



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Paper
Fees Orders and Regulations 2023

CP22-05

Issue Date: 18 October 2022

Closing Date: 29 November 2022

Consultation Paper – CP22-05

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.

This consultation follows the Authority's Consultation Paper CP22-04 on the New Authority Funding Model from 1 April 2023, which ran from 12 May 2022 to 24 June 2022.¹ The purpose of this consultation is to obtain views on the draft secondary legislation to implement the new fee structure. The consultation is relevant to all of the Authority's stakeholders and fee payers.

The closing date for comments is **29 November 2022**.

Please send comments in writing and preferably by email to:

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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 Policy@iomfsa.im or by telephone on +44 (0) 1624 646000.

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

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Glossary

Authority	Isle of Man Financial Services Authority
PIFM	Predominantly Industry-Funded Model
Previous consultation	Consultation Paper (CP22-04) New Authority Funding Model from 1 April 2023 ²

² <https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/>

1. Executive Summary

1.1 Overview

Consultation Paper CP22-04 on the New Authority Funding Model from 1 April 2023 invited interested parties to provide feedback on the Authority's proposed new funding model and fee structure.³ It asked specific questions on the suitability of the proposals and corresponding impact on fee payers. That consultation ran from 12 May 2022 to 24 June 2022. Following a review of responses, the Authority published Consultation Response CR22-04 on 20 September 2022. That document provided a summary of feedback received on the consultation as well as details of corresponding changes made to the fee structure and next steps.

1.2 What is the purpose of this Consultation Paper?

This Consultation Paper presents the draft secondary legislation to implement the Authority's new fee structure.

1.3 Who may be affected by this Consultation Paper?

This Consultation Paper is relevant to all of the Authority's stakeholders and fee payers. It is particularly relevant to persons that are licensed, authorised or registered under the Financial Services Act 2008, Insurance Act 2008, Retirement Benefits Schemes Act 2000 or Designated Businesses (Registration and Oversight) Act 2015, or those that have responsibility for collective investment schemes under the Collective Investment Schemes Act 2008. It is also relevant to advisers to those persons, or potential applicants for those permissions or their advisers.

This consultation is also relevant to Recognised Auditors under the Register of Recognised Auditors Regulations 2010 and auditors authorised by the Authority under section 14E of the Companies Act 1982.

2. Consultation Process

2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the Financial Services Act 2008 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.

³ <https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/>

The Authority must consider certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the Financial Services Act 2008. The most relevant factors for this consultation are considered as follows:

No.	Factors
1.	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.
2.	The need to use resources in an efficient and economic way.
3.	The desirability of implementing and applying recognised international standards.
4.	The desirability of cooperating with governments, regulators and others outside the island.
5.	The need to safeguard the reputation of the island.
6.	The need to promote public understanding of the financial services, insurance and pensions industries.
7.	The international character of the financial services, insurance and pensions industries and their markets and the desirability of maintaining the competitive position of the Island.
8.	The desirability of facilitating the development of the financial services, insurance and pensions industries.
9.	The impact of its decision on the stability of the financial system of the Island.

The Authority's ability to address all of the above factors depends on it having sufficient funding and resources available. It is important that there is a suitable regulatory framework in place to protect consumers of financial services and maintain the Island's reputation as an international financial centre. The framework must also be in place and meet international standards in order for the businesses affected by it to continue to trade successfully. The Authority and the Treasury are mindful that the Island's frameworks for regulation and oversight have historically received a significant level of taxpayer funding. This Consultation Paper is an opportunity for stakeholders to consider the draft secondary legislation to implement the Authority's new fee structure.

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 Consultation Paper:

- As responses to the consultation may be subject to publication or disclosure in accordance with access to information regimes, respondents should state if they wish their response to remain confidential and, if so, the reasons for this.
- 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 Consultation Response.

This Consultation Paper has been published on the Authority's website and the Isle of Man Government's Consultation Hub⁴. A list of specific groups to which this Consultation Paper has been sent is shown in [Appendix A](#).

3. Proposals

3.1 Engagement plan

In 2020, the Authority outlined six stages for the process of consulting on, developing and moving to a PIFM in its Discussion Paper on Funding Financial Regulation and Designated Business Oversight.⁵ This Consultation Paper represents the continuation of Stage 5. The table below shows the current status:

Stage	Description	Status
1.	Initial planning with the Treasury and discussions with other stakeholders on the engagement plan.	Completed by September 2020.
2.	Issue of a Discussion Paper on the funding arrangements for regulation and oversight (this document) after the launch of a separate Consultation Paper on proposed fee increases from 1 April 2021 and 1 April 2022.	Completed by January 2021.
3.	Meetings with industry associations and other interested parties to review key elements of the Discussion Paper and the Authority's approach to achieving a PIFM.	Completed by October 2021.
4.	Review of the current funding model, and development of a PIFM and new fee structure with the assistance of an independent third party.	Completed by April 2022.
5.	Consultation on the PIFM, new fee structure and calculation methodology, and subsequent refinement of those proposals.	Started with the publication of the first consultation in May 2022 ⁶ and this second consultation in October 2022.
6.	Phased implementation of the PIFM and new fee structure.	Due to commence from 1 April 2023.

⁴ <https://consult.gov.im/>

⁵ https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/consult_view/

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

3.2 Draft Fees Orders and Regulations 2023

The Authority's new fee structure will be implemented by way of secondary legislation. The Authority has prepared drafts of the relevant implementing legislation, which can be found in the following appendices:

- [Appendix B](#) – Draft Collective Investment Schemes (Fees) Order 2023
- [Appendix C](#) – Draft Designated Businesses (Fees) Order 2023
- [Appendix D](#) – Draft Financial Services (Fees) Order 2023
- [Appendix E](#) – Draft Insurance (Fees) Regulations 2023
- [Appendix F](#) – Draft Registered Schemes Administrators (Fees) Order 2023
- [Appendix G](#) – Draft Register of Section 14E Auditors Regulations 2023.

This draft legislation incorporates the Fee Structure for the various types of fee payer and covers some of the more administrative and practical elements of the fee structure, such as when fees are payable (e.g. annual review dates) and when data necessary for the calculation of fees is collected.

The fees for Recognised Auditors are set under the Register of Recognised Auditors Regulations 2010, which are already in force.⁷ No changes are proposed to those fees in this consultation.

As noted in the previous consultation, changes to annual fees are due to be implemented in three phases. This is to allow time for fee payers to adjust to the move to a predominantly industry-funded model. The draft legislation shows applicable fees from 1 April 2023 to 31 March 2024, 1 April 2024 to 31 March 2025 and 1 April 2025. Application fees are set at their target amount from 1 April 2023 with a 2% adjustment in subsequent years in line with typical annual budget increases.

The Authority invites feedback on the draft secondary legislation. The Authority is particularly interested to hear from existing (or potential future) fee payers as to whether the legislation presents the fees clearly enough, or if improvements could be made. The Authority is also interested as to whether readers can think of any particular situations or scenarios that would not be adequately covered by the legislation, as currently drafted.

Question 1

Do you have any comments or questions on the draft Fees Orders and Regulations for 2023 included in [Appendices B to G](#)?

3.3 Revised fees for Class 3 (Services to Collective Investment Schemes) and collective investment schemes themselves

The Authority's Consultation Response on the New Funding Model from 1 April 2023 noted that the revised fee proposals for Class 3 (Services to Collective Investment Schemes) and collective investment schemes would be included in the next consultation. These fees

⁷ <https://www.iomfsa.im/auditors/recognised-auditor-requirements/>

proposals can be found in [Appendix B](#) (Draft Collective Investment Schemes (Fees) Order 2023) and [Appendix D](#) (Draft Financial Services (Fees) Order 2023).

Question 2

Do you have any comments or questions on the revised fee proposals for Class 3 (Services to Collective Investment Schemes) and collective investment schemes shown in [Appendix B](#) and [Appendix D](#)?

3.4 Application fees and transaction fees

The previous consultation set out the proposed annual fees, application fees and transaction fees under the new Authority Funding Model from 1 April 2023. Transaction fees were proposed for existing regulated entities for the following types of activity:

- Applications to carry on additional types of regulated activity
- Court transfer schemes, i.e. applications for an order sanctioning a relevant transfer scheme under paragraph 3(1) of Schedule 1A (Transfer of Business Including Deposit-Taking) to the Financial Services Act 2008
- Portfolio transfers, i.e. applications for an order sanctioning a scheme under which the whole or part of the long-term business carried on by an insurer is to be transferred to another insurer under paragraph 1 of Schedule 2 (Transfer of Long-Term Business) to the Insurance Act 2008.

Transaction fees were proposed to help cover the cost of more resource-intensive work the Authority identified outside of day-to-day supervision and oversight. In the draft Fees Orders and Regulations 2023, these fees can be found in the application fees Schedules:

- Schedule 2 to the Financial Services (Fees) Order 2023
- Schedule 2 to the Insurance (Fees) Regulations 2023
- Schedule 2 to the Registered Schemes Administrators (Fees) Order 2023
- Table 2 of Schedule 2 to the Register of Section 14E Auditors Regulations 2023.

As a result of the previous consultation, the Authority agreed to further refine and stratify the proposed change of control fees. The refined fee proposals are covered in this Consultation Paper. In summary, the Authority plans to charge fees for 'material changes of control'. For example, a full change of control fee will be payable where a regulated entity is acquired, e.g. by a new majority owner. A lower change of control fee will be payable where there is significant change to the existing ownership or voting power of a regulated entity. Material change of control fees will not apply to changes of directors etc.

Also following the previous consultation, the Authority noted that the existing fee for the establishment of a new branch or deposit-taking subsidiary outside of the Isle of Man, by a licenceholder licensed to carry on Class 1(1) or Class 1(2) regulated activity where the Authority is the lead regulator, had not been included. This fee has now been included in row 7 of Schedule 2 to the draft Financial Services (Fees) Order 2023.

Question 3

Do you have any comments or questions on the application fees for transaction-type matters included in [Appendices B, D, E, F or G](#)?

3.5 Authority Funding Model and Fee Structure documents

The previous consultation invited comments on two draft documents: the **Authority Funding Model**⁸; and the **Authority Fee Structure from 1 April 2023**⁹. The Fee Structure document was used to present the proposed annual fees, application fees and transaction-type fees that would be payable from 1 April 2023 for consultation. That document was intended to sit alongside the Authority Funding Model document as a reference for all fees. Both documents were then be updated after the consultation process, ready for implementation on 1 April 2023.

The current Fees Orders and Regulations date from 2021 and all use different formats due to them being made under different primary legislation. When preparing the draft Fees Orders and Regulations 2023, the Authority sought to adopt a consistent format for presenting fees across each piece of secondary legislation. Readers will see that all fees are now presented in tables (grouped by sector or type of activity) in the Schedules to each piece of secondary legislation. This format is intended to make it easier for users to find the relevant fees.

In view of the above, the Authority considers that the Fee Structure document no longer needs to list the fees, as they should be easily accessible in the relevant pieces of secondary legislation. Subject to feedback from this consultation, the Authority proposes to omit the fee tables and incorporate the remainder of the Fee Structure document content into the Authority Funding Model document ready for implementation on 1 April 2023.

Question 4

Do you agree with the proposal to omit the fee tables and incorporate the remainder of the Fee Structure document content into the Authority Funding Model document? If not, please explain why.

3.6 Report by the Third Party Advisers

The Authority originally planned to publish a report by the Third Party Advisers' ('TPAs') on their involvement in the AFM Project towards the end of 2022 once the proposals had been shaped ready for implementation from 1 April 2023. Following feedback received to the last consultation, the Authority agreed to publish the TPAs' report sooner.

By way of background, the Authority confirmed in the 2020 Discussion Paper and 2021 Feedback Statement on Funding Financial Regulation and Designated Business Oversight that it was engaged in a procurement process for an independent third party with suitable

⁸ https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/supporting_documents/CP2204NewAuthorityFundingModelApr23AppCModel.pdf

⁹ https://consult.gov.im/financial-services-authority/new-authority-funding-model-from-1-april-2023/supporting_documents/CP2204NewAuthorityFundingModelApr23AppDFeeStructure%20190522.pdf

experience to assist with the review of the Authority's funding model and development of a new predominantly industry-funded model.¹⁰ The procurement process was supported by the Treasury. Ian Tower and Nadege Genetay were appointed as Third Party Advisers ('TPAs') for the project in January 2021 and began by reviewing responses to the 2020 Discussion Paper.

As part of their engagement on the Authority's funding model project, the TPAs provided input on the following topics:

- (a) principles for development of a PIFM;
- (b) preliminary jurisdictional comparison;
- (c) treatment of civil penalty income;
- (d) innovation funding;
- (e) treatment of surpluses and deficits; and
- (f) transparency and related issues.

Further detail on the TPAs' input to the project was provided in the previous consultation (see section 3.3 (Third party advisers), section 3.4 (Principles) and Appendix B (Research and Policy Considerations)).

A copy of the TPAs' report on their involvement in the project can be found, for information, in [Appendix H](#).

The Authority used the TPAs' input to go on to develop the PIFM and the new fee structure through detailed fee modelling work. As part of this work, the Authority undertook a comparison of fee structures used by other regulators with reference to the sector fee bandings and metrics used by other regulators and example 'small', 'medium' and 'large' Isle of Man firms by sector. This allowed reasonable fee comparison with other jurisdictions both by sector and by entity size. The results of this exercise were shared with the Industry Working Group and the relevant industry associations prior to the launch of the previous consultation. A copy of the results were included in Appendix C to the Authority's response to the previous consultation.

4. Impact Assessment

This consultation covers the secondary legislation to implement the Authority's new Fee Structure as part of its move to a PIFM. Please refer to the previous consultation for more information on the background to the Authority's move to a PIFM. In summary, the Authority concluded that the proposed new funding model and fee structure was a reasonable basis for achieving that aim 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 by the Authority to compare fees against those in other jurisdictions.

¹⁰ <https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/>

5. List of Questions Asked in this Consultation Paper

The questions asked in this Consultation Paper are listed below for ease of reference:

Question 1

Do you have any comments or questions on the draft Fees Orders and Regulations for 2023 included in [Appendices B to G](#)?

Question 2

Do you have any comments or questions on the revised fee proposals for Class 3 (Services to Collective Investment Schemes) and collective investment schemes shown in [Appendix B](#) and [Appendix D](#)?

Question 3

Do you have any comments or questions on the application fees for transaction-type matters included in [Appendices B, D, E, F or G](#)?

Question 4

Do you agree with the proposal to omit the fee tables and incorporate the remainder of the Fee Structure document content into the Authority Funding Model document? If not, please explain why.

6. Next Steps

Following closure of the consultation period, the Authority will review the responses received and publish a Consultation Response document on the Authority's website and the Isle of Man Government's Consultation Hub.

Subject to any changes to the proposals that may be made as a result of responses received, it is intended that the draft legislation will be finalised for laying before Tynwald for approval in the first quarter of 2023 for commencement on 1 April 2023.

Appendix A – List of Groups to which this Consultation Paper 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-G – Draft Fees Orders and Regulations 2023

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 B – Draft Collective Investment Schemes (Fees) Order 2023
- Appendix C – Draft Designated Businesses (Fees) Order 2023
- Appendix D – Draft Financial Services (Fees) Order 2023
- Appendix E – Draft Insurance (Fees) Regulations 2023
- Appendix F – Draft Registered Schemes Administrators (Fees) Order 2023
- Appendix G – 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.¹¹

¹¹ <https://consult.gov.im/>

Appendix H – Report by the Third Party Advisers

This appendix has been uploaded as a separate document.

- Appendix H – Report by the Third Party Advisers.

The document can also be accessed through the Consultation Webpage on the Isle of Man Government Consultation Hub.¹²

¹² <https://consult.gov.im/>