Treasury and Resources

Summary of Responses

States of Jersey

INTERNATIONAL SERVICES ENTITY: ISSUES AFFECTING TRUST COMPANY BUSINESSES

12 April 2013

SUMMARY OF CONSULTATION DETAILS

This report summarises the responses to the Green Paper relating to the International Services Entity (ISE) fees charged to Trust Company Businesses (TCBs), which was issued on 17 October 2012. The consultation period ran until 25 January 2013.

International Services Entity status is effectively the Goods and Services Tax (GST) equivalent for financial services businesses which primarily serve non-residents. The views of TCBs were sought on whether changes to the regime were possible, which would improve the equity and transparency of the way ISE fees are charged to TCBs and their clients. The consultation specifically sought views on:

- Amending the fee structure for TCBs so that the current "basic" £7,500 fee element is replaced with a scale fee that better reflects the size of the business
- Clarifying who is liable to pay the £200 "vehicle" element of the trust company fee

In total, eight responses were received to the Green Paper, of which one was from an individual and a company associated with him, five were from businesses and two were from representative bodies. All but one of the businesses responding carried on TCB activities.

A list of all those who responded to the Green Paper is included in the attached appendix.

OVERVIEW OF CONSULTATION RESPONSES

1. There is no consensus on how best to charge ISE fees to TCBs in an equitable but administratively simple way.

2. A slim majority of respondents to this consultation favoured retaining the current fee structure for TCBs. Those who favoured changing the structure of the "basic" £7,500 element did not agree on a preferred alternative.

3. There is no appetite for changing the way the vehicle element of the TCB fee is charged.

4. Some respondents would like the fee for start-up TCBs to be waived or reduced in order to encourage new business to set up in the Island.

5. The trust and company administration sector is facing a number of pressures, in common with the rest of the financial services industry and the broader economy. Respondents consider that costs associated with doing business in Jersey should be held as low as possible.

MINISTER'S RESPONSE TO CONSULTATION

The Minister would like to thank all those who took the time to respond to the Green Paper. The responses which were received were both informative and well considered.

The Minister will now consider what action to take in response to the feedback received and an announcement will be made with the 2014 Budget later in the year.

SUMMARY OF RESPONSES

A summary of the responses to each of the 14 questions asked is included here.

<u>Fees for trust company businesses</u>

Responses to Questions 1 and 2 overlapped in many cases, so they have been summarised in one place.

Question 1: What would be the likely impact of replacing the current flat "basic" £7,500 element of the TCB ISE fee with a scaled fee, calculated using each of the options discussed above, namely:

- ***Option 1 – base the £7,500 basic element of the TCB fee on number of clients***
- ***Option 2 – base the £7,500 basic element of the TCB fee on number of full-time equivalent employees***
- ***Option 3 – base the £7,500 basic element of the TCB fee on turnover***

Question 2: Which of the options 1 – 3 above would best meet the needs of the industry? How do these options compare to option 4, to retain the current flat fee structure?

Responses to these questions were mixed and no clear consensus emerged. A slim majority (4 out of 7) indicated that their preference would be to retain the current system. Among those who preferred a change, there was no agreement on the best way to do this while meeting the twin aims of improved equity without undue increased complexity.

Respondents indicated their preferences for each of the options as follows:

Option number	Number of first preferences	Number of second preferences
1	1	1
2	1	1
3	1	1
4	4	0

Option 1:

Those in favour of this option indicated that:

- It would be easy to administer as the information is already held by TCBs, who are required to submit the information annually, both to the Taxes Office under the ISE regime and to the JFSC as part of their annual registration process. It would not therefore create an undue additional administration obligation.
- It would be a good measure of a TCB's size although it would not necessarily reflect the volume of activity of and hence fees generated by a TCB.
- It would appear to be the most equitable alternative.

Those not in favour of this option considered that:

- Tying the basic ISE fee to the number of clients could make the recovery of it from clients less transparent.
- Smaller, more efficient TCBs would be penalised under this option compared with less efficient TCBs or those which are larger and have fewer but significantly larger clients.
- It would make the fee structure more complex and increase the administrative burden.

Option 2:

Comments in favour of this option included:

- This would be straight-forward to calculate; it is transparent and easy to understand.
- It would not create an additional burden as the information is already submitted to the JFSC to enable calculation of annual registration fees.
- The number of employees would be a good measure of the level of activity of a TCB.

Comments against this option included:

- It could lead to TCBs delaying recruitment when close to a new threshold and could be seen as penalising those TCBs attempting to increase staff numbers in a difficult employment market. Further comments on the potential impact of this option on employment decisions are included under Question 4 below.
- It would make the calculation unduly complex and increase the administration burden.

- Estimating the number of employees working in TCB activities could become complex and open to manipulation, particularly for companies or groups carrying on more than one activity.
- Business decisions (e.g. regarding outsourcing) can distort the number of the number of employees in any one sector of the business, and this could be affected by basing ISE fees on the number of employees.

Option 3:

Positive responses to this option suggested that this would be the most accurate and equitable option to remove inequities between smaller and larger TCBs, provided the system was very simple with a maximum of 4-5 bands within the scale structure.

Negative responses included:

- It would be unduly complex, especially where a number of participating members contribute to the financial performance of a business, with different year ends.
- It might be prohibitive for newly established TCBs if the fee was based on projected turnover figures which were not then realised. Consideration would have to be given to a repayment process in the event of overpayment.
- It could result in inconsistencies where different TCBs calculate turnover in different ways.
- It would make the fee structure more complex and increase the administrative burden.

Option 4:

Respondents who favoured this option did so for the following reasons:

- The current structure works well and is well understood.
- The simplicity and certainty of the current fee structure is preferable to less certain and more administratively complex variable fees.
- The existing basis of calculation already reflects the size and scale of the business paying it, through the “vehicle” element of the fee. This is already by far the most significant component of the overall fee.

Respondents who did not favour this option suggested that the current flat fee structure is not equitable because the same fee is payable regardless of the size of the TCB.

Question 3: What additional administrative or other costs would be associated with each of options 1 - 3? How would each compare to the administration of the current flat fee structure?

Respondents generally felt that each of the options could have increased administration costs, though did not provide details. Only one respondent considered that none of the options would have additional administrative costs.

Question 4: To what extent do you think basing the fee on the number of full-time equivalent employees would affect hiring decisions and the location of employees?

Five responses were received to this question. Four of these suggested that a fee structure based on the number of employees would affect hiring decisions, whether by encouraging TCBs to delay recruitment until after the annual ISE application had been made, by discouraging the hiring of new staff or by encouraging Jersey businesses to outsource work (and thereby staffing needs) overseas. One respondent commented that TCBs with significant outsourcing of their operations outside the Island could be at a significant advantage compared to those operating solely within the Island, while on the other hand, Jersey would be at a disadvantage when it came to attracting outsourced TCB businesses from other global centres. The Island could thereby lose the opportunity to gain taxable revenues because it is relatively easy for such organisations to choose alternative locations.
One respondent did not consider that a fee structure based on the number of employees would affect its hiring decisions, on the basis that the decision on the number of staff to employ was dictated by business needs, not by ISE fees.

Question 5: For a fee calculated on the basis of employees, do respondents agree that the use of the full-time equivalent employee basis of calculation would give rise to a more equitable result than the use of a headcount basis? If so, why? If not, why not?

All but one of the responses to this question agreed that the use of the full-time equivalent employee (FTEE) basis of calculation would be more equitable than the use of a headcount basis, though reasons were not generally given. The remaining respondent said that the impact on their business of FTEE versus headcount basis would not be significant, but that they could not speak for the rest of the industry.

Question 6: For a fee calculated on the basis of turnover, would requiring companies to calculate their ISE fee for a calendar year using the turnover figure reported in their annual accounts for the previous financial period create difficulties for businesses? Would a different financial period be preferred? If so, why?

Respondents generally indicated that using the turnover figures reported in their accounts would not create any difficulties. However, one respondent noted that extracting turnover figures for the TCB side of a business which carried on more than one regulated activity could be time-consuming, and if these numbers were required to be audited, this would add to the cost of the annual audit.

Another respondent suggested that there may be a need for transitional provisions for new companies, those changing their financial period, and potentially in other similar circumstances, but did not feel these should be too difficult to establish.

Question 7: Would the position of companies applying for ISE listing for the first time be adequately covered by the measures noted above? What other measures could be introduced to ensure that new companies paid a fair fee while not being subject to undue administrative obligations?

Three of the five respondents to this question felt that new companies would be adequately covered by the measures above, and could calculate their fees on the basis of a business plan or other forecast.

One suggested that Option 2 (scaling the fee based on the number of full-time equivalent employees) would be the fairest mechanism for new applicants, as they would expect that new applicants would be growing businesses that could benefit from a scaled charge. They also considered that it would be easier for new businesses to identify the number of employees than turnover.

Two of the responses suggested that the fee for start up TCBs in their first years of operation could be waived in order to support new business growth. Another respondent proposed that a reduced fee could be charged for the first few years of operation.

Question 8: Where more than one regulated activity is carried on by the same company, please comment on any specific issues arising from using the proposed methods of calculation, and indicate which of the options would be most, and least, problematic.

There were three responses to this question. Two of these suggested that isolating and identifying turnover relating solely to the TCB business (Option 3) would be complex. One respondent suggested the same issue would arise with Option 2, basing the fee on the number of employees.

A third respondent suggested that where the same entity was licensed to carry on TCB activity in both Jersey and another jurisdiction, the business undertaken solely in that other jurisdiction should not fall within the scope of the ISE fee calculation.

Question 9: Can respondents identify another system for the "basic" TCB element of the ISE fee that would better meet the needs of industry than those discussed above?

Only one respondent proposed another basis of calculation, which would replace the current "two stage" approach (i.e. the flat fee plus the vehicle component) with a single fee based on the TCB's revenue.

<u>Liability for the vehicle element of the trust company business ISE fee</u>

Question 10: Would respondents support the removal of the vehicle element of the overall TCB calculation so that clients of TCBs would no longer automatically be treated as ISEs, on the basis that the revenue lost as a result would be recouped through increasing the other TCB ISE fees? Would their responses be different if increases were to be made to all ISE fees? Why or why not?

None of the six responses to this question would support the removal of the vehicle element of the overall TCB fee calculation on the basis set out above.

Many reasons were given for this, including:

- It could be more difficult to recoup the cost of ISE fees from clients if the clients did not acquire ISE status as a result. This would result in a net increase in costs for TCBs.

- The current position, whereby there is an explicit link between the "vehicle" element of the ISE fee and their clients, still allows TCBs the discretion of whether to seek to recover this from clients or to absorb it themselves. This flexibility was considered important.
- Increased ISE fees (both for clients and service providers) would be seized on by Jersey's competitors and used to make the Island look uncompetitive when compared to jurisdictions without ISE fees.
- The administration burden and associated cost for the TCB of applying for ISE status on behalf of those individual clients which would benefit in their own right could be higher than under the current system.

Question 11: Would TCBs bear more of the burden of ISE fees themselves if the explicit link between the vehicle element of the fee and number of clients administered was removed?

All five responses to this question agreed that TCBs would bear more of the burden of ISE fees themselves if the explicit link between the vehicle element of the fee and the number of clients administered was removed.

Question 12: Would respondents support the introduction of a direct charge to be levied on all entities administered in Jersey to replace the current fee structure? If so, why? If not, why not?

None of the five respondents to this question would support the introduction of a direct charge to be levied on all entities administered in Jersey to replace the current ISE fee structure.

The main reasons given for this were the threat to the Island's competitive position and the increased administration burden for TCBs in administering the new fee system.

Question 13: What would the impact be of requiring details of all administered entities to be registered with the Taxes Office?

Respondents differed sharply in their view on this question. Three of the five responses considered that registration with the tax authorities could discourage inward investment to Jersey due to sensitivities over disclosure of personal data. The remaining two responses felt there would be no or low impact as regulated financial services providers are required to maintain lists of all active clients and the names of corporate clients are already disclosed to the tax authorities annually in any event.

General

Question 14: Are there any anticipated future changes or trends in the TCB commercial environment that should be considered when developing future ISE or GST policy? Please outline the changes or trends and provide background to support your view.

Respondents noted that the market is difficult with less new business than previously. The trend for TCB clients appears to be for fewer, more complex and higher value clients. Respondents highlighted the need for Jersey to remain competitive, both in terms of cost base and administration requirements.

Appendix: List of respondents

Computershare
Equinox Trustees Limited
HSBC Private Bank CI Limited
The Jersey Association of Trust Companies
Jersey Finance Limited
Osiris Trustees Limited
RBC Jersey Trust Businesses
Mr Gino Risoli/Design Food Limited