



Pensions Governance Conference – 7 November 2024 Conference Questions & Answers ('Q&As')

1. Background

This document provides responses to questions raised by the audience at the Pensions Governance Conference held on 7 November 2024 that relate to the functions of the Isle of Man Financial Services Authority ('Authority'). The questions and answers are grouped according to common themes.

A copy of the slide deck presented by the Authority can be found [here](#).

The information provided in this document is for general information purposes only and does not constitute legal advice or regulatory guidance. If you are uncertain about your legal obligations, please seek appropriate legal advice.

2. Pensions Sector

Question 1 – Can the Authority have more of a role in promoting the Island's pensions industry?

The Authority's regulatory objectives are:

- (1) Protecting consumers;
- (2) Reducing financial crime; and
- (3) Maintaining confidence in the financial services sector through effective regulation.

As a regulator, the Authority's primary role is to design, maintain and promote the right regulatory environment, which businesses can then use to promote the sector. Whilst the Authority is not a business development agency, it is involved in a number of initiatives that indirectly help promote the Isle of Man as a good place to do business, for example:

- Development of an artificial intelligence ('AI') tool (Regsearch) for the Authority's website.
- Regulatory Sandbox (see Section 5).
- Innovation Hub (see Section 5).

Regarding planned updates to the regulatory framework for pension service providers as part of the Retirement Benefits Schemes (Amendment) Bill, it would be useful to understand what the Authority could do to support industry's marketing of the framework, in terms of providing enhanced protection for consumers of Isle of Man pension products.

The Authority works collaboratively with industry and Isle of Man Government agencies, in particular the Department for Enterprise, to highlight the strengths of the Manx economy.

We are committed to creating the right environment for businesses to flourish across a number of different sectors.

Question 2 – When you look at the United Kingdom ('UK') and compare what is available to trustees and administrators of UK pension schemes, there is a lot more pension-specific guidance and/or codes of practice (there now being a single consolidated code of practice). So, the quality standards UK trustees and administrators will be held to has been very clearly articulated. However, in the Isle of Man, for understandable reasons (principally resource but also context), we are very light in terms of pensions-specific guidance. Is this something the Authority will look to address in due course or should trustees being looking at the UK guidance and determining what they think is relevant from that guidance (albeit in context)?

This is something the Authority will need to consider with industry once the Retirement Benefits Schemes (Amendment) Bill progresses.

The current regulatory regime for pension schemes, administrators and trustees under the Retirement Benefits Schemes Act 2000 ('RBSA00') is lighter overall when compared to the regime under the Financial Services Act 2008 ('FSA08'). The planned transition of the regulation of pension service providers from the RBSA00 to the FSA08 will involve the application of business conduct and prudential regulatory requirements under that FSA08. Whilst a lot of the requirements should apply relatively easily, the Authority will need to consider any changes or modifications that may be needed to reflect the different nature of the sector.

This is something the Authority will look to address once the Bill has been consulted on and we start work on the planned secondary legislation. At that point, we can consider the more specific requirements, and any guidance needed, in more detail.

As part of this process, it will be useful to hear industry's views so we can consider what works well, what does not work so well and how we can improve the regulatory environment (and, therefore, the Island's business proposition).

3. Financial Crime (AML/CFT/CPF)¹

Question 3 – Why did the Authority change the Anti-Money Laundering and Countering the Financing of Terrorism ('AML/CFT') Annual Statistical Return submission date from June to March?

To enhance our data-driven approach to supervision, it is essential for the Authority to work with the most accurate and up-to-date information possible. With this in mind, we are asking firms to complete their AML/CFT Statistical Returns by 31 March – starting in 2025.

While this change shortens the window for submissions, it will greatly assist our supervisory engagement planning, which takes place in April each year.

¹ Anti-Money Laundering, Countering the Financing of Terrorism, Counter Proliferation Financing

The Authority issued a [news release on 5 November 2024](#) and an [update on 6 December 2024](#) to explain the changes.

- For AML returns and STRIX survey queries, please contact amlreturns@iomfsa.im.
- For general AML queries, please contact aml@iomfsa.im.
- To speak to the Authority, please call +44 (0) 1624 646000.

Question 4 – Does the Authority accept firms using specific identity verification software?

The AML/CFT Code 2019 and AML/CFT Handbook are technology neutral. Firms may choose to use either more traditional verification of identity methods or technology-based methods. Firms must ensure they comply with the Technology Risk Assessment requirements and other obligations in the Code when utilising technology for AML/CFT purposes. For example, firms should understand the basis for any technology-based verification method and be satisfied it is sufficiently robust. Further information is available at section 3.3.4.5 of the [AML/CFT Handbook](#), and the [Supplemental Information Document](#).

Question 5 – Is there any scope for the Authority to become responsible for the maintenance of the high-risk jurisdictions list, similar to the approach taken in Jersey?

The Department of Home Affairs publishes **List A (High Risk Jurisdiction List)**, **List B (Jurisdictions that May Pose a Higher Risk)** and **List C (Equivalent Jurisdiction List)** in accordance with the AML/CFT Code 2019. These lists are maintained by the Cabinet Office on behalf of the Department. See [Isle of Man Government - Anti-Money laundering legislation and Countering the Financing of Terrorism \(AML/CFT\)](#).

The Authority publishes news releases on its website when the lists are updated in order to highlight changes. There are no plans for this arrangement to change at the current time.

4. Fitness & Propriety Assessments

Question 6 – When considering the fitness and propriety of trustees does the Authority approach professional and lay trustees differently? In particular, how should one approach the training and competency framework with lay trustees who are going to, in effect, ‘learn on the job’?

The following Controlled Functions apply to trustees of authorised schemes:

- R4A (directors of corporate trustees – notified and accepted = F&P 1)
- R6 (individual professional trustee – notified and accepted = F&P 1)
- R7 (individual non-professional trustee – notified only = F&P 2).

Section 7 of the [Regulatory Guidance on Fitness and Propriety](#) covers the Authority’s approach to F&P Assessments for ‘notified only’ and ‘notified and accepted’ Controlled Functions.

For F&P 2 (notified only) roles:

- The regulated entity must have completed its own due diligence and be satisfied the candidate is fit and proper.
- The F&P 2 Form includes declarations by the regulated entity and individual.
- The regulated entity must notify the Authority within 10 business days of appointment.

For F&P 1 (notified and accepted) roles:

- The regulated entity must have completed its own due diligence and be satisfied the candidate is fit and proper.
- The F&P 1 Form includes declarations by the regulated entity and individual.
- The regulated entity must submit F&P1 Form to the Authority 20 business days in advance of the intended appointment.
- The assessment is case specific, relating to the individual, the Controlled Function and the regulated entity in question.
- Any acceptance is specific to the individual, the particular Controlled Function and in the context of the regulated entity itself (e.g. could be different for regulated entity ABC Ltd and XYZ Ltd).

Example: In the case of an insurance group, an individual may be considered competent to perform the Controlled Function of R30 - Group Actuary in a group where all its insurers carry on the same type of business, but not in a group where this varies across the group.

The F&P Forms are standardised for all regulated sectors but the forms do include areas for submitters to provide additional information. In a situation where someone is submitting an F&P 2 Form, and they feel as if they need to provide more information to support or explain their declaration in respect of the Controlled Function holder, then this information can be included in the form. The Authority is considering potential amendments to the form to make this clearer.

Question 7 – A number of other queries were received in relation to fitness and propriety assessments, including questions regarding the frequency of rejected applications and how fitness and propriety assessments are approached.

Please see the answer to Question 6. Further information can be found in the Authority's [Regulatory Guidance on Fitness & Propriety](#).

5. Defined Benefit Scheme Funding

Question 8 – A number of queries were raised in relation to defined benefit scheme funding matters, including the proposed scope of application.

The defined benefit ('DB') scheme funding provisions in the RBSA00 are not currently in force. In terms of the draft Retirement Benefits Schemes (Amendment) Bill, the current proposal is

to replace the existing DB provisions in the RBSA00 with more flexible funding provisions that are broadly equivalent to those in Part 3 of the Pensions Act 2004 in the United Kingdom. It is envisaged that the DB funding provisions will apply to authorised schemes registered under the RBSA00, subject to any prescribed modifications or exemptions.

The proposed DB funding provisions in the draft Bill will be subject to public consultation, which is planned for the first half of 2025. The Authority plans to consult separately on draft regulations in respect of DB funding matters once the Bill has been consulted on.

6. Regulatory Reporting

Question 9 – A number of queries were raised in relation to regulatory reporting requirements, such as the proposed contents of annual reports.

Risk-based supervision is intended to maximise the effectiveness of the Authority's supervisory resources to achieve its regulatory objectives. Information is needed to support the Authority's risk-based approach to the supervision of regulated persons and arrangements.

The Authority seeks to be proportionate and pragmatic wherever possible. The draft reporting provisions in the Retirement Benefits Schemes (Amendment) Bill would amend the RBSA00 to provide a greater degree of flexibility in respect of the contents and frequency of scheme returns. This will enable reporting requirements to be commensurate with the size and nature of different scheme types. The proposed reporting provisions would be subject to specified parameters and any prescribed modifications and exemptions (i.e. by way of secondary legislation). Drafts of new and revised secondary legislation under the RBSA00 will be subject to separate consultations once the Bill itself has been consulted on.

7. Alternative Vehicles for Pension Schemes

Question 10 – Some queries were raised in relation to alternative vehicles for pension schemes (e.g. to irrevocable trust-based schemes) and general innovation in the sector.

The Authority is exploring the potential use of foundations under the Foundations Act 2011 as a possible alternative to pension schemes based on irrevocable trust. The potential use of foundations is being considered alongside work on the draft Retirement Benefits Schemes (Amendment) Bill, though it forms a separate workstream. This is because the primary goal of the Bill is to reform the current regulation of pension services to ensure an appropriate degree of protection for members of retirement benefits schemes. As such, any developments on potential alternative vehicles will be consulted on separately to the Bill.

8. Artificial Intelligence

Question 11 – Some queries were received in relation to the use of Artificial Intelligence ('AI') including questions relating to the risks and opportunities.

AI can provide many benefits for firms, such as enhancing operational efficiency and improving insights by supporting more informed, data-driven decisions. However, as with any technology, firms using AI (or planning to do so) are responsible for identifying the associated risks and managing them effectively.

In respect of pension schemes specifically, scheme trustees remain responsible for decision making. Human oversight is, therefore, necessary to prevent errors and ensure compliance with trustee duties. Consequently, the use of AI-generated content should not be relied on without undertaking independent checks to confirm its accuracy. Final decisions should be made by a human.

9. Environmental, Social and Governance ('ESG')

Question 12 – Some queries were raised in relation to ESG matters.

Please see the Authority's recent News Release ([Authority supporting Sustainable Finance Initiative, 12 November 2024](#)) and [Environmental, Social and Governance \(ESG\)](#) webpage for further information and contact us if you have any queries.

10. Tax Information Exchange

Question 13 – A query was raised in relation to the timing of data collection for tax information exchange, e.g. Automatic Exchange of Information ('AEOI') and Common Reporting Standard ('CRS').

This is a tax matter rather than a regulatory matter. The Authority approached the Income Tax Division ('ITD') of Treasury, which provided the following information in relation to collection of information by the ITD from financial institutions:

- CRS/FATCA returns are issued each year on 1 January.
- Return is in respect to the year ended 31 December of the preceding year.
- Due date of the return is 30 June.
- Penalties applicable for late submission.
- Additional daily penalties accrue for each subsequent day the return is late.

For any related queries, please contact the ITD by email to aeoi.admin@itd.treasury.gov.im or by phone on +44 (0) 1624 685083.

11. Questions for the Isle of Man Government

Question 14 – A number of other queries were raised that relate to the functions of other Isle of Man Government Departments.

Those questions have been forwarded to the appropriate Isle of Man Government Department for consideration.

12. Other Questions?

If you have any other questions or feedback, please contact the Policy & Risk Division by email to Policy@iomfsa.im or call +44 (0)1624 646000 and ask to speak to someone in the Division.