

Licenceholder News

Welcome to the 14th edition of the Financial Supervision Commission's (FSC's) news bulletin, which gives a brief overview of recent initiatives and events that may be of interest to licenceholders.

General Supervision Update

2014/15 Annual Report

The FSC's [Annual Report](#) for the 2014/15 period was published on 29 July. The report gives a detailed account of the FSC's activities during the year to 31 March 2015.

Civil Penalties Regulations

The [Financial Services \(Civil Penalties\) Regulations 2015](#) came into effect on 1 August and introduce the new framework for discretionary civil penalties for serious regulatory failings. Further information can be found in the [Guidance Note](#) and related [consultation material](#). The fixed penalties for failure to submit or provide returns were carried over from the [2011 Regulations](#) and are unchanged.

Impersonation of Clients in Emails

In April 2015 the FSC sent an advisory note to licenceholders about two situations in which fraudsters had plausibly impersonated clients and money had been paid away. Both situations involved email. In one instance the client's email account had been hacked, meaning that the bogus payment request came from an apparently legitimate source. Since then, other such frauds have come to light.

Forgery and impersonation are well known risks. However, in seeking to deliver a high quality and timely service, it is possible that licenceholders may underestimate the importance of verification of emails.

The FSC would recommend that licenceholders take the opportunity to re-evaluate their exposure to this type of fraud and the effectiveness of their precautions against it.

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Current Consultations

- [Basel III: Capital Adequacy and Leverage](#)

See page 5 for details in relation to other Government consultations that may be relevant.



Isle of Man Financial Services Authority (IOMFSA)

On 1 November the FSC and Insurance and Pensions Authority will be dissolved and all functions will be transferred to the IOMFSA. The FSC's website contains a [webpage](#) providing information in relation to the formation of the new regulatory authority, links to relevant press releases, a '[Frequently Asked Questions](#)' (FAQ) document and contact details for additional queries. The appointment of Ms Karen Badgerow as [Chief Executive of the IOMFSA](#) was announced on 5 August. The appointment of Members to the Board of the IOMFSA is expected to be considered by Tynwald in October 2015.

Banking Update

FSC Approach to Banking Supervision (and D-SIBs)

Further to the information provided in [Issue 13 \(May 2015\)](#) the expected timeframe for issuing a draft policy statement covering the FSC's approach to banking supervision, and a consultation on proposals for identifying, assessing and supervising Domestic Systemically Important Banks (D-SIBs) has been postponed to the end of 2015. This is to enable the proposals to be properly considered by the new IOMFSA.

Banking Statistics

[Deposit base figures](#) and [quarterly banking statistics](#) covering the period to 31 March 2015 were published on 29 June.

Basel III (Capital Adequacy and Leverage)

Further to the update in [Issue 13 \(May 2015\)](#) a consultation paper was issued on 30 July, for comment by 30 October, on proposals to implement changes to the capital adequacy regime

for banks incorporated in the Isle of Man. The key proposals of the consultation include: revised definitions of regulatory capital; establishment of new minimum regulatory capital requirements; certain changes to the calculation of risk weighted assets; and the introduction of a leverage ratio reporting requirement.

Basel III (Liquidity)

Further to the update in [Issue 13 \(May 2015\)](#) a discussion paper detailing proposals for changes to the liquidity framework for banks incorporated in the Isle of Man was issued on 7 July for comments by 7 October.

Lending Data

Further to the update in [Issue 13 \(May 2015\)](#), the FSC has reviewed the feedback provided by banks on proposed new reporting forms, and issued a revised final draft set of forms on 3 September, for comments by 30 September. The FSC still intends to embed the reporting forms into the quarterly prudential reporting cycle for the March 2016 reporting set for the majority of banks.

Depositors' Compensation Scheme (DCS) Update

DCS 2008 re KSF10M

The total recovery to date remains at 100p in the £. The most recent liquidator's report (issued August 2015 for the 6 months ended 9 July 2015) included the following statement:

'It is now nearly seven years since the company was placed in liquidation provisionally and there are only a small number of outstanding issues to be resolved. Whilst I am hopeful of being able to finalise the

liquidation within the next eighteen months, it is difficult to predict as those remaining issues, particularly loan repayments and the resolution of the parental guarantee claim, are not fully within my control.'

DCS 1991 re BCCI S.A.

Further to the update in [Issue 13 \(May 2015\)](#), the FSC expects to issue a final payment to original participating banks during September.

Fiduciary Services Update

Financial Resources Calculations of Owner-Managed Businesses

On 23 July the FSC issued an email to licenceholders on this topic, which is summarised below:

'In reviewing the Financial Resources Calculations (FRCs) of owner-managed businesses, the question arose as to how the FRCs should address circumstances where one or more directors have chosen to draw no (or only minimum) salaries. This affects the FRC; in particular it reduces the Expenditure Based Requirement (EBR), which in turn reduces the Liquid Capital Requirement (LCR).

'One of the purposes of the FRC is to set out minimum standards of surplus liquid assets to be retained in the business, sufficient to meet the licenceholder's expenditure for a specific period in the event of the need to have an orderly wind-up of the licenceholder. The LCR for the licenceholder needs to reflect the approximate replacement costs of the directors' time, irrespective of whether they draw a salary.

'Where one or more directors draws no (or only a minimum) salary, the FSC will seek the inclusion of an approximation of the replacement cost of the directors' time at Part D (cell A.3) of the FRC. This does not alter the expenses (and this notional figure would not be included in the statement of profit and loss). This would not affect the reconciliation between the audited

accounts and the FRCs. The amount to be included should be based on a market rate for a person to cover the responsibilities and reflect the amount of time spent on licenceholder business. The figure should be based on cover for three months.

'The FSC has been contacting licenceholders regarding this matter on a case-by-case basis. For avoidance of doubt, the FSC's interest in this matter relates solely to capital adequacy. It has no bearing on corporate or personal taxation, both of which are entirely matters for the relevant tax authority.'

Trust and Corporate Service Providers (TCSPs) Presentation

The FSC hosted a TCSP presentation on 4 August, which addressed matters that have arisen from the FSC's supervisory work over the past year. Presentation slides can be downloaded [here](#).

The presentation will be repeated on 29 September at the Loch Promenade Church Hall in Douglas. Registration is from 12.00 pm with the presentation commencing at 12.30 pm and finishing at 13.30 pm. There is no charge for this event and tea/coffee will be provided. Please email sue.clague@fsc.gov.im to reserve your place.

Funds and Investment Services Update

UK Secured Finance Fund

On 22 July Deemster Doyle heard an application from the FSC seeking an order that UK Secured Finance Fund plc be wound up and that the Joint Liquidators provisionally and joint deemed Official Receivers who were appointed on 10 and 11 June 2015 be confirmed Joint Provisional Liquidators and joint deemed Official Receivers pending meetings of creditors and contributories. Further information can be found in the [Public Notice](#).

Funds and Investments Update

The Funds and Investment Services team gave a presentation to the Securities Institute on 27 May,

which addressed matters that have arisen from the FSC's supervisory work, including the importance of due diligence in respect of the take on of new fund business. Presentation slides can be downloaded [here](#).

Updates to the Funds Webpages

The [Funds Area](#) of the FSC's website has been updated to improve user navigation and to increase the level of content. Key changes include a new central location for fund [legislation](#) and [guidance](#) and the introduction of Questions and Answers on the webpages for each fund type.

Funds and Investment Services Update (continued)

Public Warnings

21 Aug: [Sterling Isle Trust](#)

Public Notices

28 Aug: [Kleinwort Benson Trustees \(Isle of Man\) Limited](#)

3 Aug: [Mr Nicholas Wilson](#)

29 Jul: [FSC 2014/15 Annual Report](#)

24 Jul: [UK Secured Finance Fund](#)

11 Jun: [UK Secured Finance Fund](#)

10 Jun: [Cadogan Limited](#)

8 May: [Maitland Services Limited](#)

Sanctions Updates

21 Aug: [Al Qaida, Terrorism and Terrorist Financing, UN and EU Sanctions – Ransom Payments](#)

10 Aug: [Libya, Afghanistan, Belarus, Iran \(Nuclear Proliferation\)](#)

28 Jul: [South Sudan, North Korea](#)

5 June: [Sudan, Central African Republic, Syria](#)

8 May: [Ivory Coast, Democratic Republic of Congo](#)

Alternative Investment Fund Managers Directive (AIFMD)

The FSC continues to work closely with the funds industry to co-ordinate efforts to secure a recommendation by the European Securities and Markets Authority (**ESMA**) to grant the Isle of Man a 'third country' passport under the Alternative Investment Fund Managers Directive (**AIFMD**).

Fund Statistics

The [quarterly fund statistics](#) covering the period to 31 March 2015 were published on 29 June 2015.

Anti-Money Laundering and Countering the Financing of Terrorism Update

AML/CFT Handbook Update

The AML/CFT Handbook was updated on 30 July 2015. Further information on changes made can be accessed [here](#).

Sector Specific Guidance

Following the publication of the revised AML/CFT Handbook on 2 April, the FSC published sector specific guidance. Where appropriate, this guidance has been developed with the relevant industry body for the sector concerned. The documents published cover the following sectors:

- Banking
- Trust and Corporate Service Providers
- Money Service Businesses including Isle of Man Post Office
- Accountants and Tax Advisors
- Advocates and Registered Legal Practitioners
- Money Lenders
- Specified Non-Profit Organisations.

In due course sector specific guidance will follow for:

- Investment Business and Funds
- Estate Agents
- Payroll Agents
- Virtual Currencies.

Discussions remain ongoing with the industry bodies in these outstanding areas. If you have any enquires please email aml@fsc.gov.im.

Consultations

Government and FSC Consultations

The Government's central consultations register may be accessed [here](#). Current and future Government consultations that may be of interest to licenceholders are listed in the table below. Information on closed FSC consultations, including summaries of responses, may be accessed [here](#).

Collective Investment Schemes

A [summary of responses](#) to the [Second Consultation on a General Schemes Review](#) was published on 29 July.

IOMFSA Amendment Legislation

In view of the forthcoming replacement of the FSC by the IOMFSA, changes are required to the Financial Services Rule Book and various Collective

Investment Schemes regulations, principally to avoid licenceholders being obliged to refer to the former regulator in formal documents. Following the FSC's consultation on the proposed changes, amendment legislation is expected to go to Tynwald in October 2015. The Insurance and Pensions Authority is consulting on similar changes for the legislation it is responsible for.

Tribunals Legislation

Cabinet Office recently concluded a [consultation on draft Financial Services Tribunals Rules 2015](#) that are designed to replace the [Financial Services Review Regulations 2001](#) and will prescribe the Tribunal procedure for appeals against decisions of the FSC. The FSC assisted the Cabinet Office by issuing a [press release](#) to publicise the consultation.

Department	Status	Consultation Topic	Link / Contact
FSC	30 Jul to 30 Oct 2015	Basel III: Capital Adequacy and Leverage	Mr Andrew Kermode andrew.kermode@fsc.gov.im
IPA	24 Jul to 18 Sep 2015	CP15-02 Conduct of Business	Mr Paul Ellison paul.ellison@ipa.gov.im
Cabinet Office	7 Aug to 18 Sep 2015	Financial Intelligence Unit Bill 2015	Mrs Yvette Mellor yvette.mellor@gov.im
Cabinet Office	11 Aug to 22 Sep 2015	Proposed Terrorism and Crime (Miscellaneous Amendments) Bill 2015	Ms Rose Dawson rose.dawson@gov.im
IPA	21 Aug to 17 Sep 2015	CP15-03 Transfer of Functions - Consequential Amendments	Miss Sarah Galovics sarah.galovics@ipa.gov.im
IPA	21 Aug to 17 Sep 2015	CP15-04 Transfer of Functions - Transitional Provisions	Miss Sarah Galovics sarah.galovics@ipa.gov.im
DHA	1 Sep to 6 Oct 2015	Draft Proceeds of Crime (Business in the Regulated Sector) (No.2) Order 2015	Mr Tom Bateman dhaconsultation@gov.im

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