

Statutory Document No. 0413/2013

*Financial Services Act 2008*

TRANSFER OF BUSINESS INCLUDING DEPOSIT-TAKING REGULATIONS 2013

Approved by Tynwald: 22 January 2014
Coming into Operation: 1 February 2014

The Financial Supervision Commission makes the following Regulations under section 3A of the Financial Services Act 2008.¹

1 Title

These Regulations are the Transfer of Business Including Deposit-Taking Regulations 2013.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 February 2014.

3 Interpretation

In these Regulations —

“**account**” includes: —

- (a) current, deposit, loan, or other banking-type accounts; and
- (b) any other account in respect of non-deposit-taking business;

“**auditor’s report**” is the report required by regulation 4(1);

“**customer**” means a person in whose name there is an account or for whom monies or assets are held on trust; and

“**independent auditor**” means an auditor as defined in sections 14 – 14G of the Companies Act 1982² who is not an employee of either the transferor or transferee.

¹ AT 8 of 2008

² AT 2 of 1982

4 Requirements in connection with applications

- (1) An application to the High Court (“application”) for an order sanctioning a relevant transfer scheme must be accompanied by a report signed by an independent auditor which details the terms of the relevant transfer scheme and its likely effect on the customers of the transferor and transferee concerned.
- (2) The application must —
 - (a) specify which additional —
 - (i) regulated activities; and
 - (ii) other activities that are not regulated by the Commission; are being transferred together with the deposit-taking activities;
 - (b) include the information specified in the Schedule to these Regulations; and
 - (c) include any other information required by the Financial Supervision Commission.
- (3) When an application is made, a notice must be published within seven days —
 - (a) in a newspaper published and circulating in the Island;
 - (b) on the websites of both the transferor and the transferee; and
 - (c) in the public area of all offices in the Island of both the transferor and transferee.
- (4) The notice must —
 - (a) state that the application has been made;
 - (b) state that copies of the application and the auditor’s report are available for inspection;
 - (c) provide details of how and when inspection can take place; and
 - (d) remain on display in the offices and on the websites of the transferors and transferees until either the transfer has been completed or the application has been withdrawn.
- (5) The application and the auditor’s report must remain available to any person until such time as either the transfer has been completed or the application has been withdrawn. These documents may be made available by publication on the websites of the transferor and the transferee, but must be supplied to any person on request.
- (6) When an application is made, a copy of the application and the auditor’s report must be submitted to the Financial Supervision Commission concurrently.

- (7) When an application is made —
- (a) each customer whose account is to be transferred; and
 - (b) every member of the transferor;
- must be notified of the content of the notice in (4) within seven days.
- (8) At least one month must elapse between the date of publication of the notice and the date on which the High Court considers the application.

MADE 3 DECEMBER 2013

J.R. ASPDEN
Chief Executive

G.F. KARRAN
Commissioner

SCHEDULE

[Regulation 4(2)]

INFORMATION TO BE INCLUDED IN AN APPLICATION

An application must include the following information about accounts as a result of the anticipated transfer —

1. Confirmation whether accounts will retain Isle of Man 'situs', where relevant;
2. Explanation of change in corporate structure of deposit-taker(s) and any change to responsible regulators;
3. Confirmation whether interest paid to customers will be Isle of Man-sourced income;
4. A statement about where customers' data will be held and how this will change from the current position (including who the data controller will be);
5. A statement about any depositor compensation scheme that will apply or cease to apply;
6. Confirmation about the treatment, for depositor compensation purposes, of accounts held by customers at separate deposit-takers that will be merged. Also, a statement about the policy on accounts in general in such circumstances; and
7. A statement about any guarantees of accounts that are being removed or provided.

EXPLANATORY NOTE***(This note is not part of the Regulations)***

These Regulations impose requirements in connection with applications to transfer business including deposit-taking from a licenceholder to another person. The business to be transferred must include deposit-taking, but may also include other activities. These requirements must be satisfied before the High Court may determine an application to transfer such business.