Financial Services Commission

Consultation Paper

Proposed Solvency II Levy to be paid by Gibraltar licensed insurers

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Published by:

Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar
Tel: (+350) 20040283
Fax: (+350) 20040282
www.fsc.gi

1. Purpose

The purpose of this Consultation Paper is to set out proposals for a Solvency II Levy ("Levy") to be payable by Gibraltar insurers to cover extraordinary and one-off expenses incurred by the Financial Services Commission ("Commission") during the periods 1 June 2014 to 31 March 2015 and from 1 April 2015 to 31 December 2015, in operating its Solvency II Implementation Project.

2. Basis of consultation

As an organisation, 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 Levy 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 receiving your responses to this consultation by 5pm on Monday 30 June 2014. Following the Commission's review of responses 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 Levy.

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

Mr Michael Oliver
Head of Insurance Supervision
Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar

E-mail: moliver@fsc.gi

3. Introduction

The Commission is proposing to apply a Levy on Gibraltar insurers covering the period up to the implementation of the Solvency II regime in Gibraltar, currently expected to be 1 January 2016. The Commission will not be amending any other fees at this time.

Following the adoption of the Omnibus II Directive by the European Parliament in March 2014 the timetable for implementation of the Solvency II Directive in Gibraltar is now clear. To date, the Commission has worked hard to minimise expenditure on Solvency II related matters, and has ensured that its activities and costs have been kept within its 'business as usual' budget. Consequently, it has not charged a specific fee or levy to the industry in relation to such costs. It has also ensured that the annual licence fees that it has charged in recent years have been held at levels well below those applying in other EU jurisdictions.

However, now that there is certainty as to the implementation date of the new Solvency II regime, the Commission has to ensure that its staff are suitably prepared to supervise under that regime and that it is able to provide suitable guidance and feedback to the insurance industry. The additional costs that it will incur will exceed those that it has been able to cover by way of annual licence fees.

On 28 May 2014 the Commission announced the appointment of Ken Hogg to Project Manage the FSC's Solvency II Implementation Project. Ken joined the Commission on 9 June 2014.

Solvency II will fundamentally change the capital adequacy and risk management regimes for the European insurance industry by establishing a harmonised set of EU-wide capital requirements and corporate governance and risk management standards. It aims to enhance protection for policyholders while ensuring that financial stability of the insurance sector is maintained. It will also facilitate European insurers carrying on insurance throughout the EU.

The new regime will require changes to Gibraltar legislation, supervisory practices operated by the Commission and strengthened capital and risk management approaches among Gibraltar insurers. The Commission's Project will aim to ensure that all relevant stakeholders are brought together and that the supervisory approach that the Commission operates is compliant with EU legislation and is proportionate to the risks faced by Gibraltar insurance market participants.

Prior to conducting this formal consultation the Commission has discussed the matter of a Solvency II Levy with the Gibraltar Insurance Association ("GIA"). For its part the GIA has consulted with its membership. Feedback that the GIA has provided to the Commission is that a Levy should:

(a) be kept as simple as possible;

(b) be fair among the contributors; and

(c) ideally reflect risk and the time that the Commission will spend on individual entities.

The GIA acknowledged that it would be difficult to agree a suitable 'risk factor' at this time and that premium and technical liabilities could be considered an alternative measure. The GIA suggested three options which have been taken into account by the Commission in setting out the proposals in this Consultation Paper.

The Commission is mindful that annual licence fees for Gibraltar insurers have recently increased by 12%. This increase was necessary to enable the Commission to cover the costs of its ongoing supervising of firms for reasons set out in the Commission's Consultation Paper "*Proposed fee amendments for financial services providers*", which was issued on 6 March 2014.

Against this background the Commission considers that the proposed Levy is merited and a proportionate response to the need for the Commission to dedicate resource to preparing itself and the industry for operating under the new Solvency II regulatory regime.

4. Expenses covered by the Levy

The Levy will be used to cover the extraordinary and one-off expenses to be incurred by the Commission during the periods 1 June 2014 to 31 March 2015 and from 1 April 2015 to 31 December 2015 in operating its Solvency II Implementation Project.

These expenses will include:

(a) hiring a Project Manager;

(b) contributing to the costs of a Consultant currently preparing a regulatory reporting IT solution for the Commission;

(c) contributing to the costs of a Business Change consultant who will assist the Commission in adapting its procedures and processes to comply with EIOPA's Supervisory Review Process; and

(d) engaging the services of other specialists to work on specific aspects of the Solvency II framework.

The expenses will not include salaries and related costs of existing Commission employees, who will continue to support the implementation work. The Levy will not be used to cover costs of the IT solution that the Commission will adopt to facilitate regulatory reporting nor any other general expenses of the Commission. The Commission is developing a common IT solution to allow it to meet its obligations in respect of COREP, AIFMD and Solvency II reporting.

Income from the Levy will be ring-fenced within the Commission's accounts, maintained in a separate bank account and will not be used for any purpose other than as described above.

The Commission estimates that the recoverable costs that it will incur in the current financial year ending 31 March 2015 will total £400,000, with costs for the remaining period up to 31 December 2015 totalling £350,000, i.e. a total of £750,000.

5. Detailed Levy proposals

The Commission's Insurance Supervision Division supervises insurers for which annual licence fees are payable under seven distinct areas based on the size of the insurer, whether it undertakes life or general insurance business and whether it is an insurer, reinsurer, Captive or PCC.

The Commission does not propose to maintain this distinction for the Solvency II Levy. However, it is does empathise with the comment that Captive (re)insurers are generally less complex entities and present a lower regulatory risk. As a result it intends to reduce the Levy paid by Captive (re)insurers by 50% from the relevant base Levy.

Annual licence fees for other insurers currently vary depending on whether the insurer is a general or long-term insurer and depending on the size of premium written by general insurers. The Commission proposes that the Levy should be based on both gross written premiums and gross technical liabilities of insurers. The inclusion of a technical liabilities measure is appropriate given that certain insurers are either in run-off or have been established solely to run-off business acquired from other insurers. They do not actually issue any new policies so do not generate any premium income.

In preparing its recommendations the Commission has taken account of the fact that a number of Gibraltar insurers are in various stages of run-off and liquidation and are unlikely to require to be supervised under the Solvency II regime. No Levy will be charged to such insurers.

In discussions with the GIA the GIA advised that its members that showed a preference did so in a small way for a Levy based on five bandings of premiums and technical liabilities. The Commission concurs that this is a suitable basis for charging the Levy.

Consequently, the Commission proposes that the Levy will comprise two elements; Gross Written Premiums ("GWP") and Gross Technical Liabilities ("GTL"), for which the Levy for the period ending 31 March 2015 for each element would be based on the following table:

Size	***GWP Levy***	***GTL Levy***
Less than £5m	£2,000	£2,000
≥ £5m and < £25m	£3,000	£3,000
≥ £25m and < £100m	£4,000	£4,000
≥ £100m and < £250m	£7,500	£7,500
≥ £250m	£10,000	£10,000

The Levy payable by Insurers who have not yet had a financial year end will be based on the projected gross written premiums and gross technical liabilities for the first period of business annualised. The Levy payable for all other insurers will be based on gross written premiums and gross technical liabilities in the financial year immediately preceding the due date for payment of the Levy. Technical liabilities in respect of property linked liabilities will not be included. For those with a 31 December year end the amount will be based on the 31 December 2013 figures.

As an example the Levy payable by a Captive insurer, writing premiums of £50m per annum and with £20m of technical liabilities would be calculated as follows:

GWP Levy	£4,000
GTL Levy	£3,000
Captive discount	(£3,500)
Total Levy	£3,500

Any applicant that receives 'in principle' approval from the Commission to be licensed as a Gibraltar insurer will be required to pay the relevant levy prior to receiving its licence.

The factors to generate the Levy for the period from 1 April 2015 will be calculated closer to the time. Invoices will be sent out on 1 April 2015 and will be payable within 30 days.

For the avoidance of doubt the Commission does not rule out the possibility of introducing application fees for those Gibraltar insurers that seek approval for:

(a) undertaking specific parameters in accordance with Article 104(7) of the Solvency II Directive; or

(b) a full or partial internal model in accordance with Articles 112 and 113 of the Solvency II Directive.