

IOMFSA New Authority Funding Model from 1 April 2023 (CP22-04)

The IFA welcomes the opportunity to comment on the Consultation Paper published on 12 May 2022.

We would be happy to discuss any aspect of our response and to take part in any further consultations in this area.

Established in 1916, the Institute of Financial Accountants (IFA) is an internationally recognised professional accountancy membership body. Our members work within micro and small to medium-sized enterprises or in micro and small to medium-sized accounting practices advising micro and SME clients. We are part of the Institute of Public Accountants (IPA) of Australia Group, the world's largest SME-focused accountancy group, with approximately 46,000 members and students in more than 80 countries.

The IFA is a full member of the [International Federation of Accountants \(IFAC\)](#) the global accounting standard-setter. We are recognised by HM Treasury and the Financial Services Authority in the Isle of Man to supervise our members for the purposes of compliance with the Money Laundering Regulations.

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General comments

1. The time periods for this consultation – just six weeks - and then implementation are brief, with the proposed changes due to take effect from 1 April 2023.¹ The IFA has sought and received feedback from its member firms on the Isle of Man, which has been challenging within the prescribed timescale. We are concerned that the Authority may not give due consideration to the responses to this consultation.
2. The Authority's regulatory objectives serve the public interest. In particular, the broad objective of the reduction of financial crime underlines the appropriateness of public funding.
3. A move towards the Authority being wholly funded by the businesses that it regulates would be regarded by some as presenting a conflict of interest.
4. Although the rationale for the proposed new funding model is to save tax payers money, one of the unintended consequences of the proposals might be a reduction in taxes collected. Companies in the Isle of Man benefit from 0% corporation tax and the owners of those business are largely resident income tax payers themselves and employers of a significant number of other resident income tax payers. An increase in companies' costs at a time when we are just coming out of a global market downturn may result in redundancies, impacting on those tax payers that the Authority is seeking to protect.
5. Page 6 of the consultation sets out what the Authority considers to be the most relevant factors that it is required to consider in relation to this consultation. They are greatly focused on the Regulated Entities and maintaining the competitive position of the Island. Insufficient weight is given to the characteristics of Designated Businesses and the fact that professionals working to high professional and ethical standards already carry a regulatory burden.
6. The quotes from the Treasury Minister, which appear to form a basis for this consultation process, are entirely focused on 'the financial services sector'.² It appears that Designated Business have been included in the proposals collaterally.
7. If the proposals were to be adopted as set out in the Consultation Paper, small local traders would ultimately suffer, due to the additional costs being passed on by their agents. In particular, the proposed fees for direct supervision by the Authority are very high, especially for small firms.
8. We note that the Industry Working Group (IWG) 'comprises a nominated member of each of the main industry associations for the financial services sector in the Isle of Man'. It appears there has been no involvement of the professional accountancy bodies, for example, in the IWG, and there is no indication throughout the Consultation Paper of any direct engagement with any professional accountancy body.
9. We note the reasonable assertion in Appendix C that 'the registration and oversight framework for Designated Business is a critical element in the Isle of Man's international commitment to combatting money laundering and terrorist financing'.³ However, the experience and high professional standards of the professional bodies that are recognised as Professional Body Supervisors in the UK and that carry out anti-money laundering supervision over their members on the Island, does not appear to have been acknowledged in the Consultation Paper.
10. We note that "non-core' functions (i.e. those not directly relating to regulated activity) were found to represent less than 2.5% overall costs and are therefore less material than originally envisaged".⁴ We assume that Designated Businesses fall within this small minority, although that is unclear. If our assumption is incorrect, then we cannot see Designated Businesses identified within either the 'core' or 'non-core' activities. The Consultation Paper is unclear about the impact of identifying 'non-core'

¹ Consultation Paper CP22-04, page 5

² Consultation Paper CP22-04, pages 7 and 8

³ Consultation Paper CP22-04, Appendix C, page 8

⁴ Consultation Paper CP22-04, page 11

activities and the full impact of 'cross-subsidy ... in order for fees to remain competitive'.⁵ We are opposed to cross-subsidy, as it is the Isle of Man Government's responsibility to subsidise, where necessary, in the public interest.

11. We contacted all firms based on the Isle of Man that are currently supervised by the IFA. The responses we received have been incorporated into this consultation response.

Responses to questions

Question 1 - Do you have any comments on any of the topics covered by the Research and Policy Considerations (Appendix B)?

12. We have little to say about this Appendix. Transaction fees, for example, are not relevant in the context of Designated Businesses. However, we would note that there seems to be an absence of research into the AML/CFT supervision framework in the UK.
13. With regard to civil penalty income, we note that income from penalties 'has often not been regarded as an appropriate source of income for regulators'.⁶ Nevertheless, any income from penalties remitted to the Isle of Man Government will enrich the Government, which further suggests that the Government has a responsibility for funding the Authority's work.

Question 2 - Do you have any comments on the Authority's proposed new funding model (Appendix C)?

14. According to Appendix C, 'The Authority's primary role is the regulation and supervision of regulated financial services, insurance and pensions activities in or from the Isle of Man. In addition to Regulated Entities, the Authority has a significant role in the registration and oversight of Designated Businesses under the DBROA15 to monitor compliance with the Island's AML/CFT requirements.'⁷ However, there is little explanation of the nature of the Authority's AML/CFT role in practice nor the extent to which its functions in this area have been delegated to professional bodies.

15. We note principles 2 and 5, which state:

'Fees will in principle be set at a level that recovers regulatory and oversight costs for each sector, with apportionment for regulated entities and designated businesses within those sectors, recognising that practical constraints make precise cost allocation and recovery impractical.'

and:

'Fees will seek to reflect usage – the costs of some specific regulatory and oversight related transactions will be recovered, as far as possible, from the specific regulated entities and designated businesses.'

Designated Businesses are mentioned a few other times, but there is little information about what the Authority does in this respect or why it does it given the delegation of most of its AML/CFT functions to professional bodies.

16. We refer to the Deed of Authorisation that the Authority signs with the professional bodies, which includes a professional body's obligation to set its own fees. We have seen nothing in the document that suggests the need for the Authority to incur significant further costs.

⁵ Ibid

⁶ Consultation Paper CP22-04, page 19

⁷ Consultation Paper CP22-04, Appendix C, page 4

Question 3 - Do you have any comments on the Authority's proposed new fee structure (Appendix D)?

17. Some of the other points we raise in this consultation response are relevant to this question. We have nothing further to add here.

Question 4 - Do you have any comments on the new fees that the Authority proposes to charge for activities that the Authority has not previously charged for?

18. There is no mention of fees already paid by Designated Businesses to their professional body AML supervisors in respect of functions delegated by the Authority.
19. In setting out the proposed new fees, the annual fee for Designated Businesses where oversight has been delegated by the Authority notes that 'each business can elect to be overseen by either the Authority or a relevant professional body' and that the Authority 'processes the annual return for all Designated Businesses, and deals with all enforcement matters'.⁸ This suggests that excessive costs are being incurred due to duplication of effort. In our opinion, the outcome of this consultation may have the unintended consequence of professional bodies ceasing to be AML supervisors in the Isle of Man.
20. It appears to be proposed that, in year 3, any accountancy practice supervised by delegation to a professional body would pay £364, whereas even a sole practitioner supervised by the Authority would pay £1,769 – a difference of £1,405. This implies that it would be extremely inefficient for the Authority to directly supervise Designated Businesses. Therefore, it is imperative that there is greater transparency regarding (i) the direct supervisory costs and (ii) the supervisory oversight costs necessarily incurred by the Authority.
21. We are opposed to the arbitrary allocation of non-supervision staffing costs and other costs being apportioned to each sector on the basis of the supervision staffing levels, rather than the sectors incurring and/or benefitting from those costs.
22. In respect of application fees, the Authority claims to be mindful that such fees should not present an unreasonable barrier to entry. It is assumed that it is proposed to charge an application fee for all accountants, including those supervised by their professional body by delegation. If so, then for a small accountancy practice, this level of fees would be a significant factor in considering whether they would wish to practice in the Isle of Man. Despite the consultation documentation, we cannot envisage it costing in excess of £1,700 to register a small accountancy practice.
23. In respect of annual fees, a fee of £1,190 (rising to £1,769) would, for many sole practitioners, be unsustainable, and suggests that AML supervision by the Authority (rather than by delegation to a professional body) is not risk-based. Although the annual fee is significantly reduced for an accountancy practice that is supervised, by delegation, by their professional body, we are unclear about what an annual fee of £245 (rising rapidly to £364) is intended to cover.

Question 5 - Do you have any comments on the proposed implementation period for annual fees?

24. Both the implementation period and the consultation period are brief, and it has been a challenge to engage appropriately with IFA members to obtain their views (as is necessary for such a consultation). The approach taken by the Authority leads us to be concerned that the Authority may not give due consideration to the responses it receives to this consultation.

⁸ Consultation Paper CP22-04, page 12

Question 6 - For entities licensed, authorised, registered or otherwise regulated by the Authority, how would you describe the impact of the proposed new funding model (Appendix C) and fee structure (Appendix D) on your business? For other entities or stakeholders, do you have any comments on the potential impact of the new funding model and fee structure on fee payers? Please provide any information you think may assist the Authority in assessing the impact of its proposals.

25. In responding to this consultation, the IFA has included the views of its supervised firms in the Isle of Man, all of which have indicated that they would continue to elect to be supervised by the IFA were the proposed new funding model to be implemented. This is due to the very high costs that would be incurred were they to be directly supervised by the Authority.

Contact details

Should you wish to discuss this response further, please contact Tim Pinkney, Head of Practice Standards, by email at timp@ifa.org.uk