



Statutory Document No. 370/08

FINANCIAL SERVICES ACT 2008

FINANCIAL SERVICES (FEES) ORDER 2008

Approved by Tynwald

2008

Coming into operation

1st August 2008

In exercise of the powers conferred on the Financial Supervision Commission by section 46 of the Financial Services Act 2008¹ and of all other enabling powers, and after carrying out the consultations required by section 44(5) of that Act, the following Order is hereby made:-

1. Citation and commencement

This Order may be cited as the Financial Services (Fees) Order 2008 and shall come into operation on 1st August 2008.

2. Interpretation

In these Regulations—

“the Act” means the Financial Services Act 2008;

“annual review date” means —

- (a) in relation to regulated activities of Class 1, Class 2 or Class 3, 1st July;
- (b) in relation to regulated activities of Class 4, Class 5 or Class 6, 1st August;
- (c) in relation to regulated activities of Class 7, the date which is the annual review date in relation to the regulated activity in respect of which management or administration services are provided;

"appointed day" and "existing licence" have the same meanings as in the Financial Services Act 2008 (Appointed Day) Order 2008²;

"authorised scheme" has the same meaning as in the Collective Investment Scheme Act 2008³;

"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 2008 c.8

² SD 366/08

³ 2008 c.7

"deposit taking subsidiary" means a deposit taking institution which is a subsidiary of another deposit taking institution;

"full international scheme" has the same meaning as in Schedule 2 to the Collective Investment Scheme 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 4.2 or 5.1 of Schedule 1 to the Financial Services (Exemptions) Regulations 2008⁴.

- (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 2008⁵;
 - (b) a numbered class, or to a numbered paragraph of such a class, 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.

3. Application, licence and annual fees

(1) Subject to paragraph (2) and to articles 4 and 5, in relation to a licence to carry on regulated activities of a description specified in column 2 of Table 1 in Schedule 1, the following fees shall be payable —

- (a) on an application for the licence, the application fee specified in column 3;
- (b) on the issue of the licence, the licence fee specified in, or calculated in accordance with, column 4;
- (c) within one month after every annual review date while the licence is in force, an annual fee of the amount specified in, or calculated in accordance with, column 5.

(2) Where —

- (a) different fees are specified in Table 1 in relation to regulated activities of different descriptions within a single class (treating Class 4 and Class 5 as a single class for this purpose), and
- (b) a licence to carry on activities of more than one such description is applied for or issued or (as the case may be) activities of more than one such description are carried on at the annual review date,

only the highest application fee, licence fee or annual fee, as the case may be, shall be payable.

(3) Fees under this article shall be payable as follows —

- (a) in the case of an application fee, by the applicant for the licence;

⁴ SD 368/08

⁵ SD 367/08

- (b) in the case of a licence fee or annual fee, the licenceholder (except as provided in sub-paragraph (c));
- (c) in the case of a licence fee or annual fee calculated in accordance with paragraph (2) of Note 4 in Schedule 1, the licenceholder or licenceholders referred to in that paragraph (their liability being joint and several, if more than one).

4. Exemptions

(1) In relation to licences to carry on activities of Classes 2, 3, 4 and 5, no application fee or licence fee shall be payable on —

- (a) an application for a licence (“the new licence”) by a company —
 - (i) of which a licenceholder, being an individual or firm, is the beneficial owner, and
 - (ii) which intends to continue the regulated activities carried on by the licenceholder, or
- (b) the issue of the new licence on that application;

and the unexpired balance of any annual fee paid by the licenceholder shall be applied towards the first annual fee payable in respect of the new licence.

(2) No application fee or licence fee shall be payable on an application for a licence to carry on regulated activities falling within any class (“the new licence”) where the applicant already holds a licence (“the old licence”) to carry on activities falling within that class; and the unexpired balance of any annual fee paid in respect of the old licence shall be applied towards the first annual fee payable in respect of the new licence.

- (3) No application fee or licence fee shall be payable on —
 - (a) an application made before the expiration of the period of one year beginning with the appointed day by the holder of an existing licence for a licence (“the new licence”) to carry on regulated activities which correspond to —
 - (i) a business or activity which immediately before the appointed day he was authorised by the licence to carry on, and
 - (ii) any other business or activity which, by reason that he held the existing licence, he was immediately before the appointed day permitted to carry on by virtue of any exemption granted by regulations under an enactment repealed by the Act; or
 - (b) the issue of the new licence on that application;

and the unexpired balance of any annual fee paid in respect of the existing licence under an enactment repealed by the Act or under article 6 shall be applied towards the first annual fee payable in respect of the new licence.

(4) The unexpired balance of an annual fee for the purpose of paragraph (1), (2) or (3) shall be calculated in accordance with the following formula (rounded down to the nearest pound) —

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

where —

F = the annual fee;

N = the number of complete months between the date on which the new licence is issued and the next annual review date.

5. Reduction in licence fee

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

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

where —

F = the licence fee which would be payable apart from this article;

N = the number of months between the date on which the licence is issued and the next annual review date, counting a part of a month as a complete month.

6. Annual fees under existing licences

(1) Where an existing licence of a description specified in column 1 of Schedule 2 is in force on a date specified in column 2, the annual fee specified in relation to that licence in the instrument specified in column 3 shall be payable within one month after that date.

(2) A fee under this article shall be payable by the holder of the existing licence.

Article 3.

SCHEDULE 1

FEES

TABLE 1

1.	<i>Description of regulated activity</i>	<i>Application fee</i>	<i>Licence fee</i>	<i>Annual fee</i>
2.	Class 1	6,100	12,850 (see note 1)	12,850 (see notes 1 and 2)
3.	Class 2 paragraphs (1) to (7) (stockbroker) where licenceholder does not deal as a principal on its own account	1,550	7,050	7,050
4.	Class 2 paragraphs (1) to (7) (stockbroker) where licenceholder deals as a principal on its own account	1,550	14,050	14,050
5.	Class 2 paragraphs (2) and (5) (custodian)	1,550	17,450	17,450
6.	Class 2 paragraphs (3) and (7) (financial adviser)	1,300	1,050	1,050
7.	Class 3 paragraphs (3) and (6) (financial adviser to retirement benefits scheme)	1,300	3,400	3,400
8.	Class 3 paragraphs (2) to (6) (discretionary portfolio manager)	1,300	3,400	3,400
9.	Class 3 in any other case	1,300	4,600	4,600
10.	Class 3 paragraph (1) (manager) in relation to authorised schemes only	1,300	7,050	7,050
11.	Class 3 paragraph (1) (manager) in relation to full international schemes only	1,300	4,600	4,600
12.	Class 3 paragraphs (1) and (2) (manager and administrator) in relation to full international schemes only	1,300	4,600	4,600

1.	<i>Description of regulated activity</i>	<i>Application fee</i>	<i>Licence fee</i>	<i>Annual fee</i>
13.	Class 3 paragraphs (3), (4) and (5) (trustee, fiduciary custodian or custodian) except in relation to authorised schemes or full international schemes	1,300	7,050	7,050
14.	Class 3 paragraphs (3) and (4) (trustee or fiduciary custodian) in relation to authorised schemes or full international schemes	1,300	17,450	17,450
15.	Class 3 paragraph (6) (asset manager)	1,300	4,600	4,600
16.	Class 3 paragraph (7) (investment adviser)	1,300	3,400	3,400
17.	Class 3 paragraph (8) (promoter)	1,300	1,050	1,050
18.	Class 3 paragraph (9) (management or administration services)	1,300	7,350	7,350
19.	Class 3 paragraph (10) (administration services to overseas manager or administrator)	1,300	3,400	3,400
20.	Class 3 paragraph (11) or (12) or both (manager etc. of exempt or exempt-type scheme)	nil	nil	nil
21.	Class 4 or Class 5 or both (except as mentioned in items 22 to 24 below)	1,300	see note 3	see note 4
22.	Class 4 paragraph (6) (professional officer)	1,000	400	400
23.	Class 4 or Class 5 paragraph (4) (trust corporation) or both	1,550	see note 3	see note 4
24.	Class 5 paragraphs (1) or (5) or both (trustee or protector) in the case of an individual	1,000	400	400
25.	Class 6 paragraphs (1) to (3)	250	250	250
26.	Class 6 paragraph (4)	1,300	1,500	1,500
27.	Class 7	nil	nil	nil

Note 1

(1) Subject to paragraph (2), where the Commission is the lead regulator for a licenceholder which —

- (a) is incorporated in the Island; and
- (b) has a branch or deposit taking subsidiary outside the Island,

there shall be added to the amount specified in column 4 or 5 the sum of £3,050 for each such branch or subsidiary as at the date the licence is issued or the annual review date, as the case may be, subject to a maximum fee of £30,300.

(2) In relation to an annual fee, where the licenceholder establishes such a branch or subsidiary with effect from a date other than an annual review date, that sum shall be reduced in accordance the following formula (rounded up to the nearest pound) —

$$\frac{3,050 \times N}{12}$$

where N = the number of months between the date of establishment and the next annual review date, counting a part of a month as a complete month.

Note 2

Where the licenceholder is in liquidation at the annual review date, the annual fee is £50.

Note 3

(1) Where the applicant does not already hold a licence to carry on Class 4 or Class 5 activities, the licence fee payable under items 21 and 23 above is the amount of the annual fee specified in column 3 or 4, as the case may be, of Table 2 below in respect of a licenceholder who carries on Class 4 or Class 5 activities for 100 or fewer companies, partnerships or trusts.

(2) In any other case the licence fee is the difference (if any), rounded up to the nearest pound, between —

- (a) the annual fee which (other things being equal) at the next annual review date will be payable in respect of the new licence, and
- (b) the annual fee which (other things being equal) would, if the new licence had not been not granted, have been payable at the next annual review date in respect of the licence held immediately before the issue of the new licence.

Note 4

(1) Subject to paragraph (2), the annual fee payable under items 21 and 23 is calculated in accordance with Table 2 below by reference to the total number of companies, partnerships and trusts in respect of which the licenceholder carries on any Class 4 or Class 5 activity immediately before the annual review date.

(2) Where —

- (a) a licenceholder or 2 or more licenceholders within a single group is or are licensed to carry on Class 4 or Class 5 activities, and
- (b) any other companies in the same group carry on any Class 4 or Class 5 activity by virtue of a nominee exemption,

the annual fee shall be calculated in accordance with Table 2 below by reference to the total number of companies, partnerships and trusts in respect of which the licenceholder or licenceholders and the companies referred to in sub-paragraph (b) carried on any Class 4 or Class 5 activity immediately before the annual review date.

(3) Paragraphs (1) and (2) do not apply to activities falling within paragraph (6) of Class 4 or paragraph (1) or (5) or Class 5.

(4) For the purpose of paragraph (2), where a licensee is a partnership, "group" shall be construed as if the partnership were a company.

TABLE 2

<i>Number of companies, partnerships or trusts for which licensee carries on Class 4 or Class 5 activities</i>		<i>Class 4 or Class 5 paragraph (4) or both</i>	<i>Any other description of activities</i>
<i>Exceeding</i>	<i>Not exceeding</i>		
—	100	6,100	650
100	250	6,100	1,550
250	500	6,100	3,050
500	1,000	6,100	6,100
1,000	2,500	9,100	9,100
2,500	5,000	12,150	12,150
5,000	7,500	18,200	18,200
7,500	—	24,250	24,250

Article 6

SCHEDULE 2
ANNUAL FEES UNDER EXISTING LICENCES

<i>Description of existing licence</i>	<i>Date</i>	<i>Instrument specifying annual fee</i>
Banking licence	1st July	Banking (Fees) Regulations 2007 (SD 110/07)
Investment business licence	1st July	Investment Business (Fees) Regulations 2007 (SD 114/07)
Authorisation under Building Societies Act 1986	1st July	Building Societies (Authorisation) (Fees) Regulations 2007 (SD 111/07)
Authorisation under Financial Supervision Act 1988 Part 1	1st July	Collective Investment Schemes (Fees) Regulations 2007 (SD 112/07)
Fiduciary licence	1st August	Fiduciary Services (Fees) Regulations 2007 (SD 113/07)

MADE

2008

Commissioner

Chief Executive

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order specifies the application fees, licence fees and annual fees payable in relation to the licensing of financial services under the Financial Services Act 2008.