

Consultation Paper

AFSA-P-CE-2020-0009

Proposed Approach on the Application of the AIFC regulatory fees

Unrestricted

November 20, 2020

Introduction

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to seek suggestions from the market on the proposed approach on the application of the AIFC regulatory fees.
2. The proposals in this Consultation Paper will be of interest to current and potential AIFC participants who are interested in exercising business activities in or from the AIFC.
3. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2020-0009” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. The AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by the AFSA.
4. The deadline for providing comments on the proposals is **20 December 2020**. Once we receive your comments, we shall consider if any refinements are required to this proposal.
5. Comments to be addressed by
post: Policy and Strategy Division
Astana Financial Services Authority (AFSA)
55/17 Mangilik El, building C3.2, Kazakhstan
or emailed to: consultation@afsa.kz
6. The remainder of this Consultation Paper contains the following:
 - (a) Background to the proposal;
 - (b) Key proposals on the application of the AIFC regulatory fees;
 - (c) Annex 1: Proposed supervision fees tables.

Background

1. AFSA have not been applying application fees for authorisation and recognition as well as supervision fees, stipulated by the AIFC Fees Rules (FEES). This proposal comes as AIFC is approaching the end of waiver for application fees granted in June 2018 expiring on 1 January 2021.
2. There are two types of supervision fees in FEES: initial annual supervision fee and subsequent standard annual supervision fees.
3. According to FEES, initial annual supervision fee must be paid for the initial period of regulation after the grant of licensed status. The initial annual supervision fee is calculated as the fee which was payable at the time of application for authorisation, pro-rated over the whole months remaining between the date of authorisation and the end of the year.
4. Subsequent annual supervision fees must be paid for any period of regulation after the period described above. The standard annual supervision fee is:
 - (i) the highest of the fees specified in the fees table corresponding to the activities which the relevant entity is licensed to carry on; and
 - (ii) an amount as may be determined by the AFSA for each Approved Individual employed by the relevant entity at 30 September in the previous year, or on the date of the grant of authorisation, whichever is the later.
5. The proposed approach on the application of the AIFC regulatory fees is discussed in the next section of this document. Annex 1 includes the proposed supervision fees tables.

Key proposals on the application of the AIFC regulatory fees

1. With the focus on the current development stage of the AIFC, it is proposed to remove authorisation and recognition application fees and introduce only annual supervision fees that will take effect on 2021 and will be applied after 1 year from the AIFC entity's commencement of operations. Annex 1 sets out the proposed supervision fees.
2. This proposal does not require upfront payments for new potential participants and maintains the AIFC attractiveness. This proposal also allows the AIFC participants to operate 1 year without supervision fees further increasing the ease of setting up a business in the AIFC.
3. For existing AIFC participants, the proposal is to apply supervision fees starting from 2021 if such participants have been operational for more than 1 year. For those companies that have not yet commenced operations, the supervision fees will be applied after 1 year from their commencement of operations. Therefore, the application of supervision fees includes the "commencement of operations" rather than the "date of a Licence" since the AIFC entity may obtain a Licence but do not commence its operations in the AIFC.
4. Additionally, there are proposals to introduce the following fees starting from 2021 that were not earlier introduced:
 - (a) fees at the level of 50% of the revised fees in Annex 1 for post-authorisation processes such as applications to vary the scope of a Licence;
 - (b) in an amount of 300 USD for withdrawal of a Licence; and
 - (c) in an amount of 50 USD for modification and withdrawal of Approved Individual's registration.
5. It is proposed to waive all fees, including authorisation and supervision fees, for FinTech Lab participants until further notice from AFSA.
6. Proposed supervision fees in Annex 1 are based on current application fees set out in Schedules 1-4 of FEES by applying to them risk-based approach and reducing them noting the nature, scale and complexity of businesses. Therefore, the proposed reductions are:
 - (a) 90% for AIFC Participants not holding Client Money/Asset and with the lowest Base Capital Requirements;
 - (b) 50% for other AIFC Participants not holding Client Money/Asset;
 - (c) 20% for AIFC Participants holding Client Money/Asset;
 - (d) 20% for Ancillary Service Providers, Authorised Market Institutions and entities for recognition regime.

1. Proposed supervision fees for Regulated Activities

90% reduction is proposed for the following AIFC Participants not holding Client Money/Asset and with the lowest Base Capital Requirements:

<i>Application fee by Regulated Activities</i>	<i>Fee (USD)</i>	Revised Fee (USD)
Advising on Investments	5000	500
Arranging Deals in Investments	5000	500
Insurance Intermediation	5000	500
Advising on a Credit Facility	5000	500
Arranging a Credit Facility	5000	500
Providing Insurance Management	5000	500

50% reduction is proposed for the following AIFC Participants not holding Client Money/Asset:

<i>Application fee by Regulated Activities</i>	<i>Fee (USD)</i>	Revised Fee (USD)
Operating a Representative Office	3000	1500
Providing Trust Services (where an Authorised Firm is not acting as trustee in respect of an express trust and does not hold clients' money)	n/a	2500
Providing Islamic Financing, in case if only own funds are used	10000	5000
Providing Money Services	5000	2500
Operation of a Payment System	5000	2500

20% reduction is proposed for AIFC Participants holding Client Money/Asset:

<i>Application fee by Regulated Activities</i>	<i>Fee (USD)</i>	Revised Fee (USD)
Managing a Collective Investment Scheme	5000	4000
Arranging Custody	5000	4000
Providing Fund Administration	5000	4000
Managing Investments	5000	4000
Providing Custody	5000	4000
Providing Trust Services	5000	4000
Acting as the Trustee of a Fund	5000	4000
Dealing in Investments as Agent	10000	8000
Dealing in Investments as Principal	10000	8000
Managing a Restricted Profit Sharing Investment Account	10000	8000
Islamic Banking Business	15000	12000
Providing Islamic Financing, in case if not only own funds are used	n/a	8000
Accepting Deposits	15000	12000
Providing Credit	10000	8000
Conducting Insurance Business	10000	8000
Conducting Takaful Business	10000	8000
Conducting Captive Insurance Business through a Protected Cell Company	5000 plus 1000 for each cell	4000 plus 800 for each cell
Conducting Captive Insurance Business other than through a Protected Cell Company	5000	4000

Conducting Captive Takaful Business through a Protected Cell Company	5000 plus 1000 for each cell	4000 plus 800 for each cell
Conducting Captive Takaful Business other than through a Protected Cell Company	5000	4000
Opening and Operating Bank Accounts	5000	4000

2. Proposed supervision fees for Market Activities

20% reduction is proposed for AIFC Participants carrying on Market Activities:

<i>Application fee by Market Activities</i>	<i>Fee (USD)</i>	<i>Revised Fee (USD)</i>
Operator of a Clearing House	125 000	100 000
Operator of an Investment Exchange	125 000	100 000
Operator of a Digital Asset Trading Facility	5 000	4000
Operator of a Crowdfunding Platform	5 000	4000
Operating a Multilateral Trading Facility	5 000	4000
Operating an Organised Trading Facility	5 000	4000
Operating a Private Financing Platform	5 000	4000

3. Proposed supervision fees for Ancillary Services

20% reduction is proposed for AIFC Participants providing Ancillary Services

<i>Activity</i>	<i>Fee (USD)</i>	<i>Revised Fee (USD)</i>
Providing Legal Services	2 000	1600
Providing Audit Services	2 000	1600
Providing Accountancy Services	2 000	1600
Providing Consulting Services	2 000	1600
Providing Credit Rating Services	2 000	1600

4. Proposed supervision fees for Recognised Non-AIFC Market Institution and Recognised Non-AIFC Member

20% reduction is proposed for Recognised Non-AIFC Market Institution and Recognised Non-AIFC Member

Application fee	Fee (USD)	<i>Revised Fee (USD)</i>
Recognised Non-AIFC Market Institution	2 000	1600
Recognised Non-AIFC Member	2 000	1600