

Statutory Document No. 2016/0098



Financial Services Act 2008

FINANCIAL SERVICES (FEES) ORDER 2016

Approved by Tynwald:

Coming into Operation:

1 May 2016

The Isle of Man Financial Services Authority makes the following Order under section 46 of the Financial Services Act 2008¹, after carrying out the consultations required by section 44(5) of that Act.

1 Title

This Order is the Financial Services (Fees) Order 2016.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 May 2016.²

3 Interpretation

(1) In this Order —

“**the Act**” means the *Financial Services Act 2008*;

“**annual regulatory return**” has the same meaning as in Appendix 1 of the Schedule to the Financial Services Rule Book 2013³;

“**annual review date**” means 1 August each year;

“**authorised scheme**” has the same meaning as in section 26(1) of the *Collective Investment Schemes Act 2008*⁴;

“**branch**” means an office or establishment of a deposit taking institution;

“**deposit taking institution**” means an institution carrying on an activity which falls, or if carried on in the Island would fall, within Class 1;

¹ AT 8 of 2008

² Tynwald approval is required by section 45(3) of the Act

³ SD 0372/2013 as amended by SD 2015/0305

⁴ AT 7 of 2008

“**deposit taking subsidiary**” means a deposit taking institution which is a subsidiary of another deposit taking institution;

“**exempt scheme**” has the same meaning as in section 26(1) of the *Collective Investment Schemes Act 2008*;

“**exempt-type scheme**” means a scheme which does not, but would be an exempt scheme if it did, comply with paragraph 1(2) of Schedule 3 to the *Collective Investment Schemes Act 2008*;

“**experienced investor fund**” has the same meaning as in regulation 3(1) of the Collective Investment Schemes (Experienced Investor Fund) Regulations 2010⁵;

“**full international scheme**” has the same meaning as in Schedule 2 to the *Collective Investment Schemes Act 2008*;

“**lead regulator**”, in relation to a deposit taking institution, means the regulatory authority which, in accordance with the principles of the Basel Committee on Banking Supervision, is responsible for the prudential or consolidated regulation of the institution;

“**nominee exemption**” means an exemption contained in paragraph 4.4, 4.5 or 5.1 of Schedule 1 to the Financial Services (Exemptions) Regulations 2011⁶;

“**professional investor fund**” has the same meaning as in article 2(1) of the Financial Supervision (Professional Investor Fund) (Exemption) Order 1999⁷;

“**scheme**” has the same meaning as in the *Collective Investment Schemes Act 2008*.

(2) References in this Order to —

- (a) a class of regulated activities are to regulated activities of a class specified in Schedule 1 to the Regulated Activities Order 2011⁸;
- (b) a numbered class, or to a numbered paragraph of such a class (“**subclass**”), are to the class of regulated activities so numbered in Schedule 1 to that Order, or to the paragraph so numbered of that class, as the case may be.

4 Application fees and annual fees

(1) Subject to paragraphs (2) to (8) and to articles 5 to 9, in relation to a licence to carry on regulated activities of a description specified in

⁵ SD 164/10 as amended by SD 355/11

⁶ SD 885/11 as amended by SD 0374/2013 and SD 2016/0100

⁷ SD 602/99

⁸ SD 884/11 as amended by SD 0373/2013 and SD 2016/0099

column 2 of Table 1 in the Schedule (“**Table 1**”), the following fees are payable –

- (a) on initial application for the licence, the application fee specified in column 3 of Table 1;
 - (b) on application for an amended licence to carry on regulated activities falling within any class where the applicant does not already hold a licence to carry on activities falling within that class, the application fee specified in column 3 of Table 1;
 - (c) on application for an amended licence to carry on additional activities falling within any class where the applicant already holds a licence to carry on certain activities falling within that class, an application fee of £500; and
 - (d) on every annual review date while the licence is in force, an annual fee of the amount specified in, or calculated in accordance with, column 4 of Table 1.
- (2) Where Table 1 refers to Table 2 in the Schedule (“**Table 2**”), Table 2 must also be referred to when calculating the appropriate fee.
- (3) For the purposes of paragraphs (1)(a) and (d), and (4) to (6), Classes 2 and 3 together shall be treated as one single class, and Classes 4 and 5 together shall be treated as one single class.
- (4) If –
- (a) different fees are specified in Table 1 in relation to regulated activities of different descriptions within one single class; and
 - (b) a licence to carry on regulated activities of more than one such description is applied for or issued, as the case may be, or regulated activities of more than one such description are carried on at the annual review date,
- only the highest application fee and the highest annual fee, as the case may be, is payable for that class.
- (5) In the first year of licensing the proportion of the annual fee relating to the period from the date of issue of the licence until the next annual review date (calculated pro rata in accordance with article 7) is due and payable on the issue of the licence.
- (6) In the first year –
- (a) in which an additional class or subclass of regulated activity is added to an existing licence; or
 - (b) in the case of a licenceholder licensed to carry on the regulated activity of Class 1 and for whom the Authority is the lead regulator, in which a new branch or deposit taking subsidiary outside the Isle of Man is established,

the proportion of any increased annual fee relating to the period from the date of issue of the amended licence, or establishment of the branch or subsidiary, as the case may be, until the next annual review date (calculated pro rata in accordance with the formula in article 7) is due and payable on the issue of the amended licence, or date of establishment.

- (7) Fees under this article shall be payable —
- (a) in the case of an application fee, by the applicant for the licence;
 - (b) in the case of an annual fee, by the licenceholder.
- (8) Application fees and annual fees are not refundable.

5 Incidental Class 4 regulated activities for licenceholders carrying on Class 3 regulated activities

Where a licenceholder is licensed to carry on Class 3 regulated activities, and conducts Class 4 regulated activities solely in respect of collective investment schemes and subsidiaries and associated entities of such schemes, including the establishment and winding up of such entities, the annual fees in rows 23 and 24 of Table 1 are substituted with a fee of £500. No application fee will be payable in such circumstances.

6 Exempt managers of experienced investor funds and professional investor funds

The fees in row 19 of Table 1 are not payable for regulated activities falling with paragraph (9) of Class 3 if those activities are undertaken only in respect of exempt managers of experienced investor funds and professional investor funds within the meaning of paragraph 3.3 of Schedule 1 to the Financial Services (Exemptions) Regulations 2011.

7 Class 4 and Class 5 fees

The annual fee payable under rows 23 or 24 of Table 1 must be calculated in accordance with Table 2 by reference to the total number of companies, foundations, partnerships and trusts for which the licenceholder (and any subsidiary companies of the licenceholder carrying on Class 4 or 5 activity by virtue of a nominee exemption) carries on any Class 4 or 5 activity.

8 Pro rata annual fees

Where a licence is issued on a date other than the annual review date, the annual fee shall be calculated in accordance with the following formula (rounded up to the nearest £50) —

$$\frac{F \times N}{12}$$

12

Where —

- F is the annual fee which would be payable apart from this article; and
- N is the number of months between the date on which either —
- the licence is issued and the next annual review date; or
 - in the circumstances set out at 4(6)(b), the number of months between the date of the establishment of such a branch or deposit taking subsidiary and the next annual review date,
- counting a part of a month as a complete month.

9 Fees for licenceholders in liquidation

- (1) Where a licenceholder is in solvent liquidation at the annual review date, the relevant annual fee is payable in accordance with Table 1.
- (2) Where a licenceholder is in insolvent liquidation at the annual review date, the annual fee is £250.

10 Additional fees for management or administration of overseas schemes

- (1) Where a licenceholder which is licensed to carry on regulated activities within paragraphs (1) or (2) of Class 3 (manager or administrator) in relation to schemes established outside the Isle of Man but that are administered or managed in the Isle of Man (“**overseas schemes**”), apart from experienced investor funds and professional investor funds, there shall be added to the amount specified in column 4 of rows 12 and/or 13 of Table 1 the sum of £500 for each overseas scheme when the licence is issued or on the annual review date, as the case may be.
- (2) In relation to the annual fee, the number of overseas schemes will be taken as the number of overseas schemes that have been notified to the Authority as at 30 April before the annual review date, or in the licence application, as the case may be. No additional fee will be collected if the number of overseas schemes increases between annual review dates.

11 Revocation

The Financial Services (Fees) Order 2015⁹ is revoked.

⁹ SD 2015/0165

MADE 10 MARCH 2016

K. BADGEROW

Chief Executive of the Isle of Man Financial Services Authority

A. SMITH

Member of the Isle of Man Financial Services Authority

SCHEDULE

[Article 4]

FEES

TABLE 1

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	Description of regulated activity	Application fee	Annual fee
1	Class 1 where the licenceholder has total deposits excluding Isle of Man inter-bank placings of – <ul style="list-style-type: none"> - up to but not including £1 billion - £1 billion to £5 billion - over £5 billion (taken from the deposit taking return for 31 March before the annual review date)	£9,850 £9,850 £9,850	£19,000 £22,500 £25,000
1A	Class 1, where an Isle of Man incorporated Class 1 licenceholder, for whom the Authority is lead regulator, has a branch or deposit taking subsidiary outside the Island	Nil	£6,600 per branch and/or subsidiary
2	Class 2 (1) to (7) (stockbroker) where the licenceholder deals as a principal on its own account	£2,300	£19,800
3	Class 2 (2) to (7) (stockbroker) where the licenceholder does not deal as a principal on its own account	£2,300	£11,400
4	Class 2 (2) and (5) (custodian)	£2,300	£7,450
5	Class 2(3) only	£1,950	£2,000
6	Class 2 (3) and (7) (financial adviser) – <ul style="list-style-type: none"> - with no more than 2 advisers at 30 April before the annual review date - with 3 or more advisers at 30 April before the annual review date 	£1,950 £1,950	£1,550 £2,000
7	Class 2 (3) and (5)	£1,950	£5,650
8	Class 2 (3) and (6) (investment adviser to retirement benefits scheme) and may include (7) (financial adviser)	£1,950	£5,650

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	Description of regulated activity	Application fee	Annual fee
9	Class 2 (3) to (7) (discretionary portfolio manager)	£1,950	£5,650
10	Class 2 (3), (4), (5) and (7)	£1,950	£5,650
11	Class 2 in any other case	£1,950	£7,450
12	Class 3 (1) or (2) (manager or administrator) in relation to authorised schemes together with any other scheme apart from exempt schemes or exempt-type schemes	£1,950	£11,400
13	Class 3 (1) or (2) (manager or administrator) in relation to schemes apart from authorised schemes, exempt schemes or exempt-type schemes	£1,950	£7,450
14	Class 3 (3), (4) and/or (5) (trustee, fiduciary custodian or custodian) except in relation to authorised schemes or full international schemes Where the above licenceholder is also licensed to carry on Class 1 regulated activity, the annual fee in this row is not payable	£1,950	£11,400
15	Class 3 (3), (4) and/or (5) (trustee, fiduciary custodian or custodian) in relation to authorised schemes or full international schemes together with any other type of scheme Where the above licenceholder is also licensed to carry on Class 1 regulated activity, the Class 1 annual fee in row 1 is not payable although the annual fee in row 1A is payable	£1,950	£28,050
16	Class 3 (6) (asset manager)	£1,950	£7,450
17	Class 3 (7) (investment adviser)	£1,950	£5,650
18	Class 3 (8) (promoter)	£1,950	£1,800
19	Class 3 (9) (management and/or administration services)	£1,950	£11,950

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	Description of regulated activity	Application fee	Annual fee
20	Class 3 (10) (administration services to overseas manager and/or administrator)	£1,950	£5,650
21	Class 3 (11) and/or (12) (manager etc. of exempt or exempt-type scheme)	£500	£500
22	Class 3 (13)	Nil	Nil
23	Class 4 and/or Class 5 (except as mentioned in rows 24 to 26 below)	£2,050	See Table 2
24	Class 5 (4) (trust corporation) together with any Class 4 or 5 activities	£2,400	See Table 2
25	Class 4 (6) professional officer where the licenceholder has — <ul style="list-style-type: none"> - 1 to 15 directorships - 16 to 25 directorships - 26 or more directorships as at — <p>(a) 30 April (to be notified to the Authority by 15 May); or</p> <p>(b) if such notification is not received by that date, taken from the last annual regulatory return made to the Authority on or before 30 April before the annual review date</p>	£1,600 £1,600 £1,600	£650 £850 £1,000 for 26 directorships plus £25 for each additional directorship
26	Class 5 (2) and/or (5) and/or (6) professional officer where the licenceholder has — <ul style="list-style-type: none"> - 1 to 5 appointments - 6 to 10 appointments - 11 or more appointments as trustee, enforcer or protector as at — <p>(a) 30 April (to be notified to the Authority by 15 May); or</p> <p>(b) taken from the last annual regulatory return made to the Authority on or before 30 April before the annual review date</p>	£1,600 £1,600 £1,600	£650 £850 £1,000 for 11 appointments plus £50 for each additional appointment
27	Class 6 (crowdfunding platforms)	£1,950	£7,450
28	Class 7 (management or administration services)	£500	Nil

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	Description of regulated activity	Application fee	Annual fee
29	Class 8 (1), (2)(b) and/or (3) (bureau de change, payment services as agent and cheque cashing services)	£1,000	£1,000
30	Class 8 (2)(a) and/or (4) (payment services as principal and e-money issuance) calculated by reference to the Isle of Man annual turnover related to that regulated activity calculated as at the licenceholder's annual reporting date — <ul style="list-style-type: none"> - Up to and including £1 million (or where the licenceholder has not reached its first annual review date) - Over £1 million and up to and including £5 million - Over £5 million and up to and including £50 million - Over £50 million and up to and including £100 million - Over £100 million 	£2,200	£1,000
		£2,200	£6,050
		£2,200	£8,250
		£2,200	£10,450
		£2,200	£12,100

TABLE 2

Total number of companies, foundations, partnerships and trusts for which a licenceholder (and any subsidiary companies under a nominee exemption) carries on Class 4 or 5 activities (taken from the last annual regulatory return made to the Authority on or before 30 April before the annual review date)		Class 4 and/or 5 activities <u>including</u> Class 5(4) (trust corporation)	Class 4 and/or Class 5 activities <u>excluding</u> Class 5(4) (trust corporation)
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
Exceeding	Not exceeding		
New Class 4 or 5 licenceholder that has not reached its first annual review date		£9,100	£1,100
—	100	£9,100	£1,100
100	250	£9,100	£2,400
250	500	£9,100	£4,600
500	1,000	£9,100	£9,100
1,000	2,500	£13,550	£13,550
2,500	5,000	£18,000	£18,000
5,000	7,500	£26,950	£26,950
7,500	—	£35,850	£35,850

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the application fees and annual fees payable in relation to the licensing of regulated activities under the Financial Services Act 2008, including the new regulated activity of Class 6 (crowdfunding platforms).

This Order provides, in appropriate circumstances, for annual fees to be applied pro rata, where a licence is granted or change occurs part way through a period.

This Order also applies a fee for certain licence amendments that may take place over a period, and revokes the Financial Services (Fees) Order 2015.

All fees are rounded up to the nearest £50.