



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

ALTERNATIVE BANKING REGIME

**Feedback on consultation that closed
14 May 2016**



FEEDBACK ON CONSULTATION ON DRAFT LEGISLATION – CONSULTATION FROM 31 MARCH 2016 TO 14 MAY 2016

This document is issued by the Isle of Man Financial Services Authority, the regulatory body for the financial sector in the Isle of Man, to provide feedback on the [consultation document](#) issued on 31 March 2016 and open until 14 May 2016.

The overall proposal is to create three separate Class 1 licence types for:

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

The proposal was initially suggested and consulted on by the Isle of Man Government's Department of Economic Development ('DED') in May 2015. The Authority then issued a [discussion paper](#) on outline proposals in January 2016, which received 12 responses that were generally supportive of the proposals. The Authority issued the recent [consultation document](#) to show the detailed proposals, notably draft legislation and licence conditions.

Only one response was received to this consultation and this did not suggest any changes. It is believed the lack of responses is because all interested parties had made their comments in response to either DED's or the Authority's earlier consultation / discussion documents.

Therefore, no changes will be made to the draft legislation as a result of the consultation, (although there will be unrelated changes to the Depositors' Compensation Scheme Regulations and the Financial Services (Exemptions) Regulations). The licence conditions will be changed only to increase clarity in two minor respects. These changes are shown below.

If you have any queries about these proposals, please contact Mrs Susan Woolard, Policy Adviser, on susan.woolard@iomfsa.im or 01624 689333.

If you have a query in relation to how this consultation has been carried out, please contact the Authority's Policy and Legal Division by email at IOMFSAPOLAUTH@gov.im or by telephone on +44 (0) 1624 646000.



DRAFT LEGISLATION AND LICENCE CONDITIONS – CHANGES RESULTING FROM THE CONSULTATION

Regulated Activities (Amendment) (Class 1 – Deposit-Taking) Order 2016¹

The changes to the Regulated Activities Order 2011 will split the existing Class 1 regulated activity into Class 1(1), Class 1(2) and Class 1(3).

Legislation unchanged from consultation version.

Financial Services (Exemptions) (Amendment) (Class 1 – Deposit-Taking) Regulations 2016²;

The changes to the Financial Services (Exemptions) Regulations 2011 will replace ‘Class 1’ with sub-classes 1(1) and 1(2).

Legislation unchanged from consultation version except for an unrelated amendment that extends to subsidiaries of charities an exemption from Class 4 licensing. Please see Appendix for revised Financial Services (Exemptions) (Amendment) (Class 1 – Deposit-Taking) Regulations 2016.

Financial Services (Fees) (Amendment) (Class 1 – Deposit-Taking) Order 2016³

The changes to the Financial Services (Fees) Order 2016 will impose the same application and annual fee for Classes 1(1) and 1(2), as well as introducing an application fee of £3,000 and an annual fee of £2,500 for Class 1(3).

Legislation unchanged from consultation version.

Depositors Compensation Scheme (Amendment) Regulations 2016⁴.

The changes to the DCS Regulations 2010 will confine the application of the regulations to Class 1(1) licenceholders.

Legislation unchanged from consultation version except for an unrelated change that updates the Schedule to reflect changes to licenceholders.

¹ which amends SD 844/11: [Regulated Activities Order 2011 \(as amended\)](#)

² which amend SD 885/11: [Financial Services \(Exemptions\) Regulations 2011 \(as amended\)](#)

³ which amends SD 2016/0098: [Financial Services \(Fees\) Order 2016](#)

⁴ which amend SD 683/10: [Depositors' Compensation Scheme Regulations 2010 \(as amended\)](#)



Financial Services Rule Book 2013⁵ and licence conditions

Class 1(1): Class 1(1) licenceholders will be subject to the same rules as those that apply to Class 1. **Legislation unchanged from consultation version.**

Class 1(2): Some rules will be modified and some licence conditions will be imposed for Class 1(2) licenceholders. **Legislation unchanged from consultation version.**

Class 1(3): No existing rules will apply, but licence conditions will be imposed on Class 1(3) licenceholders. **A few minor clarifications have been made as a result of the consultation, as indicated below:**

1(3)(A) *Permitted activities*

... (2) A licenceholder's activities and registered ~~office~~ place of business in the Isle of Man must be separate from those of any other licenceholder.

1(3)(E) *Main Representative*

(1) A licenceholder must have a Main Representative who must –

- (a) be an employee of the licenceholder;
- (b) be a key person; and
- (b) not be an employee or director of any other licenceholder.

(2) A licenceholder must notify the Authority –

- (a) at least 20 business days in advance of the appointment or intended appointment of a Main Representative;
- (b) within 10 business days of the departure or intended departure from office of the Main Representative, giving reasons for his departure;
- (c) at least 20 business days in advance of a change to the address and contact numbers of the registered ~~office~~ place of business in the Isle of Man, or of its intention to close the representative office;

NEXT STEPS

The Authority intends to present the legislation to Tynwald for approval before the 2016 summer recess and for it to come into operation this summer.

⁵ SD 372/2013: [Financial Services Rule Book 2013 \(as amended\)](#)

FINANCIAL SERVICES (EXEMPTIONS) (AMENDMENT) (CLASS 1 - DEPOSIT-TAKING) REGULATIONS 2016

The Isle of Man Financial Services Authority makes the following Regulations under section 44 of the Financial Services Act 2008, after carrying out the consultations required by section 44(5) of that Act.

1. Title

These Regulations are the Financial Services (Exemptions) (Amendment) (Class 1 - Deposit-Taking) Regulations 2016.

2. Commencement

If approved by Tynwald, these Regulations come into operation on 1 August 2016.

3. Amendments to Schedule 1 to the Financial Services (Exemptions) Regulations 2011

- (1) Schedule 1 to the Financial Services (Exemptions) Regulations 2011⁶ is amended as follows.
- (2) For paragraph 4.13, substitute –
«In relation to a regulated activity falling within paragraph (6) or (7) of Class 4, section 4 does not apply to an individual providing those services to a company registered under the Charities Registration Act 1989 or any wholly-owned subsidiaries of that company if the individual receives no remuneration for providing the service to either the charity or a wholly-owned subsidiary of the charity. For the avoidance of doubt, remuneration does not include reimbursement of reasonable expenses.»
- (3) In paragraph 8.3, for “Class 1” substitute –
«Class 1(1) or 1(2)».
- (4) In paragraph 8.3A, for “Class 1” substitute –
«Class 1(1) or 1(2)».

MADE _____ 2016

⁶ SD 885/11