



## **Financial Services Act 2008**

### **Rule 2.10 – Annual financial statements of parent and holding companies, trusts or foundations**

The Authority considers that the ability to obtain financial information about the parents of a licenceholder is an important part of prudential oversight. Whilst the stability of certain parent companies is essential, ownership structures can include a chain of several companies and the preparation of audited financial statements for all entities within the Group ownership structure may not be beneficial from a cost or regulatory perspective.

Given the cost of compliance the rule has been amended to allow regulatory oversight to be applied in a proportionate manner.

Rule 2.10 requires audited financial statements for the **immediate parent company** and such financial statements and other confirmations as the Authority may require to be provided within 6 months of the licenceholder's annual reporting date. These other financial statements may include those of-

1. The ultimate parent company; and
2. Other companies involved in the ownership structure which may have material and/or significant relevance to its financial performance and the financial support available to licenceholder.

The Authority will confirm to the licenceholder which audited financial statements it requires (in addition to the immediate parent company's financial statements). The Authority is in the process of removing any Rule Book modifications that were previously required, and due to the rule changes are no longer required, and is clarifying the position going forward. The expectation is that there will not be any changes to the current requirement to submit financial information. Parent company financial reporting requirements will be reviewed on an on-going basis to ensure the Authority receives only relevant financial information.

#### **Examples of where other audited financial statements may be required –**

- a) Where the parent/group company is giving financial support to the licenceholder (for example through a letter of support/comfort or subordinated loan).
- b) Where the licenceholder is otherwise significantly exposed to the parent, for example through cross-guarantees of parental borrowing or through substantial intra-group trading or debts.

- c) Where the parent is required to produce them anyway. For example, if the parent is a PLC or is itself a regulated business.
- d) In groups where there is a private equity deal in place.
- e) Where the parent has undertaken borrowing where security has been taken by the lenders in a form which would allow the business to continue under the ownership of the lenders if operating profits were insufficient to meet interest payments.

**Examples of ‘other confirmations’ referred to in rule 2.10(1)(a)**

1. Where relevant, the Authority will request a signed annual statement from the trustees of any ultimate parent trust(s) that holds the shares of the licenceholder, to confirm:
  - a. that the shares are not the subject of any pledge or option; and,
  - b. that the trustees, protector and influential third parties have not changed;
2. A signed annual statement from the parent(s) confirming there are no external borrowings and that it/they are not currently incurring losses.

**Rule Book modification in relation to submission of audited Financial Statements for an immediate parent company**

| Factors which would indicate <b>in favour of</b> a modification  | Factors which would indicate <b>against</b> a modification   |
|--|--|
| Financial strength and independence of the licenceholder <ul style="list-style-type: none"> <li>• meets FRR comfortably</li> <li>• has a track record of meeting FRR in previous years</li> <li>• has reserves to draw upon</li> </ul> | Financial weakness or dependency <ul style="list-style-type: none"> <li>• shortfall against FRR or little margin of safety</li> <li>• actual or pending claim against the licenceholder</li> <li>• the licenceholder relies upon a group company to bear some or all of its operating costs</li> <li>• the Authority’s risk and impact rating for the licenceholder</li> </ul> |
| The parent company is a passive holding company  | The parent company is an active trading company  |
| Simplicity of ownership structure  | Complexity of ownership structure  |
| The <i>immediate</i> parent might not need to provide audited financial statements if the <i>ultimate</i> parent is a quoted company which provides audited financial statements   |  |

## How to apply for a modification or exception

If you wish to apply for a modification or exception, please write to your Relationship Manager:

- Requesting an exception or modification from rule 2.10 for the immediate;
- Explaining the nature and activities of the parent company, trust or foundation for which the exception from or modification to rule 2.10 is sought;
- Explaining the interactions and various financing involved in the group structure;
- Providing a copy of the previous year's financial statements (audited where possible, unless these have already been provided to the Authority);
- Confirming that there is no financial support or other significant financial exposure between the licenceholder and the parent;
- Enclosing a current group structure chart; and
- Providing an up to date financial resources calculation in the standard format of Appendix 3 of the Rule Book.

Please apply in good time before the annual regulatory return is due. This is a discretionary decision and applications have to be reviewed individually upon their merits.

## Status of guidance

*The Isle of Man Financial Services Authority ("the Authority") issues guidance for various purposes including to illustrate best practice, to assist licenceholders to comply with legislation and to provide examples or illustrations. Guidance is, by its nature, not law, however it is persuasive. Where a person follows guidance this would tend to indicate compliance with the legislative provisions, and vice versa.*