



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Response

Fees Orders and Regulations 2023

CR23-01

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Glossary

Authority	Isle of Man Financial Services Authority
FSA08	Financial Services Act 2008
IA08	Insurance Act 2008
PIFM	Predominantly industry-funded model

1. Background

This Consultation Response is issued by the Isle of Man Financial Services Authority following Consultation Paper CP22-04 on the Fees Orders and Regulations 2023¹ ('the Consultation'). The purpose of the consultation was to present the draft secondary legislation to implement the Authority's new fee structure.

This Consultation Response provides a summary of responses received to the Consultation along with the Authority's response and proposed changes to the original proposals.

2. Summary of Responses

2.1 Overview

The Authority received 12 responses to the Consultation. The following table provides a breakdown of responses by type based on the primary activity of each respondent:

No.	Category
7	Regulated Entities
	1 – Financial Services – Investment Business
	1 – Financial Services – Corporate and/or Trust Services
	1 – Insurer – Authorised Insurer – Life
	1 – Insurer – Authorised Insurer – Non-Life
	1 – Insurance – Authorised Insurer – Composite
	1 – Insurance – Insurance Group
	1 – Insurance – Insurance Manager
4	Designated Businesses – Registered
1	Other
12	TOTAL RESPONSES

The 11 regulated entities, groups and designated businesses that responded held 25 permissions between them.²

Overall, no major issues with the draft secondary legislation were raised. The majority of responses sought clarification around the application of fees for their particular businesses. Some responses queried certain aspects of the fee structure. A summary of comments and the Authority's response is shown in the following sections.

This Consultation Response has been issued to the groups listed in [Appendix A](#).

¹ <https://consult.gov.im/financial-services-authority/fees-orders-and-regulations-2023/>

² For the purpose of this document, 'permissions' are the different 'business types' undertaken by entities included in the Authority's online register. By way of example, this includes Classes of licence under the FSA08, different business types under the IA08 and entities registered under the CISA08, RBSA00 or DBROA15.

2.2 Certain combinations of activities under the Financial Services Act 2008

One respondent referred to section 4.3 of the draft Fee Structure document (Appendix D³ to the previous consultation on the New Authority Funding Model from 1 April 2023⁴) and noted that the proposed treatment of Base Fees for any entities holding certain licence combinations under the Financial Services Act 2008 ('FSA08') was not readily apparent in the draft Financial Services (Fees) Order 2023.⁵

The Authority confirms that where a regulated entity carries on either Class 1(1) or Class 1(2) (Deposit Taking) regulated activity under the FSA08, only the Class 1(1) or Class 1(2) Base Fee (those subclasses being mutually exclusive) will be used to calculate the annual fee along with the corresponding Volume Fee, i.e. no additional fees will apply for any other regulated activity under the FSA08 carried on by the licenceholder.

In addition to the above, where a regulated entity that is not a deposit taker holds either of the following combinations of permission under the FSA08, only the highest Base Fee from that combination will apply in the calculation of that licenceholder's annual fee:

- Class 2 (Investment Business) and Class 3 (Services to Collective Investment Schemes)
- Class 4 (Corporate Service) and Class 5 (Trust Services).

Similarly, any applicants seeking to carry on the above combinations of regulated activity will only pay the highest application fee for each of those combinations of licence permissions.

If the regulated entity in the above example carries on any other regulated activities under the FSA08, an additional Base Fee would apply in accordance with section 4.2 of the Fee Structure document.

The draft Financial Services (Fees) Order 2023 has been updated to reflect the above (see [section 3.2](#)).

2.3 Updates to Funding Model and Fee Structure documents

Three respondents specifically commented on the proposal to remove the fee tables from the Fee Structure document and incorporate the remainder into the Funding Model document. All three respondents agreed with this proposal as the fees are laid out in the Fees Orders and Regulations themselves.

³ https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/supporting_documents/CP2204NewAuthorityFundingModelApr23AppDFeeStructure%20190522.pdf

⁴ <https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/>

⁵ The draft Fee Structure document was to be read in conjunction with the draft Funding Model document and explained how the Authority's proposed new fee structure worked. The proposed fees were included in the Fee Structure document. Much of this content has now been transposed into the draft Fees Orders and Regulations 2023. Any remaining content has now been incorporated into the revised Funding Model document.

The Funding Model document has been updated to include relevant parts of the Fee Structure document and changes made following this consultation and the previous consultation ([Appendix B](#)).

2.4 Other comments and responses

No.	Comment	Authority Response
1.	Some designated businesses were uncertain if they would pay the full registration and oversight fee or the lower registration-only fee to the Authority.	Any designated businesses registered with the Authority but overseen by a delegated oversight body will pay an annual registration fee to the Authority and an oversight fee to the delegated oversight body. This annual registration fee is in addition to the application fee that designated businesses pay to the Authority in order to register.
2.	One respondent queried whether there was any reduction for an authorised insurer with 'dormant' status in accordance with regulation 18(2) of the Insurance Regulations 2021.	The proposed fee structure does not include any reduction for authorised insurers with 'dormant' status. Such entities are still authorised insurers and the Authority considers it appropriate to maintain an annual fee. In terms of the level of the fee, the Authority has held fees for Class 12 insurers to similar levels under the current fee structure and considers it appropriate to maintain this fee level for 'dormant' insurers as well.
3.	One respondent commented on the proposed stratification of 'material change of control' fees in terms of the types of fee (Type A, B, C or D) that would apply if there were multiple changes occurring over different time periods.	The proposed stratification of fees will not work perfectly in every situation. In some circumstances, the Authority may apply a 'Type D' fee to cover any change in the ownership or voting power of a regulated entity that the Authority considers to be a material change of control (for example, where it is clear that a series of smaller changes are being made, which when taken together, are material). In doing so, the Authority will have regard to the materiality of that change of control in terms of the size or timing of that change.
4.	One respondent sought clarification on the following phrase from article 5(5)(c)(i) of the draft Financial Services (Fees) Order 2023: 'taken from the latest audited financial statements submitted	By way of example, this means that, if the financial statements for the year ended 31 March 2023 are filed after 30 April 2023, the fee payable on 1 August 2023 (the annual review date) would be

No.	Comment	Authority Response
	by the licenceholder to the Authority on or before 30 April before the annual review date'	based on the financial statements for the year ended 31 March 2022.
4.	One respondent, noting the Authority's intention to move to a predominantly industry-funded model ('PIFM'), suggested the proposed fee levels appeared to be too low for a number of sectors, particularly in light of the current economic climate.	<p>The Authority's approach to developing the new funding model has been outlined in previous consultations and is referenced in the consultation on the New Authority Funding Model from 1 April 2023.⁶</p> <p>The fee proposals are intended to achieve the Authority's aim of being predominantly industry-funded by 2025/26. There is a risk that fee income may be lower than expected in 2025/26, particularly in view of the current economic environment and the intervening time period. In order to provide certainty for industry as part of the move to a PIFM, fees have been set for 2023/24, 2024/25 and 2025/26.</p> <p>The Authority will need to undertake a review of the situation as it gets closer to the end of that period to ensure the funding model still achieves its aims. Any future changes to fees will be subject to consultation.</p>
5.	One respondent noted that the timing of the exercise is unfortunate, citing the additional regulatory burden for the insurance sector in recent months as a result of the revised insurance regulatory framework, which included (amongst other things) the re-categorisation of some Class 12 insurers as Class 3 to 9 or 11 insurers. They also noted that the proposed fee increases for insurance managers and insurance intermediaries seemed excessive.	The Authority's response to the previous consultation on the New Authority Funding Model from 1 April 2023 explained its positioning on the proposed fee structure. ⁷ The Authority concluded that the proposed new funding model and fee structure was a reasonable basis for achieving a PIFM and would not make the Isle of Man uncompetitive with other international financial centres. The previous consultation covered the perceived impact of the move and the steps taken

⁶ <https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/>

⁷ https://consult.gov.im/financial-services-authority/fees-orders-and-regulations-2023/supporting_documents/CP2205FeesOrderandRegulations2023.pdf

No.	Comment	Authority Response
		by the Authority to compare fees against those in other jurisdictions.
6.	Four designated businesses responded to the consultation saying they believed the proposed fees were too high for their respective businesses.	<p>The Authority held two Question and Answer ('Q&A') webinars for designated businesses on 4 and 11 November 2022. Following the sessions, the Authority circulated links to the slide deck and Q&A Document, which can be accessed using the following links:</p> <ul style="list-style-type: none"> • Consultation on Fees Orders and Regulations 2023: Designated Businesses Q&A – Slide Deck • Consultation on Fees Orders and Regulations 2023: Designated Businesses Q&A – Q&A Document. <p>The above documents set out the Authority's positioning on fees for Designated Businesses and responses to questions covered in the webinars.</p>

2.5 Drafting issues

One respondent identified some drafting issues in the draft secondary legislation, which have now been corrected. The Authority has also taken the opportunity to review the secondary legislation following the Consultation and has made some amendments. These are covered in [section 3](#) below.

3. Changes to the Proposals

3.1 Revised draft Fees Orders and Regulations 2023

Revised drafts of the following secondary legislation have been prepared to incorporate the changes listed in the rest of [section 3](#):

- Appendix C – Revised draft Collective Investment Schemes (Fees) Order 2023
- Appendix D – Revised draft Designated Businesses (Fees) Order 2023
- Appendix E – Revised draft Financial Services (Fees) Order 2023
- Appendix F – Revised draft Insurance (Fees) Regulations 2023
- Appendix G – Revised draft Registered Schemes Administrators (Fees) Order 2023
- Appendix H – Revised draft Register of Section 14E Auditors Regulations 2023.

3.2 Financial Services (Fees) Order 2023

3.2.1 Annual fee calculation – highest Volume Fee where multiple permissions

Article 5(6)(d) of the Order has been amended to clarify that, where a regulated entity carries on multiple regulated activities, only the highest applicable Volume Fee will be used to calculate the annual fee.

3.2.2 Fee concessions for certain combinations of activities under the FSA08

As noted in [section 2.2](#), the draft Financial Services (Fees) Order 2023 has been updated to reflect the treatment of Base Fees in the annual fee calculation for regulated entities holding the following combinations of licence:

- (a) Class 1(1) or Class 1(2) (Deposit Taking)
- (b) Class 2 (Investment Business) and Class 3 (Services to Collective Investment Schemes)
- (c) Class 4 (Corporate Services) and Class 5 (Trust Services).

The Order has also been updated to reflect the treatment of application fees for (b) and (c) above. The changes outlined above are shown as tracked changes in articles 4(2) and 5(6) of the Order (Appendix E).

3.2.3 Calculation of “appointments” for Professional Officers

Article 5(5) of the Financial Services (Fees) Order 2023 (Appendix E) has been amended to clarify the calculation of appointments for the annual fee of a Class 4 (Corporate Services) or Class 5 (Trust Services) Professional Officer under the FSA08. The amendment clarifies that the appointments relate to regulated activities carried on by the licenceholder (i.e. acting as a director, trustee, protector or enforcer) and, for avoidance of doubt, do not include any excluded (i.e. non-regulated activity).

3.3 Insurance (Fees) Regulations 2023

3.3.1 Annual fee calculation – highest Volume Fee where multiple permissions

Regulation 5(6)(b) of the Regulations has been amended to clarify that, where a regulated entity carries on multiple insurance activities, only the highest applicable Volume Fee will be used to calculate the annual fee.

3.3.2 Definitions for “gross written premiums” and “total accounting liabilities”

The following definitions in regulation 3 (interpretation) of the Insurance (Fees) Regulations 2023 have been amended:

Definition	Original	Amended	Reason for Change
“gross written	“GWP”, in relation to an insurer, means the premium income receivable gross of	“GWP”, in relation to an insurer, means gross written premium (gross of reinsurance and any	To allow for insurers reporting under IFRS17 and to be consistent with the

Definition	Original	Amended	Reason for Change
premiums” / “GWP”	reinsurance and any rebates or refunds;	rebates or refunds, commission and other acquisition expenses). Premium received may be used in place of written premium where this is the premium measure reported in the insurer’s audited financial statements;	approach used for the Insurance (Civil Penalties) Regulations 2023.
“total accounting liabilities”	“total accounting liabilities” , in relation to an insurer, means the accounting basis value of its total liabilities;	“total accounting liabilities” , in relation to an insurer, means the insurer’s technical provisions and all other non-insurance liabilities reported in its financial statements;	Expanded definition to be clearer.

3.3.3 Deposit takers registered as insurance intermediaries

The Insurance (Fees) Regulations 2023 have been amended so that regulated entities licensed to carry on Class 1(1) or Class 1(2) (Deposit Taking) regulated activity under the FSA08 will only pay a Base Fee for an insurance intermediary registration under the Insurance Act 2008 (‘IA08’), i.e. they will not pay a Volume Fee. This is shown as tracked changes in Schedules 3, 4 and 5 to the Regulations (Appendix F).

3.3.4 Partially exempt insurance intermediaries

Schedules 1, 3, 4 and 5 to the Insurance (Fees) Regulations 2023 (Appendix F) have been amended to clarify that partially exempt intermediaries under both regulation 6(2) and 6(3) of the Insurance Intermediaries (General Business) Regulations 2020 do not pay an annual fee. The previous draft only included regulation 6(2).

3.4 Other changes

The following changes have been made to the draft secondary legislation as a result of responses received:

Secondary Legislation	Provision	Correction
Financial Services (Fees) Order 2023	Article 5(1)	Correction of the erroneous reference ‘(8)(7)’ with ‘(8)’.
	Schedules 3, 4 and 5	Insertion of ‘apart from Row 2’ in Row 1 (Class 2 (Investment Business) for clarity.
Insurance (Fees) Regulations 2023	Schedule 5	Correction of the fee for a registered insurance manager from ‘£5,502’ to ‘£5,202’.

Minor amendments have been made to clarify certain provisions and improve readability. For example, a few 'subject to' provisions were incorrectly cross-referenced and have now been amended. Indexes have been added to make it easier to locate relevant fee tables. All amendments are shown as tracked changes in the appendices.

4. Next Steps

The Authority will finalise the revised draft secondary legislation ready for laying before Tynwald for approval in the first quarter of 2023 for commencement on 1 April 2023.

In case of any query, please contact:

Mr Andrew Kniveton

Isle of Man Financial Services Authority

PO Box 58, Finch Hill House, Bucks Road, Douglas Isle of Man, IM99 1DT

Email: Policy@iomfsa.im

Telephone: +44 (0) 1624 689304

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

- Alliance of Isle of Man Compliance Professionals
- Association of Chartered Certified Accountants (as oversight body)
- Association of Chartered Certified Accountants (Isle of Man branch)
- Association of Corporate Service Providers
- Chartered Governance Institute (Isle of Man branch)
- Chartered Institute for Securities and Investment (Isle of Man branch)
- The Department for Enterprise
- Financial Planners & Insurance Brokers Association
- 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)
- Insurance Institute of the Isle of Man
- Isle of Man Association of Pension Scheme Providers
- Isle of Man Bankers Association
- Isle of Man Captive Association
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Isle of Man Law Society (as oversight body)
- Isle of Man Society of Chartered Accountants
- Isle of Man Wealth & Fund Services Association
- London Institute of Banking and Finance (Isle of Man branch)
- Manx Actuarial Society
- Manx Insurance Association
- Society of Trust and Estate Practitioners (Isle of Man branch)
- The Treasury.

Appendix B – Updated Authority Funding Model Document

The updated Authority Funding Model has been uploaded as a separate document:

- Appendix B – Authority Funding Model.

The above documents can also be accessed through the Consultation Webpage on the Isle of Man Government Consultation Hub.⁸

⁸ <https://consult.gov.im/>

Appendices C-H – Revised Draft Fees Orders and Regulations 2023

Revised drafts of the following secondary legislation have been prepared to implement the Authority's new fee structure. These appendices have been uploaded as separate documents:

- Appendix C – Revised draft Collective Investment Schemes (Fees) Order 2023
- Appendix D – Revised draft Designated Businesses (Fees) Order 2023
- Appendix E – Revised draft Financial Services (Fees) Order 2023
- Appendix F – Revised draft Insurance (Fees) Regulations 2023
- Appendix G – Revised draft Registered Schemes Administrators (Fees) Order 2023
- Appendix H – Revised draft Register of Section 14E Auditors Regulations 2023.

The above documents can also be accessed through the Consultation Webpage on the Isle of Man Government Consultation Hub.⁹

⁹ <https://consult.gov.im/>