

FEES MODULE (FER) INSTRUMENT (NO 122) 2013

The Board of the Dubai Financial Services Authority in the exercise of the powers conferred on them by Article 23 of the Regulatory Law 2004, hereby make the Rules in the appendix to this instrument. The appendix to this instrument also contains the guidance made by the Chief Executive in the exercise of the powers conferred on him under the Regulatory Law 2004.

Commencement:

- (1) This instrument is made on 13 June 2013 and shall come into force on 14 July 2013.

Amendments to Modules:

- (2) The Fees (FER) module – (FER/VER6/07-12) is repealed and replaced by Appendix 1 to this instrument and may be identified by the following reference – (FER/VER7/07-13).

Citation:

- (3) This instrument may be cited as the Fees Rule-making Instrument (No. 122) 2013.
- (4) Appendix 1 to this instrument may be cited as the Fees module or FER.

By Order of the Board

Saeb Eigner
Chairman
13 June 2013
RM122/2013

Ian Johnston
Chief Executive



The DFSA Rulebook

Fees Module

(FER)

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1. INTRODUCTION

1.1 Application

1.1.1 This module (FER) applies to a Person in relation to:

- (a) an application for a Licence;
- (b) an application for an extension to scope of authorisation under a Licence;
- (c) an application for Recognition as a Recognised Body;
- (d) an application for registration as an Auditor;
- (e) an application to register a Public Fund;
- (f) seeking the DFSA's consent to winding up a Domestic Fund or the transfer of the property of a Domestic Fund to another body;
- (g) filing a Prospectus or Issue Note pursuant to MKT Rule 2.6.1(1)(a); and
- (h) an application for admittance of Securities to the Official List of Securities.

1.1.2 This module also applies to a Person who:

- (a) is an Authorised Person;
- (b) is an Auditor;
- (c) meets part (1) (d), (e) or (f) of the definition of a DNFBP; and
- (d) is a Bidder.

1.2 General provisions

1.2.1 Where pursuant to chapter 2 or 4, a fee is payable for any application to the DFSA, the application will not be regarded as submitted until the fee and any supplementary fee has been paid in full.

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- 1.2.2** (1) In regard to fees payable pursuant to chapter 3:
- (a) the initial annual fee must be paid in full to the DFSA within 21 days of the date on which the Licence, Recognition or registration is granted or notification made; and
 - (b) subsequent annual fees are payable in advance and must be paid in full to the DFSA on or before 1 January of the calendar year to which the fee relates.
- (2) When a fee of the kind specified under (1) is not paid in full on or before the due date or within the prescribed period, such non-payment incurs a late payment fee of:
- (a) \$1,000; or
 - (b) an amount equivalent to 3% of the annual fee due.
- whichever is the greater. In addition the annual fee due shall be increased by 1% for each calendar month, or part of a calendar month, that it remains outstanding beyond the due date.
- (3) Nothing in the Rule limits the right of the DFSA to take any other action.

Guidance

1. In regard to the payment of an annual fee on or before 1 January, invoices will be issued at least 21 days before that date.
2. If a fee is not paid by the date on which it becomes due, the Person is in breach of a Rule and the DFSA is entitled to take action including, but not limited to, taking steps to withdraw authorisation to conduct one or more Financial Services.

- 1.2.3** In respect of a fee payable pursuant to chapter 5, payment must be made to the DFSA by the Bidder:

- (a) at the time of filing of the Bid Document with the DFSA; and
- (b) before the document is posted.

Guidance

If a fee under chapter 5 is not paid by the date on which it becomes due, the Person is in breach of a Rule and the DFSA is entitled to take action including, but not limited to, taking steps to suspend or cancel listing.

- 1.2.4** Deleted

- 1.2.5** The DFSA may reduce, waive or refund all or part of any fee if it considers that, in the exceptional circumstances of a particular case, it would be equitable to do so.

- 1.2.6** (1) The DFSA may require a Person to pay to the DFSA a supplementary fee in circumstances where it expects to incur substantial additional

costs in dealing with an application, notification or conducting ongoing supervision.

- (2) In such cases the DFSA will notify the Person as soon as reasonably possible of the amount of the supplementary fee.
- (3) Such a supplementary fee is applicable in respect of any fee payable under chapter 2 or 3 other than a fee under section 2.6, 3.7 or 3.8.

Guidance

1. A supplementary fee may be levied by the DFSA because it expects that certain applications or notifications will require more intensive scrutiny than others.
2. An example is where the entity is a Branch from a jurisdiction where there are not or are not expected to be in place arrangements for co-operation between the DFSA and the relevant regulators in that jurisdiction. Equally, where the entity is incorporated in the DIFC, a full analysis of the prudential and systems arrangements will be required.
3. A further example is where the Fund Manager of a Domestic Fund delegates activities or out sources functions to an entity in another jurisdiction or to several entities in different jurisdictions where there are not or are not expected to be in place arrangements for co-operation between the DFSA and the relevant regulators in those jurisdictions.
4. A supplementary fee may also be levied by the DFSA in cases where the ongoing supervision of the Authorised Person or Domestic Fund appears to the DFSA to be likely to cause it to incur substantial additional costs.

- 1.2.7** (1) In respect of any fee payable in accordance with FER, the fee must, subject to (2), be paid:
- (a) by the Person to whom the Rule applies;
 - (b) in United States Dollars; and
 - (c) by bank transfer directly from a bank account maintained by the Person specified in (a) into the DFSA's bank account.
- (2) The DFSA will accept payment of a fee in United States Dollars from a member of the applicant's Group, the applicant's Parent, the applicant's legal advisor (where such an advisor is a DNFBP) or a Person who has applied to be a Controller in relation to the applicant but only where:
- (a) the relevant fee is an application fee under section 2.1 or 2.3; and
 - (b) the applicant is in formation and does not have a commercial licence to enable it to open a bank account in its own name.

2. APPLICATION FEES

2.1 Application for a Licence

2.1.1 (1) An applicant applying for a Licence authorising it to carry on one or more Financial Services specified in the left hand column of the table in (2) must pay to the DFSA the highest of the corresponding fees in the right hand column of the table.

(2) This is the table referred to in (1):

Accepting Deposits or Providing Credit.	\$70,000
Dealing in Investments as Principal (except as a matched principal).	\$40,000
Effecting Contracts of Insurance or Carrying Out Contracts of Insurance (except as a Captive Insurer, as a PCC, or as an ISPV).	\$40,000
Managing a Collective Investment Fund (except as an Umbrella Fund).	\$10,000
Operating an Alternative Trading System.	\$40,000
Dealing in Investments as a matched principal.	\$25,000
Dealing in Investments as Agent.	\$25,000
Managing Assets.	\$25,000
Providing Custody.	\$25,000
Managing a Profit Sharing Investment Account.	\$25,000
Providing Trust Services.	\$25,000
Acting as the Trustee of a Fund.	\$25,000
Arranging Credit or Deals in Investments.	\$15,000
Advising on Financial Products or Credit.	\$15,000
Arranging Custody.	\$15,000
Insurance Intermediation.	\$15,000
Insurance Management.	\$15,000
Operating a Credit Rating Agency.	\$10,000
Effecting Contracts of Insurance or Carrying Out Contracts of Insurance as a Captive Insurer or as an ISPV.	\$5,500

Effecting Contracts of Insurance or Carrying Out Contracts of Insurance as a PCC:	
(a) for the core; and	\$8,000
(b) for each cell	\$1,000
Providing Fund Administration.	\$15,000
Managing an Umbrella Fund:	
(a) for the Umbrella; and	\$8,000
(b) for each Sub-Fund.	\$1,000

2.1.2 An applicant applying for a Licence authorising it to carry one or more of the Financial Services of Operating an Exchange and Operating a Clearing House must pay to the DFSA:

- (a) for Operating an Exchange an application fee of \$125,000;
- (b) for Operating a Clearing House an application fee of \$125,000; and
- (c) for Operating an Exchange and Operating a Clearing House an application fee of \$250,000.

2.1.3 An applicant under Rule 2.1.2(a) or (c) seeking an endorsement to its Licence authorising it to maintain an Official List of Securities must pay to the DFSA an additional application fee of \$100,000.

2.1.4 An applicant applying for a Licence authorising it to carry on the Financial Service of Operating a Representative Office must pay to the DFSA an application fee of \$2,000.

2.2 Application to carry on additional Financial Services

2.2.1 An Authorised Firm applying for authorisation to carry on additional Financial Services must pay to the DFSA an application fee equal to the difference between:

- (a) the basic fee which would be payable under Rule 2.1.1 (1) if it were an applicant for a Licence in terms currently being sought; and
- (b) the basic fee which would be payable under Rule 2.1.1 (1) if it were an applicant for a Licence in terms of that currently held.

2.2.2 An Authorised Market Institution applying for authorisation to carry on an additional Financial Service must pay to the DFSA:

- (a) an application fee of \$125,000 for the Financial Service of Operating a Clearing House; or

-
- (b) an application fee of \$125,000 for the Financial Service of Operating an Exchange.

2.3 Application to register as an Auditor

- 2.3.1** An applicant for registration as an Auditor with the DFSA must pay to the DFSA an application fee of \$4,000.

2.4 Application to register a Public Fund

- 2.4.1** The Fund Manager or the Person proposing to be the Fund Manager of a Domestic Fund which is a Public Fund, who is applying to register the Fund must pay to the DFSA an application fee of \$1,000 plus, where the Public Fund is an Umbrella Fund, \$1,000 for each of its sub-funds.

2.5 Deleted

2.5.1 Deleted

2.6 Application for Recognition

- 2.6.1** An applicant for Recognition as a Recognised Body must pay to the DFSA an application fee of \$10,000.

2.7 Deleted

2.8 Application to add a new cell to an existing PCC

- 2.8.1** A Licenced PCC applying to add one or more new cells must pay to the DFSA \$1,000 in respect of each cell to be added.

2.9 Application for admittance of Securities to the Official List of Securities

- 2.9.1** An applicant for admission of Securities to the Official List of Securities must pay to the DFSA an application fee of \$2,000.

3 PERIODIC FEES

3.1 Authorised Firms (initial period)

- 3.1.1** (1) An Authorised Firm must pay to the DFSA the initial annual fee specified in (2) for the initial period of regulation between the date of the grant of its Licence and the end of the year.
- (2) The initial annual fee is the fee which was payable at the time of its application for the Licence, multiplied by the number of whole calendar months between the date of the grant of the Licence and the end of the year divided by 12.

3.2 Authorised Firms (subsequent periods)

- 3.2.1** (1) An Authorised Firm must pay to the DFSA an annual fee for any period of regulation after the initial period described in Rule 3.1.1.
- (2) The annual fee is:
- (a) the highest of the fees specified in the right hand column of the table in (3) corresponding to the Financial Services specified in the left hand column of the table which the Authorised Firm is authorised to carry on under its Licence; plus
- (b) \$1,000 for each complete \$1,000,000 of expenditure, where “expenditure” has the meaning given in Rule 3.2.2.
- (3) This is the table referred to in (2) (a):

Accepting Deposits or Providing Credit.	\$70,000
Dealing in Investments as Principal (except as a matched principal).	\$40,000
Effecting Contracts of Insurance or Carrying Out Contracts of Insurance where the Authorised Firm is not carrying on business as a Captive Insurer, as a PCC, or as an ISPV.	\$40,000
Managing a Collective Investment Fund (except as an Umbrella Fund).	\$10,000
Operating an Alternative Trading System.	\$40,000
Dealing in Investments as a matched principal.	\$25,000
Dealing in Investments as Agent.	\$25,000
Managing Assets.	\$25,000
Providing Custody.	\$25,000
Managing a Profit Sharing Investment Account.	\$25,000

Providing Trust Services.	\$25,000
Acting as the Trustee of a Fund.	\$25,000
Arranging Credit or Deals in Investments.	\$15,000
Advising on Financial Products or Credit.	\$15,000
Arranging Custody.	\$15,000
Insurance Intermediation.	\$15,000
Insurance Management.	\$15,000
Operating a Credit Rating Agency.	\$10,000
Effecting Contracts of Insurance or Carrying Out Contracts of Insurance where the Authorised Firm is carrying on business as a Captive Insurer or as an ISPV.	\$5,500
Effecting Contracts of Insurance or Carrying Out Contracts of Insurance where the Authorised Firm is carrying on business as a PCC:	
(a) for the core; and	\$8,000
(b) for each cell.	\$1,000
Providing Fund Administration.	\$15,000
Managing an Umbrella Fund:	
(a) for the Umbrella; and	\$8,000
(b) for each Sub-Fund.	\$1,000

- (4) The annual fee for an Authorised Firm authorised as a Representative Office is \$4,000.

3.2.2 (1) For the purposes of Rule 3.2.1 and subject to (2) “expenditure” means:

- (a) in the case of an Authorised Firm which is a Domestic Firm and to which PIB applies, its annual expenditure calculated as the sum of the amounts entered in its PIB regulatory return in respect of “staff expenses”, “depreciation and amortisation” and “other operating expenses” in relation to business carried on in or from the DIFC including business carried on through a branch in another jurisdiction;
- (b) in the case of an Authorised Firm which operates in the DIFC through a Branch and to which PIB applies, its annual expenditure calculated as the sum of the amounts entered in its PIB regulatory return in respect of “staff expenses”, “depreciation and amortisation” and “other operating expenses” in relation to business carried on in or from the DIFC; and
- (c) in the case of an Authorised Firm to which PIN applies, its annual expenditure as set out in its PIN10 or PIN3 Annual Regulatory Return, as the case may be, in respect of business

carried on in or from the DIFC including, in the case of a Domestic Firm, business carried on through a branch in another jurisdiction;

for the last financial year for which the Authorised Firm has submitted regulatory returns to the DFSA.

- (2) If the last financial year referred to in (1) was not twelve months in duration, the expenditure figure shall be increased or decreased on a pro rata basis to produce an equivalent twelve month figure.

Guidance

The effect of Rule 3.2.2 is that if an Authorised Firm has not, in accordance with the Rules, submitted its first Annual Regulatory Return, then the amount of expenditure is set at zero for the purpose of Rule 3.2.1 (2) (b).

3.3 Authorised Market Institutions (initial period)

- 3.3.1** (1) An Authorised Market Institution must pay to the DFSA an initial annual fee specified in (2) for the initial period of regulation between the date of the grant of its Licence and the end of the year.
- (2) The initial annual fee is \$60,000, multiplied by the number of whole calendar months between the date of the grant of the Licence and the end of the year and divided by 12.

3.4 Authorised Market Institutions (subsequent periods)

- 3.4.1** An Authorised Market Institution must pay to the DFSA the applicable annual fee prescribed in Rules 3.4.2 and 3.4.3 for any period of regulation after the initial period described in Rule 3.3.1.
- 3.4.2** (1) An Authorised Market Institution carrying on the Financial Service of Operating an Exchange must pay to the DFSA an annual fee of \$60,000.
- (2) An Authorised Market Institution carrying on the Financial Service of Operating a Clearing House must pay to the DFSA an annual fee of \$60,000.
- (3) An Authorised Market Institution carrying on both of the Financial Services of Operating an Exchange and Operating a Clearing House must pay to the DFSA an annual fee of \$120,000.
- 3.4.3** An Authorised Market Institution maintaining an Official List of Securities must pay to the DFSA an annual fee of \$50,000.

3.5 Auditors (initial period)

- 3.5.1** An Auditor must pay to the DFSA an initial annual fee of \$6,000 for the initial period of registration between the date of the grant of registration and the end of the year unless it was registered during the last quarter of the year, in which case it must pay to the DFSA an initial annual fee of \$3,000.

3.6 Auditors (subsequent periods)

- 3.6.1** An auditor must pay to the DFSA an annual fee of \$6,000 for any period of registration after the initial period described in Rule 3.5.1.

3.7 Designated Non-Financial Businesses and Professions (initial period)

- 3.7.1** A Person meeting part (1) (d), (e) or (f) of the definition of a DNFBP must pay to the DFSA an annual fee of \$3,000 for the initial period of registration between the date of the grant of registration and the end of the year.

3.8 Designated Non-Financial Businesses and Professions (subsequent periods)

- 3.8.1** A Person meeting part (1) (d), (e) or (f) of the definition of a DNFBP must pay to the DFSA an annual fee of \$3,000 for any period of registration after the initial period described in Rule 3.7.1.

3.9 Domestic Funds (initial period)

- 3.9.1** (1) A Fund Manager must pay to the DFSA in respect of each Domestic Fund for which it is the Fund Manager the initial annual fee prescribed in (3) for the period immediately following registration or notification until the end of the year.
- (2) The initial annual fee must be paid to the DFSA:
- (a) in the case of a Public Fund, at the time of registration;
 - (b) in the case of a Private Fund, at the time of notification to the DFSA pursuant to Article 34 of the Collective Investment Law 2010; and
 - (c) in the case of an Exempt Fund, at the time of notification to the DFSA pursuant to Article 34 of the Collective Investment Law

2010.

- (3) The initial annual fee is \$4,000.

3.10 Domestic Funds (subsequent periods)

- 3.10.1** (1) A Fund Manager must pay to the DFSA in respect of each Domestic Fund for which it is the Fund Manager the annual fee prescribed in (2) for any period after the initial period described in Rule 3.9.1.
- (2) The annual fee for any period after the initial period is \$4,000.

4 FILING FEES

4.1 Filing a Prospectus or Issue Note

- 4.1.1** (1) A Person filing a Prospectus with the DFSA, in accordance with MKT Rule 2.6.1 as a single document or two documents must pay to the DFSA the applicable fee in the table in (3).
- (2) A Person filing a Prospectus with the DFSA in accordance with MKT Rule 2.6.1 where the document is an Issue Note must pay to the DFSA the applicable fee specified in the table in (3).
- (3) This is the table referred to in (1) and (2):

Security type	Prospectus Offer filing (single document or two documents)	Issue Note filing
Shares, Certificates over Shares and Warrants over Shares	\$20,000	\$5,000
Debentures, Certificates over Debentures and Warrants over Debentures	\$10,000	\$2,500

4.2 Filing an appeal to the Regulatory Appeals Committee

- 4.2.1** A fee of \$5,000 must be paid to the DFSA before a Notice of Appeal to the Regulatory Appeals Committee is considered filed with the Regulatory Appeals Committee.
- 4.2.2** The Chairman of the Regulatory Appeals Committee may waive all or part of the \$5,000 filing fee if the Person appealing a decision of the DFSA is an individual and if, in the circumstances, the Chairman considers it is equitable to do so.

5 TAKEOVER FEES

5.1 Bid Documents

- 5.1.1** (1) Fees are payable on Bid Documents and the Bidder is responsible for the payment to the DFSA of the applicable fee in accordance with (2) and (3).
- (2) The Bidder must pay to the DFSA the fee specified in the right hand column of the table in (4) which corresponds to the value of the Bid specified in the left hand column of the table.
- (3) In regard to the value of the Bid for the purposes of (2):
- (a) where there are alternative Bids, the alternative with the highest value must be used to calculate the value of the Bid. Bids for all classes of equity Share capital must be included in the calculation of the value of the Bid, but Bids for non-equity Share capital, Convertibles, Options and the like must not;
 - (b) when a merger is effected by Bids for both entities by a new entity created to make the Bids, the fee will be determined by the value of the lower of the two Bids; and
 - (c) when the fee falls to be calculated on the basis of the value of the Securities to be issued as consideration, it must be computed by reference to the closing price of the relevant Securities at the last practicable date before the publication of the Bid Document as stated in that document or, as the case may be, by reference to the estimated value of any unlisted Securities consideration given in the document.
- (4) This is the table referred to in (2):

Value of the Bid in US\$ million	Fee in US\$
Less than 5	5,000
Over 5 to 25	10,000
Over 25 to 100	37,500
Over 100 to 500	100,000
Over 500	250,000

Guidance

1. Where a Bidder issues a revised Bid Document that increases the value of the Bid, the DFSA will require payment of the difference between the fee that would be applicable under the table in Rule 5.1.1 (4) in respect of the value of the revised Bid, and the fee previously paid in respect of the value of the initial Bid.
2. In relation to the giving of an estimated value of any unlisted Securities consideration, see TKO Rule 1.4.1 (m).

5.1.2 In all cases a note setting out the calculation of the fee must accompany the Bid Document provided to the DFSA. If the Bid is revised, a similar note must be provided with the revised Bid Document and any necessary further payment.