

## Appendix 1

In this Appendix underlining indicates proposed new text and striking through indicates deleted text.



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# The DFSA Rulebook

## Fees Module

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## 1. INTRODUCTION

### 1.1 Application

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**1.1.2** This module also applies to a Person who:

- (a) is an Authorised Person;
- (b) is a Registered Auditor;
- (c) meets part (1) (d), (e) or (f) of the definition of a DNFBP; or
- (d) is a Bidder;
- (e) is a Recognised Person;
- (f) is a Listed Entity; or
- (g) is an Exempt Offeror.

### 1.2 General provisions

- 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:
- (a) chapter 2 or 3 other than a fee under section 2.6, 3.7, ~~or~~ 3.8 or Rule 3.11.2; and
  - (b) section 4.1.
- (4) A supplementary fee payable under this Rule must be paid within the period specified in the notification under (2).
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**Guidance**

1. A supplementary fee may be levied by the DFSA in circumstances where it expects to incur substantial additional costs in dealing with a matter. Such circumstances could include, for example:
  - (a) complex applications by reason of the applicant's start-up profile, origin, ownership structure or proposed business model;
  - (b) cases where it may be necessary to conduct intense supervisory scrutiny of an entity from a risk perspective;
  - (c) complex waiver or modification requests; complex restructurings or changes in an Authorised Person's structure; or activities which necessitate a change in the Rulebook; ~~or~~
  - (d) novel proposals and applications that cover untested ground or untested areas of the regulatory regime; or
  - (e) if a transaction or event involving a Listed Entity, such as an acquisition, disposal, takeover, merger or significant corporate event, is likely to cause the DFSA to incur substantial additional costs.
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.

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## **2. APPLICATION FEES**

### **2.1 Application for a Licence or an endorsement on 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):

.....	.....
Operating an Alternative Trading System.	\$40,000
.....	.....

**2.1.2** (1) An applicant applying for a Licence authorising it to carry on 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 ~~\$150,000~~ 125,000;
- (b) for Operating a Clearing House an application fee of ~~\$150,000~~ 125,000; and
- (c) for Operating an Exchange and Operating a Clearing House an application fee of ~~\$300,000~~ 250,000.

(2) An applicant referred to in (1) applying for an endorsement to carry on the Financial Service of Operating an Alternative Trading System must pay to the DFSA an additional application fee of \$65,000.

**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 ~~\$150,000~~ \$100,000.

~~**2.1.5** (1) An Authorised Firm applying for an endorsement on its Licence to:~~

- ~~(a) carry on a Financial Service with or for a Retail Client must pay to the DFSA an additional application fee of \$5,000;~~
- ~~(b) conduct Islamic Financial Business must pay to the DFSA an~~

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additional application fee of \$5,000; and

(c) ~~act as a Trade Repository must pay to the DFSA an additional application fee of \$5,000.~~

(2) ~~Paragraph (1) does not apply in relation to an application for an endorsement made in conjunction with an application for a Licence.~~

**2.1.5** An applicant for a Licence (other than an applicant referred to in Rule 2.1.2(1)) applying for an authorisation to carry on the Financial Service of Operating an Alternative Trading System must pay to the DFSA an additional application fee of \$65,000.

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## **2.2 Application to carry on additional Financial Services**

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**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 ~~\$150,000~~\$125,000 for the Financial Service of Operating a Clearing House; or

(b) an application fee of ~~\$150,000~~\$125,000 for the Financial Service of Operating an Exchange.

**2.2.3** An Authorised Market Institution applying for an endorsement on its Licence authorising it to maintain an Official List of Securities must pay to the DFSA an additional application fee of \$150,000.

**2.2.4** An Authorised Firm applying for an authorisation, or an Authorised Market Institution applying for an endorsement, to carry on the additional Financial Service of Operating an Alternative Trading System must pay to the DFSA an additional application fee of \$65,000.

**2.2.5** An Authorised Firm or Authorised Market Institution applying for an endorsement on its Licence to act as a Trade Repository must pay to the DFSA an additional application fee of \$5,000.

**2.2.6** (1) An Authorised Firm applying for an endorsement on its Licence to carry on a Financial Service with or for a Retail Client must pay to the DFSA an additional application fee of \$5,000.

(2) An Authorised Firm applying for an endorsement on its Licence to conduct

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Islamic Financial Business must pay to the DFSA an additional application fee of \$5,000.

- 2.2.37** (1) If an Authorised Firm applies to the DFSA to amend the scope of authorisation under its Licence, and no fee is already specified under this section for the application, the Authorised Firm must pay to the DFSA an application fee of \$5,000 for the application.
- (2) Paragraph (1) does not apply to an application that is only to remove an authorisation from a Licence.

## **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 \$15,000~~\$10,000~~.

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## **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 \$2,500~~\$2,000~~.

### Guidance

An applicant for admission of Securities to the Official List of Securities under Rule 2.9.1 may include an applicant who is an Exempt Offeror (as defined in Article 13(2) of the Markets Law).

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### 3 PERIODIC AND OTHER FEES

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#### 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.; plus

(c) \$65,000, if the Authorised Firm is carrying on the Financial Service of Operating an Alternative Trading System.

(3) This is the table referred to in (2) (a):

.....	.....
<del>Operating an Alternative Trading System.</del>	\$40,000
.....	.....

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

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### **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 ~~\$100,000~~\$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~~ and 3.4.4 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 ~~\$100,000~~ \$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 ~~\$100,000~~\$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 ~~\$200,000~~\$120,000.

**3.4.3** An Authorised Market Institution maintaining an Official List of Securities must pay to the DFSA an annual fee of ~~\$75,000~~\$50,000.

**3.4.4** An Authorised Market Institution carrying on the Financial Service of Operating an Alternative Trading System must pay to the DFSA an annual fee of \$65,000.

### **3.11 Listed Entities and Recognised Persons**

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- 3.11.1** (1) A Listed Entity that has equity securities admitted to the Official List of Securities must pay to the DFSA an annual fee consisting of \$2,500 plus the additional fee (if any) calculated in accordance with the table to this Rule.

Table

<b>Additional Fee</b>	
<u>Market capitalisation in USD millions of the Listed Entity</u>	<u>Fee payable in respect of each USD million of market capitalisation</u>
<u>0 to 100</u>	<u>\$0</u>
<u>&gt;100 to 500</u>	<u>\$5</u>
<u>&gt;500 to 5,000</u>	<u>\$1</u>
<u>&gt;5,000 to 10,000</u>	<u>\$0.50</u>
<u>&gt;Greater than 10,000</u>	<u>\$0.25</u>

- (2) In (1), “equity securities” means Shares, Certificates over Shares and Warrants over Shares.
- (3) For the purposes of the table to (1), the market capitalisation of the Listed Entity must be determined as at the last business day in November of the year before the calendar year to which the annual fee relates and is to be based on the official closing price on the AMI at the end of that day.

**Guidance**

1. The market capitalisation of a Listed Entity is calculated by multiplying the number of listed equity securities by the closing price per equity security on the relevant day.
2. The following is an example of how the annual fee under Rule 3.11.1 is calculated. A Listed Entity has equity securities admitted to the Official List of Securities. On the last business day of November of the year before the relevant calendar year, it had a market capitalisation of USD 250 million. Its annual fee for the calendar year will be calculated as follows:

<u>Fixed fee</u>	<u>\$2,500</u>
<u>Additional fee, consisting of:</u>	
<u>initial USD 100mn of capitalisation</u>	<u>\$0 (100 x 0)</u>
<u>remaining USD 150mn of capitalisation</u>	<u>\$750 (150 x 5)</u>
<u>Total</u>	<u>\$3,250</u>

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- 3.11.2** (1) The DFSA may by notice require a Recognised Person to pay to the DFSA a fee not exceeding \$10,000, being for a year or a part of a year, if the DFSA reasonably expects to incur substantial additional costs during that period in dealing with a matter connected to:
- (a) the Recognised Person's compliance with legislation administered by the DFSA; or
  - (b) the Person's status as a Recognised Person.
- (2) If the DFSA proposes to require payment of a fee under (1), it must notify the Person as soon as reasonably practicable of the amount of the fee.
- (3) A fee payable under (1) must be paid within the period specified in the relevant notice.

**Guidance**

The DFSA may require the payment of a fee under Rule 3.11.2 in cases including, but not limited to, where a transaction or event involving a Recognised Person is likely to cause the DFSA to incur significant additional costs, such as a matter which will require the DFSA to liaise with the Person's home supervisor, a significant corporate event or a matter that will require additional supervisory scrutiny by the DFSA.

**3.12 Transitional**

- 3.12.1** The amendments to this chapter made by Rule-making instrument No. 152 of 2015 do not:
- (a) affect the calculation of any annual fee payable under this chapter for the 2015 calendar year (or any part of that year); or
  - (b) require the payment for the 2015 calendar year (or any part of that year) of any new periodic fee introduced in this chapter by those amendments.

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**4 FILING FEES**

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## **4.1 Filing a Prospectus, ~~or Issue Note~~ or other document for approval**

**4.1.1** (1) A Person filing a Prospectus or other document with the DFSA, for approval in accordance with Rule 2.4.1(i)(iii), section 2.6, section 2.7, section 6.3 or Rule 9.7.4 of 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 ~~(32)~~.

~~(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)~~.

~~(32)~~ This is the table referred to in (1) and ~~(2)~~:

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

<u>Filing event</u>	<u>Equity Securities</u>	<u>Non-Equity Securities</u>
<u>Prospectus or equivalent document</u>	<u>\$35,000</u>	<u>\$10,000</u>
<u>Registration Statement</u>	<u>\$27,500</u>	<u>\$7,500</u>
<u>Securities Note and Summary</u>	<u>\$7,500</u>	<u>\$2,500</u>

<u>Supplementary Prospectus</u>	<u>\$2,000</u>	<u>\$2,000</u>
<u>Programme update</u>	<u>n/a</u>	<u>\$8,000</u>
<u>Any other document which is required by the Markets Law or Markets Rules to be approved by the DFSA</u>	<u>\$5,000</u>	<u>\$3,000</u>

- (3) In (2), “equity securities” means Shares, Certificates over Shares and Warrants over Shares, and “non-equity securities” means all other Securities.
- (4) The fee payable under (1) must be paid to the DFSA before the filing of the Prospectus or other document.
- (5) A Prospectus or other document will not be considered to have been properly filed until the fee payable under (1) has been paid to the DFSA.

**Guidance**

The DFSA may levy a supplementary fee under Rule 1.2.6 if it appears to it that approval of a Prospectus or other document is likely to cause it to incur substantial additional costs, for example, because the Prospectus or transaction is complex. In such cases, the DFSA will usually discuss with the Issuer the level of supplementary fee before or as soon as possible after the submission of an application for approval of the document.

## **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):

<b>Value of the Bid in US\$ million</b>	<b>Fee in US\$</b>
Less than 5	<del>7,500</del> 5,000
Over 5 to 25	<del>15,000</del> 10,000
Over 25 to 100	<del>55,000</del> 37,500
Over 100 to 500	<del>150,000</del> 100,000
Over 500	<del>370,000</del> 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.