



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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**Guidance for  
Applicants Seeking a Restricted Deposit  
Taking Licence**

**Class 1(2)**

**October 2018**

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## Glossary of terms

the Act	The Financial Services Act 2008
AML/CFT	Anti-Money Laundering / Countering the Financing of Terrorism
the Authority	Isle of Man Financial Services Authority
EU	European Union
HSS	Home State Supervisor
ICAAP	Internal Capital Adequacy Assessment Process
PSO	Payment System Operator
RAO	Regulated Activities Order 2011, as amended
Rule Book	Financial Services Rule Book
SREP	Supervisory Review and Evaluation Process
UK	United Kingdom

## 1. Introduction

In August 2016, changes were made in respect of the regulated activity of deposit taking. The changes resulted in there being 3 classes of deposit taking licences:

- (1) Retail / non-restricted deposit takers;
- (2) Non-retail / restricted deposit takers; and
- (3) Representative offices of foreign banks.

The Isle of Man Financial Services Authority ('the Authority') will work with you to provide information and support, should you be considering establishing any type of bank in the Isle of Man. However, this guidance focuses on those seeking to operate as a non-retail/restricted deposit taker i.e. Class 1(2).

## 2. Associated Legislation

The Financial Services Act 2008 ('the Act') and associated legislation, specifically the Regulated Activities Order 2011 ('the RAO'), define 'regulated activities' in or from the Island. In addition, exemptions from licensing are prescribed in the Financial Services (Exemptions) Regulations 2011 ('Exemptions Regs'). Copies of legislation can be found at: <https://www.iomfsa.im/legislation-guidance/>

## 3. Entry Criteria

To be eligible to make an application for a Class 1(2) licence your company is expected to be part of a substantial, established group, however that group does not need to have an existing banking business within it. In order to be able to operate as a licensed Class 1(2) restricted deposit taker you will be required to evidence that the company has suitable financial resources, track record and relevant competency, employing key persons that have relevant experience in the market.

## 4. What is a restricted deposit taking (class 1(2)) licence?

A restricted deposit taking licence enables a company to carry out deposit taking only for a limited and specified customer base ('restricted depositors'). For the full definition of 'restricted depositor' reference should be made to the RAO, but in summary it is regarded as:-

- A body corporate;
- An individual who certifies that they have a minimum of £500,000 net worth<sup>1</sup> (for exclusions see RAO); or
- An individual who is a trustee of a particular trust, who certifies that the assets of that trust are valued at a minimum of £500,000.

In the case of deposits held jointly, each depositor must meet one of the criteria in their own right.

Additionally, a restricted deposit taker will not be a member of the Island's depositors' compensation scheme.

## 5. Conditions to be applied to Class 1(2) Licences

As stated in 2 above, the Act and the RAO define regulated activity. In addition, the Act empowers the Authority to impose conditions under which a licenceholder must operate and, if deemed appropriate, to alter those conditions.

A restricted deposit taker must comply with the applicable rules contained in the Financial Services Rule Book<sup>2</sup>, in the same way as a Class 1(1) deposit taker. In addition, a [standard set of conditions](#) will be applied (these are different from the special conditions that may be imposed as described in stage 4 of this guidance).

The standard conditions cover:-

- A requirement for the licenceholder to make reference in its documentation and advertisements that no deposit made with it is covered by a compensation scheme;
- Requirements in relation to the provision of services to restricted depositors (including periodic verification of high net worth individuals' status); and
- Prohibition on advertising products or services to the general public.

Depending upon your business model, it may be necessary for the Authority to add additional conditions to your licence or vary the standard conditions.

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<sup>1</sup> Net worth for this purpose excludes certain assets as defined in the RAO.

<sup>2</sup> Normally, rules 2.22(1)(b), 2.22(4)(h), 2.24(1)(b), 6.15 and 7.24 will not be applied by excepting the applicant from them. Rule 6.15 will be replaced with a specific licence condition.

## 6. About this Guidance, and the licensing process

This guidance sets out the four key stages of the application process that you will need to consider if you are thinking of applying for a Class 1(2) restricted deposit taking licence. The structured licensing process is made up of the following distinct stages:

### STAGE 1

Development of business model and regulatory implications	This stage focuses on the basics of analysing your proposed business model to establish if applying for a restricted deposit taking licence is the right thing for you and what the alternatives might be.
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### STAGE 2

Proof of concept (pre-application)	This stage looks to develop your relationship with the Authority in helping us understand your business model, the regulatory implications and to manage expectations on both sides.
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### STAGE 3

Submission of application	By this stage, we will have worked together through the 'proof of concept' in determining whether submission of a licence application is appropriate / necessary for your business model. This section in the guidance includes information about what we will assess and gives an indication of how long it could take the Authority to give you a decision.
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### STAGE 4

Provisional licensing	This is an optional stage, to be agreed between both parties. This section in the guidance explains the concept of provisional licensing, which provides an opportunity for you to build your business model including, if necessary, securing further investment, staff and IT.
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**Appendix 1** provides a summary of Questions & Answers about the process that you may find helpful to review as you work through each of the above stages.

## **STAGE 1**

### **Part 1: Development of business model and regulatory implications**

#### **1.1 What is my business model telling me from a regulatory perspective?**

Depending upon your business model and the activities you want to undertake, applying for a restricted deposit taking licence may not be the only, or in some cases, the most appropriate option. There are a number of alternatives which may allow you to provide some of the services you wish to offer at a potentially lower cost than investing and setting up as a restricted deposit taker. The flow chart at **Appendix 2** should help you determine whether your planned activities would require you to hold a deposit taking (banking) licence, whether restricted or otherwise.

Further, there are some exclusions set out in the RAO that may be relevant to your proposals. See also **1.2 - *What are the alternatives that could accommodate my business model?***

#### **1.2 What are the alternatives that could accommodate my business model?**

If you are only, or mainly, looking to facilitate certain payment services, as defined within the RAO, a money transmission services licence may be more appropriate.

Taking deposits may also not be the most efficient way for you to fund your business, depending on what your business model is. For example, if your focus is on lending you don't necessarily have to fund that activity by taking deposits. Lending alone is not licensable by the Authority in the Isle of Man, although you may need to register as a money lender with the Isle of Man Office of Fair Trading and with the Authority as a designated business for AML/CFT compliance oversight.

It is also worth noting that the RAO and the Exemptions Regs provide a number of exclusions and exemptions, respectively, which could mean your business model falls outside our regulatory regime. The most relevant of these may be certain group related business.

While there are varying degrees of legal restrictions placed on the scope or size of some of these alternative options, these are matched by differing levels of regulation, where such regulation is appropriate.

## **Part 2: Things to consider if you decide to apply for a restricted deposit taking licence**

If you have considered the alternatives and determined there are no relevant exclusions or exemptions that apply, and have concluded that applying for a restricted deposit taking licence is the right route, there are some important things to consider before contacting us to start the licensing process.

### **2.1 Do you need to go through the licence application process?**

Because the Isle of Man is not part of the UK or the EU there are no direct passporting rights available in respect of deposit taking. This is the case for deposit takers licensed in the Isle of Man seeking to do such business in the UK or EU, and for a deposit taker licensed in the UK or EU looking to undertake regulated activity in or from the Isle of Man.

If you plan to undertake deposit taking activity in or from the Isle of Man you will need to progress through the Authority's licensing process.

### **2.2 What if your company is already licensed by the Authority?**

If your company already holds a financial services licence you will need to apply to add restricted deposit taking (Class 1(2)) to that licence. Depending upon your current class of licence permissions the Authority may wish you to establish a separate company through which the restricted deposit taking activities are to be facilitated. The process for considering the extension of your regulated activities will be viewed in the same way as any new licence application, with each of the initial stages of obtaining the licence extension, as outlined previously, being applicable.

### **2.3 What will your restricted deposit taking business do and how will it do it?**

Before contacting us you should consider the following key areas, as these are the things we will initially want to focus on:

- The reasons for wishing to intend to apply for a class 1(2) licence, including any market research undertaken
- Business model – what will be your business strategy and target market? What products will you offer and who will you offer them to? Please consider questions like ... how will your business make money? Will you be looking to offer your services outside the Island? How you will source and promote your business?



What key risks will be inherent in your business, and what challenges do you consider you will face? Will you need to seek any regulatory permissions from authorities outside the Island?

- Senior management, the board and governance – who will run the business and how will they do it effectively? Are there any conflicts of interest? Do they have the required competence and track record?
- Ownership structure and financial resources – how will the business be funded (including for initial and ongoing capital requirements)?
- Outsourcing – what will you do in-house and what will you outsource?

## **2.4 Do you need to seek permission to undertake any other regulated activities?**

Depending on your business model and the products you propose to offer, you will also need to consider any other regulated activities (possibly investment business or insurance mediation) that your business will undertake, either in the Isle of Man or elsewhere. It is your responsibility to consider this and seek independent advice accordingly.

## **2.5 When can you use the word ‘bank’ in your business name?**

Not yet. The use of certain sensitive words such as ‘bank’ and ‘banking’ in registered company names is controlled by legislation in order to prevent the public from being misled. A company cannot call itself a bank until it has been licensed as a fully operational deposit taker.

To illustrate the above, you may begin the application process as ‘ABC Limited’ but only if you are licensed can you call yourself ‘ABC Bank Limited’. Website domain names and email addresses are controlled in a similar way.

There is further information on sensitive business names [here](#).

## **2.6 How can you access payment systems?**

A payment system is a means of moving money. All restricted deposit takers will need access to payment systems.

You should consider your options for accessing payment systems as early as possible in order to be able to adequately reflect these in your plans. It is possible to access a payment system through either direct access (where a company has a direct relationship with the payment system operator (PSO)) or indirect access (where a direct PSO acts as their sponsor).

## 2.7 What are the next steps?

When you have considered the above and consider that your business model may fall within the remit of our regulatory regime for restricted deposit taking, you should contact the Policy and Authorisations Division of the Authority on 689317 or 689372 to arrange a preliminary meeting. Alternatively you can email [info@iomfsa.im](mailto:info@iomfsa.im) and contact will be made with you directly. To prepare for the meeting you should provide us with a brief pack covering, where possible, the matters described in 2.3 above.

## **STAGE 2**

### **Proof of Concept (Pre-submission of Application)**

#### **Part 1: Introduction**

This section looks to develop your relationship with the Authority in helping us understand your business model, the regulatory implications and to manage expectations on both sides. It provides guidance on:

- The purpose of the 'proof of concept' pre-submission of application
- What the 'proof of concept' meetings with us involve
- What our expectations are of you and what you can expect from us
- 'Proof of concept' - working to submission of application timeframes
- How to instigate the 'proof of concept' process

There is no specific overall time limit set for moving through stage 2 of the process (before being ready to submit a full application), as each case will depend on the level of complexity, how prepared your plans are, and how advanced your business model is. However, timeframes are set for the provision of information to the Authority ahead of meetings, and for us to provide feedback to you.

**The Authority may terminate the process (before an application is made) where, in the Authority's view, based on the quality of your submissions and despite significant feedback from the Authority, you are unable to satisfy the information requirements in support of being able to make a full and complete application. We therefore expect you to satisfy information requirements in a timely, clear and complete manner.**

#### **1.1 The purpose of the 'proof of concept' (pre-submission of application)**

We believe formal structured meetings, and pre-submission of information to support an application, give an opportunity for both parties to consider the proposed business model, establish proof of concept and facilitate early consideration of the potential regulatory implications. Further, it gives us an opportunity to help you understand our expectations and

in particular the key requirements<sup>3</sup> most relevant to your business model and the [licensing process](#), which hopefully will lead to submission of as complete an application as possible.

In discussing proof of concept, the meetings provide an opportunity for us to identify any particular concerns that we might have early on and in turn help you to decide whether you want to spend time and money on an application that may not progress further.

At the end of stage 2 we expect that you will have a clearer understanding of the resource implications for you and that your application, when you submit it, will be of sufficient quality for us to reach a decision as quickly as possible.

## 1.2 What the ‘proof of concept’ meetings with us involve

These meetings are intended to support your progress through the proof of concept of your business model (pre-submission of an application). Generally, we expect three meetings will be sufficient (with the potential for additional meetings depending on whether your proposals include the need for innovative or particularly complex IT systems or the outsourcing of key operational aspects of your business).

**Initial meeting** – This will be held after you submit your draft business plan. It provides an opportunity for you to discuss your plan and ask us questions about the licensing process including whether or not a provisional licence is appropriate for you (see Stage 4). We will provide written feedback for you to respond to on your business plan.

**Feedback meeting** – This is held after you have submitted, and we have reviewed, your updated business plan, which must include any changes due to our feedback provided during the initial meeting. We will again provide feedback which you will be expected to address in your business plan.

**Provisional licence and/or IT/outsourcing meeting (optional)** – We may arrange this meeting if you are going to take the provisional licence route and/or your proposed business is particularly dependent on IT or outsourcing arrangements.

**Final meeting / challenge session** – Following the above we will require a near-final business plan to enable us to discuss your final draft proposals during this meeting. This will be held shortly before you submit your application with the aim of discussing your final draft proposals and with us providing challenge, where necessary, on the content of your near-final

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<sup>3</sup> This will include the applicable parts of the Authority’s [Financial Services Rule Book](#), noting that the Rule Book requirements for deposit takers will apply in full, subject to any modifications, to class 1(2) restricted deposit takers.

business plan. You will be expected to incorporate feedback from this session in your application.

We will explain any changes to the content and number of pre-submission application meetings we have with you, as needed. Please remember these meetings provide you with the opportunity to discuss your plans and progress in detail, face-to-face with us outside of the timeframes that will apply when you submit your application.

- The meetings will be held at the Authority's office where at least some of you will be expected to attend in person rather than by telephone or video conference.
- You should send materials to at least 10-15 **working days** before the meeting. This will allow us to review them thoroughly before we meet. If you cannot meet this deadline we may have to reschedule the meeting.
- Your advisors or consultants are welcome at all proof of concept meetings but we do not expect them to speak on your behalf.
- We will normally agree an agenda before all meetings.
- After each meeting we will provide you with written feedback.

### 1.3 What our expectations are of you and what you can expect from us

The table below outlines what you can expect from us and what we expect from you during the proof of concept (pre-submission of application) stage:

<b>You will:</b>	<b>We will:</b>
Address or incorporate any feedback provided by us into your business plan before moving to the next stage.	Aim to have the minimum number of meetings with you during the proof of concept stage.
Develop your plans, complete the necessary work, prepare and send materials in good time for meetings with us.	Seek to understand your business model and risks to our objectives.
Be open, honest and co-operate with us.	Be open, honest and give clear feedback on your proposals, without overcomplicating matters.
Provide all information that you think we should be aware of.	<b>Not</b> provide a consultancy service or legal advice. You should engage others if you need this.
Ensure key individuals at your firm who will drive the proposition forward are involved throughout the process and attend the pre-arranged meetings.	Be involved in the pre-application process and ensure that it is as seamless as possible.

## 1.4 Proof of concept - working towards submission of application timeframes

The pace at which you progress through the proof of concept stage is largely up to you. We expect you to keep us up to date on progress and we will endeavour to hold meetings in as timely a way as possible. If, however, we do not hear from you for six months we will assume that you do not want to proceed with your application.

## Part 2: Initial meeting

This meeting gives you an opportunity to discuss your plans with us and for us to understand them. It will also allow us to highlight any areas we consider you will need to address before you can move further through the proof of concept stage. You will also have the opportunity to ask us questions about the licensing process. In some cases the initial meeting could be combined with the Stage 1 preliminary meeting.

### 2.1 What do you need to know and do for this meeting?

In advance of the initial meeting we will ask you to undertake all of the activities set out at stage 1, and also to prepare a high-level summary in the form of a draft business proposition. As a minimum, this should contain the following:

- Background information relating to individuals associated to the proposed application including whether they are connected to any other businesses licensed either in the Isle of Man or elsewhere and what services those businesses are licensed to provide;
- An explanation of why you want to apply for a restricted deposit taking licence and why the Isle of Man is the place for you to establish your business;
- Your initial business proposition and strategy including:
  - Details of market research, what products you will be offering; how you will offer them and your target market;
  - Sources of funding: how you propose to fund the business (initial and ongoing capital) and whether you have any investors and/or funding in place;
  - Corporate governance: details of structure, board, senior management and governance arrangements, as far as they are known;
  - Details of identified key risks and challenges considered you will face;
  - Outsourcing – what you propose to do in-house and what you will outsource;
  - Project plan: an overview and timeline of your plan to become fully operational; and
  - If possible, financial projections for 3 years

The [application form](#) and [business plan guidance](#) are a helpful resource when preparing your business proposition.

## 2.2 What needs to happen before the meeting?

Please send us materials for discussion at least 10-15 **working days** before the meeting so that we have time to review them and ensure we have as valuable a discussion as possible. If you cannot meet this deadline, we may have to reschedule the meeting.

## 2.3 What will happen at the meeting?

You can expect to meet with staff from the Authority's Policy and Authorisations Division who will be responsible for managing the process, together with a member from our Banking, Funds and Investment Division to provide technical expertise. An explanation of the application process (including our expectations) and the materials and information required from you, should you progress to the next stage, will be set out.

During the initial meeting we will also discuss the concept of the issue of a provisional licence and start to assess whether it is suitable for your business model. See 2.3.1 below and **stage 4** for further information.

### 2.3.1 What is a provisional licence and is it right for you?

A provisional licence is one which facilitates licensing to enable the new licenceholder (if necessary) to secure further investment, recruit staff, invest in IT systems and commit to third-party suppliers with the certainty of being fully licensed, i.e. to put in place the building blocks of the business. In return, the Authority will place specific conditions of operation on the provisional licence until the licenceholder is fully operational. In essence, the new restricted deposit taker, having been provisionally licensed, is given an opportunity to work towards becoming fully operational.

## 2.4 What are the next steps?

At the end of the initial meeting, we will discuss the actions you will need to complete to take your application to the next stage. Following the meeting we will send you written feedback. You should continue to develop your business proposition and incorporate responses to our feedback into the next version of your documentation.

## Part 3: Feedback meeting

### 3.1 Why is the feedback meeting important?

We normally expect that, after the initial meeting, a company's plans move from the theoretical to the practical. As such the feedback meeting is a key step in the development of your plans. This meeting gives you the opportunity to present your developed business plan, incorporating the feedback from the initial meeting, and offers us the opportunity to gain a more detailed understanding of your proposed business model.

### 3.2 What do you need to know and do for this meeting?

Your developed **business plan** should cover the following points as a minimum, though some may already have been incorporated at the initial meeting stage. Further, some aspects can be at a draft / high level if the provisional licence route is considered to be appropriate (indicated with an asterisk\*, also see stage 4, section 2.5):

- Key features:
  - Details of products, delivery channels and target market;
  - Business viability: competitive advantage, market research and how your bank will make money;]
  - Customer journey: products, pricing, complaint handling and on-boarding arrangements (including AML/CFT and know your customer processes);
  - The nature of the assets to be held by the bank; including details of how these will be valued. This will include information on how the assets will be sourced and managed. The policy for loan impairment recognition must also be detailed.
- Implications of any other licensing or regulatory requirements should target market be outside the Isle of Man, and how these are to be addressed;
- Financial resources: financial projections (for three years), capital and liquidity strategy, including sources of funding (initial and ongoing);
- Owners and controllers: proposed owners and controllers together with biographies;
- \*Corporate governance: structure, board, senior management and governance arrangements (this can be high level);
- \*Risk management: risk management and control framework;
- \*Details of key outsourcing arrangements / services agreements
- \* IT infrastructure and systems and timescales for implementation and testing;



- \*Policies and procedures: operational and regulatory policies and procedures (can be in development stage);
- \*Business continuity plans;
- Scope of permissions: details of the regulated activities you wish to undertake together with details of any legal advice obtained in relation to the regulatory implications of your business model;
- Project plan for setting up the business; and
- If appropriate, Home State Supervisor (HSS): views of your HSS if you are part of a wider financial services group, including whether the HSS approves of your plans to expand in the Isle of Man.

You may find the [application form](#) and [business plan guidance](#) helpful when preparing your business plan.

### **3.3 What needs to happen before the meeting?**

Please send any materials a minimum of 10-15 **working days** before the meeting so that we have time to review them and ensure we have as valuable a discussion as possible. If you cannot meet this deadline, we may have to reschedule the meeting.

### **3.4 What will happen at the meeting?**

At the feedback meeting you will meet those responsible for progressing your application. They will discuss the regulatory implications of your proposals and any issues or concerns that we have. You will also have the opportunity to ask questions or discuss any issues you may have. We will normally send an agenda for matters to be discussed in advance of the meeting. We will also discuss the materials and information required if you progress to the next stage.

### **3.5 What are the next steps?**

At the end of the feedback meeting, actions that you will need to complete will be discussed should you wish to progress to the next stage. Following the meeting we will send you written feedback. You should continue to develop your business plan and incorporate responses to our feedback into the next version.

## **Part 4: Provisional licence and/or IT/outsourcing meeting**

If we consider, following our earlier meetings, that your proposals include the need for innovative or particularly complex IT systems or the outsourcing of key operational aspects of your business, it is likely the option for the issue of a provisional licence would be

considered appropriate. In this case, a further meeting or meetings, depending upon the complexity of your business model, to discuss the implications of proceeding on this basis may be considered beneficial to both parties.

#### **4.1 What do you need to know and do for the provisional licence and IT/outsourcing meeting?**

You should be prepared for a detailed discussion about the credibility of your plans to establish a fully operational business, how you expect to track and report progress, and identify and manage risks and issues. In return, we will discuss our expectations and how we will interact with you whilst you are operating under a provisional licence.

Where your proposition involves innovative or particularly complex IT systems or you intend to outsource key operational aspects of your business (for example, core banking systems, telephony, back office, or audit functions) we will look to understand how you propose to manage the risks attached to your IT systems (for example, security, resilience testing, software maintenance and incident handling), how you plan to manage the operational risks associated with the use of third-party suppliers, and your plans for monitoring and oversight of these arrangements. We may also wish to see a demonstration of your proposed IT systems.

#### **4.2 What needs to happen before the meeting?**

Please send us any materials a minimum of 10-15 **working days** before the meeting so that we have time to review them and ensure we have as valuable a discussion as possible. If you cannot meet this deadline, we may have to reschedule the meeting.

#### **4.3 What will happen at the meeting?**

At the meeting we will discuss the process for obtaining a provisional licence, including what we will expect to be in place, as a minimum, before the Authority would be able to issue such a licence to you. We will also discuss and explain what we will expect of you during any period whilst you operate under the specific conditions and the process for moving to a full operational licence. We will also discuss what business (if any) you may conduct under your provisional licence and what will happen if you are unable to become fully operational to the required standard.

Further information about the minimum requirements is shown in Stage 4, sections 2.3 and 2.5.

#### **4.4 What are the next steps?**

At the end of our meeting we will discuss the actions for progress to the next stage and will send you written feedback.

### **Part 5: Final meeting / challenge session**

#### **5.1 Why is a final meeting / challenge session important?**

This meeting is the culmination of the proof of concept (pre-submission of application) process and should take place just before you submit your application. At this stage your business plan should be fully developed and will form the basis of the discussion. A challenge session gives you the opportunity to outline and justify your business model to senior representatives from the Authority, ahead of making a formal application.

The aim of a challenge session is to review and question your business model and identify any remaining issues that need to be addressed before you submit your application. It is designed to be of benefit to both you and us, because we can share priorities and concerns, and is an important part of forming a good working relationship between us ahead of the application and, potentially, licensing.

At the end of the meeting we will aim to provide feedback on your readiness to submit an application. Any issues identified at the meeting will also be summarised in written feedback.

We will expect you to address all the feedback points before you submit your application. This should help you to submit as complete an application as possible; minimising delays that could be faced during the assessment period.

#### **5.2 What do you need to know and do for the final meeting / challenge session?**

You will need to have a fully developed business plan which you will need to be able to discuss in detail and which incorporates all of our feedback from previous meetings. The level of detail for some aspects will depend on whether we have agreed it is appropriate for you to seek a provisional licence or not. As a reminder the key areas of focus are explained in section 3.2 above.

### **5.3 What needs to happen before the meeting?**

You must send us the challenge session materials a minimum of 10-15 **working days** before the meeting so that we have time to review them and ensure we have as valuable a discussion as possible. If you cannot meet this deadline, we will reschedule the meeting.

### **5.4 What will happen at the meeting?**

The challenge session will be attended by those who have been working with you on progression of your application along with senior representatives of the Authority. We expect several of your (proposed) executives and, where possible, non-executives to attend.

You can expect rigorous, detailed challenge on any aspect of your business plan as we assess whether you are ready to submit your application.

### **5.5 What are the next steps?**

At the end of the challenge session, we will discuss next steps and actions with you and within 10 working days of the meeting we will send you our formal feedback in a letter. If you go on to submit an application, you should finalise your business plan and incorporate responses to our feedback from the challenge session.

## **STAGE 3**

### **Submission of Application**

#### **Part 1: What happens when you apply to become a restricted deposit taker?**

You are now at Stage 3 of the process to becoming a restricted deposit taking licenceholder in the Isle of Man. At this point, following our meetings, you should be ready to submit your formal application for us to assess and decide whether to licence you.

##### **1.1 Where can you find the forms?**

You can find all the forms you need to complete an application on the Authority's [website](#).

Before you submit your application, you should review it to check you have provided adequate responses to all questions and enclosed any supporting documents. We also strongly recommend that you address all the issues and actions we have identified with you during the proof of concept stage before you submit your application.

It is important to always be open and honest with us as the success of your application could be affected if we find you have deliberately withheld information or provided false or incomplete facts. You should also provide us with any other information that you think we should be aware of. If you are in doubt about anything, then please disclose it. If the information you provide is inaccurate, or incomplete, this is likely to delay your application.

##### **1.2 How to submit your application?**

When submitting your application you will need to send to the Authority:

- Two printed copies of all of the documents;
- An electronic copy of all of the documents (on a memory stick or other method); and
- A cheque made payable to the Isle of Man Government for the relevant application fee, or make arrangements for a bank transfer directly to our bank account. Further details are available in the application form.

### 1.3 What will we assess?

When we receive your application we will log your application and distribute copies to those involved internally in processing your application.

You should expect to receive written confirmation of receipt of your application along with confirmation of those officers within the Authority to be engaged in processing the application, within 10 working days.

The key points are that we will:

- Assess your application including whether it is complete or incomplete. For your application to be assessed as complete you will need to have provided us with all the required application forms, which have been fully and correctly completed, and the information provided must be of sufficient quality and detail to allow us to complete our assessment. We also expect you to have incorporated responses to our feedback provided during the proof of concept stage. If this is not the case your application will be assessed incomplete, and will not be taken forward until it is complete;
- Consider whether you will meet and continue to meet the standards set within the Authority's Licensing Policy;
- Where considered necessary, arrange a formal monthly catch-up call with you. This is a chance for all parties to update on progress and discuss any issues; and
- Write to you, usually within eight weeks, with the results of this assessment and, if necessary, ask for any outstanding information.

We will review the following information as part of our assessment in line with the Authority's Licensing Policy for licences issued under the Act. We will have covered a lot of this during stage 2, proof of concept, and our focus will be on making sure any final feedback has been incorporated adequately into the submitted application:

- Fitness and propriety of the company and those associated with the company, including owners and controllers;
- Business plan/viability;
- Financial resources, as appropriate;
- Sources of funding;
- Corporate governance;
- Risk management;
- Customer journey;
- Outsourcing;

- IT;
- Policies and procedures; and
- Business continuity

We will also consider the capital and liquidity levels you will need to hold based on your plans which you submit as part of your application. The level of detail we require for capital and liquidity will already have been discussed with you during stage 2. In some cases will require a copy of an approved Internal Capital Adequacy Assessment Process (ICAAP).

The Authority's decisions (on requirements for capital and liquidity) will be communicated to you in writing, either in the letter with the results of our assessment or separately (as appropriate).

The assessment for capital and liquidity is not applicable for applications in relation to Isle of Man branches of deposit takers incorporated elsewhere. However, the Authority will look at capital and liquidity on a whole firm basis.

#### **1.4 Who will we assess for fitness and propriety?**

We will assess candidates for key roles in your bank to determine whether they are suitable for the role and have the skills and capabilities required. We may invite them for an interview, to help us assess whether, as an individual in a senior role for a bank they are aware of their responsibilities and meet the Authority's fitness and propriety standards as outlined in its [licensing policy](#). It is also a chance for the Authority to look at an individual's knowledge of the applicant and the sector that it will operate in.

Typically, depending on your structure, we will consider assessing the following roles (where relevant):

- All directors – including:
  - Chairperson
  - Independent director(s)
  - Chief Executive Officer / Managing Director
- For branches, the head of branch (if applicable) and Isle of Man resident officers
- Risk Director/Chief Risk Officer
- Finance Director/Chief Finance Officer
- Head of Compliance
- MLRO
- DMLRO

- Any other senior management as may be applicable (those both with significant influence, and who report directly into the board of directors or an individual director)

For applicants which are not branches, our assessment will also consider how appointments to the board will contribute to a balanced and effective board at your new bank.

If we have any concerns we can choose to interview an individual at any level in the business.

### **1.5 How long will it take for us to give you a decision on your application?**

We will endeavour to assess an application and reach a decision within six months. This is a voluntary deadline that the Authority will try to meet but it is not guaranteed. Throughout our assessment we may have queries or require further information from you. You can help to make the process as efficient as possible by responding promptly and comprehensively to our queries.

### **1.6 The decision**

The Policy and Authorisations Division, in consultation with relevant Authority senior executives, will make a recommendation to the Authority's board to approve or reject your application.

The decision whether to licence an applicant is made by the Board of the Authority. If the Authority decides to approve your application, we will be in touch with you and include the following:

- **Licensing Letter** – which will include the details of any restrictions you are subject to, in particular if your application progressed on the basis of the issue of a provisional licence. It will also cover who, within our Supervision team, will be appointed as your 'Relationship Manager' going forward; and
- **Your licence** – which will set out the date from when the licence has effect, which regulated activities you have permission to carry on, the standard licence conditions for restricted deposit takers, any other conditions (for example special conditions that may relate to a provisional licence) and any modifications or exceptions to the Rule Book.

Your business will be added to the Authority's licenceholder register from the date of your licensing.



## **1.7 What happens if your application is not approved?**

If the Policy and Authorisations Division, in consultation with relevant Authority senior executives, is minded to make a recommendation to the Authority's board to reject your application, we will let you know about this in writing in a 'minded to recommend rejection letter'. The letter will provide details of our main concerns such as any minimum licensing requirements and/or specific rules that appear not to be satisfied.

If you are unable to address our concerns, you may decide to withdraw your application and reapply if and when you are in a position to do so.

You may also decide that you wish to proceed, and if so we will progress with our recommendation to the Authority's board to reject the application.

You will receive a copy of the paper that we send to our Board, and you may attend the Board's licensing meeting to put your case if you wish to do so.

If you decide to make representations, the board of the Authority will take your representations into account in deciding whether or not to reject the application.

The Board of the Authority will make its decision whether to issue a licence, or reject the application. If the Board determines to issue a licence the procedures set out at 1.6 above will apply.

If, having heard any representations, the Board of the Authority decides to reject your application, a letter containing this decision, and the reasons for that will be issued to you. The letter will also contain details of your right of appeal to the Financial Services Tribunal.

## **STAGE 4**

### **Provisional Licensing**

#### **Part 1: Introduction**

A provisional licence enables a phased process to becoming a fully operational restricted deposit taker.

As new players to the regulated banking sector, the process of issuing a provisional licence to applicants can provide an opportunity for early licensing whilst developing the infrastructure of the business, i.e. securing further investment, recruiting staff, investing/developing IT systems and committing to third-party suppliers, with the confidence of knowing the business will obtain a fully operational unconditional licence in due course.

The specific conditions to be applied as part of the provisional status of the licence will depend upon the development of the business model and infrastructure but will most likely limit the amount of business that can be serviced until full licensing is approved.

#### **Part 2: The need for a provisional licence and the process to obtain one**

##### **2.1 Is the process of seeking a provisional licence right for all Class 1(2) applicants?**

The route of obtaining a provisional licence is generally suitable for start-up operations which may not have the upfront investment, or which need time to build IT systems, infrastructure, recruit staff or engage with third-party suppliers.

A provisional licence is less likely to be suitable for existing groups that have the resources, capital and infrastructure to allow them to set up a banking operation, on a restricted basis, at speed, before being licensed to operate (this could include establishing a branch or a subsidiary of a well-established international company). We expect that such an applicant will utilise existing IT systems and other infrastructure and will be able to call on its parent for financial resources. However, we will consider the use of a provisional licence on a case-by-case basis.

## 2.2 What are the benefits of seeking a provisional licence?

The certainty of being licensed allows you to proceed with far greater confidence and to invest in the build-out of your business. You will need to complete all your provisional licence requirements and be fully operational before you start to trade fully and this can be done with the confidence of being licensed.

## 2.3 What do you need to have in place to utilise the concept of a provisional licence?

We expect the following, as a minimum, to be in place to be able to licence a Class 1(2) restricted deposit taking applicant on the basis of a provisional licence:

- Business plan - a fully developed business plan including financial resources plan (see below for capital and liquidity) and financial projections for the first three years demonstrating that your business model is viable and sustainable;
- A minimum fully paid up share capital of £3.5m - this must be in place for us to **issue** the provisional licence;
- Agreed capital and liquidity levels you will need to hold based on your plans which you submit as part of your application. The level of detail we require for capital and liquidity will already have been discussed with you during stage 2. In some cases we will require a copy of an approved Internal Capital Adequacy Assessment Process (ICAAP). With respect to the initial £3.5m of capital, there may be cases where we permit some of that capital to be used to support the investment in the business prior to the bank becoming fully operational, subject to any capital floors and taking into account the level of capital that would need to be retained to make an orderly wind down if the bank did not progress to being operational.
- Corporate governance – high level corporate governance structure/with the key ‘guiding minds’ in place. As a minimum this would include the proposed CEO and a second senior executive. You will also need to be able to demonstrate how these individuals meet the Authority’s fitness and propriety standards as outlined in its [licensing policy](#). Please note, we will expect other key roles to be filled shortly after the applicant is issued with its provisional licence, for example the MLRO but this will be considered on a case-by-case basis;
- Risk management – draft risk management and control structures;
- IT – high-level outline of IT infrastructure and systems and material outsourcing arrangements;
- Policies and procedures – under development;
- Business continuity – draft Business Continuity Plan;

- Customer journey – near final customer journey including details of products, pricing and on-boarding arrangements; and
- Project plan – a credible and realistic plan, that your board has endorsed, which includes all of the activities required to be completed to establish a fully operational business.

Depending on the nature of your business model, it may be necessary for you to develop some elements further before a provisional licence can be issued. Conversely, you may be able to defer certain elements. We will make you aware of this during the proof of concept stage when we will discuss the plan towards issue of a provisional licence.

## **2.4 How, when and why do we place conditions on the amount of business a provisional licenceholder can undertake?**

We will place a requirement on your company (by licence condition ) to limit the amount of business it can undertake until the build-out of your business is complete and is ready to become fully operational.

Once fully operational, we will remove the condition(s) and the restricted deposit taker can start to trade fully.

We anticipate firms will want to progress through to becoming a full operational restricted deposit taker as quickly as possible. This could take as little as three months but cannot continue indefinitely and should take no longer than 12 months.

## **2.5 How is operating under a provisional licence different from being a fully licensed restricted deposit taker?**

The key difference is that the provisional licence is issued at an earlier stage and will appear on the Authority's register as a licensed business. A provisional licence does not mean we are only considering whether to licence the restricted deposit; the applicant will be a licensed restricted deposit taker, with some limitations on its activities e.g. no or very limited deposit taking, until outstanding matters are dealt with. Another difference to a full licence is that the rules and conditions which may apply to a provisional licence during the provisional phase are likely to be more limited.

The table below provides a comparison between the information required for a fully operational Class 1(2) restricted deposit taking licenceholder and one that operates under a provisional licence.

<b>Assessment Area</b>	<b>Fully operational at licensing (e.g. allowed to take deposits) ("A")</b>	<b>Provisional licence route ("B")</b>
<b>Business plan/viability</b>	Fully developed	Fully developed
<b>Financial resources</b> <b>Sources of funding</b> <b>Minimum capital in place</b> <b>Capital plan</b> <b>Funding / liquidity plan</b>	Fully developed	Fully developed
<b>Corporate governance</b> <b>Structure</b> <b>Board</b> <b>Senior management</b>	Fully developed Substantially in place All key senior management identified	High-level structure Key 'guiding minds' in place with senior roles critical to development of the project plan identified and ready to be recruited
<b>Customer journey including details of products, pricing and on-boarding arrangements</b>	Fully developed	Near final
<b>Business Continuity Plan</b>	Fully developed	Draft
<b>Risk management and control structures</b>	Fully developed	High-level outline
<b>IT Infrastructure</b>	Fully developed	High-level outline
<b>Material outsourcing arrangements</b>	Fully developed	High-level outline
<b>Policies and procedures</b>	Fully developed	Not required but development should be planned
<b>Project plan to obtaining full licence</b>	n/a	Fully developed and signed off by the Board

It is important to stress the licensing threshold for applicants of Class 1(2) licence permissions that seek the issue of a provisional licence is not lower; all of the information above will be required regardless of which route you take. You will therefore need to move from "B" to "A" for us to be satisfied to remove the specific provisional conditions and allow you to take deposits and be fully operational.

## **2.6 What happens through the process of operating under a provisional licence?**

When operating under a provisional licence you will be focused on completing your project plan to become fully operational. This could include (but is not necessarily limited to) the following:

- Further capitalising the business, if necessary (in accordance with the agreed capital plan)
- Finalising senior management appointments and staff recruitment and training;
- Finalising your customer journey, including details of products, pricing and on-boarding arrangements;
- Building-out control functions such as Risk, Internal Audit and Compliance;
- Building, testing and implementation of systems and IT infrastructure;
- Completing policies and procedures;
- Finalising outsourcing arrangements; and
- Finalising your Business Continuity Plan.

These tasks will depend on the nature of your company and its business model. The list of specific conditions applicable to you will be discussed with you prior to entering the provisional licence phase and will be clearly articulated to you.

Conditions do not have to be completed in strict sequence and you can decide when to complete them. You may decide to start working on some tasks prior to the issue of your provisional licence as this may allow more time to complete them. However, you should be aware of the risks involved in commencing any of the more detailed tasks without the certainty of being licensed.

## **2.7 What are the Authority's expectations whilst operating under a provisional licence?**

As the holder of a provisional licence you should remember you must meet the standards set out in Authority's Licensing Policy, which apply at the time of licensing and which continue to be applicable throughout the entirety of your licence. You may also have to provide us with relevant information to show you are meeting these standards; we will set these out clearly to you upon issuance of a provisional licence (including which rules and reporting requirements will apply to you during this phase). A provisional licenceholder will also immediately be subject to the Island's AML/CFT regime.

In particular, operating under a provisional licence can be very capital intensive and you should be mindful of not breaching your minimum capital requirements at any point. Capital for new applicants operating under a provisional licence is often set at the minimum capital requirement (£3.5m) but the Authority may allow some of these funds be used to meet the costs of progression through the project plan to become fully operational, subject to a capital floor (which must take into account the potential costs of having to wind up the firm if it is not successful in moving out of the provisional licence phase). For such cases, in conducting its SREP (of the ICAAP), the Authority will agree an appropriate transition path for the bank to move from the lower initial capital requirement to the £3.5m minimum (capital and reserves) applicable to existing deposit takers.

You will also be expected to submit regular progress reports (including details of any issues or slippages) against your project plan to become fully operational and provide us with evidence of your progress against that plan. For example, copies of policies and procedures.

We will provide you with regular feedback through face-to-face meetings, telephone calls or by email.

As a licensed deposit taker you may also need to obtain our approval before:

- A new investor acquires an interest in your business
- An existing investor increases their stake
- An existing controller decreases their stake or ceases to have an interest in the business
- You change your business model

If you are unsure whether you will need our approval you should contact your Relationship Manager who will be able to help.

## **2.8 How do you progress to obtaining a full operational licence?**

We anticipate that firms will want to progress quickly to becoming fully operational. This could take as little as three months but cannot continue indefinitely and should take no longer than 12 months.

Your Relationship Manager will help you when the time comes for you to have the conditions to become fully operational removed. You should write to your Relationship Manager explaining how you consider the specific conditions upon licensing have been met and advising that you are ready to start trading fully. As part of this process, we will ask for confirmation from your Board that you have successfully completed all the specific conditions of provisional licensing.

Once we are satisfied these have been met, you will be sent written confirmation that the specific conditions of provisional licensing have been removed (or amended) and you can start to trade fully. Any changes will be reflected on the Authority's Register available on our website from the date on which the conditions are removed.

At this point you will be subject to the applicable requirements of the Financial Services Rule Book and the standard licence conditions applicable to class 1(2) deposit takers. You will of course also continue to be subject to the Island's AML/CFT regime. We will supervise you in accordance with our supervisory approach, and will most likely undertake an onsite inspection within the first 12 months of operation.

## **2.9 What if problems are identified whilst operating under the provisional licence?**

It is easy to underestimate the amount of time required to move in to the fully operational stage. In particular, the amount of time it can take to build, test and implement IT systems can be greater than expected. We encourage applicants to ensure their timetable includes appropriate levels of contingency while bearing in mind our expectation that progress to becoming fully operational should not take longer than 12 months.

If you have concerns you will not be able to meet your project plan to becoming fully operational you should discuss these with your Relationship Manager as soon as possible. Similarly, if we have concerns about your progress, we will discuss these with you and may ask you to prepare a revised project plan. However, if you are unable to move to becoming fully operational within 12 months we may take steps to withdraw your provisional licence or you may decide to apply to surrender your licence.



## Appendix 1

### Questions & Answers

These questions and answers have been organised into the following categories:

- General
- Pre-application
- Consultants/suppliers
- Application
- Provisional Licence
- International/overseas banks

#### **General**

**1. What are the regulatory objectives of the Authority pertinent to its consideration of the issue of a Class 1(2) restricted deposit taking licence?**

The regulatory objectives of the Authority are set out in section 2 of the [Financial Services Act 2008](#), and the functions of the Authority are set out in paragraph 2 of Schedule 1 to that Act. The Authority is required to exercise its functions (which include the regulation and supervision of persons undertaking the regulated activity of deposit taking in or from the Isle of Man, and the maintenance and development of the regulatory regime governing the provision of such activity) in a manner that balances the regulatory objectives.

Furthermore, in connection with Class 1(2) activity the Authority's functions include:

- the need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden;
- the need to use its resources in an efficient and economic way;
- the desirability of implementing and applying recognised international standards;
- the desirability of cooperating with governments, regulators and others outside the Island;
- the need to safeguard the reputation of the Island;
- the need to promote public understanding of the financial services industry;
- the international character of financial services and their markets and the desirability of maintaining the competitive position of the Island;
- the desirability of facilitating the development of the financial services;
- the impact of its decision on the stability of the financial system of the Island.

## 2. How is a Class 1(2) licence restricted?

As a Class 1(2) licenceholder, [specific conditions](#) will be attached to your licence once you have successfully completed all applicable stages of the process as set out in this guidance document. These conditions will effectively restrict your activities to only being permitted to take deposits from corporate entities or ‘*restricted depositors*’ as defined within the [Regulated Activities Order 2011](#).

## 3. What is the Depositors’ Compensation Scheme (‘DCS’)?

The DCS is a compensation scheme for customers of Isle of Man offices of Class 1(1) licensed deposit takers (“covered banks”) in the Isle of Man, but it does NOT apply to or protect customers of Class 1(2) deposit takers. Class 1(2) deposit takers are NOT members of the DCS and must make this very clear to their customers.

## 4. What is the Financial Ombudsman Scheme?

The Financial Ombudsman Scheme (“the Ombudsman”) is a free, independent dispute resolution service for customers with a complaint against an Isle of Man financial firm, where the parties have been unable to resolve a matter together.

The role and powers of the Ombudsman are established in [Schedule 4 to the Financial Services Act 2008](#). *Restricted depositors*, if they are individuals, will be eligible to seek the services of the Ombudsman should a dispute arise.

## 5. I am not sure if my business needs to be a bank, where can I get more information on the alternatives?

Depending on the activities you want to undertake, setting up a bank may not be the only, or in some cases, the most appropriate option. There are a number of alternatives to becoming a bank which allow you to provide some of the services that banks traditionally offer (such as money transmission / payments / lending) without the cost and formality involved in setting up a bank – please refer to Stage 1 of this guidance document. In addition, the flow chart at **Appendix 2** should help you determine whether your planned activities would require you to hold a deposit taking (banking) licence, whether restricted or otherwise.

## 6. Does it matter if my business is not currently based in the Isle of Man?

Not necessarily. We welcome interest from any **existing banks or banking groups** with a sound business model regardless of where they are currently based, subject to an assessment of the regulatory framework of the home jurisdiction. If you are an internationally headquartered bank / banking group seeking a restricted deposit taking licence you could operate in the Isle of Man as either a subsidiary company of the group or a branch. Applications in respect of branches of overseas deposit-takers are normally expected to have at least a 3 year track record in their home jurisdiction.

On the other hand, an overseas headquartered **non-banking group** is required to establish a subsidiary company in the Island to take deposits.

In the above case, a point of importance in determining structure is that it is not within the appetite of the Authority for a non-banking group to establish a group holding company in the Isle of Man if that holding company is intended to hold interests in deposit-taking regulated entities other than the licence applicant. This is because the Authority, under international standards, would be expected to conduct consolidated supervision at the group holding company level, and it is outside its risk appetite to do so.

Please note, because the Isle of Man is not part of the UK or the EU there are no direct pass-porting rights available in respect of deposit taking, which means that an overseas bank cannot 'passport' into the Island, nor can an Isle of Man bank passport into the UK / EU.

## 7. How do I start the process for submission of a licence application?

To start the process you should contact the Authority and we will arrange an initial meeting with you. However, before doing so, you should review this guidance document which will help you understand the licensing process and our expected entry criteria (see also Questions 9, 10 and 11).

Although there is no prohibition on you submitting an application at any time, we strongly encourage you to work with the Authority using the guidance as a basis for progression, and ultimately being ready to submit an application that is fully considered, accurate and fit for purpose.

## 8. How are potential applications from interested parties initially assessed?

This guidance document sets out the **entry criteria** against which all potential applicants for a restricted deposit taking licence will initially be assessed. This criteria should normally be met before any more detailed exploration of a business plan will be considered, noting the flexibility described in questions 9 to 11 below.

## 9. What is the reason for the entry criteria?

The entry criteria is of fundamental importance to the Authority's management of the licence application process, and has been developed to assist the Authority in effectively discharging its functions as set out in the [Financial Services Act 2008](#), and to assist with considering whether a potential applicant will be able to meet the key thresholds for licensing as a deposit taker (see Question 29).

The guidance document indicates that in order to progress through all relevant stages of the pre-application process a potential applicant is expected to be part of a **substantial, established group** of companies (albeit that group does not necessarily need to currently undertake deposit taking).

As a minimum, the potential applicant must be able to demonstrate that it meets at least 2 of the 3 entry criteria (substantial / established / group) (also see Questions 10 & 11).

If the potential applicant does not meet at least 2 of the 3 criteria (dependent upon the extent of any shortfall in meeting them) the Authority may consider that it is not feasible for the potential applicant to progress through the remaining stages of the process.

## 10. For non-banking groups, what is the approach to assessing whether the entry criteria has been met?

Applicants should, on commencement of progression through the process (i.e. Stage 1), be part of an existing group of companies of appropriate stature and reputation. Factors the Authority will consider in assessing whether an applicant is part of a **substantial established group** include:-

- The length of time the group has operated for (e.g. the group should have been established for a minimum of five years).

- Whether the established organisation of entities is actually a group of companies.
- The level of experience within the group in operating in financial services / regulated business (but not necessarily deposit taking).
- Whether there is a satisfactory audit history, as demonstrated by the audit reports provided in group financial statements or those of the potential applicant's ultimate and/or intermediate parents (the group and or relevant operating companies).
- Whether there is a well-established and stable management team with the necessary developed capability in respect of corporate governance, conduct of business matters relevant to core services, and operating cross border operations (if relevant).
- The ability to demonstrate adequacy of financial strength, for example the levels of group capital and reserves, profitability history, and robustness and diversity of income streams.
- Ability of the group to issue a letter of comfort, and whether this could practically be relied upon.

The Authority will also consider:-

- The risk profile of the activities of the group, including considering whether the ultimate beneficial owner(s) is / are persons connected with a higher risk jurisdiction.
- Any evidence to demonstrate whether the group conducts its business with integrity, including its public profile.
- Whether a dominant controller exists. Where this may be the case, the circumstances will require additional consideration by the Authority, including the degree of influence involved and the impact that this may have. For example, the Authority has limited appetite to facilitate 'start-up' groups, nor does it consider 'self-banking' for an individual and parties connected to that individual is an appropriate business model.

**11. Is there a definitive list against which an application is assessed as having met the entry criteria? Are there any exceptions?**

No – it would not be appropriate to have a definitive list, because assessment against the entry criteria should not be a 'tick box' exercise. The Authority will take a holistic view of matters pertaining to any potential applicant.

It is our expectation that, on commencement of progression through the process (i.e. Stage 1), a potential applicant is able demonstrate that it meets the expected entry criteria (see Questions 9 & 10). This entry criteria itself has embedded flexibility within it, as the Authority does not explicitly set out a definitive list of formal indicators / numerical thresholds to determine what might or might not be, a substantial established group.

The Authority may also consider cases where the entry criteria is not fully met; however such cases will only be considered if, as a minimum and to the Authority's initial satisfaction, at least 2 of the 3 entry criteria are fully met.

For the avoidance of doubt, it is not within the Authority's risk appetite to consider applications from privately owned group structures looking to provide 'in-house' banking services, or to facilitate 'self-banking' services to the ultimate beneficial owner(s) or parties connected to the ultimate beneficial owner(s).

## **12. How quickly can a bank become established?**

There is no simple answer to this question.

No specific overall time limit is set for moving through the Stages of the process (before being ready to submit a full application), as each case will depend on the level of complexity, how prepared plans are, and how advanced the business model is. However, any feedback we provide through the process should be considered carefully and addressed.

We expect to be kept up to date on progress and we will endeavour to hold meetings with you in as timely a way as possible and deal with matters expeditiously. If, however, we do not hear from a potential applicant for six months we will assume that it does not want to proceed with the application process and we will consider the process is terminated.

If we are faced with numerous changing business plans, this may indicate that the potential applicant has not considered its operating model sufficiently and the process may have to be halted until a clear way forward is apparent.

## **13. What is a provisional licence?**

A provisional licence enables a phased process to becoming a fully operational restricted deposit taker.

As some applicants are new players to the regulated banking sector, the process of issuing a provisional licence can provide an opportunity for early licensing whilst developing the infrastructure of the business, i.e. securing further investment from the group, recruiting staff, investing/developing IT systems and committing to third-party suppliers, with the confidence of knowing the business will obtain a fully operational licence in due course.

The specific conditions to be applied as part of the provisional status of the licence will depend upon the development of the business model and infrastructure, but will most likely limit or prohibit the amount of business that can be serviced until full licensing is approved.

#### **14. What if the company is already licensed/authorised/registered for an activity other than deposit taking?**

If your company already holds a financial services licence you will need to apply to add restricted deposit taking (Class 1(2)) to that licence. Depending upon your current class of licence permissions the Authority may wish you to establish a separate company through which the restricted deposit taking activities are to be facilitated. The process for considering the extension of your regulated activities will be viewed in the same way as any new licence application, with each of the initial stages of obtaining the licence extension, as outlined in this guidance document being applicable.

### **Pre-application – Stage 2 – Proof of Concept**

#### **15. What is a business plan?**

A business plan is a description of your proposed business, containing details of your objectives and how you will achieve them. It should be plausible and well researched.

Your business plan must be tailored to the activities that you plan to undertake and having considered our entry criteria and ability to demonstrate that you meet the Authority's [Licensing Policy](#), it should:

- Explain your business model and how it will be viable and profitable, including appropriate supporting material and market research;
- Identify all of the regulated activities and any unregulated business that you intend to carry on;
- Identify other parties on which your business will rely (for example within group / correspondent banking, etc.);

- Demonstrate that you will have the skills, competence and governance arrangements appropriate to managing a bank;
- Demonstrate that the business will be run in a prudent and proper manner;
- Identify all the likely business and regulatory risk factors;
- Explain how you will monitor and control these risks; and
- Take into account any future developments or potential impacts on your business.

The amount of detail contained in your business plan should be proportionate to the scale and complexity of your business, and the risks to your business and your customers. If you submit an incomplete or unclear business plan, it will delay our assessment of your application as we will need to ask further questions or request further information to gain a clear picture of your proposed business. However, your business plan is likely to evolve through the pre-application process as your business model develops and you take our feedback on board. See Stage 2 - section 3.2 of this guidance.

The business plan is an important part of your overall application and is integral to our decision making. We will use it to assess the risks that your business presents to our objectives and how you plan to control and manage them. You should also use your business plan to help focus on directing your activities and organising your resources to achieve your objective of becoming licensed as a restricted deposit taker.

#### **16. Do I need to go through the pre-application process?**

There is no formal requirement for you to follow the pre-application process. However, we believe that early engagement with us through the pre-application process will result in a higher quality application and contributes to a more efficient process. We therefore strongly encourage you to work with the Authority using this guidance document as a basis for progression to being ready to submit an application that is complete and fit for purpose.

#### **17. What if I don't agree with your feedback?**

We will be open, honest and provide clear feedback on your proposals and we will expect you take this feedback on board as you progress. If you do not agree with our feedback you can discuss this with us. Constructive engagement is important as it sets the tone and basis for any future relationship the Authority may have with you. You will note that we have included meetings through the progressive application progress and feel that this is an effective and complimentary process to the exchange of written correspondence and the submission of information.



## **18. Are my interactions with you confidential?**

Yes. All enquiries and information that we receive will be treated as confidential.

## **19. When can I call myself a bank?**

A company cannot call itself a bank until it has been licensed as a deposit taker. The use of certain sensitive words such as 'bank' and 'banking' in registered company names is controlled by legislation in order to prevent the public from being misled. A company cannot call itself a bank until it has been licensed as a fully operational deposit taker.

To illustrate the above, you may begin the application process as 'ABC Limited' but only if you are licensed as a deposit taker can you call yourself 'ABC Bank Limited'. Website domain names and email addresses are controlled in a similar way.

There is further information on sensitive business names [here](#).

## **20. What do I do if things change?**

If anything changes with regard to your plans you should inform the Authority and discuss the changes in order for us to consider any potential impact for your application (however, also see Question 12.)

## **21. If I am unhappy with the Authority who can I complain to?**

Any complaint must be made in writing addressed to the Chief Executive of the Authority and must specify that it is a formal complaint.

When making a complaint you will need to supply all the information indicated by this [form](#). You do not need to use the form, but it may enable your complaint to be processed more quickly if you do so.

Further information on the Authority's procedures for handling complaints can be found on our [website](#).

## **Consultants/suppliers**

### **22. Do I need to hire external advisors or consultants?**

This is entirely up to you but we do not require you do so. Many firms do find it helpful to work with external advisors or consultants but others find they have the required level of expertise in-house.

In some cases, for example, if your plans include more complex or new arrangements the Authority may request that you obtain appropriate advice (for example for legal, tax and accounting matters).

### **23. Can you recommend any external advisers or consultants?**

No, we cannot recommend any particular external advisors or consultants. Contact details for members are available from [the Isle of Man Law Society](#).

### **24. Can I bring my advisors to meetings with you?**

Yes, you may bring your advisors to the meetings. It is preferred if their involvement is in a support role, rather than as spokesperson for the applicant. This is so as not to detract from the development of the Authority's relationship with the applicant itself.

### **25. Will I be able to use outsourced services providers?**

Yes, as long as the requirements of [Rule 8.16 of the Financial Services Rule Book](#) are complied with, taking into account the Authority's guidance on "[Outsourcing and Delegation of Functions](#)".

### **26. Do you specify what IT systems I should use?**

We do not specify which IT systems you should use. Your business' regulated activities must be supported by IT services which are effective, resilient and secure and have been appropriately designed to meet expected future business growth as well as current business needs.

### **27. Can you recommend any particular IT systems/providers?**

No, we cannot recommend any particular IT systems/providers.

## 28. Can I use cloud technology?

The term 'cloud' encompasses a range of different IT services. Each service has features and risks associated with it, and it is for you to consider which outsourcing option is the best fit for your business.

From a regulatory perspective, the exact form of the service used does not, in itself, alter the regulatory obligations placed on you.

You should remember that if you plan to use a third-party for the delivery of critical services, it must comply with the requirements of the [Financial Services Rule Book](#), and take into account relevant guidance including that for "[Outsourcing and Delegation of Functions](#)". The overall aim of the regulatory guidance is to ensure that a firm appropriately manages the operational risk associated with its use of third-parties and the arrangements with third-parties do not impair our ability to regulate you, or have the potential for negative impact on customers.

## Application

### 29. In addition to the entry criteria, what other requirements/assessments are made and why are they important?

All applicants seeking a financial services licence will be assessed against the Authority's [Licensing Policy](#) which sets out the requirements applicants must satisfy to be successful in securing and retaining a licence.

The licensing policy provides guidance on the key requirements such as **real presence**, **track record**, **adequacy of resources** and **fitness and propriety**, not just of the business but also its owners and its key staff.

All applicants, including associated persons, must satisfy the Authority that they are 'fit and proper' to undertake the regulated activity for which they are seeking a licence. More information on fitness and propriety can be found in the [Regulatory Guidance – Fitness and Propriety](#).

The Authority's fit and proper test is both an initial test at the time of granting a licence and a continuing test in relation to the conduct of regulated activities. The test takes into account **integrity**, **financial standing** and **competence**.

The licensing policy also explains the acceptability of, and the Authority's approach to, different corporate entities, ownership structures and management structures.

See Stage 3 – Section 1.3

**30. What are the Authority's expectations regarding transparency of ownership of the bank?**

The Authority's [Licensing Policy](#) sets out the Authority's expectations and requires the ownership structure of all applicants to be as simple and transparent as possible. The licence applicant's structure should enable the Authority to identify the ultimate beneficial owners of the business and its directors and controllers.

The Authority will only exceptionally grant a restricted deposit taking licence where the applicant has a trust or foundation in its ownership structure.

**31. Do I need to meet all of the requirements set out in the licensing policy?**

Fundamentally, yes, both at licensing and thereafter on an on-going basis.

As explained in Question 10 above, the Authority will consider a number of a factors when assessing whether a business has demonstrated its ability to progress through to Stage 2 of the process, i.e. proof of concept. Such considerations/deliberations will be discussed as part of Stage 1. In cases where the entry criteria is not fully met (see Question 8, 9 and 11) progression through the process would be very much exceptional and stricter parameters are likely to be applied.

**32. How long will it take to assess my application?**

We will endeavour to assess an application and reach a decision within six months. This is a voluntary deadline that the Authority will try to meet but it is not guaranteed. Throughout our assessment we may have queries or require further information from you. You can help to make the process as efficient as possible by responding promptly and comprehensively to our queries.

**33. If having proceeded through Stages 1 and 2 of the process and deemed eligible to submit an application, can this be taken as the Authority's consideration that a licence will be issued?**

No. The Policy and Authorisations Division, in consultation with relevant Authority senior executives, will make a recommendation to the Authority's board. The decision whether to licence an applicant is made by the Board of the Authority.

**34. Where can I find details of the application fees?**

<https://www.iomfsa.im/media/1467/financialservicesfeesorder.pdf>

**35. Will I hear from you during the assessment process?**

Yes, you will hear from us regularly while we are assessing your application. If you do not hear from us you should not interpret this as bad news or that we are not working on your application. Any concerns will be communicated to you at the earliest opportunity.

**36. How often does the Board of the Authority meet to consider licence applications?**

Meetings are held on a regular basis and additionally on an ad hoc basis as required.

**37. Can the Authority refuse to issue a licence?**

Yes it can, in accordance with [sections 6 and 7 of the Financial Services Act](#). Further information is contained in our [Licensing Procedure](#).

**38. Can I appeal if you refuse to issue a licence?**

Yes. You have right to appeal in accordance with the [Financial Services Tribunal Rules](#).

## **Provisional Licence**

### **39. Do I have to proceed via a provisional licence, or can the licence be fully operational from the outset?**

No, using the provisional route is not mandatory. The provisional licence route is generally suitable for applicants which are not part of an existing banking group or well-established international group and which may not have all of the upfront investment, or need time to build IT systems, infrastructure, recruit staff or engage with third-party suppliers.

The provisional licence route is not usually suitable for existing banking groups that have the resources, capital and infrastructure to allow them to set the restricted banking operation up at speed before being licensed. This could include establishing a branch or a subsidiary of a well-established international group which may have banking operations already in existence. In these cases our expectation is that you will utilise existing IT systems and other infrastructure and can call on your parent for financial resources.

However, we will consider the provisional licensing route on a case-by-case basis.

### **40. What does the term 'subject to' mean and is it different to provisional licence?**

A recommendation to the Board of the Authority to issue a licence (be that a full licence or a provisional licence) can be made 'subject to' completion of a number of factors, e.g. evidence that minimum paid up share capital for the issue of a licence has been made. These factors will be different to those requirements which are the outstanding matters which will need to be satisfied before you can obtain a full Class 1(2) – restricted deposit taking licence, which are detailed in this guidance document in Stage 4 – Provisional Licensing.

### **41. What specific conditions will be placed on the business whilst it is operating under a provisional licence?**

As the holder of a provisional licence a bank will appear on the Authority's website as a licensed restricted deposit taking business. Only when it becomes fully operational will the licence have applied to it the [standard set of conditions](#) for a restricted deposit taking business.

Whilst operating under a provisional licence, depending upon the business model, it may be necessary for the Authority to add **additional specific conditions** to a licence. For example, we may apply a condition restricting the bank from accepting deposits during the build-out of the bank.

**42. What should we do if plans to become fully operational take longer than anticipated?**

If you have concerns you may not be able to deliver the project plan as agreed with the Authority to become fully operational you should advise us as soon as possible. Conversely, if we have concerns about your progress, we will discuss these with you and may ask you to prepare a revised project plan.

We always encourage potential applicants/applicants to ensure their project plan includes appropriate levels of contingency while bearing in mind our expectation that the process to becoming fully operational from issue of a provisional licence should not take longer than 12 months.

If you are unable to meet this expectation we may take steps to remove your licence or you may decide to apply to surrender your licence.

**43. How much contingency should I build in to my plan to become fully operational?**

In our experience companies often underestimate the amount of time required to build-out their operations. In particular the amount of time it takes to build, test and implement IT systems can be greater than expected. We always encourage applicants to ensure their project plan includes appropriate levels of contingency whilst bearing in mind our 12 month expectation for you to become fully operational.

**44. What is the minimum capital requirement for issue of a restricted deposit taking licence?**

The minimum capital requirement for a restricted deposit taking licence is £3.5mn, authorised, issued and fully paid up.

**45. At what point in the application process must the minimum capital requirement be met?**

The minimum capital requirement must be met before the bank is issued with a provisional licence.

**46. Can this initial capital injection include 3<sup>rd</sup> party investors to the bank?**

No. The Authority's expectation is that the initial capital investment of £3.5mn must come directly from the applicant's / group's existing cash reserves.

**47. Can I use capital resources in place on issue of provisional licence to finance the build of the bank?**

Yes, with the agreement with the Authority, and subject to maintaining a minimum capital and reserves balance of at least £1mn at all times. The capital and reserves would however be required to be restored to, and maintained above £3.5m, for the bank to be fully operational. Also refer to Questions 48 and 49.

**48. What are the requirements regarding raising capital once authorised / during the provisional licence stage?**

During the provisional licence stage (before being fully operational) you may need to fundraise in order to continue to build out your businesses, fund future growth and meet future capital requirements. Please bear in mind the following expectations when fundraising:

- Any sale of equity should be discussed with the Authority in advance, giving the Authority time to consider the implications of the sale.
- Additional capital injections should be discussed in advance with the Authority. In some cases the Authority's consent will be required by the [Financial Services Rule Book](#).
- If there is a change to controlling interests in the bank, you will need to either notify the Authority in advance or in some cases require the consent of the Authority under the [Financial Services Rule Book](#).
- Capital raising which results in the need for the Authority to approve new controllers should be flagged as far in advance as possible. Please bear in mind that existing controllers who increase their stake in the company and cross into a different controller band will also require approval.
- You should have a prudent capital raising plan which takes into account the time needed by the Authority to assess the quality of capital and the fitness and propriety of controllers. This can be several weeks if additional information is required from you.



**49. What capital resources must be in place for the bank to be fully operational?**

The Authority will agree a high level capital plan with the applicant and will set initial minimum capital requirements for when the bank becomes operational, in accordance with the [Financial Services Rule Book](#) and with reference to the Authority's [ICAAP guidance](#). Also see Questions 47 and 48.

**50. When can restrictions be removed from a provisional licence?**

The bank's Relationship Manager (assigned to you on issue of a provisional licence) will help when the time comes for any additional specific conditions (see Question 40) applied to the provisional licence to be removed, so as to become fully operational. (Please note – the standard licence conditions applied to all Class 1(2) licenceholders will continue to apply).

Whilst the bank holds a provisional licence we will monitor the progress made against the board approved project plan for the bank to become fully operational, and make sure that all necessary actions have been completed to enable the additional specific conditions to be removed. As part of this process you should write to the Relationship Manager requesting the removal of the additional specific conditions and the bank's board should confirm that it is ready to start trading, providing an "effective date".

Once we are satisfied all requirements have been met, you will be sent written confirmation that the specific conditions of provisional licensing have been removed (or amended) and the bank can start to trade fully. Any changes will be reflected on the Authority's Register, which is available on our website from the date on which the conditions are removed.

**51. How many Board directors, including Isle of Man residents, must be appointed to the Board of the bank on issue of a fully operational licence?**

For Isle of Man incorporated companies, the Authority's licensing policy requires an applicant to demonstrate 'real presence' in the Isle of Man and that the applicant must be managed and controlled in or from the Isle of Man.

Rule 8.24 of the [Financial Services Rule Book](#) requires all Isle of Man incorporated licenceholders to have a minimum of two Isle of Man resident directors. Ideally, there should be a majority of Isle of Man resident directors, or at least no less than 50%.

A board should be comprised of an adequate number of directors with a balance of executive and non-executive directors (including group representatives where relevant and independent non-executive directors) so that no individual or small group can dominate the board's decision making.

The Authority's guidance regarding corporate governance for licensed banks can be found at:

<https://www.iomfsa.im/media/1557/corporategoveranceguidancenotefo.pdf>

**52. How many Executive Board directors must be appointed to the Board of the bank on issue of fully operational licence?**

It is the expectation of the Authority that, for licensed banks, there should be a minimum of two Isle of Man resident executive directors.

**53. What requirements are placed on the bank once fully operational?**

The [Deposit Taking Handbook page](#) on the Authority's website provides links to legislation, the [Financial Services Rule Book](#) (which contains the detailed rules to be complied with by all licenceholders) and to guidance on rules and on other regulatory matters specific to operating as a licensed bank, in the Isle of Man.

**54. Where can I find out about any lending restrictions imposed by the Authority?**

The [Financial Services Rule Book](#) contains specific rules that govern the levels of exposures banks can enter into with reference to their capital.

The Authority has also issued guidance in respect of large exposures and related party lending which can be found at:

<https://www.iomfsa.im/media/1565/largeexposures.pdf>

**International / Overseas Banks**

**55. What is the difference between a subsidiary and a branch?**

A subsidiary is a separate legal entity from its parent and, as such, requires its own governance and risk management, and must meet local (Isle of Man) capital and liquidity requirements. A branch forms part of the same legal entity as its head office, and, therefore, will not have its own capital base or board, but it must meet local regulatory requirements. For **non-banking groups** seeking a restricted deposit taking

licence, only applications for subsidiary operations will be accepted; they cannot be established as a branch.

Internationally (overseas) headquartered banks can operate in the Isle of Man either as subsidiaries or as branches. The business models that branches and subsidiaries adopt may overlap and such firms may wish to operate both a subsidiary and a branch in the Isle of Man with different business activities in each entity.

The Authority's [licensing policy](#) sets out its risk appetite for new Isle of Man branches of internationally-headquartered banking groups, requiring that the regulator of the relevant head office (the 'home regulator'), is prepared to exercise consolidated supervision with the Authority; and this consolidated supervision includes consideration of capital adequacy and liquidity. A new branch will fall outside of the Authority's risk appetite unless the Authority is satisfied that the home regulator is sufficiently equivalent, and the home regulator accepts responsibility with regards to the prudential supervision of the bank, including the Isle of Man branch.

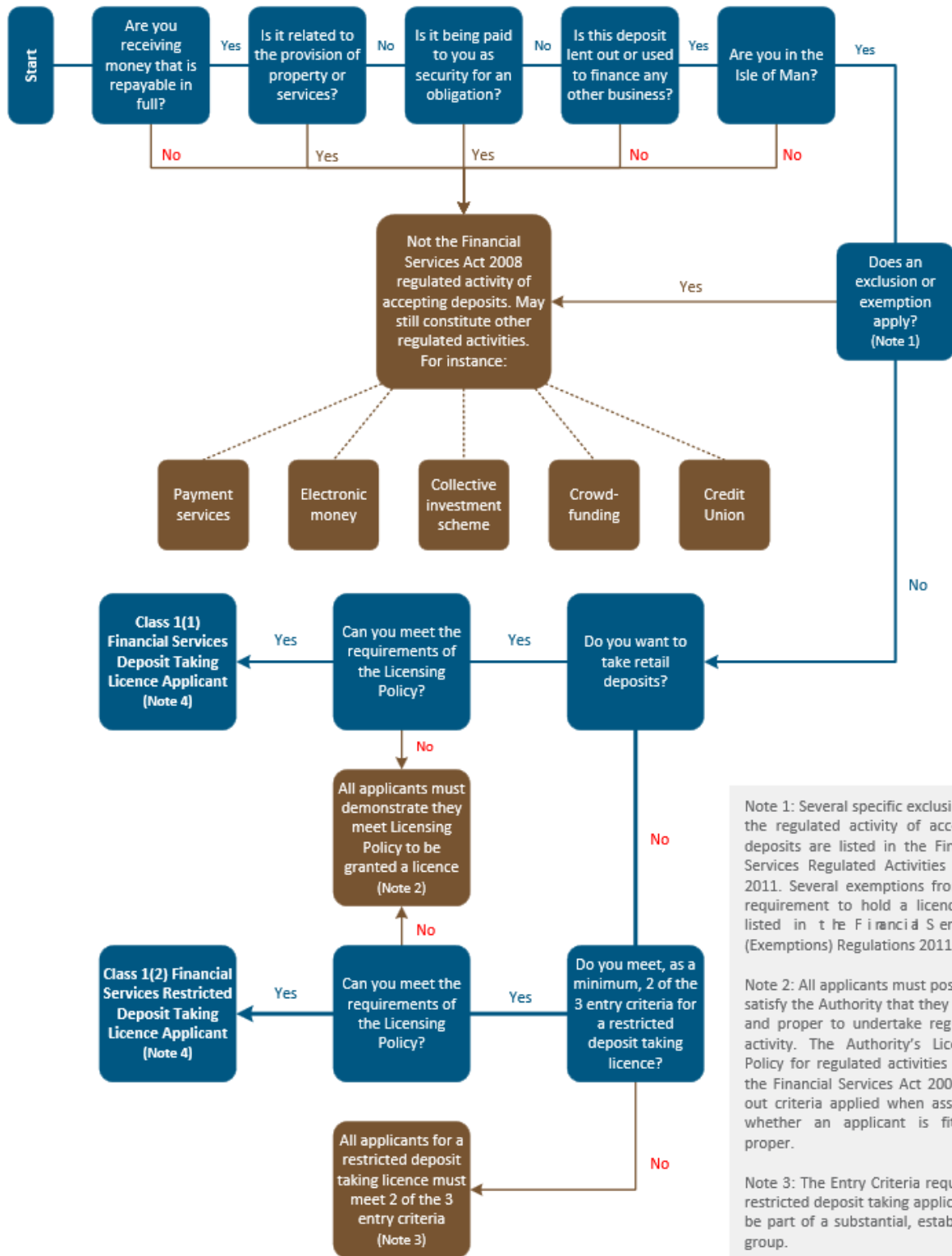
For Class 1(2) business, applications in respect of branches of overseas deposit-takers are normally expected to have at least a 3 year track record.

**56. Can a branch seek to obtain a provisional class 1(2) licence?**

In principle, yes (see Question 55), although it may be more appropriate to seek a full licence "subject to" certain matters being met before the licence is actually issued.

Appendix 2

**ISLE OF MAN FINANCIAL SERVICES AUTHORITY  
CLASS 1 (DEPOSIT TAKING) FLOW CHART**



Note 1: Several specific exclusions to the regulated activity of accepting deposits are listed in the Financial Services Regulated Activities Order 2011. Several exemptions from the requirement to hold a licence are listed in the Financial Services (Exemptions) Regulations 2011.

Note 2: All applicants must positively satisfy the Authority that they are fit and proper to undertake regulated activity. The Authority's Licensing Policy for regulated activities under the Financial Services Act 2008 sets out criteria applied when assessing whether an applicant is fit and proper.

Note 3: The Entry Criteria requires a restricted deposit taking applicant to be part of a substantial, established group.

Note 4: The Regulated Activities Order 2011 specifies the classes of deposit taking together with the definition of "restricted depositor".

**Disclaimer:** This flow chart is to illustrate the basic process for determining whether activity may be regulated deposit taking activity. It should not be used as a substitute for reading the relevant legislation and associated requirements. If in doubt, consider seeking legal advice.