



Consultation response and policy paper: The appropriate legal powers and duties to establish the Jersey Financial Stability Board

BACKGROUND

The Government of Jersey has taken steps in recent years to create a shadow Financial Stability Board (FSB) 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 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 Financial Services Commission (JFSC) which effectively preclude certain information being shared with the shadow FSB and this limits the usefulness of the advice that the FSB can give.

On 20 September 2021, the Government of Jersey published a consultation paper seeking feedback on proposals on the appropriate structure and duties for the FSB and enabling information-sharing gateways with certain bodies.

The consultation closed on 15 November 2021. The Government of Jersey received four responses to the consultation, as well as one set of informal comments. All responses were supportive of the proposals and objectives, therefore legislation to give effect to the proposals is being drafted. Responses are summarised below, and the Government of Jersey has stated its policy position, where appropriate.

Further questions or comments relating to this consultation response and policy paper may be directed to:

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SUMMARY OF CONSULTATION RESPONSES

The Government received four responses to the consultation. These were from:

- an individual;
- the Law Society of Jersey;
- the Legal & Regulatory Committee of the Association of Restructuring and Insolvency Experts; and
- the Jersey Association of Trust Companies (JATCo).

All four responses were fully supportive of the overall proposal. For example, the Legal & Regulatory Committee of the Association of Restructuring and Insolvency Experts stated “..being a committee concerned with protecting stakeholder interests in financial distress and insolvency, [the committee] is wholly supportive of the Jersey Financial Stability Board (FSB) and the Government objectives stated in the consultation dated September 2021”.

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?

All four responses fully agreed with the proposed strategy. Comments included that it was “..absolutely essential the FSB has all the relevant information in order that it can carry out its duties and functions fully”.

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

Three of the four responses answered this question. One response agreed subject to the Chair and Board members being independent of Government and not civil servants – Government of Jersey can clarify that this is the proposal. Therefore, all three responses agreed with the proposed structure.

The other respondent considered that 3-year terms for board members, rather than the proposed 5-year terms, to the same total of 9 years would be more in line with other appointments and more flexible. The provisions for board members of statutory bodies in Jersey legislation are commonly for terms not exceeding 5 years or for terms of between 3 and 5 years, for example in the Jersey Financial Services Commission¹, the Fiscal Policy Panel², the Jersey Resolution Authority³ and the Channel Islands Financial Ombudsman⁴. In order to provide the necessary flexibility, and to enable the approach stated in the consultation paper of staggering the initial terms of the members, it is intended that the terms will be between 3 and 5 years.

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

Three of the four responses agreed with the proposed funding approach and review period. The fourth agreed in part, querying the extra headcount of up to 5 board members over the existing 3 (and the accompanying cost).

¹ [Financial Services Commission \(Jersey\) Law 1998](#)

² [Public Finances \(Jersey\) Law 2019](#)

³ [Bank \(Recovery and Resolution\) \(Jersey\) Law 2017](#)

⁴ [Financial Services Ombudsman \(Jersey\) Law 2014](#)

The consultation paper proposed a maximum of five members for the FSB, to be constituted of the Chair, up to three ordinary members and the Director-General of the JFSC in an ex officio role. The Chair and member roles are appointed by the Government of Jersey. Presently it is the intention only to appoint 2 ordinary members and the Chair, in addition to the JFSC Director-General, and this was reflected in the costings given in the consultation paper.

Other

In addition, the Jersey Bankers Association (JBA) provided some informal feedback and queries, which did not correspond to the questions posed in the consultation paper and so are not included in the sections on these questions, above. This feedback included that the JBA was unclear on the remit, role and output of the FSB and thinks there is material overlap with the Fiscal Policy Panel (FPP). The Government of Jersey will continue to ensure that the legislation being drafted provides clarity on this and will seek to avoid unhelpful overlap in the role with respect to the FPP. The JBA also requested clarity on whether FSB will request data direct from banks – no legislative power was proposed requiring banks to provide information to the FSB. The JBA also asked if the FSB advice will be made public - it is intended that the advice reports of the FSB will be published, although consideration will be given to provide a mechanism to delay publication if it is not in the public interest (if, for example, the publication might itself pose a financial stability risk).

Government of Jersey response to the feedback

The Government of Jersey wishes to thank respondents for taking the time to consider the proposals on the Financial Stability Board and for the helpful comments and views provided. The responses were supportive of the overall objective and proposals and therefore legislation is being prepared accordingly.