L.N. 366 of 2024

FINANCIAL INSTITUTIONS ACT
(CAP. 376)

Financial Institutions (Fees) (Amendment) Regulations, 2024

IN EXERCISE of the powers conferred by article 12 of the Financial Institutions Act, the Minister responsible for the regulation of financial services acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation, commencement and applicability. S.L. 376.03.

1. (1) The title of these regulations is the Financial Institutions (Fees) (Amendment) Regulations, 2024 and these regulations shall be read and construed as one with the Financial Institutions (Fees) Regulations, hereinafter referred to as the "principal regulations".

(2) These regulations shall come into force on the 1st of January 2025.

(3) These regulations shall apply to fees falling due on, or after the coming into force of these regulations.

Substitutes regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations shall be substituted by the following new regulation:

"Interpretation.

2. (1) In these regulations, unless the context otherwise requires:-

"account information service provider" means a natural person or company that provides, regularly or habitually, account information services;

Cap. 376.

"Act" means the Financial Institutions Act;

"annual return" means the Audited Annual Financial Institutions Return submitted to the competent authority in accordance with the Financial Institutions Rules;

"average daily outstanding electronic money" means the average amount of financial liabilities for the last six (6) calendar months relating to issued electronic money which is to be calculated as follows:

(a) the daily average amount of financial liabilities relating to issued electronic money for each of the last six (6) calendar months is to be multiplied by the number of calendar days in each of those months;

(b) the amounts resulting from the calculation set out in paragraph (a) shall be added up; and

(c) the total amount resulting from the calculation set out in paragraph (b) shall be divided by the total number of calendar days forming the six (6) calendar months referred to in paragraph (a):

Provided that the daily average amount of financial liabilities relating to issued electronic money for a calendar month shall be calculated as follows:

(i) the amount of financial liabilities relating to issued electronic money at the end of each calendar day of the preceding six (6) calendar months shall be added up; and

(ii) the amount resulting from the calculation set out in paragraph (a) shall divided by the total number of calendar days forming the calendar months referred to in the said paragraph;

"Category 1 activities" means any one (1) or more of the activities listed in items (1), (2), (3), (5), (6), (7), (8) and (9) of the First Schedule to the Act;

"Category 2 activities" means any one (1) or more of the activities listed in items (4) and (10) of the First Schedule to the Act excluding account information services;

Cap. 330.

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;

"European financial institution" means a legal person authorised by a European regulatory authority to provide payment services in accordance with the Payment Services Directive and, or to issue and, or distribute and, or redeem electronic money in accordance with the Electronic Money Directive, or a person registered under the Payment Services Directive to provide solely account information services;

"European regulatory authority" means a body that is in a Member State other than Malta and is empowered by law to supervise payment institutions, electronic money institutions and, or account information service providers;

"financial institution" means a company that is licensed under the Act to carry out, regularly or habitually, activities listed under the First Schedule of the Act, other than account information services, in or from Malta;

"total assets" means the total assets as reported in the annual return submitted for the preceding year;

"total monetary value of payment transactions" means the total monetary value of payment transactions carried out by a financial institution, other than payment transactions relating to electronic money issued thereby, where applicable, as reported in the annual return submitted for the preceding year.".

(2) Words and expressions used in these regulations which are also used in the Act, but which are not herein defined shall have the same meaning as in the Act.".

Substitutes regulation 3 of the principal regulations.

3. Regulation 3 of the principal regulations shall be substituted by the following new regulation:

"Application and modification fees.

3. (1) Any company that intends to carry out, regularly or habitually, activities listed under the First Schedule of the Act in or from Malta, other than account information services shall, upon submission of an application to the competent authority for a licence in accordance with article 4 of the Act, pay to the competent authority the following application fee, as applicable, with respect to such application:

(a) where such company intends to carry out any one (1) or more Category 1 activities and, or any one (1) Category 2 activities, ten thousand euro (€10,000);

(b) where such company intends to carry out both Category 2 activities, fifteen thousand euro (€15,000); or

(c) where such company intends to carry out any one (1) or more Category 1 activities and both Category 2 activities, fifteen thousand euro (€15,000).

(2) Where a financial institution intends to carry out one (1) or more activities in addition to those which it is licensed to carry out, it shall upon the submission of an application to the competent authority to modify its licence accordingly, pay to the competent authority the application fee established in sub-regulation (1), as applicable, which application fee shall be reduced by twenty-five per cent (25%).

(3) Where a financial institution intends to stop carrying out one (1) or more, but not all, of the activities which it is licensed to carry out, it shall upon the submission of a request to the competent authority to modify its licence accordingly, pay to the competent authority a modification fee of one thousand euro (€1,000).".

Substitutes regulation 4 of the principal regulations.

4. Regulation 4 of the principal regulations shall be substituted by the following new regulation:

"Annual supervisory fee.

4. (1) A financial institution licensed to carry out one (1) or more Category 1 activities on the date when the annual supervisory fee is due in accordance with regulation 5 shall, subject to the provisions of the said regulation, pay to the competent authority an annual supervisory fee which shall be the aggregate of the following:

(a) fifteen thousand euro (€15,000); and

(b) zero point zero two per cent (0.02%) of the total assets:

Provided that in any case, the amount referred to in paragraph (b) shall not exceed two hundred and fifty thousand euro (€250,000).

(2) Notwithstanding sub-regulation (1), the first annual supervisory fee due to the competent authority by a financial institution as referred to in the said sub-regulation shall be fifteen thousand euro (€15,000) prorated according to the period remaining between the date when the financial institution is granted a licence under the Act to carry out the activities referred to in sub-regulation (1) and the end of the calendar year in which such licence was granted.

(3) A financial institution licensed to carry out one (1) or more Category 1 activities and one (1) Category 2 activity, or just the latter, on the date when the annual supervisory fee is due in accordance with regulation 5 shall, subject to the provisions of the said regulation, pay to the competent authority an annual supervisory fee which shall be the aggregate of the following:

(a) twenty-five thousand euro (€25,000); and

(b) the higher of the following:

(i) zero point zero two per cent (0.02%) of the total assets; or

(ii) zero point zero zero zero three per cent (0.0003%) of the total monetary value of payment transactions or zero point zero one per cent (0.01%) of the average daily outstanding electronic money, whichever is applicable:

Provided that in any case, the applicable amount in accordance with paragraph (b) shall not exceed two hundred and fifty thousand euro (€250,000).

(4) Notwithstanding sub-regulation (3), the first annual supervisory fee due to the competent authority by a financial institution as referred to in the said sub-regulation shall be twenty-five thousand euro (€25,000) prorated according to the period remaining between the date when the financial institution is granted a licence under the Act to carry the activities referred to in sub-regulation (3) and the end of the calendar year in which such licence was granted.

(5) A financial institution licensed to carry out one (1) or more Category 1 activities and both Category 2 activities, or just the latter, on the date when the annual supervisory fee is due in accordance with regulation 5 shall, subject to the provisions of the said regulation, pay to the competent authority an annual supervisory fee which shall be the aggregate of the following:

(a) thirty-five thousand euro (€35,000); and

(b) the higher of the following:

(i) zero point zero two per cent (0.02%) of the total assets; or

(ii) the aggregate of zero point zero zero zero three per cent (0.0003%) of the total monetary value of payment transactions and zero point zero one per cent (0.01%) of the average daily outstanding electronic money:

Provided that in any case, the applicable amount in accordance with paragraph (b) shall not exceed two hundred and fifty thousand euro (€250,000).

(6) Notwithstanding sub-regulation (5), the first annual supervisory fee due to the competent authority by a financial institution as referred to in the said sub-regulation shall be thirty-five thousand euro (€35,000) prorated according to the period remaining between the date when the financial institution is granted a licence under the Act to carry out the activities referred to in sub-regulation (5) and, or one (1) or more Category 2 activities at the end of the calendar year in which such licence was granted.".

Substitutes regulation 5 of the principal regulations.

5. Regulation 5 of the principal regulations shall be substituted by the following new regulation:

"Payment of the annual supervisory fee.

5. (1) The first annual supervisory fee due in accordance with regulation 4, as applicable, shall be paid to the competent authority on the date when a financial institution is granted a licence under the Act.

(2) Every annual supervisory fee following the first annual supervisory fee which is due in accordance with regulation 4, as applicable, shall be paid to the competent authority in two (2) instalments on the 1st January and 30th July of each calendar year:

Provided that the instalment due on the 1st January shall be fifty per cent (50%) of the annual supervisory fee due by a financial institution for the previous year in accordance with regulation 4, as applicable, and the instalment due on the 30th July shall be the remaining balance of the annual supervisory fee due by such financial institution for that year in accordance with regulation 4, as applicable.".

Addition of new regulations to the principal regulations.

6. Immediately after regulation 5 of the principal regulations, there shall be added the following new regulations:

"Fees in relation to account information service providers.

5A. (1) Any natural person or company that intends to provide, regularly or habitually, account information services in or from Malta shall, upon submission of an application to the competent authority for registration in accordance with article 4(1A) of the Act, pay to the competent authority an application fee of one thousand euro (€1,000).

(2) An account information service provider registered in accordance with article 5 of the Act shall, on the date when registration is granted under the Act and annually thereafter upon the anniversary of the date of such registration, pay to the competent authority a registration fee of five thousand euro (€5,000).

Fees due by European financial institutions. S.L. 376.07.

5B. (1) A European financial institution that intends to establish a branch in Malta in accordance with regulation 4 of the European Passport Rights for Financial Institutions Regulations shall, upon submission of the information required in accordance with the said regulation, pay the competent authority a notification fee of one thousand euro (€1,000).

(2) A European financial institution that has established a branch in Malta in accordance with regulation 4 of the European Passport Rights for Financial Institutions Regulations shall, subject to the provisions of sub-regulation (4), pay to the competent authority an annual supervisory fee of one thousand euro (€1,000).

(3) Notwithstanding the provisions of sub-regulation (2), the first annual supervisory fee due to the competent authority by a European financial institution as referred to in the said sub-regulation shall be one thousand euro (€1,000) prorated according to the period remaining between the date when the branch of such European financial institution is established in Malta in accordance with regulation 4(8) of the European Passport Rights for Financial Institutions Regulations and the end of the calendar year in which such branch was established.

(4) The first annual supervisory fee due in accordance with sub-regulation (3) shall be paid to the competent authority on the date when the branch of the European financial institution is established in Malta in accordance with regulation 4(8) of the European Passport Rights for Financial Institutions Regulations, and every annual supervisory fee following the first annual supervisory fee which is due in accordance with sub-regulation (2) shall be paid to the competent authority on the 1st January of each calendar year.".

Substitutes regulation 6 of the principal regulations.

7. Regulation 6 of the principal regulations shall be substituted by the following new regulation:

"Fees not refundable or prorated.

6. (1) The fees established and due in accordance with these regulations shall not be refundable.

(2) Without prejudice to regulations 4(2), (4), (6) and 5B(3), the fees established and due in terms of these regulations shall not be prorated.".

Transitory provision. S.L. 376.03.

8. These regulations shall not be deemed to affect the liability in respect of any fees due under the Financial Institutions (Fees) Regulations prior to the coming into force of these regulations.

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