

# FSC Newsletter

Number 3 Year 2012



**Financial Services  
Commission**

## Annual Fees Update 2012/2013

The Government of Gibraltar has published a number of amendments to the Annual Fees payable by firms under the Supervisory Acts with effect from 1 April 2012<sup>1</sup>. This newsletter is a brief outline of those amendments.

The FSC is mindful of regulatory costs and the need to keep these within acceptable parameters that enables us, on one hand, to meet our statutory obligations without decreasing competition of the jurisdiction or placing undue financial burdens on the industry. The below inflationary increases of fees represents this approach.

By way of comparison, the UK's Financial Services Authority who are similarly faced with the huge workload of new and proposed EU legislation have increased their overall fees by 15.6% for 2012/13 and have raised their fees by an average of 13% in each of the last five years.

### Inflationary Increase

The majority of the amendments reflect a 3% inflationary increase over the amounts payable for the previous financial year but in most cases these are just below the inflation amount.

It will be noted that application fees have remained largely unchanged.

### Non-inflationary Increases

Where changes to the annual fee structure have not followed an inflationary increase route, these are explained in more detail below.

#### Insurance industry costs to meet Solvency II requirements

Annual fees for insurance companies have been increased by 10% rather than 3%. This follows consultation with the Gibraltar Insurance Association as the FSC gears itself up to meeting the requirements that the Solvency II Directive will necessitate. This includes actuarial costs, training as well substantial IT development costs and the preparation of industry guidance, etc.

#### Audit Fees

With the introduction of an enhanced supervisory approach by the FSC in order to meet its Public Oversight Responsibilities under the Financial Services (Auditors) Act, the FSC has had to bring into play additional resources in this area. In order to avoid cross-subsidisation of the industry these additional costs need to be borne by the industry itself.

After consultation with the Gibraltar Society of Accountants as well as the FSC's own Advisory Panel, two proposals for how these fees would be collected were submitted to Government by industry. The basis of calculation for fees decided as the way ahead consists as follows;

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<sup>1</sup> Legal Notices 43 to 50 of 2012.



- (a) £1,500 in respect of every firm (and this includes those practicing as sole practitioners, partnerships as well as corporates);
- (b) £600 in respect of individuals, not including one individual who forms part of a firm under (a);
- (c) £1,000 for every audit firm or statutory auditor that conducts statutory audits of Public Interest Entities as defined in section 2 of the Financial Services (Auditors) Act 2009;
- (d) A balance to be raised by the Competent Authority, each firm or statutory auditor paying an amount in proportion to their Audit work turnover.

The balance referred to in (d) above would be the balance from £75,000 that is raised from (a) to (c) which this year is calculated to be £4100.

## Experienced Investor Fund Directorships

The basis of charging individuals who are authorised to act as Directors of Experienced Investor Funds (EIFs) has also changed. Previously the Regulations provided that a annual fee be paid for each fund for which the director acted. Under the revised Fees Regulations, a flat fee will be charged to every Director who is authorised to act as a EIF Director, irrespective of the number of funds for which he acts. This change to the fee structure was presented and discussed with the Gibraltar Funds and Investment Association (GFIA) where it was determined that the annual fee be set at £250..

It is noted that for a number of Directors, that currently provide this service, this new method will result in a lower annual fee. On the other hand the FSC is mindful that there are a number of authorised EIF Directors who do not currently provide directorships to EIFs. In such instances, and where an individual does not intend to carry out this role hence no longer requires the licence, the FSC is willing to consider the surrender of this licence.

Further to the change in EIF director annual fees it was also determined that the annual fees for EIFs be adjusted accordingly to address the increasing level of FSC resources required in this area. As a result the annual fees for EIFs have been increased above inflation and further to discussion with the GFIA it was agreed to set this fee at £840.

## Stock Exchanges and Clearing Houses

The FSC's previous experience in dealing with a potential application for a Stock Exchange highlighted the shortfall between the resourcing necessary to process such an application and subsequent supervision of the same. For this reason, the application fee for this type of activity has been increased from £40,000 to £75,000 and annual fees from £45,200 to £60,000 even though no application is currently under consideration by the FSC for this type of activity.

## Invoicing, etc

The FSC will be issuing invoices for the revised annual fees with effect from today. Payment is generally due by 28 April and in many cases subject to penalty fees for late payment.

Payment via bank transfer, using the information provided in the invoice and quoting the unique reference number shown, is the preferred method of payment. Cheques should continue to be made payable to the "Financial Services Commission" and forwarded to PO Box 940, Suite 3, Ground Floor, Atlantic Suites, Europort Avenue, Gibraltar.



In a departure from our practice until now, the FSC will no longer be issuing receipts, but instead providing firms with a Statement of Account at monthly intervals. This will detail any outstanding invoices and payments received. The invoices themselves will also be clearer and contain more information than has been the case until now. This should provide a more efficient and clearer practice.

## Special Levy/Contingency Fund

It is expected that Government will be introducing legislation to deal specifically with the agreement reached with industry to establish a contingency fund. In the meantime, and as agreed with industry, 10% of this year's annuals fees will be set aside by the FSC to meet the costs of the Gibland/Cabor case.

This is the last year that we expect to operate on this basis as the new legislation is expected to require the FSC to establish a separate Contingency Fund for future events.

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