



**Financial Services
Commission**

Consultation Paper

Proposed fee amendments for financial services providers

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1. Purpose

The purpose of this consultation paper is to set out proposals for revised fees payable by existing financial services firms under the various supervisory acts for which it has responsibility.

2. Basis of consultation

As an organisation, the Financial Services Commission “the Commission” has a responsibility to cover its costs by charging fees and is committed to doing this in an open, transparent and accountable way.

Providing details of the proposed changes supports the provision of greater transparency and understanding about the adopted process, including the opportunity for those affected to provide views and feedback.

We look forward to hearing your responses to the consultation for the proposed fee increase by 5pm on Friday 4th April 2014. Invoices will not be issued until at least 14 days after the end of the consultation period and licensees will have 30 days from the date of invoice within which to pay the annual fee.

If you have any further questions or want to send comments directly please contact;

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3. Introduction

The Commission is proposing an increase to its licence fees, above those invoiced last year, by 12% for firms that fall under the Financial Services (Banking) Act and the Financial Services (Insurance Companies) Act. For all other firms, the FSC proposes that the licence fee increase is set at 9%.

The Commission will not be revising its application fees at this time.

Whilst the Commission proposes fee increases to fund the ordinary regulatory activity of the organisation, it does not underestimate the impact on firms of paying fees. The Commission is extremely mindful that firms are still recovering from the impact of the financial crisis and whilst it is gradually receding, firms are still faced with ongoing pressures operating in the current economic climate.

To date, the Commission has worked hard to keep fees down whilst firms make the transition through this difficult period and to support Gibraltar remaining in a competitive position in relation to its peer jurisdictions. At the same time the Commission has needed to maintain the quality of its regulation. In particular it has continued to develop its regulatory processes, revise and embed a more appropriate risk management style and culture, which ensures key strategic risks are controlled and mitigated. This has led to associated rising costs, which to date, have been able to be absorbed within the Commission's existing reserves and budget. However, the Commission cannot prudently maintain this approach over the long term.

The impact and repercussions of the financial crisis have also been felt strongly by the Commission. 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.

This has increased demands on the Commission's ongoing operation costs to the point where fee increases are now necessary.

The Commission is particularly committed to ensuring that it has a suitable workforce and mechanisms in place to manage the increased regulatory challenges. Therefore, the proposed funding levels have been set to begin to meet these increased costs and to ensure that the Commission can fulfil its objectives as set out under the Financial Services Commission Act and obligations set out in other legislation.

Against this background the Commission therefore considers that the fee increases are a merited and proportionate response to current and future challenges.

4. Strategic priorities

Strategic priorities and business aims for the next year are set out in the Commission's 2014 / 15 Business plan.

This Plan includes the strategic and operational priorities for mitigating the risks to the Commission's statutory objectives, identifies the necessary tools and resources to achieve this, thereby informing the Commission's view of the resources reasonably required and consequent implications for fees for 2014 / 15. The Commission has invested a significant amount of time in preparing its Plan in order to be in a position to understand what funding is necessary.

The Plan sets out the specific items that are considered to form part of the day-to-day functions and responsibilities of each division. This includes matters such as the processing of applications, effective responses to supervisory events and emerging risks, the carrying out of risk assessments and the analysis of returns which supports risk assessment and mitigation.

The Plan also concentrates on the items which the Commission is proposing to focus on during 2014 / 15. These primarily relate to work-streams linked to key European and International initiatives and involve compliance with EU Directives, Protocols and Gibraltar law and regulations. During the course of the year the Commission will also be assuming a number of new responsibilities which involve, but are not limited to, its role as a listing authority, supervision of an investment stock exchange, regulation of personal pension schemes and pension trustees, administrator and intermediaries.

In order to achieve the aims of the Plan this year the majority of the supervisory tools available to the Commission will need to be enhanced over the forthcoming year. This will support the effective implementation of key Directives, the necessary development of systems and controls and supervisory processes and the broader effective management of risk.

In particular, in order to continue to secure a skilled regulatory workforce, properly aligned to regulatory needs, current staffing levels will need to be increased alongside investment in the capability, skills and experience base of existing staff.

The Commission's focus will be on working to ensure that investment in staff capacity and capability is good value for money.

Training will be with a particular focus on developing current and future Commission staff to interact confidently with the authority and experience necessary to manage the various regulatory challenges. This can be achieved by striking a good balance across a range of methods such as;

- Use of internal training using professionals within the organisation
- Bringing in experts from industry
- External training courses where required

Our approach also continues to be to separate "one off" project related capacity needs from capacity needs arising from ongoing regulatory delivery which need to be met through recruitment. Particularly, the Commission will continue the approach of offering secondment opportunities to professionals from within the local industry. The Commission's experience is that this not only supports short term capacity needs but is of wider benefit in terms of broader appreciation in the industry of the FSC's regulatory approach and building the Commission's staff capability.

Strengthening the senior executive, including necessary senior recruitment, is also likely to be an important aspect of the Commission's approach to being well positioned to meet current and future challenges.



An important outcome of investment in staff capacity and capability will be an improved broader ability to identify, evaluate and take action on those risks that pose the greatest threats to the Commission's objectives.

This will support a focus of the Commission's attention on those firms that are unable or unwilling to manage risks thus posing the greatest risks to consumers, the public and Gibraltar's reputation as a Finance Centre, thereby increasing the ability to minimise to the best extent possible the regulatory burden on firms able and willing to manage risks. The rest of the paper sets out the detailed fee proposals.

5. Detailed fee proposals

5.1. Fiduciary Services

The Fiduciary and Pensions Division supervises firms under two separate pieces of legislation; Company Managers, Professional Trustees and Occupational Pensions Schemes. Within the ambit of Professional Trusteeships, the Division has over the past year, taken on supervisory responsibility for Professional Trustees to Qualifying Recognised Overseas Pension Schemes, although there is no specific provision in legislation for this at the present time. The supervision of this activity is taking up a substantial amount of the division’s resources. This will continue to increase as a result of a focused visit programme, which assesses the risks arising from firms engaged in this type of activity.

Furthermore, in line with Government’s and the Commission’s intentions, the development of a new regulatory regime for Pensions will require the Commission to invest in additional staff possessing technical skills and experience in the Pensions industry. It is only in investing in these areas that the Commission will be able to meet and serve the industry’s expectations in this developing part of the sector.

It is also likely that in the near future, responsibility will also be assumed for Professional Trusteeships and Protectors to Foundations (this is contingent on the enactment of the Private Foundations Act and corresponding amendments made to the Financial Services (Investment and Fiduciary Services) Act.). This again, is likely to require further resources.

With regard to the depth of oversight on licensed firms, this has certainly increased over the last four years. The level of scrutiny over regulatory returns has also increased. Traditionally Fiduciary services firms were supervised primarily from a conduct of business angle. More emphasis is now placed on monitoring compliance with prudential requirements. This has meant that the Division is spending a considerable greater amount of time on the actual assessments and subsequent exchanges with licensed firms.

Under the Financial Services (Investment and Fiduciary Services) Act, proposed amendments to annual fees are as follows:

Trust under Management – not more than 25 trusts	From £3,503 to £3,818
Trust under Management – 26-150 trusts	From £5,481 to £5,974
Trust under Management – 151-200 trusts	From £7,684 to £8,376
Trust under Management – 201-400 trusts	From £7,910 to £8,622
Trust under Management – 401-600 trusts	From £9,040 to £9,854
Trust under Management – 601 trusts and over	From £10,170 to £11,085
Companies under Management – not more than 150	From £1,808 to £1,971
Companies under Management – 151-500	From £2,825 to £3,079
Companies under Management – 501-1000	From £3,503 to £3,818
Companies under Management – 1001-1500	From £5,311 to £5,789
Companies under Management – 1501 to 3000	From £7,119 to £7,760
Companies under Management – 3001 to 4500	From £7,910 to £8,622
Companies under Management – 4501 and over	From £9,040 to £9,854
Individual directorships	From £113 to £123
Company Secretarial	From £678 to £739
Corporate Directorships Additional Company	From £1,752 to £1,910
Nominee Shareholders	From £735 to £801



The annual fee in respect of a company whose licence is restricted to providing company secretarial services only will be £739 (from £678).

The annual fee in respect of a company whose services, as a nominee company, comprise solely of the provision of nominee shareholders will be £801 (from £735). This fee of £801 allows the provision of nominee shareholder services by up to two separate entities.

The annual fee in respect of a company whose licence is restricted to the provision of corporate directorships only will be £1,910 (from £1,752). This fee of £1,910 allows the provision of corporate directorships services by up to two separate entities. The annual fee in respect of second and subsequent companies with unrestricted licences will be £1,910 per company.

5.2. Occupational Pensions

Under the Financial Services (Occupational Pensions Institutions) Act, it is proposed that annual fees be amended from £2,160 to £2,354.

5.3. Asset Protection Trust's

It is proposed that annual fees be amended from £113 to £123.

5.4. General

Under the Financial Services (Investment and Fiduciary Services) Act, firms which have more than one class of licence [classes I to IV, VI(a) and VI(b)] pay for each individual class with the total amount for the firm restricted to £7,308 (from £6,705).

5.5. Investment Services

The Banking, E-money and Investment Services Division supervises a wide variety of different types of firms which include banks, electronic money institutions, investment firms, bureaux de change and payment services institutions (in due course it is likely that it will also supervise an exchange).

These firms are regulated under five different pieces of legislation (as well as numerous pieces of subsidiary legislation). As part of the work involved in this, EU Directives come into play on a daily basis. The range of firms dealt with means that the Division needs to be aware of (as a minimum) the requirements set out in 4 distinct EU Directives i.e. Capital Requirements Directive (CRD IV), Markets in Financial Instruments Directive (MiFID), Payments Services Directive (PSD), 2nd E-Money Directive (2EMD), and any EU Regulations published.

The advent of CRD IV and the common reporting mechanism introduced by this directive is changing the way that banks, and some investment firms, are regulated and supervised. Considerable investment is required in this area in order to enable the jurisdiction, and the Commission, to comply with EU obligations, which include the technical standards issued by the European Banking Authority (EBA) .

It is expected that the MiFID II proposals will result in further changes to the way in which firms carrying on investment activities are supervised. The Commission will be required to support and implement any changes required to the regulatory regime arising out of the directive and the guidance and standards issued by the European Securities and Markets Authority (ESMA).

In addition, it is expected that both the PSD and 2EMD will be reviewed and that proposals regarding enhancements to the legal and regulatory regimes in both of these areas will also be formulated at EU level.

Going forward the Division also needs to be able to fulfil the functions of a Listing Authority. The Division will therefore need to focus on the development of a listing regime which enables the Listing Authority to carry out its duties, responsibilities and obligations.

Under the Financial Services (Investment and Fiduciary Services) Act, proposed amendments to annual fees are as follows:

MiFID (Cat 1)	From £11,100 to £12,099
MiFID (Cat 2)	From £8,400 to £9,156
MiFID (Cat 3)	From £6,190 to £6,747
Investment Dealer	From £6,705 to £7,308
Investment Broker	From £6,680 to £7,281
CIS Intermediary	From £3,365 to £3,668
Investment Manager	From £6,680 to £7,281
Investment Adviser	From £5,650 to £6,159
Stock Exchange	From £60,000 to £65,400
Clearing House	From £60,000 to £65,400
Money Services Business (Combined)	From £2,725 to £2,970
EEA Investment Business	From £5,600 to £6,104
EEA Investment Firms (Branch)	From £5,600 to £6,104
IMD Branch and MiFID Branch Combined	From £8,965 to £9,772

Transaction fees in respect of Category 1 will remain at 3p per transaction. To be capped at £30,000 per annum.



5.6. Banks and E-money

Under the Financial Services (Banking) Act, proposed amendments to annual fees are as follows:

EEA Bank Branch Initial Fee	From £5,600 to £6,272
EEA Bank Branch	From £5,600 to £6,272
Bank Initial Fee	From £22,100 to £24,752
Bank	From £22,100 to £24,752
E-Money Initial Fee	From £28,000 to £31,360
E-Money Institution	From £28,000 to £31,360
EEA Branch Initial Fee	From £5,650 to £6,328
EEA Branch	From £5,650 to £6,328

5.7. Bureaux de Change and Money Transmitters

Under the Financial Services (Investment and Fiduciary Services) Act, proposed amendments to annual fees are as follows:

Bureaux de Change	From £1,645 to £1,793
Money Transmitters	From £2,725 to £2,970

5.8. Funds

The Funds Division is responsible for funds, fund administrators, fund managers, depositaries, fund directors and firms offering Consumer Credit. Funds are split between recognised funds and authorised funds caught by the Financial Services (Collective Investment Schemes) Act, Experiences Investors Funds under the Financial Services (Experienced Investor Fund) Regulations. Additionally fund managers are caught by the Financial Services (Alternative Investor Fund) Regulations and these are required to register their Alternative Investor Funds (AIFs).

The regulatory changes within the funds industry both at EU and international level, this includes Alternative Investment Fund Managers (AIFM) requirements; problem funds; increased offsite supervision and required oversight of EIFs. The Division is increasingly under pressure to meet the demands and expectations of industry participants and potential applicants in providing relevant guidance/regulatory information as well as supervising the entities that fall within the remit of the Division.

The AIFM Directive needs further technical development, as well as ongoing processing of new funds and ongoing international developments on it which needs resourcing. There are other international initiatives by the EU and the International Organisation for Securities Commissions (IOSCO) which need to be implemented.

Furthermore, the Division is also responsible for supervising firms offering Consumer Credit. The oversight of these firms needs to be developed and payment of fees by these entities is required in order to ensure compliance with the requirements.

Under the Financial Services (Investment and Fiduciary Services) Act, proposed amendments to annual fees are as follows:

AIFM (In-Scope) External	From £8,400 to £9,156
AIFM (In-Scope) Self-Managed (EIF)	From £840 to £916
AIFM (In-Scope) Self-Managed (Non-EIF)	From £1,000 to £1,090
AIFM (Small) External (Financial)	From £500 to £545
AIFM (Small) External (Non-Financial)	From £1,000 to £1,090
AIFM (Small) Self-Managed (EIF)	From £100 to £109
AIFM (Small) Self-Managed (Non-EIF)	From £500 to £545
AIFM (In-Scope) External (AIF Fee EIF)	From £300 to £327
AIFM (In-Scope) External (AIF Fee non-EIF)	From £500 to £545
AIFM (Small) External (Financial) (AIF Fee non-EIF)	From £500 to £545
AIFM (Small) External (Non-Financial)(AIF Fee non-EIF)	From £500 to £545
AIFM (Additional AIFs) (Other Fees)	From £100 to £109

Under the Financial Services (Collective Investment Schemes) Act, proposed amendments to annual fees are as follows:

Authorised CIS – UCITS	From £13,335 to £14,535
Non-UCITS Retail Schemes	From £3,905 to £4,256
CIS Manager	From £8,940 to £9,745
CIS Depositary	From £8,350 to £9,102
CIS Administrator	From £6,680 to £7,281
EIF	From £840 to £916
EIF Directorship	From £250 to £273

5.9. Insurance

The Insurance Division supervises firms that are licensed under two separate pieces of legislation; insurance companies and insurance intermediaries/insurance managers.

Ongoing insurance company regulation and supervision will be affected by changes driven by the expected implementation of the Solvency II directive on 1 January 2016. In the meantime the Commission will be required to contribute to the development of Gibraltar's new legal and regulatory regime, ensuring that the directive is appropriately implemented by the due date, and adapting its supervisory approach to reflect the recently introduced EIOPA Guidelines on preparation for Solvency II and new Implementing Technical Standards and Guidelines that are scheduled to be published between April 2014 and June 2015.

Developing the new regulatory regime and enhancing the supervisory approach will require the Commission to invest in additional staff with financial, risk management and actuarial skills and to incur additional costs where it decides that work requiring those skills should be outsourced.

In the case of Insurance Intermediaries the Commission will support the implementation of the second EU directive on Insurance mediation, which is expected to be adopted in 2014 and implemented in 2016. Initially, our work will be focussed on ensuring that an appropriate legal and regulatory regime is established. The Commission's revised supervisory approach will be considered closer to the Directive's implementation date. The new directive will lead to additional work for the FSC, which will require the Commission to allocate additional resource such supervision.

Under the Financial Services (Investment and Fiduciary Services) Act, proposed amendments to annual fees are as follows:

Insurance Manager	From £6,680 to £7,281
General Insurance Intermediary	From £5,650 to £6,159
Life Assurance Intermediary	From £5,650 to £6,159
EEA – Insurance Mediation [IMD] Branch	From £5,600 to £6,104

Under the Financial Services (Insurance Companies) Act, proposed amendments to annual fees are as follows:

Insurance (General) GWP <£10m	From £21,450 to £24,024
Insurance (General) GWP >£10m	From £23,700 to £26,544
Insurance General (Captive & Reinsurers)	From £4,745 to £5,314
Insurance L/Term (Insurers, Reinsurers & PCC)	From £29,750 to £33,320
Insurance L/Term (Captive & Reinsurers)	From £11,800 to £13,216
PCC (General Insurance & Reinsurance)	From £4,745 to £5,314
PCC (General Insurance & Reinsurance per cell)	From £1,775 to £1,988



5.10. Auditors

Under the Financial Services (Auditors) Act, it is proposed that annual fees be amended as follows:

Audit Firm (Base)	From £1,500 to £1,635
Statutory Auditor	From £600 to £654
Audit Firm (PIE Surcharge)	From £1,000 to £1,090
Audit Firms and Individuals (Balance Charge)	£73,000