



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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*Lught-Reill Shirveishyn Argidoil Ellan Vannin*

**Consultation Paper**  
**Designated Businesses (Amendment) Order**  
**2024**  
**and**  
**Proceeds of Crime (Business in the**  
**Regulated Sector) Order 2024**

**CP24-01**

**Issue Date: 4 March 2024**

**Closing Date: 15 April 2024**

## Consultation Paper – CP24-01

This Consultation Paper ('the Paper') is issued by the Isle of Man Financial Services Authority ('the Authority') in conjunction with the Department of Home Affairs ('DHA') and the Isle of Man Treasury. The Authority is the regulatory body for financial services in the Isle of Man, and the oversight body for Designated Businesses ('Designated Businesses') in relation to compliance with Anti-Money Laundering ('AML') and Countering the Financing of Terrorism ('CFT') obligations.

The purpose of the consultation is to obtain views regarding the proposed amendments to Schedule 1 ('Schedule 1') to the Designated Businesses (Registration and Oversight) Act 2015 ('DBROA15') and to Schedule 4 ('Schedule 4') to the Proceeds of Crime Act 2008 ('POCA08'). The purpose of these amendments is to ensure there is consistency between both Schedule 1 and Schedule 4 and to improve usability of both schedules, as well as bringing the terminology in line with international standards where required.

There is only one scope change whereby Schedule 1 to the DBROA15 includes the proposed addition of a new designated business activity '**Administering or managing money on behalf of another person**'. This may bring new businesses into scope of the DBROA15. If you believe your business will be affected by this proposed change please contact the Authority at your earliest convenience to discuss this further.

The content of this Paper is relevant to all regulated entities and Designated Businesses. Additionally, the sections relating to Schedule 4 to the POCA08 may also be relevant to all persons supervised in relation to AML/CFT by the Isle of Man Gambling Supervision Commission ('GSC').

It is pertinent to mention that further amendments in respect of Schedule 1 to the DBROA15 are being proposed as part of the Financial Services (Miscellaneous Provisions) Bill, which is currently being drafted. These additional amendment proposals will be consulted upon separately and will not in any way form part of this consultation.

The closing date for comments is **15 April 2024**.

This Paper has been published on the Authority's website. It has also been published on the Isle of Man Government's Engagement Hub<sup>1</sup> ('the Hub') where you can give your views by clicking on the 'Online Survey' link. Responses made outside of the 'Online Survey' can be submitted by email to [aml@iomfsa.im](mailto:aml@iomfsa.im) and, if in an attachment, preferably in an extractable format e.g. Microsoft Word document. Alternatively, you can submit responses by post to:

**Ashley Whyte – Senior Manager, AML/CFT Division**  
**Isle of Man Financial Services Authority**  
PO Box 58, Finch Hill House, Bucks Road, Douglas, Isle of Man, IM99 1DT

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<sup>1</sup> <https://consult.gov.im>

### **Confidentiality and Data Protection**

The information you send may be published in full or in a summary of responses. All information in responses, including personal data, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018) with which the Authority is obliged to comply. The Authority is registered with the Information Commissioner as a data controller under Isle of Man data protection legislation. It collects and processes personal data to carry out its functions under relevant legislation and may share personal data with other parties where there is a legal basis for doing so. Further information on how the Authority collects and processes personal data can be found in the Privacy Policy on the Authority's website: <https://www.iomfsa.im/terms-conditions/privacy-policy/>.

If you have a query in relation to how this consultation has been carried out, please contact the Authority's AML/CFT Division by email at [aml@iomfsa.im](mailto:aml@iomfsa.im) or by telephone on +44 1624 646000.

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## Glossary

<b>AML</b>	Anti-Money Laundering
<b>AML/CFT Code</b>	Anti-Money Laundering and Countering the Financing of Terrorism Code 2019
<b>Authority</b>	Isle of Man Financial Services Authority
<b>CFT</b>	Countering the Financing of Terrorism
<b>DBROA15</b>	Designated Businesses (Registration and Oversight) Act 2015 <sup>2</sup>
<b>DHA</b>	Department of Home Affairs
<b>FATF</b>	Financial Action Task Force
<b>FSA08</b>	Financial Services Act 2008
<b>POCA08</b>	Proceeds of Crime Act 2008 <sup>3</sup>
<b>Schedule 1 (DBROA15)</b>	Schedule 1 to the Designated Businesses (Registration and Oversight) Act 2015
<b>Schedule 4 (POCA08)</b>	Schedule 4 to the Proceeds of Crime Act 2008
<b>Virtual Asset</b>	refers to a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes. Virtual assets do not include digital representation of fiat currencies, securities, and other financial assets
<b>Virtual Asset Service Provider or 'VASP'</b>	means any natural or legal person who by way of business conducts one or more of the following activities or operations for or on behalf of another natural or legal person — <ul style="list-style-type: none"> <li>(a) exchange between virtual assets and fiat currencies;</li> <li>(b) exchange between one or more forms of virtual assets;</li> <li>(c) transfer of virtual assets;</li> <li>(d) safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and</li> <li>(e) participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset</li> </ul>

<sup>2</sup> [https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0009/DesignatedBusinessesRegistrationandOversightAct2015\\_10.pdf](https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0009/DesignatedBusinessesRegistrationandOversightAct2015_10.pdf)

<sup>3</sup> [https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0013/ProceedsofCrimeAct2008\\_23.pdf](https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0013/ProceedsofCrimeAct2008_23.pdf)

# 1. Executive Summary

## 1.1 Overview

The Authority, in conjunction with other Government departments, has been undertaking a project to update the Isle of Man's AML/CFT framework. This proposed update seeks to harmonise, where possible, the provisions of Schedule 1 to the DBROA15 with the provisions of Schedule 4 to the POCA08 and to ensure both schedules are in line with international standards where appropriate.

While the DHA and the Isle of Man Treasury have responsibility for the Acts being consulted upon, the task of updating the legislation has been delegated to the Authority as the body responsible for AML/CFT oversight and/or supervision. The ownership of the legislation will be noted throughout this Paper.

## 1.2 What is the purpose of this Consultation Paper?

The proposals outlined in this Paper aim to align Schedule 1 to the DBROA15 and Schedule 4 to the POCA08 to ensure there is no ambiguity in respect of scope and application. In addition to rectifying inconsistencies that have been identified, the amendments are intended to ensure there are no gaps in our oversight regime in relation to international standards.

## 1.3 Who may be affected by this Consultation Paper?

The consultation is relevant to:

- All persons that are licensed, authorised or registered under the FSA08, the Insurance Act 2008, the Retirement Benefits Schemes Act 2000, the Collective Investment Schemes Act 2008 and the DBROA15. It is also relevant to advisers to those persons, or potential applicants for permissions under these Acts or their advisers.
- The consultation is also relevant to a society registered as a credit union within the meaning of the Credit Unions Act 1993, a building society within the meaning of section 7 of the Industrial and Building Societies Act 1892, and the Isle of Man Post Office, in respect of certain activities.
- Additionally, the sections of the consultation regarding Schedule 4 to the POCA08 may be relevant to persons supervised in relation to AML/CFT by the GSC.

## 2. Consultation Process

### 2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the FSA08 as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

The Authority is required to give consideration to certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this consultation are considered as follows:

Factor	Information
The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden.	The proposals will allow the Authority to apply effective, proportionate and responsive oversight. The proposals will better align the Island's supervisory and oversight regimes with international standards and best practices, whilst also ensuring greater clarity for regulated and registered entities.
The need to safeguard the reputation of the Island.	The proposals will provide greater alignment of the Island's regulated and registration oversight regimes with international standards and best practices.  These proposals and their application will help to safeguard the Island's reputation as a responsible financial centre.
The desirability of implementing and applying recognised international standards.	The proposals will better align the Island's oversight regimes with international standards such as those set by the FATF.

### 2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority's proposals. Constructive feedback will help the Authority reach an informed decision on the content of the proposals and manner of implementation. Respondents should note the following when responding to this Paper:



- Submissions received by the closing date of the consultation will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a consultation as well as the methodology used to gain members' input.
- The Authority requests that submissions are not made anonymously as they will not be considered or included in the Feedback Statement.

A list of specific representative groups to which this Paper has been sent is shown in Appendix A.

### 3. Proposals

#### 3.1 Amendments to Schedule 1 to the Designated Businesses (Registration and Oversight) Act 2015

##### 3.1.1 The addition of a new designated business activity into Schedule 1 Part 1

The amendment envisaged will see the addition of '**Administering or managing money on behalf of another person**' brought into the scope of the DBROA15 as a Designated Business activity. This activity is already subject to the Island's AML/CFT framework by virtue of being in Schedule 4 to the POCA08. The purpose of this amendment is to align Schedule 1 to the DBROA15 with the activities prescribed under Schedule 4 to the POCA08, and to ensure there is a designated oversight body in respect of AML/CFT for this activity. Further to this, it is proposed that additional guidance will be published to support this update. However, if you believe your business will be affected by this proposed change please contact the Authority at your earliest convenience to discuss this further.

##### 3.1.2 The inclusion of 'bookkeeping services' as an activity within the meaning of 'external accountant' into Schedule 1 Part 1.2

It is envisaged that this amendment will provide additional clarity to individuals and firms, making clear that the provision of bookkeeping services when undertaken 'by way of business' constitutes Designated Business activity, and therefore requires such firms and or individuals to be registered under the DBROA15. It should be noted this is not a change in scope.

##### 3.1.3 A revised definition for the activity of 'lending' in Schedule 1 Part 1.2

It is envisaged that this revised definition will provide additional context and clarity around the different types of lending. The proposal will also better align our current definition with the definition used by the FATF. Additional guidance will be published in support of this update. It should be noted this is not a change in scope.

### **3.1.4 Replacement of sector terminology and definition – ‘convertible virtual currency’ (‘CVC’) will become ‘virtual asset service provider’ (‘VASP’) in Schedule 1 Part 1.2**

The amendment envisaged will see a change to the sector terminology and definition. The Convertible Virtual Currency (‘CVC’) sector is the current term used for the Island’s Virtual Asset industry. The proposal is to update the sector terminology to ‘virtual asset service provider’ (‘VASP’) and amend the associated definition (see section 3.1.5 of this paper) to align it with that used by the FATF. This will bring the Island in line with the globally recognised FATF terminology and definition widely adopted by other jurisdictions for this sector.

### **3.1.5 Definition of ‘virtual asset’ added into Schedule 1 Part 1.2**

In conjunction with the proposed update to the CVC sector terminology and definition (from CVC to VASP) a formal definition of the term ‘virtual asset’ will be added into Schedule 1. This will align with the FATF’s definition of ‘virtual asset’ to ensure there is consistency and continuity with our approach (see glossary for formal definition). It should be noted this is not a change in scope.

## **3.2 Amendments to Schedule 4 to the Proceeds of Crime Act 2008**

### **3.2.1 Removal of wording from Schedule 4 Part 2(6)(s)**

It is proposed that the wording ‘**provision of Escrow Services**’ is removed from this section of Schedule 4. It is intended this activity will be included within ‘**Administering or managing money on behalf of another person**’. This activity will be brought into the DBROA15 as part of the proposed updates to Schedule 1. Further to this, it is proposed that additional guidance will be published in support of this update.

### **3.2.2 A revised definition for the activity of ‘lending’ in Schedule 4 Part 1**

It is envisaged that this revised definition will provide additional context and clarity around the different types of lending. The proposal will also better align our current definition with the definition used by the FATF. Additional guidance will be published in support of this update. It should be noted this is not a change in scope.

### **3.2.3 Replacement of sector terminology and definition – ‘convertible virtual currency’ (‘CVC’) will become ‘virtual asset service provider’ (‘VASP’) in Schedule 4 Part 1**

The amendment envisaged will see a change to the sector terminology and definition. The Convertible Virtual Currency (‘CVC’) sector is the current term used for the Island’s Virtual Asset industry. The proposal is to update the sector terminology to ‘virtual asset service provider’ (‘VASP’) and amend the associated definition (see section 3.2.4 of this paper) to align it with that used by the FATF. This will bring the Island in line with the globally recognised FATF terminology and definition widely adopted by other jurisdictions for this sector.

### 3.2.4 Definition of ‘virtual asset’ added in Schedule 4 Part 1

In conjunction with the proposed update to the CVC sector terminology and definition (from CVC to VASP) a formal definition for ‘virtual asset’ will be added into Schedule 4. This will align with the FATF’s definition of ‘virtual asset’ to ensure there is consistency and continuity with our approach (see glossary for formal definition). It should be noted this is not a change in scope.

### 3.2.5 The inclusion of ‘bookkeeping services’ as an activity within the meaning of ‘external accountant’ in Schedule 4 Part 1

It is envisaged that this amendment will provide clarity to individuals and firms, making clear that bookkeeping services when undertaken ‘by way of business’ are subject to the provisions of the AML/CFT Code within the meaning of Schedule 4, and that firms or individuals undertaking such activities are required to be registered under the DBROA15. It should be noted this is not a change in scope.

## 4. Impact Assessment

The amendments will provide for greater clarity and consistency between various Acts under which the Authority exercises its functions. This is viewed as a positive development, as consistency in legislation encourages consistency of application. More consistent legislation also enhances understanding, and can result in more efficient use of resources.

The proposed amendments will apply to businesses of all sizes, enabling the Authority to take a more tailored and proportionate approach, which may be particularly useful to smaller firms;

- The addition of a new Designated Business activity brought into the scope of the DBROA15 – there is the potential that individuals, or firms, could be undertaking the ‘**administering or managing money on behalf of another person**’ that are not currently registered or licenced to do so. A further consideration is that this activity, whilst already subject to the conditions of the AML/CFT Code, does not currently have a designated oversight body in respect of AML/CFT. Whilst it is not envisaged that many firms or individuals will be captured under this activity – who are not already registered or licenced for other activities under the DBROA15 or the FSA08 – there remains a risk that these services could be provided and the Authority would have no knowledge or oversight of this.
- The updates to align Schedule 1 and Schedule 4 – these updates should improve clarity and continuity across the two Schedules. As the Island prepares for its next MONEYVAL Mutual Evaluation, there has been an emphasis on aligning parts of our legislation with globally recognised international standards. The Authority does not envisage that the amendments made to Schedule 1 and Schedule 4 will have any adverse impact on those affected.

## 5. Questions

### Question 1 (Required)

Name:

### Question 2

Please provide any comments you may have regarding the amendments proposed to Schedule 1 to the DBROA15.

Response:

### Question 3

Please provide any comments you may have regarding the amendments proposed to Schedule 4 to the POCA08.

Response:

#### Question 4

One significant amendment is the proposed inclusion of a new Designated Business activity - '**administering or managing money on behalf of another person**' - in Schedule 1 to the DBROA15.

Are there any firms, or individuals, currently operating '**by way of business**' who believe they may be offering the service of '**administering or managing money on behalf of another person**' and who are not already registered, or licenced, under another activity?

Response:

#### Question 5

Please provide any comments you may have regarding the changes in definition and sector terminology from CVC to VASP.

Response:

## **6. Next Steps**

Following closure of the consultation period, the Authority will review the responses received and publish a Feedback Statement on both the Authority's website and the Hub.

Subject to views expressed in response to the consultation, it is intended that the proposed legislative and procedural changes will come into effect in mid-2024.

## Appendix A – List of Groups to which this Consultation Paper has been sent

- Alliance of Isle of Man Compliance Professionals
- Association of Chartered Certificated Accountants (as oversight body)
- Association of Corporate Service Providers
- Chartered Institute for Securities and Investment (Isle of Man branch)
- The Department for Enterprise
- Digital Isle of Man
- Finance Isle of Man
- Financial Intelligence Unit
- Financial Planners & Insurance Brokers Association
- Gambling Supervision Commission
- Institute of Certified Bookkeepers (as oversight body)
- Institute of Chartered Accountants In England and Wales (as oversight body)
- Institute of Directors (Isle of Man branch)
- Institute of Financial Accountants (as oversight body)
- International Association of Bookkeepers (as oversight body)
- Isle of Man Wealth & Fund Services Association
- Association of Chartered Certified Accountants (Isle of Man branch)
- Isle of Man Association of Pension Scheme Providers
- Isle of Man Bankers Association
- Isle of Man Captive Association
- Isle of Man Chamber of Commerce
- Insurance Institute of the Isle of Man
- Isle of Man Law Society (as oversight body)
- Isle of Man Post Office
- Isle of Man Society of Chartered Accountants
- Isle of Man Insurance Association
- Society of Trust and Estate Practitioners (Isle of Man branch)

## **Appendix B – Draft Designated Businesses (Amendment) Order 2024**

## **Appendix C – Draft Proceeds of Crime (Business in the Regulated Sector) Order 2024**