Financial Services Commission

Response to Consultation Paper

Proposed fee amendments for financial services providers

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Summary

The Commission published a consultation paper on fee proposals for the 2014 / 15 year on the 6th March 2014. The paper set out proposals for fees payable by existing financial services firms under the various Supervisory Acts for which the Financial Services Commission has responsibility.

10 responses to the consultation were received. Main issues raised were concerns with the general fee structure, the impact on Gibraltar as an attractive jurisdiction and the staffing needs of the Commission. Clarification was also requested in relation to whether the fee increases covered the costs of implementing Solvency II.

Despite raising concerns, respondents appeared broadly supportive of the Commission's rationale to increase its licence fees. There was also strong support and understanding of the increased demands placed on the Commission due to the complex financial regulation arising from the EU and international arena, which has impacted on our ongoing operational costs.

This year's budget has been formulated to focus on ongoing resource needs to begin to build and develop our skills to deliver good reputable regulation of financial services and to successfully manage ongoing international and EU regulatory expectations.

Consequently, the fee increases are separate to any specific levies which may be needed to meet significant, standalone/one off costs such as the implementation costs of key directives such as Solvency II. Any levies raised to meet this type of exceptional costs will not be long term and will only be introduced if the projected costs will have a significant, time limited impact on the Commission's budget.

A full strategic review of the resources necessary to deliver effective regulation of the Gibraltar financial services industry over the long-term, including a fee setting policy, is needed and is likely to take place with a target implementation in 2016 / 17. The industry will be fully consulted and kept informed on next steps for this review.

The Commission considers that the fee increases are a merited and proportionate response to current and future challenges.

Basis of consultation

The Commission is committed to consulting in an open, transparent and accountable way and welcomes any comments and/or observations from the industry. We would like to thank those individuals and organisations who took the time to respond.

A total of 10 responses were received. Of these, 5 were from those representing the interests of the Insurance industry, 4 were from the Fiduciary sector and 1 was from the Banking sector.

Outcome of consultation and summary of responses received

The following themes emerged from the responses:

1. The increase in fees may impact upon the perceived attractiveness of Gibraltar as a leading financial centre;
2. The level of fees applied across different financial services industries should be reflective and proportionate to the resources applied by the FSC;
3. Staffing at the FSC should match the specialised knowledge required in specific areas;
4. A question of whether or not the fee increases were designed to meet significant "one-off" implementation costs for new regulation, such as Solvency II;
5. FSC requests for approval or guidance have taken too long to reply to; and
6. In order to assist smaller firms, fees should be payable throughout the year and not "upfront".

1. The increase in fees may impact upon the perceived attractiveness of Gibraltar as a leading financial centre

The Commission has worked hard to keep fees down to support Gibraltar remaining in a competitive position in relation to its peer jurisdictions.

However, there has been an increase in complex financial regulation arising from the EU and international arena and an extensive regulatory agenda has been set more generally on what reputable regulatory regimes need to deliver.

Financial services is one of the key sectors of the Gibraltar economy. As such, the Commission needs to maintain the quality of its regulation to ensure it remains attractive as a leading International Finance Centre. The associated rising costs of achieving this cannot continue to be absorbed within the Commission's existing reserves and budget.

In order to provide responsive, accessible regulation with a strong reputation for being ahead of key risks, we need to ensure that we have a suitable workforce and mechanisms in place to manage the increased regulatory challenges. Whilst funding levels have been set to begin to meet these increased costs, and to ensure that the Commission can fulfil its objectives, we will continue to monitor our expenditure very carefully.

2. The level of fees applied across different financial services industries should be reflective and proportionate to the resources applied by the FSC

We acknowledge that there has been a level of concern raised in relation to the way in which the annual fees are determined. In particular, the smaller firms operating within the insurance industry have expressed some level of dissatisfaction that the fees are not proportionate to the insurer's size, operation and complexity.

A review of the resources necessary to deliver effective regulation of the Gibraltar financial services industry over the long-term, including a fee setting policy and methodology will have a target implementation date of 2016/17. However, the industry should be mindful that our experience is that the size of a firm and the level of resources devoted to supervising that firm do not necessarily correlate. There are instances where the resources required and devoted to smaller firms are not commensurate to the level of fees paid.

3. Staffing at the FSC should match the specialised knowledge required in specific areas;

There was a general consensus amongst respondents that the Commission should increase the skill set of its staff and enhance their understanding of the industry and how it operates. The Commission agrees that staff should continue to increase and expand their level of specialised knowledge, for example, to undertake more complex risk, compliance and financial analysis than previously has been necessary.

The Commission is dedicated to continuing to secure a skilled regulatory workforce, properly aligned to regulatory needs.

The Commission intends to use its training budget not only to focus on developing technical skills but also broader regulatory skills, such as broadening our capability openly and constructively to engage with the industry and developing our ability to make forward-looking judgements about the risks posed by firms and individuals.

Our recruitment process actively includes sourcing individuals from a wide and diverse range of professionals to ensure that we have the most relevant skills, experience and technical knowledge being brought into support and complement our existing staff.

At all times, the Commission's focus will be on working to ensure that investment in staff capacity and capability is good value for money.

4. a question of whether or not the fee increases were designed to meet significant "one-off" implementation costs for new regulation, such as Solvency II;

The fee increases do not include "one-off" implementation costs for new regulation. Additional fees will be required for the project development and implementation of key legislation such as Solvency II. The additional fees will support the specific and increased level of resources and tools required to ensure effective regulation.

With a clear timetable for Solvency II published by EIOPA, we are in a position to finalise our work plan to ensure that both ourselves and the industry are suitably prepared. This work plan will be published in the near future. As part of this plan, the Commission will shortly commence a programme of engagement to support working directly and collaboratively with the industry and the Government on this.

We will keep you updated on developments in this area, including engagement on the proposed fees for this project.

5. FSC requests for approval or guidance have taken too long to reply to.

One respondent expressed their concern regarding the time taken for the Commission to respond to and process requests for approval or guidance.

As part of the Commission's continuous improvement as a regulator, we have already launched an initiative to review internal policy and procedures to make sure that they support delivery of our regulatory obligations, including the management of risk and being accessible and easy to do business with.

6. In order to assist smaller firms, fees should be payable throughout the year and not "upfront".

The request to submit annual fee payments in instalments throughout the year was put to the Commission by one firm.

Whilst the Commission does not intend to change its policy for annual invoicing, if a firm feels that it has a genuine case for paying the annual fee in instalments we ask that you contact Mrs Jandra Borg-Figueras, Manager, Accounts (jborgfigueras@fsc.gi) who will consider the request based on its merits.

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Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar
Tel: (+350) 20040283
Fax: (+350) 20040282
www.fsc.gi