



ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY

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*Lught-Reill Shirveishyn Argidoil Ellan Vannin*

# **INFORMATION GATEWAYS**

## **CONSULTATION ON DRAFT ORDERS TO AMEND THE EXCEPTIONS FROM RESTRICTIONS ON DISCLOSURE OF INFORMATION UNDER VARIOUS ACTS**

### **CONSULTATION PAPER**

CP17-06/T07

Issue Date: 13 June 2017

Closing Date: 25 July 2017

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## CONSULTATION PAPER - CP17-06/T07

This consultation paper is issued by the Isle of Man Financial Services Authority, which is the regulatory body for financial services in the Isle of Man.

The purpose of this consultation is to obtain information, views and evidence in relation to three draft orders which amend the exceptions from restrictions on disclosure of information under the Designated Businesses (Registration and Oversight) Act 2015, the Financial Services Act 2008 and the Insurance Act 2008. The proposed changes to the Insurance Act 2008 will also apply to the Retirement Benefits Schemes Act 2000 by virtue of section 43 of the latter Act.

The closing date for comments is **25 July 2017**.

Please send comments in writing and preferably by email (but not scanned documents) to:

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*All information in responses, including personal information, 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 2002). If you want your response to remain confidential, you should explain why confidentiality is necessary. Your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.*

If you have a query in relation to how this consultation has been carried out, please contact the Authority's Policy and Authorisations Division by email at [IOMFSAPOLAUTH@gov.im](mailto:IOMFSAPOLAUTH@gov.im) or by telephone on +44 (0) 1624 646000.

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## GLOSSARY OF TERMS

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<b>Term</b>	<b>Meaning in this document</b>
<b>Authority</b>	Isle of Man Financial Services Authority
<b>DBROA15</b>	Designated Businesses (Registration and Oversight) Act 2015
<b>FIU</b>	Financial Intelligence Unit
<b>FSA08</b>	Financial Services Act 2008
<b>IA08</b>	Insurance Act 2008
<b>OFT</b>	Isle of Man Office of Fair Trading
<b>RBSA00</b>	Retirement Benefits Schemes Act 2000

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## 1 EXECUTIVE SUMMARY

### 1.1 Overview

In this consultation paper, the Authority proposes some amendments to the exceptions from restrictions on disclosure of information under the DBROA15, the FSA08 and the IA08.

The amendments under the IA08 will also apply to the RBSA00 by virtue of section 43 of the latter Act.

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

This consultation paper invites affected parties to consider the following draft orders.

Appendix	Draft Order
Appendix A	Designated Businesses (Disclosure of Information) Order 2017
Appendix B	Financial Services (Disclosure of Information) Order 2017
Appendix C	Insurance (Disclosure of Information) Order 2017

The order under the IA08 will, if enacted, also apply to the RBSA00 by virtue of section 43 of that Act.

The Authority welcomes views in relation to the proposed amendments. Comments should be submitted to the Authority prior to the consultation's closing date.

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

This paper may be of interest to persons and entities regulated by the Authority under the FSA08, the IA08 and the RBSA00, as well as persons and entities subject to oversight by the Authority under the DBROA15.

## 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.

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The proposals in this consultation are particularly relevant to objectives (b) and (c).

The Authority is required to give consideration to certain factors when undertaking its role in accordance with paragraph 3 of Schedule 1 to the FSA08. The factors that are most relevant to this proposal are as follows:

Factor	Information
The desirability of implementing and applying recognised international standards.	Information gateways which allow information to be disclosed to appropriate authorities in appropriate circumstances are imperative for the purposes of ensuring that the Island's legislative framework is compliant with international standards in relation to AML/CFT.
The need to safeguard the reputation of the Island.	Information gateways which allow information to be disclosed to appropriate authorities in appropriate circumstances also ultimately help to safeguard the reputation of the Island.

## 2.2 Responding to the Consultation Paper

The Authority considers open dialogue with stakeholders as essential in developing its proposals and greatly appreciates comments on the proposals in this document. The purpose of this consultation is to gather views and evidence, from which an informed decision may be made on the content of proposed legislation. However, please note that your comments may not result in a change to the proposals.

The Authority wishes to encourage submission of views, but requests that comments are not submitted anonymously, as they will not be considered or included in the Consultation Response.

Professional bodies, trade associations and other representative groups are asked to provide a summary of the people and organisations that they represent when responding, as well as the methodology used to gain members' input.

## 3 PROPOSALS

### 3.1 Background

Provisions in the DBROA15, the FSA08, the IA08 and the RBSA00 restrict the disclosure of certain non-public information<sup>1</sup> obtained under those Acts<sup>2</sup>.

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<sup>1</sup> Referred to in those Acts as "restricted information".

<sup>2</sup> See section 22 DBROA15, section 31 and paragraph 1 Schedule 5 FSA08, section 46 and paragraph 1 Schedule 6 IA08 and section 43 RBSA00.

The relevant Acts also contain a number of statutory exceptions which effectively permit the disclosure of information which would otherwise be restricted under those Acts<sup>3</sup>.

In addition, the relevant Acts contain an enabling power which allows the Treasury to make orders which provide for further exceptions from the restrictions on disclosure of information<sup>4</sup>.

The “exceptions from restrictions on disclosure of information” are colloquially referred to as “information gateways”, and the two phrases have been used interchangeably in this consultation paper.

The DBROA15 and the FSA08 also contain a specific information gateway with the OFT for the purpose of enabling or assisting the OFT to discharge the OFT’s functions under various enactments listed in those Acts<sup>5</sup>, together with an enabling power which allows the Treasury to make orders to amend the list of enactments in connection with the relevant information gateway with the OFT<sup>6</sup>.

<b>Designated Businesses (Registration and Oversight) Act 2015</b>	
<b><i>Enabling Provision</i></b>	<b><i>Summary of Proposed Amendment</i></b>
Paragraph 1(3) of Schedule 2 DBROA15	Proposal to add the Estate Agents Act 1975 to the list of enactments in paragraph 1(2) of Schedule 2 to the DBROA15 in connection with the existing information gateway with the OFT under paragraph 1(1)(v) of Schedule 2 to the DBROA15 to ensure that information received under that Act may be disclosed to the OFT in relation to the OFT’s functions under the Estate Agents Act 1975 in appropriate circumstances
Paragraph 2 of Schedule 2 DBROA15	Proposal to establish an information gateway with the FIU <sup>7</sup> and the Cabinet Office under the DBROA15 to ensure that information received under that Act may be disclosed to the FIU and Cabinet Office in relation to any of their respective functions in appropriate circumstances.
<b>Financial Services Act 2008</b>	
<b><i>Enabling Provision</i></b>	<b><i>Summary of Proposed Amendment</i></b>
Paragraph 2(1B), Schedule 5 FSA08	Proposal to add the Estate Agents Act 1975 to the list of enactments in paragraph 2(1A) of Schedule 5 to the FSA08 in

<sup>3</sup> See paragraphs 1(1) to (2), 3 and 4 Schedule 2 DBROA15, paragraph 2(1), (1A), (4) and (5) to (9) Schedule 5 FSA08, paragraph 2(1), (2) to (3) and (6) Schedule 6 IA08 and section 43 RBSA00.

<sup>4</sup> Paragraph 2 Schedule 2 DBROA15, paragraph 2(2) to (3) Schedule 5 FSA08, paragraph 2(4) to (5) Schedule 6 IA08 and section 43 RBSA00.

<sup>5</sup> Paragraph 1(1)(v) and (2) Schedule 2 DBROA15 and paragraph 2(1)(na) and (1A) Schedule 5 FSA08.

<sup>6</sup> Paragraph 1(3) Schedule 2 DBROA15 and paragraph 2(1B) Schedule 5 FSA08.

<sup>7</sup> There is a gateway with the FIU under section 24 of the Financial Intelligence Unit Act 2016, however, a specific information gateway with the FIU is being established under the DBROA15 in the interests of clarity and certainty.

	connection with the existing information gateway with the OFT under paragraph 2(1)(na) of Schedule 5 to the FSA08 to ensure that information received under that Act may be disclosed to the OFT in relation to the OFT's functions under the Estate Agents Act 1975 in appropriate circumstances.
Paragraph 2(2) of Schedule 5 FSA08	Proposal to establish an information gateway with the FIU <sup>8</sup> and the Cabinet Office under the FSA08 to ensure that information received under that Act may be disclosed to the FIU and Cabinet Office in relation to any of their respective functions in appropriate circumstances.
<b>Insurance Act 2008 / Retirement Benefits Schemes Act 2000</b>	
<b><i>Enabling Provision</i></b>	<b><i>Summary of Proposed Amendment</i></b>
Paragraph 2(4), Schedule 6 IA08	Proposal to establish an information gateway with the FIU <sup>9</sup> and the Cabinet Office under the IA08 to ensure that information received under that Act and the RBSA00 <sup>10</sup> may be disclosed to the FIU and Cabinet Office in relation to any of their respective functions in appropriate circumstances.

### 3.2 Summary of proposals

The Authority is proposing to amend the information gateways under the DBROA15, FSA08 and IA08, as summarised in the table below.

### 3.3 Draft orders

The proposed amendments under Schedule 2 to the **DBROA15**, and the statutory powers that they will be made under, are set out in the form of a draft order in **Appendix A**.

The proposed amendments under Schedule 5 to the **FSA08**, and the statutory powers that they will be made under, are set out in the form of a draft order in **Appendix B**.

The proposed amendments under Schedule 6 to the **IA08**, and the statutory powers that they will be made under, are set out in the form of a draft order in **Appendix C**.

### 3.4 Rationale

It has been draft proposed that the DBROA15 and the FSA08 are amended to add the Estate Agents Act 1975 to the list of enactments in connection with the existing information gateway with the OFT under those two Acts in order to reflect the fact that estate agents are now subject

<sup>8</sup> There is a gateway with the FIU under section 24 of the Financial Intelligence Unit Act 2016, however, a specific information gateway with the FIU is being established under the FSA08 in the interests of clarity and certainty.

<sup>9</sup> There is a gateway with the FIU under section 24 of the Financial Intelligence Unit Act 2016, however, a specific information gateway with the FIU is being established under the IA08 in the interests of clarity and certainty.

<sup>10</sup> The proposed amendments under the IA08 will also apply to the RBSA00 by virtue of section 43 of that Act.



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to oversight by the Authority under the DBROA15 in respect of compliance with AML/CFT requirements.

In recognition of the role of the FIU as the national centre for receipt, analysis and dissemination of all relevant money laundering and terrorist financing information, and the pivotal role of the Cabinet Office in leading the Island's national policy in relation to anti-money laundering and combating the financing of terrorism, it is proposed that a specific information gateway with the FIU and the Cabinet Office is introduced under the DBROA15, the FSA08, the IA08 and the RBSA00.

#### **4 IMPACT**

The Authority is very aware of the cost of regulation and seeks to meet its statutory objectives with minimum negative impact.

The Authority considers that the changes proposed in this paper would not have an impact on the cost of regulation.

#### **5 QUESTION**

##### **Question**

Do you have any comments on the proposed changes to the exceptions from the restrictions on disclosure of information?

If so, please can you tell us the reasons for these views.

#### **6 NEXT STEPS**

Following the closure of the consultation period the Authority will publish a summary of the comments received on its [consultations webpage](#).

Subject to views expressed in response to the consultation, it is intended that the proposed changes will come into effect in October 2017.

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## APPENDIX A – DRAFT DESIGNATED BUSINESSES (DISCLOSURE OF INFORMATION) ORDER 2017

Statutory Document No. 2017/XXXX

# C

*Designated Businesses (Registration and Oversight) Act 2015*

## DESIGNATED BUSINESSES (DISCLOSURE OF INFORMATION) ORDER 2017

*Approved by Tynwald: [day] [month] 2017*  
*Coming into Operation: [day] [month] 2017*

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The Treasury makes the following Order under section 35(3) of, and paragraphs 1(3) and 2 of Schedule 2 to, the Designated Businesses (Registration and Oversight) Act 2015.

### 1 Title

This Order is the Designated Businesses (Disclosure of Information) Order 2017.

### 2 Commencement

This Order comes into operation on [date].

### 3 Amendment of paragraph 1(2) of Schedule 2 to the Designated Businesses (Registration and Oversight) Act 2015

In paragraph 1(2) of Schedule 2 to the Designated Businesses (Registration and Oversight) Act 2015, after sub-paragraph (d) insert –

«(da) the *Estate Agents Act 1975*;».

### 4 Designation of authorities

For the purposes of paragraph 2 of Schedule 2 to the Designated Businesses (Registration and Oversight) Act 2015, the following are designated as authorities in respect of any of their functions –

- (a) the Financial Intelligence Unit; and
- (b) the Cabinet Office.

**MADE [DATE]**

**A.L. CANNAN**  
*Minister for the Treasury*

**EXPLANATORY NOTE****(This note is not part of the Order)**

This Order –

- (1) amends the list of enactments in paragraph 1(2) of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015* to include the *Estate Agents Act 1975* in connection with the existing gateway with the Isle of Man Office of Fair Trading under paragraph 1(1)(v) of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015*. The effect of this amendment is to permit the disclosure of information which may otherwise be restricted under the *Designated Businesses (Registration and Oversight) Act 2015* to the Isle of Man Office of Fair Trading for the purpose of enabling or assisting it to discharge its functions under the *Estate Agents Act 1975*;
- (2) designates the Financial Intelligence Unit as an authority for the purposes of paragraph 2 of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Designated Businesses (Registration and Oversight) Act 2015* to the Financial Intelligence Unit for the purpose of enabling or assisting the Financial Intelligence Unit in relation to any of its functions; and
- (3) designates the Cabinet Office as an authority for the purposes of paragraph 2 of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Designated Businesses (Registration and Oversight) Act 2015* to the Cabinet Office for the purpose of enabling or assisting the Cabinet Office in relation to any of its functions.

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## APPENDIX B – DRAFT FINANCIAL SERVICES (DISCLOSURE OF INFORMATION) ORDER 2017

Statutory Document No. 2017/XXXX

# C

*Financial Services Act 2008*

## FINANCIAL SERVICES (DISCLOSURE OF INFORMATION) ORDER 2017

*Approved by Tynwald: [day] [month] 2017*

*Coming into Operation: [day] [month] 2017*

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The Treasury makes the following Order under section 45(3) of, and paragraph 2(1B) and (2) of Schedule 5 to, the Financial Services Act 2008, after carrying out the consultations required by section 44(7) of that Act.

### **1 Title**

This Order is the Financial Services (Disclosure of Information) Order 2017.

### **2 Commencement**

This Order comes into operation on [date].

### **3 Amendment of paragraph 2(1A) of Schedule 5 to the Financial Services Act 2008**

In paragraph 2(1A) of Schedule 5 to the Financial Services Act 2008, after subparagraph (d) insert –

«(da) the *Estate Agents Act 1975*;».

### **4 Designation of authorities**

For the purposes of paragraph 2(2) of Schedule 5 to the Financial Services Act 2008, the following are designated as authorities in respect of any of their functions –

- (a) the Financial Intelligence Unit; and
- (b) the Cabinet Office.

**MADE [DATE]**

**A.L. CANNAN**  
*Minister for the Treasury*

**EXPLANATORY NOTE****(This note is not part of the Order)**

This Order –

- (1) amends the list of enactments in paragraph 2(1A) of Schedule 5 to the *Financial Services Act 2008* to include the *Estate Agents Act 1975* in connection with the existing gateway with the Isle of Man Office of Fair Trading under paragraph 2(1)(na) of Schedule 5 to the *Financial Services Act 2008*. The effect of this amendment is to permit the disclosure of information which may otherwise be restricted under the *Financial Services Act 2008* to the Isle of Man Office of Fair Trading for the purpose of enabling or assisting it to discharge its functions under the *Estate Agents Act 1975*;
- (2) designates the Financial Intelligence Unit as an authority for the purposes of paragraph 2(2) of Schedule 5 to the *Financial Services Act 2008*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Financial Services Act 2008* to the Financial Intelligence Unit for the purpose of enabling or assisting the Financial Intelligence Unit in relation to any of its functions; and
- (3) designates the Cabinet Office as an authority for the purposes of paragraph 2(2) of Schedule 5 to the *Financial Services Act 2008*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Financial Services Act 2008* to the Cabinet Office for the purpose of enabling or assisting the Cabinet Office in relation to any of its functions.

## APPENDIX C – DRAFT INSURANCE (DISCLOSURE OF INFORMATION) ORDER 2017

Statutory Document No. 2017/XXXX

# C

*Insurance Act 2008*

## INSURANCE (DISCLOSURE OF INFORMATION) ORDER 2017

*Laid before Tynwald: [day] [month] 2017*  
*Coming into Operation: [day] [month] 2017*

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The Treasury makes the following Order under paragraph 2(4) of Schedule 6 to the Insurance Act 2008.

**1 Title**

This Order is the Insurance (Disclosure of Information) Order 2017.

**2 Commencement**

This Order comes into operation on [date].

**3 Designation of authorities**

For the purposes of paragraph 2(4) of Schedule 6 to the Insurance Act 2008, the following are designated as authorities in respect of any of their functions –

- (a) the Financial Intelligence Unit; and
- (b) the Cabinet Office.

**MADE [DATE]**

**A.L. CANNAN**  
*Minister for the Treasury*



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**EXPLANATORY NOTE**

***(This note is not part of the Order)***

This Order –

- (1) designates the Financial Intelligence Unit as an authority for the purposes of paragraph 2(4) of Schedule 6 to the *Insurance Act 2008*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Insurance Act 2008* or the *Retirement Benefits Schemes Act 2000* to the Financial Intelligence Unit for the purpose of enabling or assisting the Financial Intelligence Unit in relation to any of its functions; and
- (2) designates the Cabinet Office as an authority for the purposes of paragraph 2(4) of Schedule 6 to the *Insurance Act 2008*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Insurance Act 2008* or the *Retirement Benefits Schemes Act 2000* to the Cabinet Office for the purpose of enabling or assisting the Cabinet Office in relation to any of its functions.