Filing Penalty would continue to apply where a relevant document is submitted after its filing deadline.

4.7.12. Where a firm incurs an Inaccurate Filing Penalty this would not prejudice any other action the Commission might take in the performance of its statutory functions. This may include, but not be limited to, the imposition of a risk mitigation programme, use of its legal powers, or enforcement action, should this be warranted following an investigation as outlined in the process published on the Commission's website.

Question 7: Do you have any comments on the proposed Inaccurate Filing Penalty regime?

5. Future Considerations

5.1.1. During any year there are views, or questions, on fees that are raised with the Commission. This section outlines some areas that may be subject to consideration within a future fee consultation paper.

Restructuring of Insurance Sector Fees

5.1.2. Since late 2021 the Commission has been considering whether the fees charged within the Bailiwick's insurance sector should be restructured, as part of discussions with the Guernsey International Insurance Association ("GIIA").

5.1.3. In restructuring the fee base for the insurance sector the aims would be to ensure that the fee model is:

- aligned with the "user pays" principle by which the Commission sets fees, being proportionate to the level of supervisory effort necessary by the Commission, and
- continues to encourage growth within the sector.

This would be consistent with the process undertaken for the investment sector, as part of the 2022 fee consultation.

5.1.4. While no firm proposals have been considered yet, the emphasis of any changes would be to, where appropriate, rebalance fees so they are proportionate to the nature, scale and complexity of the types of entity within the sector and the level of supervisory engagement required by the Commission.

5.1.5. In our 2020 and 2021 annual reports, the Commission emphasised the increased supervisory effort required for international commercial insurers, including those underwriting policies for retail customers. It is likely that it will be necessary to increase the fees paid by this sub-sector, over-and-above any rebalancing of annual fees paid by the insurance sector as a whole, in ensuring a "user pays" model is applied in a proportionate manner.

5.1.6. Engagement with GIIA and other industry actors on the above is ongoing. The Commission intends to put forward proposals for this restructuring in a future fee consultation paper, once an assessment has been made of potential changes.

Fast Track Fees for Additional Elements to Closed-Ended Funds

5.1.7. The Commission is aware that the landscape of the fund sector within the Bailiwick has changed over time. When the concept of a closed-ended fund was introduced in the early 2000s it was envisaged that such structures, once established, would remain static without additional elements being added during the lifetime of the funds.

5.1.8. The investment world has since moved on and closed-ended funds are often no longer a static structure. Whilst the Commission does not currently intend to introduce a fee for adding additional elements to closed-ended funds this may be considered in the future, as the profile of the Bailiwick's investment sector continues to change.

5.1.9. This would seek to align with the "user pays" model by which the Commission aims to set fees and reflects the work and consideration required by the Commission when additional elements are added to closed-ended funds. In these instances, the submissions are treated more akin to applications than notifications by the Commission; we will therefore consider whether their form should be changed to reflect this.

6. Next Steps

6.1.1. This Consultation will be open for a period of eight weeks, with a closing date for responses of 14 September 2022.

6.1.2. Responses should be submitted through the Commission's Consultation Hub, which can be found at https://consultationhub.gfsc.gg/. Guidance on how to provide feedback can be found in section 1.3 of this paper.

6.1.3. Following the consultation period, the Commission will collate and consider responses provided. The Commission will consult with the States of Guernsey before issuing a feedback statement. That statement will provide a summary of the responses received, together with the final fees that will come into force from 1 January 2023.

Appendix A – Questions for Public Comment

Question 1: Do you have any comments on the overall proposed fee increase?

Question 2: Do you have any comments on the design of the proposed fee structure for the Credit and Finance regime?

Question 3: Do you have any comments on the proposed £500 fee for applications consent to incorporate requests for non-regulated any PCC or ICC structures?

Question 4: Do you have any comments on the proposed £500 fee for review of a prospectus registration not connected to a wider registered fund application?

Question 5: Do you have any comments on the proposed extension of the £500 fast track fee to include additions to an open-ended fast track fund?

Question 6: Do you have any comments on the additional returns proposed to be included within the scope of the Late Filing Penalty regime?

Question 7: Do you have any comments on the proposed Inaccurate Filing Penalty regime?

Appendix B – Proposed 2023 Fee Rates

B.1. Banking Sector

Application Fees	Current Fee for 2022	Proposed Fee for 2023
Bank Licence Application	£40,545	£44,195
Amalgamation and Migration	£2,440	£2,670
Change of Controller	£2,195	£2,395

Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Total Assets Band:		
Below £500,000,000	£40,545	£44,195
£500,000,000 to £999,999,999	Total Assets x 0.000061516 Minimum of £40,545	Total Assets x 0.00006705 Minimum of £44,195
£1,000,000,000 or Greater	£61,515	£67,050
Plus, Additional Fees for:		
Guernsey subsidiary banks	25% of relevant annual fee	25% of relevant annual fee
Retail operations (both subsidiaries and branches)	50% of relevant annual fee	50% of relevant annual fee
Additional trading names, where a bank is effectively operating multiple separate businesses under one licence	50% of relevant annual fee	50% of relevant annual fee
Branches outside of the Bailiwick	£15,379	£16,765

B.2. Insurance Sector

Application Fees	Current Fee for 2022	Proposed Fee for 2023
International Insurer:		
Life Insurer / Reinsurer (Category 1 / 2)	£6,150	£6,705
Commercial Insurer / Reinsurer (Category 3 / 4)	£9,220	£10,050
Captive Insurer / Reinsurer (Category 5)	£6,150	£6,705
Category 6	£6,150	£6,705
PCC or ICC Core:		
Not Writing Business	£6,150	£6,705
Life Insurer / Reinsurer (Category 1 / 2)	£6,150	£6,705
Commercial Insurer / Reinsurer (Category 3 / 4)	£9,220	£10,050
Captive Insurer / Reinsurer (Category 5)	£6,150	£6,705
Category 6	£6,150	£6,705
Cell of a PCC or ICC:		
Life Insurer / Reinsurer (Category 1 / 2)	£2,010	£2,190
Commercial Insurer / Reinsurer (Category 3 / 4)	£3,015	£3,290
Captive Insurer / Reinsurer (Category 5)	£2,010	£2,190
Non-Special Purpose Insurer (Category 6)	£2,010	£2,190
Special Purpose Insurer (Category 6)	£925	£1,010
Reactivation of a Dormant Cell:		
Life Insurer / Reinsurer (Category 1 / 2)	£2,010 minus £160, pro-rated to end of the year	£2,190 minus £175, pro-rated to end of the year
Commercial Insurer / Reinsurer (Category 3 / 4)	£2,010 minus £160, pro-rated to end of the year	£2,190 minus £175, pro-rated to end of the year
Captive Insurer / Reinsurer (Category 5)	£2,010 minus £160, pro-rated to end of the year	£2,190 minus £175, pro-rated to end of the year
Category 6 Non-Special Purpose Insurer	£2,010 minus £160, pro-rated to end of the year	£2,190 minus £175, pro-rated to end of the year
Domestic Insurer	£3,465	£3,775
Mutual, Friendly, or Provident Society	£3,465	£3,775
Insurance Manager	£5,720	£6,235
Insurance Intermediary (Base Fee)	£5,790	£6,310
Additional Category of Intermediary Licence:		
General – Personal Lines	£205	£225
General – Commercial	£400	£435
Long Term – Life	£400	£435
Long Term – Regular Premium	£610	£665
Long Term – Single Premium (Insurance Element)	£1,975	£2,153

B.2. Insurance Sector (continued)

Application Fees (continued)	Current Fee for 2022	Proposed Fee for 2023
Amalgamation and Migration	£2,440	£2,660
Application for Consent to a Scheme of Transfer of Long Term Business	£5,770	£6,290
Change of Controller	£2,195	£2,395
Conversion / transfer / subsumption of regulated entities under Part V of Companies Law	£1,160	£1,265
Variation of Activities in respect of which Insurer is Licensed	£1,245	£1,355

B.2. Insurance Sector (continued)

Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Active Life Insurer (PCC and Non-Cellular) (Category 1 / 2) Net Policyholder Liabilities Band:		
Below £1	£6,150	£6,705
£1 to £999,999	£7,980	£8,700
£1,000,000 to £9,999,999	£9,800	£10,680
£10,000,000 to £99,999,999	£15,245	£16,615
£100,000,000 to £499,999,999	£24,320	£26,510
£500,000,000 to £1,999,999,999	£47,090	£51,330
£2,000,000,000 or Greater	£92,330	£100,640
Life Insurer Closed to New Business (PCC and Non-Cellular) (Category 1 / 2) Net Policyholder Liabilities Band:		
Below £1	£6,150	£6,705
£1 to £9,999,999	£7,970	£8,690
£10,000,000 to £499,999,999	£10,970	£11,955
£500,000,000 or Greater	£15,245	£16,615
Non-Life International Insurer:		
Commercial Insurer / Reinsurer (Category 3 / 4)	£9,220	£10,050
Captive Insurer / Reinsurer (Category 5)	£6,150	£6,705
Category 6	£6,150	£6,705
Domestic Insurer Gross Written Premium Band:		
Below £12,000	£515	£560
£12,000 to £4,999,999	£3,465	£3,775
£5,000,000 or Greater	£17,660	£19,250
Mutual, Friendly, or Provident Society:		
Non-Commercial	£515	£560
Commercial	£3,465	£3,775
Member of Association for Travel Insurance	£1,585	£1,730
Cell of a PCC or ICC:		
Life Insurer / Reinsurer (Category 1 / 2)	£2,010	£2,190
Commercial Insurer / Reinsurer (Category 3 / 4)	£3,015	£3,285
Captive Insurer / Reinsurer (Category 5)	£2,010	£2,190
Non-Special Purpose Insurer (Category 6)	£2,010	£2,190
Special Purpose Insurer (Category 6)	£925	£1,010
Transformer Cell	£925	£1,010
Dormant Cell	£160	£175

B.2. Insurance Sector (continued)

Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Insurance Manager (Based on Companies under Management)		
Pure	£5,430	£5,920
Commercial	£9,090	£9,910
Society of Lloyds	£3,145	£3,430
Insurance Intermediary (Base Fee)	£2,795	£3,045
Plus, Additional Fees for Category of Intermediary:		
General – Personal Lines	£205	£225
General – Commercial	£400	£435
Long Term – Life	£400	£435
Long Term – Regular Premium	£610	£665
Long Term – Single Premium (Insurance Element)	£1,975	£2,155
Long Term – Single Premium (PoI Element)	£1,220	£1,330
Plus, Additional Fee for Intermediary Turnover from Licensed Bailiwick Activity:		
Below £250,000	£1,975	£2,155
£250,000 to £499,999	£2,990	£3,260
£500,000 to £749,999	£3,955	£4,310
£750,000 to £999,999	£4,955	£5,400
£1,000,000 to £1,999,999	£5,945	£6,480
£2,000,000 to £2,999,999	£6,945	£7,570
£3,000,000 or Greater	£7,930	£8,645

B.3. Fiduciary Sector

Application Fees	Current Fee for 2022	Proposed Fee for 2023
Personal Fiduciary Licence	£1,120	£1,220
Primary Fiduciary Licence	£2,550	£2,780
Secondary Fiduciary Licence	£620	£675
Discretionary Exemption (Individual)	£525	£570
Discretionary Exemption (Company or Partnership)	£1,175	£1,280
Amalgamation and Migration	£2,440	£2,660
Change of Controller	£2,195	£2,395
Consent to Use a Name	£1,995	£2,175
Notification of Ancillary Vehicles	£600	£655

Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Personal Fiduciary Licensee	£1,160	£1,265
Primary Fiduciary Licensee – Turnover Band:		
Below £250,000	£5,660	£6,170
£250,000 to £499,999	£11,315	£12,335
£500,000 to £999,999	£16,975	£18,505
£1,000,000 to £1,999,999	£22,630	£24,665
£2,000,000 to £3,999,999	£28,290	£30,835
£4,000,000 to £7,999,999	£33,945	£36,000
£8,000,000 to £15,999,999	£45,260	£48,335
£16,000,000 or Greater	£56,580	£61,670
Pension Regulation Fee:		
Fixed Fee	£515	£560
Fee per Scheme Member	£1 Subject to a £7,500 cap per scheme	£1 Subject to a £7,500 cap per scheme

B.4. Investment Sector

Application Fees	Current Fee for 2022	Proposed Fee for 2023
Open-Ended Collective Investment Schemes:		
Scheme	£3,500	£3,815
Plus: Additional Fast Track Application Fee	£500	£500
New Class of Existing Umbrella/Multi-Class Scheme	£790	£860
Plus: Additional Fee for Additional Elements to Fast Track Funds	N/A	£500
Closed-Ended Collective Investment Schemes:		
Scheme	£3,500	£3,815
Plus: Fast Track Additional Application Fee	£500	£500
"De-QIFing"	£2,830	£3,085
"De-PIFing"	£2,830	£3,085
Registration of Non-Application Prospectus	N/A	£500
Form EX Notification	£1,215	£1,325
Licensees	£2,550	£2,780
Amalgamation and Migration	£2,440	£2,660
Consent to Removal from Register	£2,267	£2,470
Change of Controller	£2,195	£2,395
Extension of Licence	£1,245	£1,360

Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Open-Ended Collective Investment Schemes:		
Schemes	£3,500	£3,815
Additional Classes	£245	£265
Designated Territories Scheme (EX)	£610	£665
Closed-Ended Collective Investment Schemes	£3,500	£3,815
Designated Persons, Brokers, and Licensees with an Authorised Financial Advisor – Turnover Band:		
Below £1,500,000	£3,650	£3,980
£1,500,000 to £2,999,999	£5,750	£6,270
£3,000,000 to £5,999,999	£7,750	£8,450
£6,000,000 to 11,999,999	£10,000	£10,900
£12,000,000 or Greater	£12,500	£13,625
Manager of Overseas Collective Investment Scheme	£3,650	£3,980
Principal Managers of Open-Ended Schemes	£1,825	£1,990
Managers of Closed-Ended Schemes	£1,825	£1,990
Investment Exchanges	£71,565	£78,005
Insurance Intermediary with PoI Licence	£1,220	£1,330
Other Licensees	£3,650	£3,980

B.5. Non-Regulated Financial Services Businesses

Fees (From 1 January to 30 June 2023)[14]	Current Fee for 2022	Proposed Fee for 2023
Application Fee	£4,330	N/A
Annual Fee[15]	£1,415	£1,500

B.6. Lending, Credit and Finance Sector

Application Fees[16]	Proposed Fee for 2023
Licence Application for:	
Credit Providers (Home Finance)	£6,000
Credit Providers (Consumer Credit)	£4,500
Services Ancillary to Credit (Home Finance and Consumer Credit)	£4,500
Financial Firm Businesses	£4,500
Platforms	£6,000
Virtual Asset Service Providers (Exchanges and Stablecoin Issuers)	£150,000
Virtual Asset Service Providers (Non-Exchanges)	£25,000
Amalgamation and Migration	£2,635
Change of Controller	£2,370
Exemption for a Company or Partnership	£1,270
Exemption for an Individual	£570
Extension of a Licence	£1,345

Annual Fees (From 1 July 2023)[15]	Proposed Fee for 2023
Credit Providers (Home Finance):	
Non-Bank with a Below £100,000,000 Lending Book	£6,000
Non-Bank with a Greater than £100,000,000 Lending Book	£9,000
Bank Credit Provider (Home Finance)	50% of Relevant Fee Above
Credit Providers (Consumer Credit):	
Non-Bank with a Below £10,000,000 Lending Book	£4,500
Non-Bank with a Greater than £10,000,000 Lending Book	£7,500
Bank Credit Provider (Consumer Credit)	50% of Relevant Fee Above
Services Ancillary to Credit:	
Home Finance	£4,500
Consumer Credit	£3,000
Financial Firm Businesses	£1,500
Platforms	£6,000
Virtual Asset Service Providers:	
Exchanges and Stablecoin Issuers	£150,000
Non-Exchanges	£25,000

[14] The application and any annual fee for an NRFSB will be reduced: (i) by 50% where the business fulfils one of (a) or (b); or (ii) by 75% where the business fulfils both (a) and (b), being:
(a) the business is registered as a Prescribed Business.
(b) the business is a member of a group of companies where one or more other members of that group are also under an obligation to pay a fee to the Commission.

[15] Annual fees will be pro-rated to cover the relevant 6-month period for that sector (1 January to 30 June 2023 for NRFSBs / 1 July 2023 to 31 December 2023 for Lending, Credit and Finance Firms).

[16] A 50% discount will be applied to the relevant application fee above if the application is received by 28 February 2023.

B.7. Prescribed Businesses

Registration / Annual Fees	Current Fee for 2022	Proposed Fee for 2023
Number of Full-Time / Full-Time Equivalent Staff:		
1 to 5	£720	£785
6	£831	£905
7	£941	£1,025
8	£1,051	£1,145
9	£1,161	£1,265
10	£1,271	£1,385
11	£1,381	£1,505
12	£1,491	£1,625
13	£1,601	£1,745
14	£1,711	£1,865
15	£1,821	£1,985
16	£1,931	£2,105
17	£2,041	£2,225
18	£2,151	£2,345
19	£2,261	£2,465
20	£2,371	£2,585
21	£2,481	£2,705
22	£2,591	£2,825
23	£2,701	£2,945
24	£2,811	£3,065
25 or Greater	£2,915	£3,175

B.7. Other Fees and Penalties

Other Fees Not Specific to a Sector

Application Fees	Current Fee for 2022	Proposed Fee for 2023
Consent Request to Incorporate a PCC or ICC not Connected to an Licence Application under a Supervisory Law	N/A	£500

Administrative Financial Penalties[17]

Late Filing Penalty	Current Fee for 2022	Proposed Fee for 2023
First Month	£125	£125
Second Month	£250	£250
Third Month	£375	£375
Each Subsequent Month	£375	£375

Inaccurate Filing Penalty (From 1 January 2023)	Error Identified by Firm	Error Identified by the Commission
On identification of the error and return of the submission for correction by the firm	£125	£500
Each subsequent month taken to correct the error	£125	£500

[17] These penalties are not applicable to Prescribed Businesses and Non-Regulated Financial Services Businesses.