



Guidance on How the Isle of Man Financial Services Authority Considers Proposed Company, Business and Domain Names Referred to it by the Companies Registry

1. Introduction

1.1 Background

The guidance is designed to help persons setting up a new company or business, or changing the name of an existing company or business, in identifying whether a proposed name is likely to be acceptable. It will therefore be of interest to Corporate Service Providers as well as the general public.

This guidance explains factors that the Isle of Man Financial Services Authority (**'the Authority'**) takes into account when considering proposed names which are referred to it by the Companies Registry, and should assist readers to avoid various pitfalls.

As background, Isle of Man law requires certain words to have additional consideration before they can be allowed as part of a company name, business name or domain name (collectively **'name'**). A list of restricted words and phrases (**'restricted words'**), and the body to which proposed names that include a restricted word will be referred, is set out at Regulation 5 of the [Company and Business Names \(restricted words and phrases\) Regulations 2013](#) (**'the Regulations'**).

The Regulations set out some specific words which could imply regulated financial services and products under the [Financial Services Act 2008](#) (**'FSA08'**), the [Insurance Act 2008](#) (**'IA08'**), the [Collective Investment Schemes Act 2008](#) (**'CISA08'**) and the [Retirement Benefits Schemes Act 2000](#) (**'RBSA00'**) (collectively the **'regulatory Acts'**). Therefore, proposed names which include these words are referred by the Companies Registry to the Authority.

In addition, the regulatory Acts make it an offence to provide regulated financial services and products without the appropriate regulatory permissions, and the [Designated Businesses \(Registration and Oversight\) Act 2015](#) (**'DBROA15'**) makes it an offence to undertake designated business unless the person is registered or exempt from registration under that Act. It is also an offence to imply that you are carrying on any such activities, for example, by using a company name which suggests that is the case, even if those activities are not actually being carried on.

Consequently, the Companies Registry may also refer other proposed names to the Authority in appropriate circumstances, for example where a prospective company states that it will be providing regulated financial services or products or carrying on a type of designated business.

The Companies Registry will take the Authority's comments into consideration in deciding whether or not to approve a proposed name and whether to make approval subject to any conditions. The decision as to the name is ultimately that of the Companies Registry.

When reviewing a proposed name, the Authority's primary considerations are whether the company or business will be providing regulated financial services or products or carrying on designated business, or whether the proposed name could imply that the company or business is doing so.

1.2 Status of guidance

The Authority issues guidance for various purposes, including to illustrate best practice, to assist readers 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 associated legislative provisions, and vice versa.

2. How does the Authority consider referred names?

2.1 If the person proposes to undertake activities under the regulatory Acts or designated business under the DBROA15

In this case the Authority will consider whether the proposed name accurately reflects the intended activities. If it does, then the Authority will normally advise the Companies Registry that it has no objections to the proposed name, provided that the necessary regulatory permissions or registrations are obtained within a specified period.

2.2 If the person does not intend to undertake activities under the regulatory Acts or designated business under the DBROA15

In this circumstance the Authority will consider whether the proposed name could be 'holding out' and therefore misleading to the public. If the Authority believes this is the case, it will object to the name.

'Holding out' means the use of certain words, phrases or actions that suggest a person is carrying on activities that they are regulated or registered to carry on when this is not the case.

For example, trading under the name 'XYZ Bank Limited' implies (holds out) that the company is carrying on the regulated activity of deposit taking.

It is a criminal offence to 'hold out' that a person is carrying on deposit taking or providing other regulated financial services or products, or undertaking designated business, if the person does not have the appropriate regulatory permissions or is not registered under the DBROA15 (as applicable) unless an exemption applies, even if no such activities are actually being carried on.

Holding out extends not only to company and business names, but also to the name, title or address of a website, domain or email address.

Please refer to section 3 for guidance on how to increase the chances of your proposed name being approved.

2.3 Information to include in a name approval application

If a proposed name includes a restricted word or a word which could imply designated business and/or it is intended that the company or business will provide regulated financial services or products or carry on any kind of designated business under the DBROA15, you should include the following information in the name application form:

- the proposed principal trade;
- a brief description of the proposed activities;
- if the name relates to a prospective investment holding company, please indicate this and state the type(s) of assets that the company is going to hold; and
- confirmation as to whether or not the company or business will be providing any financial services or products subject to regulation under the regulatory Acts or carrying on designated business subject to registration under the DBROA15, and if so which type of activity or business. Alternatively, if you believe an exemption applies, please state this and specify the relevant exemption.

This information will help the Authority to evaluate the appropriateness of the proposed name. Where the information provided in the application is not sufficient, the Authority will have to ask further questions to clarify specific issues, and this could cause unnecessary delay.

Where a proposed name includes a restricted word, or some other word which implies regulated activities or products or designated business, the Authority's consideration takes account of the proposed activities as disclosed on the application for the name. Any view we express to the Companies Registry will be on the basis of the disclosed proposed activities.

If the company or business does not subsequently carry on the activities that its name suggests, it should change its name to avoid any confusion as to its activities and status, and to avoid holding out or any other offence.

3. Common examples and practical guidance

3.1 Banks

[Guidance issued under the FSA08](#) for Applicants Seeking a Restricted Deposit Taking Licence provides that a company cannot call itself a bank until it has been licensed as a fully operational deposit taker.

The guidance explains that a prospective Class 1(2) licence applicant may begin the licensing process in a name which does not include the word 'Bank' (e.g. 'ABC Limited'), and if a full deposit taking licence is obtained the company's name can then be changed to include the word 'Bank' (e.g. 'ABC Bank Limited').

The Authority will ordinarily adopt the same approach in relation to prospective Class 1(1) licence applicants.

The Authority recognises that sometimes the word ‘bank’ or similar may be used as part of a recognised term that the public do not associate with regulated activity, for example ‘foodbank’, ‘riverbank’, ‘sandbank’ or ‘databank’. In such cases the Authority may consider the proposed name does not imply regulated activity.

3.2 Investment / asset / capital / equity holding companies

The Authority is commonly referred proposed names for companies established to hold private assets that include a restricted word such as ‘Asset(s)’, ‘Investment(s)’, ‘Capital’ or ‘Equity’. These words, without an additional descriptor, can imply Class 2 (investment business) regulated activities under the FSA08. In deciding how to respond to the Companies Registry, the Authority will consider whether the general public may think a company is undertaking investment business as a result of its name.

3.2.1 Avoiding using restricted words

Ideally prospective companies which will not be applying for a Class 2 (investment business) licence under the FSA08 will not include any investment business related restricted words such as ‘Asset(s)’, ‘Investment(s)’, ‘Capital’ or ‘Equity’ in their name.

3.2.2 Accurately reflecting the proposed activities

However, the Authority would generally not object to a proposed name which includes investment related words, such as ‘Asset(s)’, ‘Investment(s)’, ‘Capital’ or ‘Equity’, provided the name also includes ‘Holding(s)’ or similar to clarify the nature of the company. This reduces the risk that the public could be misled about the company’s activities and regulatory status.

For example, the Authority may object to ‘XYZ Investments Limited’. However, the following could be suitable alternatives:

- XYZ Limited;
- XYZ Family Investments Limited;
- XYZ Private Investments Limited; or
- XYZ Investment (Holdings) Limited.

3.2.3 Inappropriate combinations of words

The Authority will object to the inclusion of investment related words in combination with other words such as ‘Advisers’ or ‘Management’ (e.g. ‘XYZ Investment Advisers Ltd’, ‘XYZ Capital Management Ltd’ and ‘XYZ Asset Management Ltd’), unless the relevant company will be applying for a Class 2 licence under the FSA08. This is because such combinations of words strongly imply regulated investment business activity.

3.3 Use of the word “Fund” in names

The Authority is also referred proposed names which include the word 'Fund'. The word 'Fund' in a name could suggest that it is a collective investment scheme under the CISA08.

3.3.1 Use of the word "Fund" in the name of a collective investment scheme

Where a name is for a collective investment scheme, this should be indicated on the application for the name with details of the type of scheme that it will be under the CISA08.

The Authority will not normally object to the use of the word 'Fund' in the name of a collective investment scheme constituted under Schedule 1 to the CISA08 (an Authorised Scheme) or under Schedule 2 to the CISA08 (a Regulated Fund, Full International Scheme, Specialist Fund, Qualifying Fund or Experienced Investor Fund).

By contrast, the Authority will normally object to the use of the word 'Fund' in a name of a collective investment scheme if it is, or is going to be, a collective investment scheme constituted under Schedule 3 to the CISA08 (an exempt scheme). This is because exempt schemes must not imply that they are regulated and they may not be promoted to the public.

If the Authority has not raised any objections to a name on the basis of its planned establishment as a collective investment scheme under the CISA08, but the scheme is not subsequently established as such, it should change its name to avoid confusion as to its activities and regulatory status, and to avoid holding out or any other offence.

3.3.2 Use of the word "Fund" in a name which is not a collective investment scheme

The Authority recognises that the word 'Fund' may sometimes be used as part of a recognised term that the public does not associate with collective investment schemes, for example 'XYZ Charitable Fund' in relation to a name of a registered charity. In such cases the Authority will usually consider the proposed name does not imply a collective investment scheme and on this basis will not usually object to the proposed name.

3.3.3 Inappropriate combinations of words

The Authority may object to the inclusion of the word 'Fund' in combination with other words such as 'Advisers' or 'Management' (e.g. 'XYZ Fund Advisers Ltd' and 'XYZ Fund Management Ltd'), unless the relevant company will be applying for a Class 3 licence under the FSA08. This is because such combinations of words can strongly imply the provision of regulated services to collective investment schemes.

3.3.4 Blending of words that, when separated, would not be allowed

The Authority may advise the Companies Registry that it objects to proposed names which contain blended words which incorporate the word 'Fund', e.g. 'NEWFUND' or 'IFUND', and non-English words which contain the word 'Fund', where the effect implies a collective investment scheme.

3.4 Designated business

The full list of types of designated business can be found in Schedule 1 to the [DBROA15](#). The most commonly received name referrals related to the designated business regime are in respect of:

- a business which provides lending in respect of products other than consumer products for and on behalf of consumers; and
- convertible virtual currency activity (colloquially referred to as ‘crypto businesses’).

3.4.1 Lending

Companies Registry typically consults the Authority about proposed names which include the words ‘finance’ and ‘lending’. Such names may also be referred to the Office of Fair Trading. The Authority will consider whether the proposed name accurately reflects the proposed activities and whether the applicant is proposing to be registered as a designated business.

If a company or business will be involved in a type of lending that is not subject to registration under the DBROA15, then the Authority would usually object to the proposed name on the basis that it implies designated business, unless it is amended to make the nature of the company or business clear.

For example, if a prospective company will be involved in providing intra-group financing and will not be lending to any third-parties outside the group, the Authority would normally suggest that the name includes the word ‘Group’ immediately before the word ‘Lending’ or ‘Finance’ to make it clear that its activities are limited to group activities.

3.4.2 Virtual currencies

Convertible virtual currency activity is a type of designated business under the DBROA15. Therefore, unless an exemption applies, any company or business carrying on convertible virtual currency activity must be registered under the DBROA15 prior to commencing business or advertising the business (e.g. by establishing a website for the business).

Where a name approval application is made in relation to a prospective virtual currency business, please indicate this on the name application form. If the name is considered to accurately reflect the proposed activities, the Authority will usually raise no objections to the proposed name, subject to registration under the DBROA15 within a specified timeframe.

However, the Authority will object if the proposed name for a designated business includes words which imply a different type of activity under the regulatory Acts (e.g. the word ‘Investment’ or ‘Payments’) or a different kind of designated business (e.g. the words ‘Bullion’ or ‘Gem’ which imply an asset backed arrangement).

Where a proposed company name includes a word which implies convertible virtual currency activity under the DBROA15 (such as ‘Crypto’), but the company will not be carrying on such activities, the Authority would usually object unless the proposed name also includes a descriptor which make the company’s intended activities clear. For example, by including

other words which accurately describe the proposed activity, such as ‘Consultancy Services’ or ‘Software’, after the word ‘Crypto’.

4. Other considerations

4.1 Notifiable events

Existing regulated entities and designated businesses should consider whether their proposals will trigger a notification.

For example, under the following rules in the [Financial Services Rule Book 2016](#).

Proposal	Rule Number
Licenceholder forming a subsidiary that is a nominee company	7.3(2)(e)(i)
Registration of licenceholder’s business name	7.2
Change of licenceholder’s name	7.1(a)
Change of licenceholder’s business name	7.1(b)

Also, section 19 of the DBROA15, read in conjunction with Article 5(1) of the [Designated Businesses \(Civil Penalties\) Order 2015](#), requires any change in the information required to be given to the Authority under section 8 of that Act (application for registration), including a change of name of the designated business, to be notified to the Authority within 14 days of the change.

4.2 Companies Registry information

This Guidance should be read in conjunction with the information published by the Companies Registry on [choosing a company or business name](#). This includes some helpful information regarding names which are likely to be refused by the Companies Registry, for example names which are too similar to an existing company or business name.