

Subsidiary Legislation made under s. 53 and 56.

Repealed by LN. 2016/071 as from 1.4.2016

FINANCIAL SERVICES (FEES) REGULATIONS 2011

(LN. 2010/071)

Commencement **1.4.2011**

| Amending enactments | Relevant current provisions | Commencement date |
|---------------------|-----------------------------|-------------------|
| LN. 2011/036 | Sch. | 31.3.2011 |
| 2012/047 | Sch. | 1.4.2012 |
| 2012/072 | Sch. | 1.4.2012 |
| 2014/067 | rr. 2, 4(2) and 4(3) & Sch. | 2.5.2014 |
| 2014/073 | Sch. | 8.5.2014 |
| 2015/055 | r. 4(6) & Sch. | 1.4.2015 |

ARRANGEMENT OF REGULATIONS.

Regulation

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SCHEDULE

In exercise of the powers conferred on him by sections 53 and 56 of the Financial Services (Investment and Fiduciary Services) Act 1989 and all other enabling powers, the Minister has made the following Regulations—

Title and commencement.

Financial Services (Investment and Fiduciary Services)

FINANCIAL SERVICES (FEES) REGULATIONS 2011

1. These Regulations may be cited as the Financial Services (Fees) Regulations 2011 and come into operation on 1 April 2011.

Interpretation.

2. In these Regulations, unless the context otherwise requires–

“authorised firm” means a firm authorised under Part II of the Financial Services (Markets in Financial Instruments) Act 2006;

“authorised payment institution” means a legal person that has been granted authorisation in accordance with regulation 10 of the Financial Services (EEA) (Payment Services) Regulations 2010 to provide and execute payment services;

“the CIS Act” means the Financial Services (Collective Investment Schemes) Act 2005;

“the Commission” means the Financial Services Commission established by section 3 of the Financial Services Commission Act, 2007;

“the MIFID Act” means the Financial Services (Markets in Financial Instruments) Act 2006;

“Category 1 firm” means a Gibraltar investment firm as defined under regulation 5(8) of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;

“Category 2 firm” means a Gibraltar investment firm as defined under regulation 5(1) of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;

“Category 3 firm” means a Gibraltar investment firm as defined under regulation 5(2) of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;

“controlled activity” has the meaning given in section 3(2)(c) of, and Schedule 3 to, the Act;

“financial services business” means any activity that constitutes investment business or a controlled activity;

“financial year” means the period from 1 April to 31 March;

“investment business” has the meaning given in section 3(2)(b) of, and Schedule 2 to, the Act;

“licensee” means a person licensed under section 8 of the Act to carry on investment business or a controlled activity or a person authorised to carry on a restricted activity under section 8 of the CIS Act;

“Payment Services Regulations” means the Financial Services (EEA) (Payment Services) Regulations 2010”; and “Registered payment institution” means a legal person that has been registered in accordance with regulation 26 of the Financial Services (EEA) (Payment Services) Regulations 2010 to provide and execute payment services;

“Payment Services Regulations” means the Financial Services (EEA) (Payment Services) Regulations 2010;

“Registered payment institution” means a legal person that has been registered in accordance with regulation 26 of the Financial Services (EEA) (Payment Services) Regulations 2010 to provide and execute payment services;

“the Act” means the Financial Services (Investment and Fiduciary Services) Act.

“authorised payment institution” means a legal person that has been granted authorisation in accordance with regulation 10 of the Financial Services (EEA) (Payment Services) Regulations 2010 to provide and execute payment services;

Fees payable to the Commission.

3. All fees prescribed by these Regulations shall be payable to the Commission.

Application fees.

4.(1) An application—

- (a) made under section 6 of the Act and section 7 of the MIFID Act to carry on any financial services business;
- (b) for the authorisation of a collective investment scheme;
- (c) for the recognition of a collective investment scheme made pursuant to section 35 or 40 of the CIS Act;

- (d) for the authorisation of a restricted activity under section 8 of the CIS Act,

shall subject to sub-regulations (2) and (3), and in each case be accompanied by the application fee prescribed in Part 1, Part 2 or Part 3, as the case may be, of the Schedule.

(2) *Deleted*

(3) *Deleted*

(4) Separate application fees are payable in respect of applications under the Act, the CIS Act and the MIFID Act.

(5) No application fee will be returned to the applicant irrespective of the outcome or withdrawal of the application.

(6) An application fee of £1,375 shall be payable when a licensee seeks the addition of a further class of business to its licence.

Annual fees.

5.(1) A licensee or authorised firm shall subject to sub-regulation (2) pay the annual fee specified in Part 1, Part 2 or Part 3, as applicable, of the Schedule for each financial year during the whole or any part of which, subject to sub-regulation (6), it is licensed.

(2) In respect of a bureau de change to which regulation 4(2) applies, the first annual fee shall be reduced proportionally in respect of any part of the financial year during which that bureau de change was licensed to carry on business as a bureau de change under the Bureaux de Change Act.

(3) Separate annual fees are payable by licensees under the Act, the CIS Act and the MIFID Act. The previous concession where a licence covers more than one class of financial services business now no longer applies.

(4) An authorised collective investment scheme shall pay the annual fee specified in Part 2 of the Schedule for each financial year during the whole or any part of which, subject to sub-regulation (6), it is authorised.

(5) Subject to sub-regulation (6), the annual fee shall be paid in advance and within 28 days from 1 April in any financial year, unless the Commission agrees otherwise.

(6) The first annual fee under sub-regulations (1) and (4) shall be paid—

- (a) on the issue of the licence or authorisation;
- (b) in relation to a branch of a European investment firm or a branch of an EEA firm carrying out insurance mediation services, on the branch notification being received and acknowledged by the Commission; or
- (c) in relation to an EEA UCITS management company establishing a branch in Gibraltar, on the notification from the EEA UCITS management company's Home State Regulator, in accordance with the Financial Services (Collective Investment Schemes) Regulations, 2005, being received and acknowledged by the Authority,

as the case may be.

(7) Where a first annual fee is paid in respect of a licence or authorisation issued, or a branch or UCITS management right notification received and acknowledged, after 31 December in any financial year, the fee shall be reduced by 50% for that financial year.

(8) As regards the annual fee for a class VII or class VIII licence, the number of trusts under management or the number of companies under management respectively shall be calculated, and certified correct by a duly qualified auditor—

- (a) in the case of an application made under the transitional provisions of section 59 of the Act, as at the date of the application; and
- (b) in the case of an existing licensee, as at the end of the financial year immediately preceding the day the fee became due and payable.

Transaction Fees.

6. Where a transaction fee is specified in Part 3 of the Schedule, that fee shall be paid retrospectively, within 28 days of—

- (a) 1 April in any financial year; or
- (b) such shorter period, being not less than 28 days, as requested by the Commission.

Revocation.

1989-47
Repealed
Subsidiary
2010/071

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7. The Financial Services (Fees) Regulations, 2010 are revoked.

SCHEDULE

Regulations 4 and 5

PART 1

| Class | Description | Application | Annual Fee |
|-------|--|------------------|------------|
| I | Investment Dealer (Note 8,9) | £4,125 | £7,966 |
| II(a) | Investment Broker (Note 8,9) | £4,125 | £7,936 |
| II(b) | Collective Investment Scheme Intermediary (Note 8,9) | £4,125 | £3,998 |
| III | Investment Manager (Note 8,9) | £4,125 | £7,936 |
| IV | Investment Adviser (Note 8,9) | £4,125 | £6,713 |
| VI(a) | General Intermediary (Note 8,9) | Insurance £4,125 | £6,898 |
| VI(b) | Life Intermediary (Note 8,9) | Assurance £4,125 | £6,898 |
| | EEA firms conducting insurance mediation | £1,100 | £6,836 |
| VII | Professional Trustee (Note 4) Trusts under management | £2,750 | - |
| | (i) not more than 25 | | £4,162 |
| | (ii) 26 - 150 | | £6,512 |
| | (iii) 151 - 200 | | £9,130 |
| | (iv) 201 - 400 | | £9,398 |
| | (v) 401 - 600 | | £10,741 |
| | (vi) 601 and over | | £12,083 |
| VIII | Company Manager (Notes 1,2,3 and 5) Companies under | £2,750 | |
| | (i) not more than 150 | | £2,148 |
| | (ii) 151 - 500 | | £3,356 |
| | (iii) 501 - 1000 | | £4,162 |
| | (iv) 1001 - 1500 | | £6,310 |
| | (v) 1501 - 3,000 | | £8,458 |
| | (vi) 3001 - 4500 | | £9,398 |
| | (vii) 4501 and over | | £10,741 |
| | Individual directorships (Note 11) | | £134 |

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| | | | |
|----------|---|---------|---------|
| IX | Insurance Manager | £8,250 | £8,155 |
| X (a) | Stock Exchange (non-trading – listing only) | £75,000 | £65,400 |
| X (b) | Stock Exchange (trading) | £82,500 | £71,286 |
| X (c) | Extension to scope of business of a Stock Exchange | £11,000 | - |
| XI | Clearing House | £82,500 | £71,286 |
| XII | Bureaux de Change (Note 10) | £2,750 | £1,954 |
| XIII (a) | Class A, authorised payment institution | £4,125 | £3,149 |
| XIII (b) | Class B, authorised payment institution | £6,050 | £7,158 |
| XIII (c) | Class C, authorised payment institution | £8,250 | £9,713 |
| XIV (a) | Class A, registered payment institution | £4,125 | £3,149 |
| XIV (b) | Class B, registered payment institution | £4,125 | £3,149 |
| XIV (c) | Class C, registered payment institution | £4,125 | £3,149 |
| | Incoming branch notification for a payment services institution | £1,100 | £6,653 |
| | Incoming payment services institution Agent notification | £1,100 | - |
| | Outgoing branch payment services notification | £1,100 | £3,089 |
| | Notification of a payment services Agent | £246 | - |

PART 2

| <i>Class</i> | <i>Description</i> | <i>Application Fee</i> | <i>Annual Fee</i> |
|--------------|---|------------------------|-------------------|
| | Authorised Collective Investment Scheme (Note 6) UCITS Scheme | £4,400 | £4,752 |
| | Non UCITS Retail Scheme (Note 6) | £3,850 | £4,639 |
| | Recognition of a collective investment scheme under section 35 | £ 440 | - |
| | Recognition of a collective investment under section 40 | £2,750 | - |
| V(a) | Collective Investment Scheme Manager | £11,000 | £10,622 |
| V(b) | Collective Investment Scheme Depositary (Note 7) | £8,250 | £9,921 |
| V(c) | Collective Investment Scheme Administrator | £6,600 | £7,936 |
| | EEA UCITS management company establishing a branch in Gibraltar | £5,500 | - |

PART 3

| | <i>Application Fee</i> | <i>Annual Fee</i> | <i>Transaction Fee</i> |
|----------------------|------------------------|-------------------|------------------------|
| Category 1 (Note 12) | £11,000 | £13,188 | 3p per transaction |

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| | | | |
|---|--------|--------|---|
| Category 2 | £8,250 | £9,980 | - |
| Category 3 | £6,050 | £7,354 | - |
| European authorised institutions in respect of relevant investment business | £1,100 | £6,653 | - |
| European investment firms in respect of a branch | £1,100 | £6,653 | - |
| MiFID outgoing Branch Notification; | £1,100 | £3,564 | |

Note 1. The annual fee in respect of a company whose licence is restricted to providing company secretarial services only will be £806.

Note 2. The annual fee in respect of a company whose licence is restricted to the provision of corporate directorships only will be £2,082. This fee of £2,082 allows the provision of corporate directorship services by up to two separate entities.

Note 3. Additional companies under management have an annual fee of £2,082 per company.

Note 4. Additional companies as a professional trustee have an annual fee of £2,082 per company.

Note 5. The application fee shall be reduced to £317 in the case of a company manager whose services, as a nominee company, comprise solely the provision of nominee shareholders with the annual fee being £873. This fee of £873 allows the provision of nominee shareholder services by up to two separate entities.

Note 6. Where a scheme is an umbrella fund, the application and annual fee payable for each constituent sub-fund or part (however described) shall be 25% of the fees payable by the umbrella fund.

Note 7. Unless deemed not to constitute a restricted activity under regulation 64 of the Financial Services (Collective Investment Schemes) Regulations 2005.

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1989-47

**Repealed
Subsidiary
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Note 8. 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 £7,966.

Note 9. Application fees will comprise a basic fee of £4,125 plus £1,375 for each additional class of business for which a licence is sought.

Note 10. If applicant seeks both a class XII and XIII(a) licence, application fee will be £4,125. If licensed for both classes, annual fee will be restricted to £3,237.

Note 11. The provision of individual directorships to client companies managed by a licensed firm. This does not include Experienced Investor Funds Directors which are dealt with under the Experienced Investor Funds (Fees) Regulations 2014.

Note 12. Transaction fees to be capped at £50,000 per annum.