



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

CONSULTATION RESPONSE CP18-05/T17

**CONSULTATION REGARDING THE DRAFT
BENEFICIAL OWNERSHIP (CIVIL
PENALTIES) REGULATIONS 2018 FOR
CONTRAVENTIONS UNDER THE
BENEFICIAL OWNERSHIP ACT 2017**

Issue Date: 30 November 2018

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GLOSSARY

Term	Meaning in this document
Act	The Beneficial Ownership Act 2017
Authority	Isle of Man Financial Services Authority
Beneficial owner	Means a natural person who ultimately owns or controls a legal entity to which this Act applies, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means
Database	The Isle of Man Database of Beneficial Ownership
Department	The Department for Enterprise
FSA2008	Financial Services Act 2008
Nominated officer	Means a person appointed in accordance with section 6 of the Act
Relevant person	means — (a) a legal entity to which the Act applies; (b) a nominated officer; (c) a legal owner; (d) a beneficial owner; (e) an intermediate owner (see section 10 of the Act); and (f) a registrable beneficial owner.

1 BACKGROUND

This Consultation Response is issued by the Isle of Man Financial Services Authority ('the Authority') following Consultation Paper CP18-05/T17, which was open from 24 September 2018 to 2 November 2018.

The purpose of the consultation was to obtain information, views and evidence regarding the introduction of civil penalties for some contraventions of the Beneficial Ownership Act 2017 ('the Act').

This response will be of particular interest to relevant persons under the Act, especially nominated officers.

2 SUMMARY OF RESPONSES TO QUESTIONS RAISED

Responses were received from 4 parties, 2 of whom were broadly in favour of the proposals. 1 person made technical observations on the legal text but made no comment on the policy itself and 1 party sought clarity about how the civil penalty regime would operate alongside the criminal offences. The questions asked by the Authority along with a summary of the responses received and the Authority's response are shown in the following table:

Question 1	
Please provide any comments you may have on the proposed introduction of civil penalties as an alternative to criminal sanctions to enforce certain provisions of the Act?	
Responses received (in summary)	Authority's response
<ul style="list-style-type: none">• The respondents are generally in support the introduction of civil penalties as an alternative to criminal sanctions to enforce certain provisions of the Act.• One respondent sought clarity about how the civil penalty regime would operate alongside the criminal offences, and specifically if it would replace criminal sanctions.	<ul style="list-style-type: none">• The Authority is pleased to have this support.• For clarity, the Authority wishes to confirm that criminal sanctions will still be available in appropriate circumstances. Civil penalties simply provide another option to encourage enforcement with the Act's provisions in cases where criminal sanctions would not be appropriate or proportionate.

Question 2

Do you consider that the early repayment discount of 30% is appropriate?

Responses received (in summary)

All of the respondents who answered this question stated that they support the proposal of an early repayment discount and they consider that 30% is appropriate.

Authority's response

- The Authority is pleased to have this support.

3 OUTCOME AND NEXT STEPS

Following the consultation, and because there were no material concerns raised about the proposed Regulations, the Authority intends to proceed with the introduction of the Beneficial Ownership (Civil Penalty) Regulations.

4 IMPLEMENTATION

Subject to the approval of Tynwald, the Beneficial Ownership (Civil Penalties) Regulations 2018 are planned to come into effect on 1 February 2019.

In case of any query, please contact the undersigned —

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