L.N. 322 of 2006

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Licence And Other Fees) Regulations, 2006

1. (1) The title of these regulations is the Investment Services Act (Licence and Other Fees) Regulations, 2006. Citation.

(2) These regulations shall come into force on the 1st January, 2007.

2. In these regulations, unless the context otherwise requires -

"Act" means the Investment Services Act; Cap. 370.

"carry on an activity" includes but shall not be limited to marketing, advertising or otherwise promoting as may be further stipulated in the Guidelines issued by the competent authority in terms of article 6 of the Act;

"the competent authority" means the Malta Financial Services Authority;

"European investment firm" shall have the same meaning as that assigned to it by regulation 2 of the European Passport Rights for Investment Firms Regulations, 2004; L.N. 87 of 2004.

"European management company" shall have the same meaning as that assigned to it by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations; L.N. 207 of 2004.

"European UCITS" shall have the same meaning as that assigned to it by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations; L.N. 207 of 2004.

"hold or control" includes the holding by a licence holder of a mandate over a client's bank account, or of a power of attorney to control a client's assets: provided that a licence holder shall not be considered to be holding or controlling a client's money or assets if a recommendation made by the licence holder can be placed into effect only by the customer or by a third party, such as a bank, acting on the customer's behalf. The competent authority shall have the discretion to determine whether a licence holder is holding or controlling clients' money or assets in any given case;

"home Member State or EEA State" shall have the same meaning as that assigned to it by regulation 2 of the European Passport Rights for Investment Firms Regulations and by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations;

"Investment Services Directive" means Council Directive 93/22/EEC of the 10th May, 1993 on investment services in the securities field as amended from time to time.

"licence" means an investment services licence or a collective investment scheme licence in terms of articles 3 and 4 of the Act;

"non-private customer" has the meaning assigned to it by guidelines issued by the competent authority in terms of article 6 of the Act;

"person or body" includes any person, body corporate, unincorporated body or association as are mentioned in article 3 of the Act;

"scheme" means a collective investment scheme as"defined in article 2 of the Act.

Payment of application, licence and other fees.

3. There shall be paid to the competent authority by any person or body or scheme -

(a) upon submission of an application for the granting of a licence, recognition or authorisation, irrespective of whether the application is eventually accepted or not, the Application Fee established in the Second Column of the Schedule;

(b) on the date of the granting of a licence, recognition or authorisation, the Supervisory Fee established in the Third Column of the said Schedule; and

(c) thereafter annually, upon the anniversary of such date as is mentioned in paragraph (b), the supervisory fee established in the Third Column of the said Schedule.

Licence classification.

4. (1) A person or body applying for a licence for investment services in terms of article 3 of the Act shall be classified at the discretion of the competent authority into one of five categories which determine the financial resources requirements of licence holders, as follows:

Category 1a: Licence holders authorised to provide any investment service but not to hold or control clients' money or assets, deal for their own account or underwrite. (This Category does not include managers of collective investment schemes).

Category 1b: Licence holders authorised to deal as agent, arrange deals, or provide advice in terms of paragraphs 1 or 2 or 5 of the First Schedule to the Act, solely for non-private customers but not to hold or control clients' money or assets, deal or underwrite for their own account.

Category 2: Licence holders authorised to provide any investment service, and to hold or control clients'money or assets, but not to deal for their own account or underwrite.

Category 3: Licence holders authorised to provide any investment service, to hold or control clients' money or assets, and to deal for their own account or underwrite.

Category 4: Licence holders authorised to act only as trustees or custodians of collective investment schemes.

(2) The competent authority shall set out in the licence the nature of the activities which particular licence holders may carry out.

Payment to the competent Authority.

5. (1) There shall be paid to the competent authority by:

(a) any European investment firm establishing a branch in Malta in terms of regulation 3 of the European Passport Rights for Investment Firms Regulations, upon notification to the competent authority that it wants to establish a branch in Malta and upon the commencement of business in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively, of the Schedule;

(b) any European management company establishing a branch in Malta in terms of regulation 15 of the Undertaking of

L.N. 207 of 2004.

Collective Investment in Transferable Securities and Management Companies Regulations, upon notification to the competent authority that it wants to establish a branch in Malta and upon the commencement of business in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively, of the Schedule;

(c) European UCITS marketing their units in Malta in terms of regulation 8 of the Undertaking of Collective Investments in Transferable Securities and Management Companies Regulations, upon notification to the competent authority that it wants to market its units in Malta and upon the commencement of such marketing in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively of the Schedule.

(2) In addition to the above fees, the following fees shall also be paid to the competent authority:

(a) by European Investment Firms and European management companies establishing a branch in Malta, annually, upon the anniversary of the date on which they commence business in Malta, the supervisory fee established in the Third Column of the Schedule;

(b) by European UCITS marketing their units in Malta in terms of regulation 8 of the Undertaking of Collective Investments in Transferable Securities and Management Companies Regulations, annually, upon the anniversary of the date on which they commence to market their units in Malta, the supervisory fee established in the Third Column of the Schedule.

Repeals L.N. 7 of 1995 as amended.

6. The Investment Services Act (Licence and Other Fees) Regulations, 1995, as amended are hereby repealed.

SCHEDULE

(Regulation 3 and 5)

Licence Fees

First Column	Second Column	Third Column
	Application/ Notification Fee	Supervisory Fee
	Lm	Lm
(a) Investment Services Licences:		
Category 1a	300	500
Category 1b	300	600
Category 2	400	1,200
Category 3	650	1,500
Category 4	1,500	3,000
(b) Collective Investment Schemes which fall within the scope of article 4 of the Act; including schemes formed in accordance with or existing under the laws of a country other than Malta which carry on an activity in Malta:		
Scheme	650	700
Up to fifteen sub-funds (per sub-fund)	125	125
Sixteen sub-funds and over (per sub-fund)	75	75
(c) Collective Investment Schemes which qualify as professional investor funds in terms of guidelines issued for this purpose by the competent authority		
"In principle" approval	200	
Licence		
Scheme	300	300
Per sub-fund	300	125
Recognition Fees		

(d) Persons providing administrative services in terms of article 9A of the Act	1,000	200
(e) Private Schemes recognised in terms of the Investment Services Act (Recognition of Private Collective Investment Schemes) Regulations	500	150
(f) European investment firms establishing a branch in Malta in terms of regulation 3 of the European Passport Rights for Investment Firms Regulations:		
(i) authorised to provide investment services, in terms of the Investment Services Directive, by their home Member State or EEA State but are not authorized to hold and control clients money and assets or to deal for their own account or underwrite	300	500
(ii) authorized by their home Member State or EEA State to provide investment services in terms of the Investment Services Directive, and to hold and control clients money and assets but not to deal for their own account or underwrite	400	1,200
(iii) authorized by their home Member State or EEA State to provide investment services in terms of the Investment Services Directive, and to hold and control clients money and assets and to deal for their own account or underwrite	650	1,500
(g) European management companies establishing a branch in Malta in terms of regulation 15 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations	400	1200
(h) European UCITS marketing their units in Malta in terms of regulation 8 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations:		
(i) European UCITS Scheme	650	700
(ii) Up to 15 sub-funds (per sub-fund)	125	125
(iii) 16 sub-funds and over (per sub-fund)	75	75