

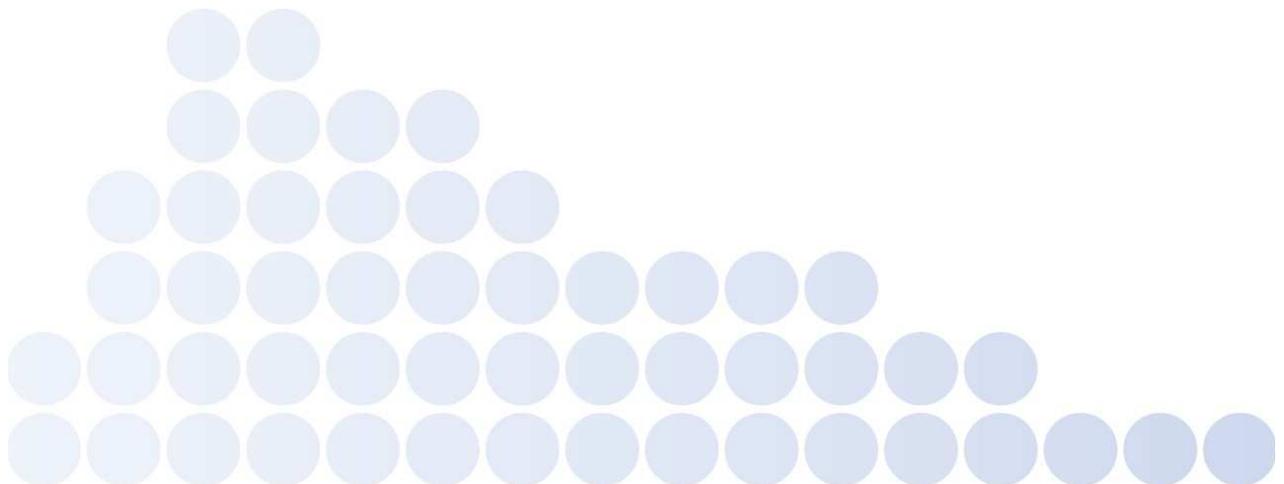


# Financial Services Commission

Response Paper

Proposed Fee amendments for financial services providers

Published: 1st April 2015



## Executive Summary

The Financial Services Commission ('FSC') published a consultation paper on fee proposals for the 2015/2016 financial year on the 16th February 2015. The paper set out proposals for fees payable by existing financial & professional services firms under the various Supervisory Acts for which the FSC has responsibility.

The closing date for responses was 17th March 2015.

20 responses to the consultation were received. A number of these were from the larger industry bodies e.g. Gibraltar Bankers Association ("GBA"), Gibraltar Society of Accountants ("GSA"), Gibraltar Funds & Investment Association ("GFIA"), Gibraltar Insurance Association ("GIA"). We would like to thank those individuals and organisations who took the time to respond. The FSC is committed to consulting in an open, transparent and accountable way and welcomes any comments and/or observations from the industry.

Respondents appeared broadly understanding of the need to provide increased funding to the work of the FSC but expressed surprise at the size of the proposed fee increases. Respondents sought further detail on the rationale for the proposed amendments. Many respondents, through written and oral representations, asked for longer term projections setting out possible future increases.

None of the responses expressed a view that the FSC should not be embarking on the Change Programme set out in both the October 2014 Strategic Plan and the January 2015 Business Plan.

The main points from the responses were as follows.

### **Understanding of the changing regulatory landscape**

There was strong support and understanding of the increased demands placed on the FSC due to the complex financial regulation arising from the EU and international arena, which has impacted on the FSC's ongoing operational costs. Many respondents appreciated that this has led to greater demands on supervision and regulation, and therefore resources.

One respondent identified that there had been an improvement due to additional senior resources obtained and that they would be willing to pay higher fees to ensure a high level of regulatory oversight, which would in turn ensure the safeguarding of the jurisdiction.

Respondents generally felt that the level of fees applied across different financial services sectors should be reflective and proportionate to the resources applied by the FSC and the level of regulation received by each of those sectors.

### **Financial Assistance from the Government**

A small number of respondents felt that GoG should continue to fund some of the increasing costs associated with the need for Gibraltar to invest in regulation in order to meet increasing international regulatory standards. They felt that small jurisdictions require this assistance to relieve pressure on small and medium size providers. In one case, it was felt that consideration should be given to what extent GoG could assist financially over the next 3-5 years, and beyond, to soften the blow to licensees of any envisaged increases.

### **Request for publication of long term plans for fees increases and further background**

Many respondents requested further details of the long term plans for future fee increases. For example, respondents sought details of how fees would increase over the next few years, whether the current fee increase was just a one-off, and how GoG funding support to the FSC was to be reduced. In some cases it was felt that if this were to be through continuous fee increases, there would be an impact on licensee business, especially as firms themselves face increased compliance and reporting costs.

A number of respondents wanted more rationale for the increases and details of the actual and tangible benefits that the FSC re-structure has delivered or is delivering or are foreseeable, together with an indication of the likely timescales for delivery.

### Impact on the attractiveness of Gibraltar as a jurisdiction

Some respondents felt that the increases in fees could impact upon the perceived attractiveness of Gibraltar as a leading financial centre and would make the jurisdiction and companies within the various sectors less competitive.

### Timeframe for consultation

A few respondents stated that they felt the available timeframe for responses and, therefore, the availability for consideration was not adequate. It was therefore suggested that consultation periods be extended to two or three months to ensure adequate analysis of feedback.

In a couple of cases, it was felt that the timeframe provided created the perception that the FSC would not have enough time to consider responses and therefore these fee proposals would be applied and implemented irrespective of feedback.

### Removal of transaction fee cap

Some respondents raised concerns about the removal of the transaction fee cap.

These responses stated that they thought that the cap was a significant incentive in attracting business to Gibraltar and was often a decisive factor for firms. It was therefore felt that the perceived attractiveness of Gibraltar would be affected and could generally stifle new business. A suggestion was to increase the cap in lieu of a complete removal.

### Request for fairness between sectors

Importantly, as the representative of the sector most affected by the proposed increase, the GIA stated that its members were generally happy with the proposed increases, as long as this is tied to increases in FSC senior resources, proactivity, approachability and responsiveness. They indicated that a scaling of fees appeared to be logical and the width of the bands could even be increased further given the comparison to other jurisdictions.

However, there was a general feeling amongst other respondents that there needs to be a more equitable distribution of fees between the different sectors. Suggestions included applying the proposed approach for the insurance sector to both the banking and investment services sectors by, for example, including a scale that would take into account the size of the firm. It was also suggested that the fee system should consider the local market and also look at the risks that each business sector poses.

Respondents felt that any exceptional legal costs, including those relating to investigations, should not be borne by all sectors but rather the affected licensee itself.

One further suggestion was that a fee structure appropriate to insurance run-off business should also be introduced.

### Comparison to other jurisdictions

A number of respondents felt that a review of the fee setting policy should have been carried out prior to the issue and publication of the February specific consultation paper, including the provision of comparisons with other jurisdictions.

However, the GSA said that a comparison to other jurisdictions for the audit industry would not be relevant, given the nature of the industry in Gibraltar.

### Multiple licences

One respondent indicated that in its view it is currently adversely affected as a result of holding multiple licences and therefore fees are particularly high for this company. It suggested that the FSC should review the fee schedule for those firms who hold multiple overlapping licences under separate Supervisory Acts, for example, in the funds sector, and consider possibly offering a discounted rate for the second licence that is required to be held.

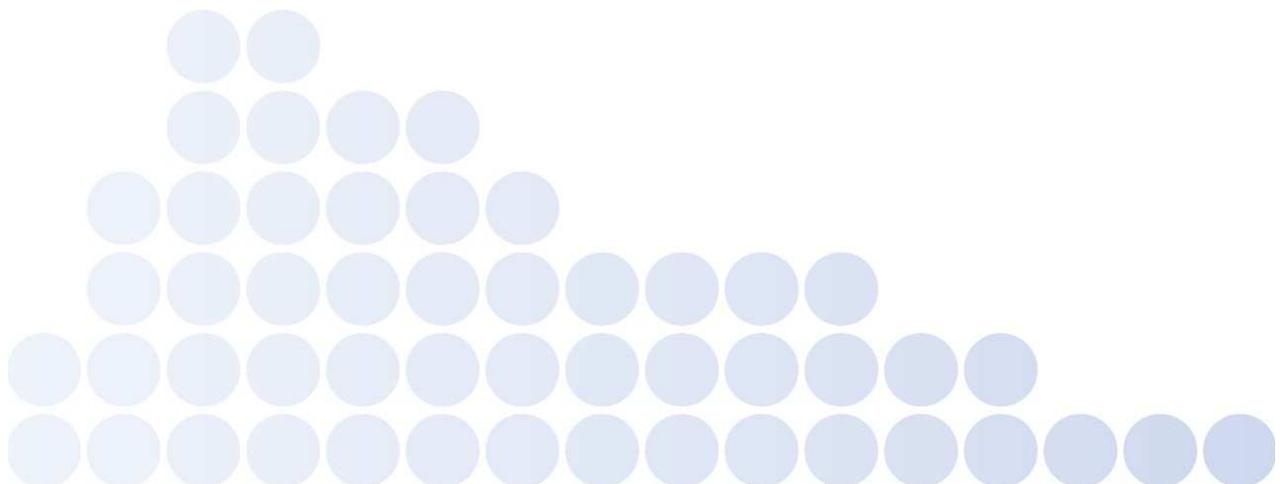
### Fiduciary business

A number of the responses received related specifically to the effect of the proposed increases on the Fiduciary sector. Respondents requested a change to the way in which future increases are distributed, with a concern amongst smaller service providers that the current approach with regards to apportionment of fees appears to indicate that larger providers benefit.

One respondent highlighted that the industry continues its downward turn as the portfolio of companies under management continues to shrink. They therefore felt that any further fee increase will simply accelerate the existing downward turn in the business of trust and company management service providers.

### Other suggestions provided

One respondent wanted the option to pay fees in instalments. There was also the suggestion that future consultation papers should include financial information e.g. FSC budget, and comparative information on fees and percentage increases.



## FSC Assessment

Two substantive points have emerged from our analysis of the responses received:

### *Communication*

There are a couple of strong communication issues that have been highlighted. Firstly, the question has been raised as to whether there is adequate granular information about what the FSC is achieving against what it has set out to achieve.

An additional point is whether the FSC and GoG have effectively communicated the long term financing plans, and the timing of this, to the industry and the impact of these plans on the various sectors.

It is clear that licensees would welcome regular and ongoing updates in respect of the strategic plan and the FSC's performance against it. Going forward, the FSC will provide this on a quarterly basis.

### *The Way Forward*

There has been no indication that there is opposition to the current and planned work of the FSC. In addition to these responses, there has also been significant positive feedback regarding the roadshows and workshops we have recently held (e.g. the Authorisations workshops). The responses do indicate, however, that industry bodies would welcome a debate on the extent and time during which GoG should be subsidising the FSC's plans. It may therefore make sense for this to either run concurrently or immediately following the wider fee setting policy review scheduled for later this year.

### Conclusion

Following further consultation with GoG, it is considered that the fee increases are a merited and proportionate response to current and future challenges, and the fee increases will be applied and implemented largely as proposed in the consultation paper. The FSC welcomes GoG's continued financial assistance. As a result of the responses received, however, two amendments to the proposals will be given effect. These are set out below:

1. The transaction fee cap will not be completely removed, but instead will be increased to £50,000.
2. For a non-trading Stock Exchange (listing only), the fees will remain unchanged from the 2014/2015 fee. However, the fees for a trading Stock Exchange will be increased in line with the proposals in the consultation paper.

As indicated above, going forward, the FSC will also be publishing quarterly updates of developments and improvements on its website to ensure licensees can be kept up to date with progress. The first of these updates is planned to be published in April and will set out in detail the tangible benefits already realised as well as an outline of deliverables expected to be achieved within the current business plan period.

As already highlighted, a full review of the fee setting policy will be carried out during the financial year 2015/2016, against the principles of fairness, proportionality, transparency and predictability and with comparison, where necessary, to the other relevant jurisdictions. The industry will be involved in this process and fully consulted on any proposals. The FSC will also work with GoG to provide as a part of this consultation, an opportunity for the industry to comment on the balance between GoG (which is already significant) and industry funding of the FSC. This wider review will also cover the approach to annual fee setting going forward, picking up the points raised in this consultation.

### Next Steps

Legislation will be amended accordingly and will apply as from 1st April 2015. Applicable invoices will be sent out on 1st April via email and hard copies by post. These annual fees must be paid in advance and within 28 days, unless the FSC agrees otherwise. Late payment of annual fees may result in penalty fees becoming due.

A newsletter will shortly be published which will clearly set out expectations with regards to the payment of fees.

Published by:  
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