

**Summary**

It is important for everyone in Jersey that Jersey’s economy and government finances are stable and protected from financial crises as far as possible. Financial stability is about taking steps to support the stable functioning of the financial system, protecting Jersey’s continued prosperity, and is an essential requirement for the smooth operation of a modern economy.

The Government of Jersey has taken steps in recent years to create a Financial Stability Board to provide advice on systemic risks to financial stability. Its role is to examine the range, probability and impact of such risks, identify the best ways to minimise them, mitigate fiscal impacts and so minimise the potential costs to islanders. However, operating on its current ‘shadow’ basis has highlighted some practical difficulties for relevant organisations to share information with it. It is now proposed to provide the Financial Stability Board with legal gateways and duties to enable it to operate most effectively, with, for example, the appropriate access to information, appropriate interaction with relevant bodies and organisations and appropriate enshrined independence.

The purpose of this consultation is to propose the appropriate legal powers and duties to establish the Financial Stability Board in Jersey and to seek views on the proposal.

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Monday 20 September 2021 Monday 15 November 2021

**How we will use your information**

The information you provide will be processed in compliance with the Data Protection (Jersey) Law 2018 for the purposes of this consultation. For more information, please read our privacy notice at the end of this document.

The Government of Jersey may quote or publish responses to this consultation (including sending to the Scrutiny Office, quoting in a published report, reporting in the media, publishing on [www.gov.je](https://admin.gov.je/) consultation summary etc.) but will not publish the names and addresses of individuals without consent. Confidential responses will still be included in any summary of statistical information received and views expressed. Under the Freedom of Information (Jersey) Law 2011, information submitted to this consultation may be released if a Freedom of Information request requires it, but no personal data may be released.

Do you give permission for your comments to be quoted?

1. No ☐
2. Yes, anonymously ☐
3. Yes, attributed ☐

Name to attribute comments to:

Organisation to attribute comments to, if applicable:

**Who should respond and ways to respond**

The Government of Jersey is interested in receiving responses from individuals, businesses or organisations, particularly those with an interest in the economy or financial services.

Responses should be submitted by email to:

**Sophie Watkins**

**Financial Stability Board Lead | Economy | Chief Executive’s Office**

**Email:** s.watkins@gov.je

Alternatively, Jersey Finance will be collating an industry response and, to contribute, responses should be sent to:

**Lisa Springate**

**Head of Legal and Technical | Jersey Finance Limited**

**Email:** Lisa.Springate@jerseyfinance.je

Responses sent to Jersey Finance will be shared with the Government of Jersey unless the respondent indicates that they wish to remain anonymous. Please indicate clearly on your response if this is the case.

**Introduction**

1. The Government of Jersey (the Government) has taken steps in the last few years to set up an expert panel (the shadow Financial Stability Board) to provide advice on maintaining the stability and strength of Jersey’s financial system to mitigate risks to the economy and government finances. In order to enable it to perform this role effectively the Government now proposes giving the shadow Financial Stability Board (FSB) necessary legal gateways and duties.
2. This consultation paper sets out the current role and status of the FSB and explains the proposals for its further establishment.

**Government objectives**

1. The objectives of the Government, in proposing to establish the FSB with appropriate gateways and duties are:
	1. to strengthen and maintain the stability of the financial system, which contributes to two of the four key commitments in the Government Plan 2021-2024, namely to:
		1. Deliver positive, sustainable, economic, social and environmental outcomes for Jersey; and to
		2. Ensure effective, efficient and sustainable management of public funds[[1]](#footnote-2).
	2. To ensure that the FSB has the appropriate constitution and powers to enable it to advise the Government effectively.

**What is Financial Instability?**

1. Financial instability is a macro-economic phenomenon, meaning that it affects the economy as a whole, whereas micro-economics is concerned with issues for individuals and businesses. Regulators sometimes distinguish between the microprudential policy and regulation of firms, and the macroprudental policy and regulation of the financial system.
2. The World Bank has considered the numerous definitions of financial stability and notes that most show financial stability as the absence of system-wide episodes in which the financial system fails to function (financial crises) and most include the resilience of financial systems to stress.

*“A stable financial system is capable of efficiently allocating resources, assessing and managing financial risks, maintaining employment levels close to the economy’s natural rate, and eliminating relative price movements of real or financial assets that will affect monetary stability or employment levels. A financial system is in a range of stability when it dissipates financial imbalances that arise endogenously or as a result of significant adverse and unforeseen events. In stability, the system will absorb the shocks primarily via self-corrective mechanisms, preventing adverse events from having a disruptive effect on the real economy or on other financial systems. Financial stability is paramount for economic growth, as most transactions in the real economy are made through the financial system. The true value of financial stability is best illustrated in its absence, in periods of financial instability. During these periods, banks are reluctant to finance profitable projects, asset prices deviate excessively from their intrinsic values, and payments may not arrive on time. Major instability can lead to bank runs, hyperinflation, or a stock market crash. It can severely shake confidence in the financial and economic system”*[[2]](#footnote-3).

1. After the global financial crisis of 2007-8, which sparked a global recession, many jurisdictions reviewed their regulatory systems to protect financial stability. Thus the UK’s Bank of England established a Financial Policy Committee (FPC) in 2013 that identifies, monitors and takes action to remove or reduce systemic risks with a view to protecting and enhancing the resilience of the UK financial system[[3]](#footnote-4). Some international finance centres such as Guernsey and Bermuda created bodies with similar objectives. Guernsey’s Financial Stability Committee has provided advice to the States of Guernsey on matters pertinent to the financial stability of the Bailiwick[[4]](#footnote-5). Bermuda’s Financial Policy Council is an advisory body established to promote financial system stability, supported by a Financial Stability Committee, which implements its recommendations[[5]](#footnote-6).
2. The Bailiwick of Jersey is a self-governing dependency of the Crown. Jersey is autonomous in all domestic matters, and has its own financial, legal and judicial systems. The Island’s economy has evolved from the days of thriving knitting, boat-building and fishing industries, to successes in agriculture, tourism and finance; the latter which now provides over half of the revenue for the Island’s Government[[6]](#footnote-7). Some of the potential risks to Jersey’s financial stability are universal to all jurisdictions, others reflect its position as an international finance centre and the importance of that sector to the economy or are particular to its size and constitution, like the Bailiwick of Guernsey and the Isle of Man, as a Crown Dependency.
3. The costs of financial instability and resulting crises are large. Research from Jersey’s Fiscal Policy Panel in 2019 explored the consequences and management of the specific banking crises in three small economies: Finland 1990, Iceland 2008 and Cyprus 2013. These countries experienced a cumulative loss of around 40 – 50% Gross Domestic Product (GDP) in the period until GDP returned to pre-crisis levels and the analysis of the response of government borrowing suggested that the crises resulted in an extra borrowing of around 30% to 60% of GDP relative to pre-crisis levels before stabilising about eight to ten years afterwards[[7]](#footnote-8). In a Jersey context 30% of GDP would be close to £1.5 billion (GDP was £4,885 million in 2019[[8]](#footnote-9)).

**The Development of a Financial Stability Board in Jersey**

1. The Government of Jersey began considering research around financial stability and the establishment of a FSB in 2011. On 26 July 2019, the Chief Minister approved the establishment of the Jersey Financial Stability (Shadow) Board[[9]](#footnote-10).

**The Jersey Financial Stability (Shadow) Board**

1. The shadow FSB was established in 2019 to work on a non-statutory basis initially. It was proposed that after a period of operation, the effectiveness and governance of the FSB could be reviewed with an objective to consider a statutory footing.
2. The shadow FSB was to be independent providing detached advice to the Government. It would need to co-ordinate with the Financial Services Commission (JFSC), the Fiscal Policy Panel (FPP), the Depositors Compensation Board and other bodies, in many of its activities, and would advise the Government on what actions might be appropriate. The FSB would need access to information held by JFSC and external regulators, with the powers and governance to secure support from other bodies, and in particular JFSC.
3. The Chief Minister approved the appointment of Rt Hon Lord Andrew Tyrie as Shadow Chair of The Jersey Financial Stability (Shadow) Board in July 2019[[10]](#footnote-11) and, in January 2020, announced the appointments of Dr Gunther Thumann and Bill Allen as independent members of the Jersey Financial Stability (Shadow) Board[[11]](#footnote-12).
4. The establishment of the FSB formed part of the Future Economy Programme in the Government Plan 2020-2023 (page 60) “to help with the assessment of macroeconomic risk and consider appropriate mitigation, so that we minimise the transmission of international shocks to our domestic economy”[[12]](#footnote-13) and remains an important part of the Future Economy Programme in the Government Plan 2021-2024[[13]](#footnote-14).

**The experience of the shadow Financial Stability Board**

1. When the current shadow FSB was established in 2019 effectively on a contractual basis, it was proposed that it should be reviewed after a period of operation as to its effectiveness and governance, and to consider whether it needed legal powers and duties. This review has prompted the current proposal to establish the FSB in law to provide it with the appropriate gateways and constitution to deliver its mandate from Government effectively.
2. The shadow FSB has provided advice to the Government since its introduction in 2019, including its views and opinions on managing the financial stability risks of the coronavirus pandemic and the support measures for the economy. However, operating on the current non-statutory basis has raised some practical difficulties for relevant organisations to share information with the shadow FSB. For example, there are legal barriers to the sharing of information by the JFSC which effectively precludes information being shared with the shadow FSB and this limits the usefulness of the advice that the FSB can give. These need to be addressed. Effective information gateways with bodies such as the JFSC, Fiscal Policy Panel and the Government would enable the FSB to give more informed advice. Legislation would provide the opportunity and the means to address information governance concerns and remove any barriers to the appropriate co-operation. The following paragraphs set out the key areas proposed to be covered.

**The purpose of the Financial Stability Board**

1. The objectives of the FSB in normal times are to identify and assess threats to financial stability in Jersey, which if they were realised could be expected to have a systemic impact on the financial stability of Jersey. This includes having particular regard for those threats relating to the financial services sector, as it is such a significant contributor to Jersey’s economy.
2. It is proposed that the FSB will continue to provide advice to the Government of Jersey on actions that might mitigate financial stability risks, with any decision-making role accorded to Government, so that a political and policy decision can be made taking into account all of the short and long term consequences and benefits.
3. In periods of crisis the FSB can provide advice to the Government on how to manage it with the policies and resources available to it. Crisis management may require emergency legislation and/or the deployment of public funds. These require political support and consent. The role of the FSB should be to provide information and advice about what policies should be followed in an emergency.
4. Government may offer guidance to the FSB, it may also direct the board to provide advice on a specific issue in which case the use of its power of direction would be disclosed. This is similar to the UK, where the Chancellor sends a remit letter, typically annually, to the Financial Policy Committee[[14]](#footnote-15).
5. The FSB will achieve these objectives by:
	1. advising the Government on areas such as recommended changes to financial policies and financial law in Jersey;
	2. maintaining a macro-prudential dialogue with other similar bodies, particularly in the UK and the EU;
	3. working with other relevant organisations in Jersey to prepare for financial crises, for example on contingency planning and stress testing exercises.

**Interaction with other organisations and bodies**

1. The FSB needs to co-ordinate and consult appropriately with other organisations and key partners in many of its activities. These include the JFSC, which is responsible for regulating, developing and supervising the Island’s financial services industry; the Fiscal Policy Panel, which provides Jersey's Treasury and Resources Minister and States members with independent advice on the economy and public finances; the Chief Economic Adviser to the Government of Jersey; the new Jersey Resolution Authority and the Depositors Compensation Board.
2. Paragraph 14 outlined the need for certain information ‘gateways’ and it is proposed that such gateways be included in the legislation to enable dialogue and information-sharing with relevant organisations and bodies, such as the Government of Jersey, the JFSC and the Fiscal Policy Panel. This, together with appropriate governance arrangements, will enable the advice of the FSB to be as effective as possible.
3. The FSB will also set up consultative groups to gather useful intelligence from experienced financial services practitioners within Jersey and other jurisdictions.
4. With its role to advise on the threats to financial stability in Jersey and ways to improve the capability of Jersey’s financial system to withstand those threats, including a focus on risks relating to the financial services industry, the FSB has a different and complementary role to the other organisations concerned with financial matters. The JFSC is a prudential and conduct-based regulator with responsibility for regulating, developing and supervising the Island’s financial services industry[[15]](#footnote-16). The Fiscal Policy Panel provides Jersey's Treasury and Resources Minister and States members with independent advice on the economy; the sustainability of public finances in the medium and long term including the net asset position; fiscal policy including the balance of tax and spend and the use of the Strategic Reserve Fund and the Stabilisation Fund[[16]](#footnote-17). The Jersey Resolution Authority will be a new body which will make preparations to facilitate the resolution of banks, where necessary administer the resolution of banks and carry out other statutory functions in relation to bank resolution or recovery[[17]](#footnote-18). While Jersey Finance represents and promotes Jersey as an international finance centre[[18]](#footnote-19).

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| **Question 1: Do you agree with the proposed strategy to establish information gateways for the Financial Stability Board with relevant bodies to enable it to operate most effectively?**  |

**Proposed Structure - to ensure independence and effectiveness**

1. The FSB will be required to provide independent advice. This will assist the information gateways to work effectively with bodies outside of the Government and the liaison with international bodies with a similar focus.
2. It is proposed that the independence of the members of the FSB, other than those appointed *ex officio,*will be supported by terms of appointment to support that independence, including fixed terms of office at 5 years. It is proposed that members may be reappointed for a second term up to a total of nine years, in accordance with standard practice[[19]](#footnote-20).
3. FSB members’ outside interests will be subject to appropriate declaration requirements, with arrangements for recusal from decisions on advice.

**Transparency**

1. It is proposed that the advice provided to Government will generally be published, along with the accompanying analysis.
2. It is proposed that publication of advice provided to Government would not necessarily apply in crisis periods with any decision not to publish being made by the FSB.
3. It would be good practice for the Board to compile and publish a full account of the course of financial crises in retrospect, and of the official reaction to them.
4. It is proposed that the FSB would publish an annual report, which would inform the public about the risks to financial stability and what was being done to address them.

**Membership and Decision-making**

1. It is recommended that there should be up to five members: the Chair, up to three other members appointed by the Government of Jersey, and the Director-General of the JFSC *ex officio.*
2. One of the current shadow members, Dr Thumann, stood down in 2021 and Government will seek a replacement board member, with a preference for candidates with an understanding of the financial system in Jersey.
3. It is proposed that the initial terms of the appointed members be staggered to ensure continuity.
4. Decision-making on the provision of advice should be by consensus if possible, but if necessary, by voting, in which case the Director-General of the JFSC would not take part. The Chair would have the casting vote.
5. Secretariat services will be provided to the FSB by Government.
6. The Chair and the Secretary will ensure that information passed to the FSB in confidence under the proposed FSB legislation is ring-fenced and not shared with other parts of Government, and will be subject to an obligation to do so.

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| **Question 2: Do you agree with the proposed structure for the Financial Stability Board?** |

**Cost and review**

1. The total costs of the FSB will be £160,000 - £250,000 per annum. This covers remuneration for the members of the board, the Secretariat and a research budget.
2. The funding of the FSB would need to be ring-fenced to ensure and demonstrate independence from Government.
3. It is proposed that the necessary costs and resources would continue to be provided by Government.
4. It is proposed that five years after the statute establishing the FSB comes into force, there should be a review of the remit and structure of the FSB to ensure it is effective for the island’s needs.

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| **Question 3: Do you agree with the proposed funding approach and review period?** |

**Summary of questions**

Question 1: Do you agree with the proposed strategy to establish information gateways for the Financial Stability Board with relevant bodies to enable it to operate most effectively? If not, then please explain why and what alternative proposal is preferred.

Question 2: Do you agree with the proposed structure for the Financial Stability Board?

Question 3: Do you agree with the proposed funding approach and review period?

**General comments**

We invite any general comments respondents may have on the proposals.

**Data Protection (Jersey) Law 2018 Privacy Notice**

**How will we use the information about you?**

We will use the information you provide in a manner that conforms to the Data Protection (Jersey) Law 2018.

We will endeavour to keep your information accurate and up to date and not keep it for longer than is necessary. In some instances the law sets the length of time information has to be kept. Please ask to see our retention schedules for more detail about how long we retain your information.

We may not be able to provide you with a service unless we have enough information or your permission to use that information.

We will not pass any personal data on to anyone outside of the States of Jersey, other than those who either process information on our behalf, or because of a legal requirement, and we will only do so, where possible, after we have ensured that sufficient steps have been taken by the recipient to protect your personal data.

We will not disclose any information that you provide ‘in confidence’, to anyone else without your permission, except in the few situations where disclosure is required by law, or where we have good reason to believe that failing to share the information would put someone else at risk. You will be told about this unless there are exceptional reasons not to do so.

We do not process your information overseas using web services that are hosted outside the European Economic Area.

**Data Sharing**

We may need to pass your information to other States of Jersey (SOJ) departments or organisations to fulfil your request for a service. These departments and organisations are obliged to keep your details securely, and only use your information for the purposes of processing your service request.

We may disclose information to other departments where it is necessary, either to comply with a legal obligation, or where permitted under other legislation. Examples of this include, but are not limited to: where the disclosure is necessary for the purposes of the prevention and/or detection of crime; for the purposes of meeting statutory obligations; or to prevent risk of harm to an individual, etc.

At no time will your information be passed to organisations for marketing or sales purposes or for any commercial use without your prior express consent.

**Your rights**

**You can ask us to stop processing your information**

You have the right to request that we stop processing your personal data in relation to any of our services. However, this may cause delays or prevent us delivering a service to you. Where possible we will seek to comply with your request but we may be required to hold or process information to comply with a legal requirement.

**You can withdraw your consent to the processing of your information**

In the few instances when you have given your consent to process your information, you have the right to withdraw your consent to the further processing of your personal data. However, this may cause delays or prevent us delivering a service to you. We will always seek to comply with your request but we may be required to hold or process your information in order to comply with a legal requirement.

**You can ask us to correct or amend your information**

You have the right to challenge the accuracy of the information we hold about you and request that it is corrected where necessary. We will seek to ensure that corrections are made not only to the data that we hold but also any data held by other organisations/parties that process data on our behalf.

**You request that the processing of your personal data is restricted**

You have the right to request that we restrict the processing of your personal information. You can exercise this right in instances where you believe the information being processed in inaccurate, out of date, or there are no legitimate grounds for the processing. We will always seek to comply with your request but we may be required to continue to process your information in order to comply with a legal requirement.

**You can ask us for a copy of the information we hold about you**

You are legally entitled to request a list of, or a copy of any information that we hold about you. However where our records are not held in a way that easily identifies you, for example a land registry, we may not be able to provide you with a copy of your information, although we will do everything we can to comply with your request.

You can ask us:

* to stop processing your information
* to correct or amend your information
* for a copy of the information we hold about you.

You can also:

* request that the processing of your personal data is restricted
* withdraw your consent to the processing of your information.

You can complain to us about the way your information is being used by contacting us at dataprotection2018@gov.jealternatively you can complain to the Information Commissioner by emailingenquiries@dataci.org.

1. <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Government%20Plan%202021%20to%202024%20CB.pdf> [↑](#footnote-ref-2)
2. <https://www.worldbank.org/en/publication/gfdr/gfdr-2016/background/financial-stability> [↑](#footnote-ref-3)
3. <https://www.bankofengland.co.uk/financial-stability> [↑](#footnote-ref-4)
4. <https://www.gfsc.gg/sites/default/files/1110%20GFSC%20Annual%20Report%20%26%20Accounts%202019_AWK_WEB%20.pdf> page 27 [↑](#footnote-ref-5)
5. <https://www.gov.bm/articles/bermuda-monetary-authority-hosts-tenth-meeting-financial-policy-council> [↑](#footnote-ref-6)
6. <https://www.jerseyfinance.je/jersey-the-finance-centre/our-island/> [↑](#footnote-ref-7)
7. <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/Fiscal%20Policy%20Panel%20Advice%20for%20the%202020-23%20Government%20Plan.pdf> [↑](#footnote-ref-8)
8. [https://www.gov.je/government/jerseyinfigures/businesseconomy/pages/nationalaccounts.aspx](https://www.gov.je/StatisticsPerformance/BusinessEconomy/pages/nationalaccounts.aspx) [↑](#footnote-ref-9)
9. <https://www.gov.je/government/planningperformance/pages/ministerialdecisions.aspx?showreport=yes&docid=73C35D7B-A1C1-4577-AD93-895D0DBA16DF#report> [↑](#footnote-ref-10)
10. <https://www.gov.je/government/planningperformance/pages/ministerialdecisions.aspx?showreport=no&docid=8DF8C3D9-D7DF-4690-99DF-F655513B9977> [↑](#footnote-ref-11)
11. <https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=4129627F-A614-43CE-BA77-6DE6C8664330> [↑](#footnote-ref-12)
12. <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20Government%20Plan%202020%20to%2023%2020200909%20CB.pdf> [↑](#footnote-ref-13)
13. <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Government%20Plan%202021%20to%202024%20CB.pdf> [↑](#footnote-ref-14)
14. <https://www.bankofengland.co.uk/financial-stability> [↑](#footnote-ref-15)
15. <https://www.jerseyfsc.org/> [↑](#footnote-ref-16)
16. [https://www.gov.je/government/departments/officechiefexecutive/officechiefexecutivessections/pages/fiscalpolicypanel.aspx](https://www.gov.je/Government/Departments/Economy/Pages/FiscalPolicyPanel.aspx) [↑](#footnote-ref-17)
17. <https://www.jerseylaw.je/laws/enacted/Pages/L-10-2017.aspx#_Toc482689457> [↑](#footnote-ref-18)
18. <https://www.jerseyfinance.je/> [↑](#footnote-ref-19)
19. <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20JAC%20recruiting%20guidelines%20%2020160517%20MN.pdf> [↑](#footnote-ref-20)