

# STATES OF JERSEY



Jersey

## **DRAFT FINANCIAL SERVICES OMBUDSMAN (CASE-FEE, LEVY AND BUDGET – AMENDMENTS No. 2) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 21st October 2019  
by the Minister for Economic Development, Tourism, Sport and Culture**

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**STATES GREFFE**



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## REPORT

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The Draft Financial Services Ombudsman (Case-Fee, Levy and Budget – Amendments No. 2) (Jersey) Regulations 201- (the “draft Regulations”) make provision to allow the finances of the Financial Services Ombudsman schemes in Jersey and Guernsey to be combined (as the boards and staff already are).

The Office of the Financial Services Ombudsman (“OFSO”) operates jointly with the equivalent OFSO in the Bailiwick of Guernsey as the Channel Islands Financial Ombudsman (“CIFO”), under an arrangement entered into by the Minister for Economic Development, Tourism, Sport and Culture (“EDTSC”) with the States of Guernsey under Article 6(1) of the [Financial Services Ombudsman \(Jersey\) Law 2014](#) (the “2014 Law”). CIFO’s operation is overseen by the OFSO boards, appointed jointly by the Minister for EDTSC and the Guernsey Committee for Economic Development. CIFO’s operation is funded by industry through levies and case fees so that no taxpayer funding is required. CIFO’s legislation in Jersey and Guernsey establishes CIFO’s independence and sets out the various requirements it must fulfil.

CIFO’s funding legislation in both Jersey and Guernsey included an end date for the current equal splitting of CIFO costs between the Bailiwicks (50:50 approach) in order to require CIFO to reassess its funding structure after a few years of operation. Following consultation with OFSO, the Minister for EDTSC had previously agreed with his counterpart in the States of Guernsey to make equivalent amendments to postpone, from the end of 2018 to the end of 2019, the ending of the equal splitting of the costs of CIFO [the two OFSOs] between Jersey and Guernsey. This met the requirements in Article 6(1) of the 2014 Law. It is now proposed to end the equal splitting of the costs of CIFO in favour of a new funding structure to take effect on 1st January 2020.

CIFO carried out an extensive review of its funding in 2017–2018, and has decided to adopt a new funding structure which has widespread support from stakeholders. The equal splitting of the costs of CIFO between Jersey and Guernsey, and therefore the equal raising of income from each Bailiwick, will cease. The new structure revises the levies so that the amount of the levy would no longer differ between the islands for individual financial services providers, so equivalent financial services providers would pay the same levy irrespective of where they are based. The most efficient and effective way to enable the new funding structure is to combine the finances of the two OFSOs (as provided for under Article 6 of the 2014 Law) for accounting and reporting purposes. As both OFSOs already have the same board overseeing the joint operation, there is minimal change to CIFO governance associated with this change in funding structure. Going forward, the board of directors of CIFO will report to the States of Jersey through the Minister for EDTSC, and the States of Guernsey through the Committee for Economic Development, annually on a consolidated financial basis.

The previous one-year extension of the status quo to the end of 2019 means that this legislative change is now being brought to the States to implement the new CIFO funding structure, which has industry stakeholder support, from the start of 2020.

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.



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## EXPLANATORY NOTE

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These Regulations if passed will make provision to allow the finances of the Financial Services Ombudsman schemes in Jersey and Guernsey to be combined (as the boards and staff already are).

*Regulation 1* amends paragraph 2 of Schedule 2 to the Financial Services Ombudsman (Jersey) Law 2014, which provides for the budget of the Ombudsman's office. The amended provision applies in any year in which there is an arrangement (which must be published electronically) between the governments for uniting the finances of the schemes and in which the equivalent legislation in Guernsey contains a reciprocal obligation to cooperate (the Ombudsman's office must report to the Minister if it becomes aware of that obligation being removed from Guernsey legislation). In such a year the budget (including a joint reserve, and joint accounts) is to be drawn up in cooperation between the schemes in each island, using combined figures.

*Regulation 2* amends Regulation 6 of the Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015, which provides for the calculation of the total amount required for the levy scheme. As a consequence of having a single budget across both islands, the amendment removes the current provision splitting the amount required equally between the islands.

*Regulation 3* gives the title by which the Regulations may be cited and provides for them to come into force 7 days after they are made.





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## **DRAFT FINANCIAL SERVICES OMBUDSMAN (CASE-FEE, LEVY AND BUDGET – AMENDMENTS No. 2) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Articles 6(2) and 26 of, and paragraph 4 of Schedule 2 to, the Financial Services Ombudsman (Jersey) Law 2014<sup>1</sup> –

### **1 Amendment of Schedule 2 (Finances of OFSO) to Financial Services Ombudsman (Jersey) Law 2014**

For paragraph 2(7) (budget) of Schedule 2 to the Financial Services Ombudsman (Jersey) Law 2014<sup>2</sup> there is substituted –

- “(7) Sub-paragraph (8) applies in relation to any financial year if at any time in that year –
- (a) there is in force in or under the Guernsey Law a provision equivalent to sub-paragraph (8)(b) requiring cooperation with OFSO; and
  - (b) there is an arrangement described in Article 6(1)(a) for the sharing of resources, which provides for the finances of the schemes to be united.
- (8) In relation to that financial year –
- (a) the references in sub-paragraphs (1) to (6) to financial service providers, fees, levy, resources, OFSO, income, functions and reserve are to be read as including references to the equivalents of those terms in any enactment in or under the Guernsey Law;
  - (b) the OFSO must cooperate with the body that is equivalent to OFSO under the Guernsey Law in adopting and operating a joint budget, including a joint reserve;
  - (c) the OFSO must publish the arrangement mentioned in sub-paragraph (7)(b) and ensure that an electronic copy is freely available to the public;
  - (d) paragraph 1 is to be read as referring to joint accounts, records and reports for the OFSO and the body that is equivalent to

- OFSO under the Guernsey Law, and the OFSO must cooperate with that body in carrying out its functions under that paragraph; and
- (e) the OFSO must report to the Minister if it becomes aware that the condition in sub-paragraph (7)(a) is no longer met.
- (9) In sub-paragraphs (7) and (8) “Guernsey Law” means the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 of the Bailiwick of Guernsey, as amended from time to time.”.

## **2 Amendment of Regulation 6 (Levy scheme: calculation of total amount required) of Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015**

- (1) In Regulation 6(1) (levy scheme: calculation of total amount required) of the Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015<sup>3</sup>, for “the formula  $\frac{X-Y}{2}$ ,” there is substituted “the formula X – Y”.
- (2) For Regulation 6(7) of those Regulations there is substituted –
- “(7) In respect of a financial year in relation to which paragraph 2(8) of Schedule 2 to the Law does not apply, this Regulation applies without any of the references to the Guernsey body.”.

## **3 Citation and commencement**

These Regulations may be cited as the Financial Services Ombudsman (Case-Fee, Levy and Budget – Amendments No. 2) (Jersey) Regulations 201- and come into force 7 days after they are made.

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>chapter 13.255</i>
<i>2</i>	<i>chapter 13.255</i>
<i>3</i>	<i>chapter 13.255.20</i>