

STATES OF JERSEY



DRAFT FINANCIAL SERVICES (JERSEY) AMENDMENT LAW 202- (P.41/2025): COMMENTS

**Presented to the States on 4th July 2025
by the Economic and International Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

The Draft Financial Services (Jersey) Amendment Law 202- [\[P.41/2025\]](#) (hereafter referred to as the “Draft Law”) was lodged *au Greffe* on 23rd May 2025 by the Minister for External Relations (hereafter referred to as the Minister) and is scheduled for debate at the States’ sitting commencing on 8th July 2025. The Economic and International Affairs Scrutiny Panel (hereafter referred to as “the Panel”) has formed these Comments to aid in the Assembly’s deliberations.

The Draft Law is part of a proposed initiative to regulate consumer credit and associated activities to strengthen the consumer credit protections provided for in Jersey law. It aims to provide clarity for consumer credit businesses, ensuring Islanders maintain market access to a wide range of financial products and services.

The Consumer Credit Regime aims to protect consumers from abusive lending practices and enable them to make well-informed decisions when using credit providers and other credit services such as credit advice, debt collecting and administration. The Government of Jersey will also be seeking to:¹

- give clarity to businesses that will be regulated under the proposed regime
- ensure that the regime is practicable to implement
- make sure the regime is compatible with existing regulatory requirements in neighbouring British jurisdictions

The Panel, in both its current and previous iterations, has undertaken questioning of the Consumer Credit Regime and associated legislative changes on a number of occasions through public hearings and more recently received a briefing on the topic on 3rd April 2025 with earlier versions of the Draft Law being provided to the Panel in confidence.

Need for legislation

The Minister, when asked why the Island requires a consumer lending regime, outlined that virtually everywhere else in the world regulates this area and highlighted its purpose was about basic consumer protection for Islanders who are borrowing. The Minister, when asked for real world examples of incidents that raised concerns in this area indicated that from his perspective the need had been raised anecdotally.²

The Panel notes that the accompanying report to the Draft Law outlines that a proportion of lending activity in Jersey is carried out by regulated deposit-takers (banks), who are subject to supervisory oversight by the Jersey Financial Services Commission (hereafter referred to as the “JFSC”) for deposit-taking and that unregulated credit providers in Jersey maintain good standards and adhere to the voluntary [Code of Practice for Consumer Lending](#). Although the Panel acknowledges that the Consumer Credit Regime may appear to be beneficial in aiding to protect consumer rights, it would expect that the Minister will provide clearer examples of incidences that evidence the need for the proposed changes within the debate of the Draft Law, with explanation of how data will be gathered and communicated to illustrate the value of the Consumer Credit Regime in the future.

¹<https://www.gov.je/Government/Consultations/pages/consumercreditregimelegislativeamendments.aspx>

² [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

The Minister has acknowledged the need to balance the requirement for regulation to give good outcomes for consumers and users of services, whilst at the same time ensuring the regulation is not burdensome and overly bureaucratic.³ The Minister has indicated that work has been undertaken to make sure the Draft Law is not overly bureaucratic and that views expressed in consultations, undertaken in [2023](#) and [2024](#) have been carefully listened to. The Panel also understands that direct engagement with stakeholders and those not immediately taking part in the consultations has also been carried out as has been identified in the accompanying report to the Draft Law.

Regulatory Framework

Previous iterations of the Draft Law and anticipated lending regulation included a broader range of activities than envisaged in the proposed Consumer Credit Regime. Instead, a two-tier regulatory framework is proposed for consumer credit business as it is believed that while full regulatory supervision by the JFSC may be necessary for some types of consumer credit business⁴, a lighter touch regulatory regime, supervised by Trading Standards, is more suitable for others.⁴

The Panel questioned the Government's rationale for discontinuing the inclusion of commercial lending regulations, and was informed:

Associate Director of Financial Services, Department for the Economy: There was very clear feedback during the consultation that we initially did that it would cause a lot of problems for small and medium enterprises. It would also capture a lot of international finance business that was not intended to be in scope. Feedback from the small businesses that responded to the consultation was that they would not want that. They felt it would hinder their ability to get credit so those that responded to us said they did not want to be caught within scope so we listened to that feedback...

The Panel further questioned what protections for businesses would be in place and was informed:⁵

Associate Director of Financial Services, Department for the Economy: We generally found that the business sector was getting legal advice behind a lot of their lending transactions anyway, so they are probably a bit more of a sophisticated borrower in that sense compared to an individual who may not have the benefit of legal or tax advice even around their lending. There was a distinction definitely between individuals as consumers versus medium-sized businesses who are perhaps a different borrower and type who had the benefit of that advice.

The Panel agrees that, pending any evidence of instances of poor behaviour impacting businesses who are entering into credit agreements as a borrower, it is acceptable to exclude businesses from the protections of the Consumer Credit Regime at this stage.

All individuals were also previously included in the protections afforded by the proposed Consumer Credit Regime, however certain high net worth individuals

³ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

⁴ [P.41/2025](#)

⁵ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

(hereafter referred to as “HNW individuals”) will have the opportunity to “opt-out” of the protections of the Draft Law. The Panel understands this provision was made following feedback from the consultations undertaken with previous iterations of the Panel being informed:⁶

Assistant Chief Minister: The consultation closed in the middle of September. There have, as you might expect, been some issues that have been brought forward to us. The main issues are the inclusion of high-net-worth individuals as consumers. There is some concern as to the appropriateness of that and indeed whether the consumer credit rules might be contrary to legal advice they have had, when they are structuring significant loan arrangements. I think we are going to carve high-net-worth borrowers out. So we are looking at how we do that and how we define high-net-worth borrowers. The other argument is if you are very high net worth you will have legal and accountancy and tax advice and you probably do not need further support through this regime.

Accordingly, the Panel notes that Articles 6 of the Draft Law will insert new paragraphs to Schedule 2 identifying the criteria for HNW individuals based on their previous year’s net income or assets:

- net income of £150,000 or more; or net assets worth £500,000 or more throughout the year for consumer credit agreements or specified credit arrangements
- net income of £300,000 or more; or net assets worth £3,000,000 or more throughout the year for secured lending arrangements

The Draft Law establishes that net assets will exclude the primary residence, or any loan secured against it, and any benefits (such as a pension or lump sum) payable if their employment ends. The Draft Law also specifies that the net income or assets will include both net income and assets from both Jersey and overseas. The Law will establish the evidence and record keeping responsibilities of both the HNW individual and credit business, for example a signed written statement of the information regarding the opt-out in a form approved by an authorised officer.

The Panel agrees that it is acceptable to allow HNW individuals to opt-out of the protections of the Draft Law given the criteria and need for written statement to be provided. However, the Panel would recommend that within the Codes of Conduct, issued within the Consumer Credit Regime, it is established that sufficient warning must be given to HNW individuals by consumer credit businesses of the impact of the opt-out.

Further Exemptions

The accompanying report to the Draft Law identifies the test to determine if an activity falls under the Draft Law is whether consumer credit business is being conducted by way of business.

Further exemptions are included regarding:

- General Advice (adverts) by Media outlets and advertisers.

⁶ [Transcript – Quarterly Hearing – Assistant Chief Minister with Responsibility for Financial Services – 26 October 2023](#)

- Non-financial professionals, such as accountants, can give advice related to their services without being regulated, provided the advice is not separately charged for.
- Legal professionals who are already regulated by a professional body, such as the Law Society of Jersey.
- Liquidators
- Persons already regulated in the UK and/or Guernsey for the same activity being performed in Jersey
- Lending to family members
- Trustees, trust entities and their officers can carry out their fiduciary duties without additional regulation provided by the Draft Law.
- Lending to employees, directors, shareholders and other categories of connected individuals to allow for flexibility of transactions in international financial services
- Lenders with limited lending activities (“private lenders”) are exempt from JFSC registration
- Providers of essential services (water, gas and electricity) and telecommunications services
- Insurance providers that offer general insurance premiums

The Panel understands that under the two-tier regime a number of actions included within the exemptions will be guided or indeed regulated by other means.

One exemption that the Panel would highlight however is that of private lenders. These will be defined as individuals who lend less than £5,000,000 to fewer than 11 consumers. Although this definition will limit the impacted consumers, the Panel would recommend that consideration of inclusion of expected trading practices, such as fair charging of interest, is included within secondary regulations and that specific guidance is issued for private lenders when the Consumer Credit Regime is implemented.

This point aside, the Panel acknowledges that the exemptions, although numerous, are required at this stage in order to avoid additional bureaucracy of business and to protect Jersey’s financial services industry by avoiding conflicts between fiduciary duties and consumer protections. However, the Panel would expect that the Minister keeps the exemption list under review during the practical implementation of the Consumer Credit Regime and adjust the list accordingly were necessary.

Secondary Legislation and Guidelines

Article 4 of the Draft Law will insert new legislation that provides that the States may make Regulations relating to consumer protection in connection with wider consumer credit business, which includes an activity that would be consumer credit business if not for an exemption. The Regulations may include –

- requirements to help ensure that consumers entering into agreements have legal capacity and the ability to understand the terms and conditions
- restrictions or prohibitions on wider consumer credit business involving high-interest, short-term or unsecured lending, or involving agreements attracting certain fees, charges, interest or penalties

- restrictions or prohibitions on wider consumer credit business, or advertisements relating to it, by reference to the annual percentage rate payable for credit or the total cost of credit
- requirements for the annual percentage rate payable for credit, or the total cost of credit, to be calculated in accordance with a formula or method, and provision for a person to be authorised to set the formula or method and publish it
- provisions for the consequences of entering into agreements in contravention of the 1998 Law or the Regulations, including enforceability, avoidance, modification, mitigation, disapplication or replacement
- provisions for cooling-off periods and rights to cancel, rescind or withdraw from agreements
- restrictions or prohibitions on unfair terms and conditions of agreements
- restrictions or prohibitions on advertisements or unsolicited communications relating to wider consumer credit business
- requirements to disclose certain information in relation to wider consumer credit business
- provisions for the form and manner of communications relating to wider consumer credit business
- regulation of restrictions on the rights of consumers or restrictions on the liabilities of persons carrying on wider consumer credit business
- coverage of secondary, linked and series of agreements
- provisions giving the Minister power to make an Order that sets or changes terms and conditions of agreements that are treated as unfair

New Article 31A also allows the making of Regulations relating to consumer protection in connection with consumer credit debt collection. Any Regulations made under new Article 31A may include provisions giving related powers, rights and obligations; or creation of offences for contravening the Regulations and related penalties.

The Panel acknowledges that this will allow the Assembly to flexibly introduce necessary Regulations to enable the Consumer Credit Regime. In December 2024 the Panel was informed that the intention was to align as closely to Guernsey's model as possible as most operators had presence in both jurisdictions, with an example given of capping interest rates at 100 per cent of loan value.⁷

The Panel was informed that guidelines will also set out expectations of involved parties:⁸

Deputy M.B. Andrews: *But I just wanted to know whether this would potentially be incorporated within the law or do you believe there is already sufficient ...*

Associate Director of Financial Services, Department for the Economy: *Not in the primary legislative vehicle, no. Conduct and how they operate will be set out in the J.F.S.C.'s codes of conduct and supported by secondary legislation. There will be unfair terms regulations, which lenders will be required to comply with. Some of that will potentially relate to ... and pre-contractual terms. Some of that will relate to how they may, for example, have to go into a payment plan with a borrower that defaults rather than going straight for court action. But*

⁷ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

⁸ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

that is very much aligned with how other jurisdictions operate their own lending and credit regime, so it is nothing unusual to lenders that are operating in a regulated environment already.

The Panel was advised by Government Officers at that time that preliminary closed engagement with banks on the codes of practice has been undertaken with banks and that these had been positive.

The Panel was informed that debt collection code of conduct will be incorporated into a set of regulations that will then be supervised by Trading Standards,⁹ with confirmation that the JFSC will consult upon the Codes of Conduct. The Panel notes this is scheduled for August 2025.¹⁰ The accompanying report to the Draft Law identifies that these will include the following key principles:

- Conducting business with integrity
- Conducting business with due skill, care, and diligence
- Paying due regard to the interests of its customers and treat them fairly
- Taking reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems in place
- Maintaining adequate financial resources and arrange adequate protection for clients' assets when it is responsible for them
- Being transparent in its business arrangements and statements including paying due regard to the information needs of its customers and communicate information to them in a way in which is clear, fair, and not misleading, false, or deceptive
- Dealing with the JFSC in an open and co-operative manner and disclose to the JFSC anything relating to the firm that the regulator would reasonably expect notice of
- Managing conflicts of interest fairly, both between itself and its customers and between a customer and another client
- Taking reasonable care to ensure the suitability of its advice and discretionary decisions for any customer, who if entitled, to rely upon its own judgment

As identified in the accompanying report of the Draft Law it is intended under the two-tier regime that irrespective of whether an exemption is granted, a broader prohibition on unfair terms will still apply.

The Panel is principally in agreement with the introduction of Regulation making powers and the issuance of a Codes of Conduct, guidance and enhanced supervision by the JFSC based upon these, with additional basic supervision by Trading Standards. Further consideration will be undertaken by the Panel when the secondary legislation, codes of conduct and guidance is published. The Panel would highlight that there will no doubt be challenges in making sure the Codes of Conduct are sufficiently stringent without overburdening lenders, and that clear guidance will be needed to inform those both directly undertaking consumer credit business, as well as to build education and good practice for those who will be exempt under current proposals.

⁹ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

¹⁰ <https://www.jerseyfsc.org/industry/consultations/>

Transition

The Panel was informed in its hearing of December 2024 that there was an intention for the Draft Law to be enacted on 1st January 2026 and that businesses would have until the end of 2027 to become fully operationally compliant with the legislation.¹¹ It was also confirmed at that time that separate articles of the Draft Law could be enacted at different times to allow for more flexibility in the introduction of the Consumer Credit Regime. The Panel has also been informed, as identified in the accompanying report to the Draft Law, that the enforcement is not planned to be retrospective.

The Draft Law provides for a 12-month transition period for the supervision of consumer credit business by the JFSC. Businesses who need to apply for relevant registration with the JFSC will have 6 months from enactment of the Draft Law, or by any later date specified by the JFSC, within which to do so. The Draft Law will also establish that the States may by way of regulations amend in future any provision brought about by the Draft Law as necessary to ensure the proper application of the Consumer Credit Regime.

The Panel indeed notes that Article 7 of the Draft Law inserts new paragraphs to make transitional provision in relation to consumer credit business. These will ensure that activities count as consumer credit business only if they carry on after commencement or in relation to agreements or arrangements entered into after commencement. Paragraph 7 of that Article will protect certain persons from committing an offence of carrying on consumer credit business without being registered:

- an existing operator or a new operator who applies for registration within 6 months after commencement, or a later deadline allowed for them, while the application is determined; and
- an existing operator who stops carrying on the business within 12 months after commencement or a later time allowed for them.

Following this transition period the Panel would expect that the impact and success of the Consumer Credit Regime is assessed annually following its implementation to allow for identification as to whether aspects, such as exemptions, are reasonable and successful in practical application. The Panel requests that the Minister, during the debate of the Draft Law, outlines the plan for future review and consideration of the impact of the Consumer Credit Regime.

The Panel would also request that the Minister, during the debate of the Draft Law, outlines the timeframe for debate of the relevant secondary legislation, and implementation of the Consumer Credit Regime.

Communication

The Panel questioned how the introduction of the Consumer Credit Regime will be communicated, both to consumers and consumer credit businesses. The Panel was informed that a lot of work had been undertaken with businesses already and that communication initiatives across social media, radio, and published material could be anticipated following the approval of secondary legislation. It was also highlighted to the Panel that consumer protection rights will have to be included in any advertisements that consumer credit businesses undertake, whilst noting this would be in line with industry standards and would not look to be overly burdensome.¹²

¹¹ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

¹² [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

The Panel would highlight the importance of effective promotion of the Consumer Credit Regime to both lenders and consumers and would expect the Government of Jersey to actively participate in the communication of the changes once implemented, and requests that the Minister outlines the plan for this communication during the debate of the Draft Law.

Funding

The Panel was advised by the Minister that the JFSC has given him assurance that it will be resourced and will be able to do it once it is enacted. The Panel further questioned the recipient of any civil penalties:¹³

***The Minister for External Relations:** Well, that is a good question because it is quite a live issue. There is a provision within that law that those penalties are divided, in effect, between the regulator and used to offset the costs of that particular section of industry and shared with government and we are just in the process of properly formalising how that split will take place. That will of course have a knock-on effect on this as well.*

Government officers have further confirmed that any money from civil penalties can be used towards the JFSC reserves but firstly they should go towards offsetting the costs for that particular sector from which the fines come for example consumer credit. Officers have also highlighted that, along with voluntary provision, there is also a mechanism for Ministerial order to enable monies to be paid to the Government of Jersey. The Panel was advised in December 2024 that further work on how these would be apportioned would be undertaken.¹⁴

The financial and staffing implications indicate that Trading Standards may require additional resources and support to implement the new regulations that provide basic consumer protections. However, until the secondary legislation is sufficiently advanced and consulted upon, it is not possible for Trading Standards to assess the full impact.

The Panel acknowledges that additional resource may be required by Trading Standards and anticipates that this would be fully communicated within the Proposed Budget 2026 to 2029 when lodged with the Assembly. However, the Panel would request that the Minister, in the debate of the Draft Law, confirm that both this is the case and reaffirm the JFSC is still in a position to fully resource the Consumer Credit Regime.

Conclusion

The Panel is broadly supportive of the Draft Law in as far as it introduces the mechanisms for the Consumer Credit Regime into primary legislation.

The Draft Law establishes the legal framework to bring consumer credit within the scope of regulators with secondary legislation anticipated to specify further details. The Panel, in its concurrent scrutiny of the Draft Law, has highlighted the following points for clarification by the Minister for External Relations during the debate of the Draft Law:

- Provide clear examples of incidences that evidence the need for the proposed Consumer Credit Regime

¹³ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

¹⁴ [Transcript – Quarterly Hearing – Minister for External Relations – 03 December 2024](#)

- Provide explanation of how data will be gathered and communicated to illustrate the value of the Consumer Credit Regime in the future
- Outline plans for future review and consideration of the impact of the Consumer Credit Regime
- Outline the timeframe for debate of the relevant secondary legislation, and implementation of the Consumer Credit Regime
- Outlines plans for communication of the rights and responsibilities under the Consumer Credit Regime moving forward
- Confirm that any additional resource requirement for Trading Standards will be fully communicated within the Proposed Budget 2026 to 2029
- Reaffirm the JFSC is in a position to fully resource the Consumer Credit Regime

The Panel has also suggested the Minister carry out the following further actions:

- Ensure that within Consumer Credit Regime Codes of Conduct, sufficient warning be given to High-Net Worth individuals by consumer credit businesses of the impact opting-out of the regime
- Expected trading practices of Private Lenders, such as fair charging of interest, is considered for inclusion within secondary legislation and that specific guidance is issued for private lenders when the Consumer Credit Regime is implemented
- Assess the practical impact and success of the Consumer Credit Regime on an annual basis
- Review the exemption list under during the practical implementation of the Consumer Credit Regime and adjust the list accordingly were necessary.
- Ensure that the Government of Jersey actively participates in the communication of the Consumer Credit Regime rights and responsibilities once implemented

The Panel thanks the Minister and Officers for the time take to provide it with information on this topic. Further scrutiny will be undertaken by the Panel when the secondary legislation, codes of conduct and guidance is published.