



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

CONSULTATION PAPER
NO. 2 OF 2022

**PROPOSALS FOR REVISED
FEES FOR LATE REGULATORY
FILINGS**

23 March 2022

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Introduction

Why are we issuing this paper?

1. The Financial Services Regulatory Authority (“FSRA”) of Abu Dhabi Global Market (“ADGM”) has issued this consultation paper to seek views on proposed amendments to the FEES Rules for Authorised Persons, Recognised Bodies, and Designated Non-Financial Businesses or Professions.
2. The amendments to the FEES Rules proposed within this paper have been drafted to reflect the importance of regulatory filings being submitted within the timeframes prescribed by the FSRA Rulebooks. Such reporting is necessary for effective supervision, with late submission of regulatory filings being a contravention of section 218 of the Financial Services and Markets Regulations 2015 (“FSMR”).
3. Unless otherwise defined, capitalised terms used in this paper have the meanings attributed to them in FSMR or the Glossary (“GLO”).

Who should read this paper?

4. This Consultation Paper should be of particular interest to all entities operating in the financial sector in ADGM; and entities in the non-financial sector that are required by the FSRA Rulebooks to submit regulatory filings.

How to provide comments?

5. All comments should be made in writing and sent to the address or the email address specified below. If sending your comments by email, please use the Consultation Paper number in the subject line. If relevant, please identify the organisation you represent when providing your comments. The FSRA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of submitting those comments. Comments supported by reasoning and evidence will be given more weight by the FSRA.

What happens next?

6. The deadline for providing comments on the proposed framework is 18 April 2022. After receiving comments, we shall consider whether any modifications are required to the proposals and the Board of ADGM and the FSRA will then proceed to enact the proposals in their final form as rules and associated guidance. You should not act on these proposals until final rules and guidance are issued by the FSRA, at which time we shall issue a notice on our website.

Comments to be addressed to:

Consultation Paper No. 2 of 2022
Abu Dhabi Global Market
ADGM Square
Al Maryah Island
PO Box 111999
Abu Dhabi, UAE
Email: consultation@adgm.com

Background

1. The FSRA is proposing to revise the fees associated with the late submission of regulatory filings by Authorised Persons, Recognised Bodies, and Designated Non-Financial Businesses or Professions (collectively “Regulated Firms”), as appropriate. The purpose of this revision is to encourage timely submission of those periodic reports, returns and other filings (collectively “regulatory filings”) that are required to be submitted within the timeframes prescribed in various FSRA Rulebooks.
2. The FSRA’s risk-based approach to supervision depends upon the timely submission of complete and accurate regulatory filings. Information contained in regulatory filings is a major source for FSRA supervisors to identify risk factors that require supervisory follow-up and also contributes to the FSRA achieving its strategic objectives.
3. The table below outlines the proposed new definition of “Regulatory Filings” in the GLO Rulebook and the required submissions that would be accordingly in-scope.

Regulatory Filings - Rule	Regulatory Requirement
AML 4.6.1	<i>AML Return</i>
CIB 2.3.5(3), (4) and (5)	<i>Global, Cell and Fund Returns</i>
CIB 2.3.7	<i>Annual and quarterly Regulatory Returns</i>
CIB 2.3.8	<i>Financial Group Capital Adequacy Report</i>
CIB 7.2.3	<i>Written report relating to General Insurance Business, prepared by an Actuary</i>
CIB 7.3.2, 3 and 5	<i>Actuarial report for Long-Term Insurance Business</i>
COBS 14.2.3(d), 14.2.13	<i>Client Money Auditor’s Report</i>
COBS 15.10	<i>Safe Custody Auditor’s Report</i>
GEN 6.6.1, 6.6.2	<i>Reports produced by Auditor</i>
GEN 8.8.12	<i>Annual report on Controllers</i>
IFR 3.6.2(b)	<i>Shari’a Supervisory Board annual report</i>
PIN 6.6.1	<i>Annual Regulatory Return</i>
PIN 6.6.7	<i>Quarterly Regulatory Return</i>
PIN 6.7.2(1)	<i>Financial Group Capital Adequacy Report</i>

Regulatory Filings - Rule	Regulatory Requirement
PIN 7.2.3	<i>Written report relating to General Insurance Business, prepared by an Actuary</i>
PIN 7.3.5	<i>Actuarial report for Long-Term Insurance Business</i>
PRU 2.3.7	<i>Monthly, quarterly and annual returns</i>
PRU 3.2.2(c)	<i>Capital adequacy summary report</i>
PRU 3.21.1	<i>Leverage ratio report</i>
PRU 10.3.2(3)	<i>Internal Risk Assessment Process (IRAP)</i>
PRU 10.4.2(3)	<i>Internal Capital Adequacy Assessment Process (ICAAP)</i>

4. It should be noted that the proposed revisions to the fee schedule will not apply to those regulatory filings that are triggered by ad hoc events, such as notification of a delegation of authority by the Governing Body or the appointment of a Key Individual.

Proposed fee for late regulatory filings

Options for Fees for Late Regulatory Filings

5. Any fees imposed under the proposed schedule should be proportionate to the nature of a contravention, while being significant enough to improve compliance with reporting obligations across the population of Regulated Firms. A number of options for fee structures exist that might achieve this balance, including the following.

Option 1 - flat fee structure

Overdue period	Fee
Past filing deadline	Flat fee of \$500

Option 2 - tiered fee structure

Overdue period	Fee
Up to one month late	Flat fee of \$350
More than one month	Flat fee of \$500

Option 3 - accrued fee structure

Overdue period	Fee
Each Business Day or part thereof past the filing deadline	\$100 per Business Day or part thereof

6. We are proposing the adoption of option 3, i.e. a fee of \$100 per Business Day or part thereof that regulatory filings are overdue beyond their filing deadline. We have considered the other options and believe that the proposed fee structure would be directly proportionate to the period that a regulatory filing is overdue and straightforward to understand and administer.
7. We have undertaken benchmarking of the approaches adopted in this area by regulators in other, comparable jurisdictions and this proposal is consistent with their approaches.
8. We recognise, however, that there may be exceptional circumstances that result in the late submission of a regulatory filing. The proposal therefore provides the opportunity for a Regulated Firm to appeal to the FSRA where it believes that such exceptional circumstances have caused a late submission. Any such appeal would be considered by the FSRA and might result in the fee remaining as specified, being reduced, waived or refunded.

Question 1

Do you have any comments on the proposal to adopt a fee of \$100 per Business Day or part thereof that regulatory filings are overdue beyond their filing deadline?

Incomplete or inaccurate regulatory filings

9. The fee structure proposed above would address late regulatory filings, but not those that are materially incomplete, inaccurate or both. We have considered whether the introduction of additional fees to address these issues is merited, as occurs in some comparable jurisdictions. The FSRA has decided that its current supervisory powers are sufficient at this time to deal with any such contraventions: however, the introduction of fees relating to this scenario will be subject to periodic review.

Appendices

- Appendix 1: Proposed amendments to FEES
- Appendix 2: Proposed amendments to PRU
- Appendix 3: Proposed amendments to PIN
- Appendix 4: Proposed amendments to GLO