

**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

**Discussion Paper
Funding Financial Regulation and
Designated Business Oversight**

DP20-01/T14

**Issue Date: 30 October 2020
Closing Date: 22 January 2021**

Discussion Paper – DP20-01/T14

This Discussion 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 the paper is to discuss proposals for greater industry funding of financial regulation and Designated Business oversight. The paper is relevant to all of the Authority's stakeholders. It is particularly relevant to fee payers under the Collective Investment Schemes Act 2008, Designated Businesses (Registration and Oversight) Act 2015, Financial Services Act 2008, Insurance Act 2008 and Retirement Benefits Schemes Act 2000.

The closing date for comments is **22 January 2021**. Given the content of the Discussion Paper and the wide range of stakeholders who may wish to contribute, it was planned to hold a 10-week discussion period, which is longer than the Authority's standard. However, recognising the fact that this would run over the Christmas and New Year period, an additional two weeks has been added to make a total of 12 weeks.

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.

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Glossary

2020-21 Budget	Isle of Man Budget 2020-21
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
Authority / IOMFSA	Isle of Man Financial Services Authority
CISA08	Collective Investment Schemes Act 2008
CPI	Consumer Price Index
DBROA15	Designated Businesses (Registration and Oversight) Act 2015
Designated Businesses	Designated non-financial businesses and professions
Fintech	Financial technology
FSA08	Financial Services Act 2008
FSC	Financial Supervision Commission
IA08	Insurance Act 2008
ICP	Insurance Core Principles
IPA	Insurance and Pensions Authority
IOSCO	International Organization of Securities Commissions
KPI	Key Performance Indicator
PIFM	Predominantly Industry-Funded Model
RBSA00	Retirement Benefits Schemes Act 2000
Regulated Entities	Persons licensed, authorised, registered or otherwise regulated under the Financial Services Act 2008, the Collective Investment Schemes Act 2008, the Insurance Act 2008 or the Retirement Benefits Schemes Act 2000
Regulation and oversight	Financial regulation and Designated Business oversight
Regulatory Acts	CISA08, FSA08, IA08 and RBSA00
Treasury	Isle of Man Treasury

1. Executive Summary

1.1 Overview

The Treasury made several announcements regarding the future funding of the Authority in the 2020-21 Budget.¹ This Discussion Paper seeks views on moving the Authority towards a predominantly industry-funded model ('PIFM') in the future. A separate Consultation Paper (CP20-03/T14) was issued on 16 October 2020 regarding specific proposals to increase fees payable to the Authority from 1 April 2021 and 1 April 2022 to cover the additional resources allocated in the 2020-21 Budget and to start the transition towards a PIFM.² The fee increases proposed in the Consultation Paper are projected to move the Authority from being approximately 50% industry funded in 2019/20 to 56% industry funded by 2022/23.

1.2 What is the purpose of this Discussion Paper?

This Discussion Paper is an opportunity to consider the funding arrangements for financial regulation and Designated Business oversight in the Isle of Man and to provide feedback on proposals to achieve a greater degree of industry funding. This document asks specific questions to assist the Authority's review, however respondents are welcome to comment on other issues that may be relevant to them. Respondents are not obliged to answer all of the questions when responding, however, the more responses that are received, the more information the Authority will have on which to base future proposals.

1.3 Who may be affected by this Discussion Paper?

The Discussion Paper is relevant to all persons that are licensed, authorised or registered under the FSA08, IA08, RBSA00, DBROA15 or that have responsibility for collective investment schemes under the CISA08. It is also relevant to advisers to those persons, or potential applicants for those permissions or their advisers.

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's expenditure is currently covered by approximately 50% fee income and a 50% contribution from the Isle of Man Government in the form of a general subvention from the Treasury. Fee income therefore contributes towards the carrying out of the

¹ 2020-21 Budget, <https://www.gov.im/categories/tax-vat-and-your-money/2020-21-budget/>

² https://consult.gov.im/financial-services-authority/fees-from-1-april-2021-and-1-april-2022/consult_view/

Authority's functions and maintenance and development of the Island's regulatory framework for financial services. Further information on the Authority's income and expenditure for the year ended 31 March 2020 can be found in Appendix E of the Authority's Annual Report for 2019/20.³

The Authority must consider certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this Discussion Paper 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 Authority's ability to address all of these factors is dependent on the Authority having sufficient funding and resources available. It is important that there is a suitable regulatory framework in place to protect users of financial services and maintain the Island's reputation as an international financial centre. The Authority and the Treasury are mindful that the Island's frameworks for regulation and oversight currently receive a significant level of taxpayer funding. This Discussion Paper is an opportunity for stakeholders to consider changes to the funding model that would lead to a greater degree of industry funding and how that could be achieved.
The need to use resources in an efficient and economic way.	
The desirability of implementing and applying recognised international standards.	
The desirability of cooperating with governments, regulators and others outside the island.	
The need to safeguard the reputation of the island.	
The need to promote public understanding of the financial services, insurance and pensions industries.	
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.	
The desirability of facilitating the development of the financial services, insurance and pensions industries.	
The impact of its decision on the stability of the financial system of the Island.	

2.2 Responding to the Discussion Paper

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

- As responses to the Discussion Paper 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.

³ <https://www.iomfsa.im/publications/>

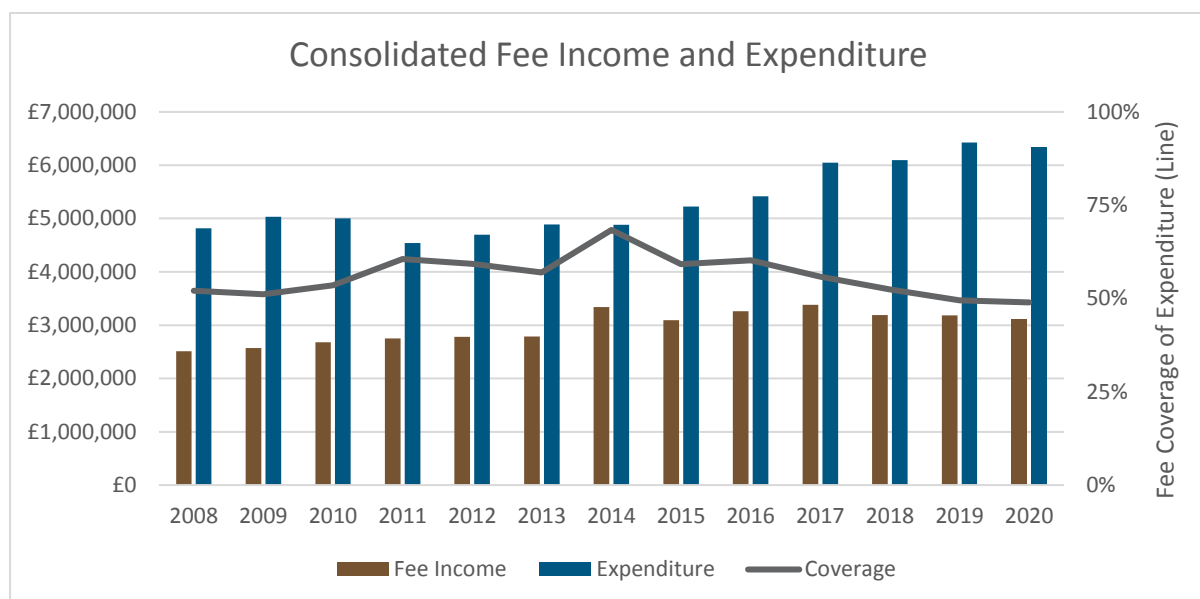
- Submissions received by the closing date of the Discussion Paper will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a Discussion Paper 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.

This Discussion 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 Discussion Paper has been sent is shown in the Appendix.

3. Proposals

3.1 Background

The Authority charges fees to Regulated Entities and Designated Businesses. The chart below shows the consolidated fee income and expenditure for the Authority and its predecessors from 2008 to 2020:



The more recent increases in expenditure reflect changes to the environment in which the Authority operates, which have created resourcing challenges in recent years. These include:

- The increased scope of the Authority's activities in terms of new areas of regulation (such as the Insurance Core Principles) and the assignment of new responsibilities (such as responsibility for oversight of Designated Businesses from 2015 and oversight of the Island's Database of Beneficial Ownership from 2017).

⁴ <https://consult.gov.im/>

- Changes to international standards, which have imposed a broader range of demands on the regulated community and on jurisdictions to demonstrate both technical compliance and effectiveness.
- A rise in the risk appetite of some sectors following increased competition, resulting in the need for more scrutiny to ensure that consumers are appropriately protected.
- A more litigious environment evidenced by higher instances of challenge to the Authority's requests in some cases, resulting in additional work to achieve outcomes.
- The need to be responsive to the development of fintech solutions and better understand related opportunities and risks.

For the year ended 31 March 2020 fee income covered approximately 50% of the Authority's expenditure. The rest was covered by a subvention from the Treasury, which is ultimately funded by Isle of Man tax revenue.

The Authority's current fee levels and fee structure have not changed significantly in a number of years and most fee increases in the past several years have been in line with inflation. In addition, the trend for business consolidation within the various sectors over the past decade has meant that the number of fee payers has decreased in absolute terms, whilst the nature and scale of activity being undertaken has stayed the same, or in some cases, increased.

The Treasury Minister made the following remarks about the future funding of the Authority when delivering the 2020-21 Budget in Tynwald on 18 February 2020:

"It is vital that we maintain our focus on maintaining standards of regulation and compliance in the financial services sector to safeguard the island's reputation, ensuring the continued prosperity of the IOM financial services sector and to ensure we are capable of meeting ever changing international standards. To do so we must constantly assess our skills and resourcing to ensure we are positioned to meet these challenges. As a consequence the Financial Services Authority will be given £480,000 additional resource to allow it to protect the Island's high standards of compliance and regulation.

"Also recognising the desirability of the Authority's financial independence, it is intended that plans will be developed for the Authority to move to a predominantly industry funded model in the future. The Treasury and the FSA will shortly undertake a joint consultation on transitioning the FSA towards this desired model."⁵

This Discussion Paper seeks views on moving the Authority towards a predominantly industry-funded model ('PIFM') in the future.

A separate Consultation Paper (CP20-03/T14) was issued on 16 October 2020 regarding specific proposals to increase fees payable to the Authority from 1 April 2021 and 1 April 2022.⁶ The fee increases proposed in the Consultation Paper are projected to move the Authority from approximately 50% industry funding in 2019/20 to 56% industry funding by 2022/23, and so there is further work to do on moving to a PIFM.

⁵ Budget speech 2020, <https://www.gov.im/media/1368492/budget-speech-2020.pdf>

⁶ https://consult.gov.im/financial-services-authority/fees-from-1-april-2021-and-1-april-2022/consult_view/

3.2 Engagement plan and roadmap

Moving from the current position, where Authority costs are covered approximately 50:50 by the industry and the Isle of Man taxpayer, to a PIFM will involve a significant change to the levels and types of fees charged by the Authority. The Authority is therefore following an enhanced engagement plan with industry to raise awareness of the move to a PIFM and seek input into its development. At the time of writing, the Authority is engaged in a procurement process for an independent third party with suitable experience to assist with the review.

The process of consulting on, developing and moving to a PIFM will follow six stages:

- (1) Initial planning with the Treasury and discussions with other stakeholders on the engagement plan.
- (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.
- (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.
- (4) Review of the current funding model, and development of a PIFM and new fee structure with the assistance of an independent third party.
- (5) Consultation on the PIFM, new fee structure and calculation methodology, and subsequent refinement of those proposals.
- (6) Phased implementation of the PIFM and new fee structure.

We will be working with both an Industry Advisory Group (the focus and composition of which will be considered in due course) and a sub-committee of the Authority's Board to consider recommendations driven by responses to the Discussion Paper and the work of the independent third party.

The timeframe for the conclusion of the process is unknown, although the intention is that progress will be sufficient to inform the setting of fees for 2023/24. This will take place in autumn 2022. The engagement process will allow for the issuance of further Discussion and/or Consultation Papers on discrete elements of the project and to undertake additional industry engagement as required. Responses to this initial Discussion Paper will inform the timetable for this project.

The Authority takes this opportunity to note that, whilst the new bank recovery and resolution framework will have a direct impact on most Class 1 (Deposit Taking) licenceholders under the FSA08 it is a separate matter. This Discussion Paper does not relate to the costs of the Authority acting in its capacity as the Isle of Man Resolution Authority. Those issues will be addressed in a separate consultation.

3.3 Funding financial regulation and Designated Business oversight

3.3.1 The Authority's role

The Authority is a statutory board established on 1 November 2015. The Authority's structure and functions are laid out in Schedule 1 to the FSA08. The Authority has a wide

range of functions, its primary role being the regulation and supervision of regulated financial services, insurance and pensions activities in or from the Isle of Man. The Authority must exercise its functions in a way compatible with its regulatory objectives. In addition to Regulated Entities, the Authority has a significant role in the registration and oversight of Designated Businesses, under the DBROA15, to monitor their compliance with the Island's AML/CFT requirements. The Authority also undertakes other statutory functions, such as under the Company Officers (Disqualification) Act 2009.

3.3.2 Financial regulation, Designated Business oversight and the economy

The financial services sector is a key component of the Isle of Man economy. The sector represented 35% (or £1.74 billion) of national income in 2017-18⁷ and provided 9,016 jobs on the Island in Quarter 1 of 2020.⁸ The Island maintains its position as an international financial centre through the combination of skilled and knowledgeable professionals working in financial services and the presence of a credible regulatory framework to maintain confidence and stability in those services. In addition, the registration and oversight framework for Designated Business is a critical element in the Isle of Man's international commitment to combatting money laundering and terrorist financing. Both the Authority and the Treasury are keen to ensure that the Island's high standards and reputation are upheld for the wider benefit of the sector and the broader economy.

The regulatory landscape for financial services has changed significantly since the global financial crisis of 2007-08. Financial services providers and regulators have worked hard to make efficiencies and manage resources to meet increased demands in a difficult business environment. The global focus of financial regulation has also undergone a major shift in recent years; jurisdictions are subject to additional obligations to show not only that they have suitable regulatory frameworks in place, but also that their supervisory and enforcement activity is effective. Whilst such demands must be met in a proportionate manner to sustain a healthy business environment, trust and confidence in the framework are key elements for stable financial economies. It is vital that the regulatory framework is up to the challenge and capable of withstanding international scrutiny.

The financial services sector continues to evolve, as do international standards for regulation and AML/CFT requirements. The ongoing digitisation of the economy and the development of fintech provide both opportunities and challenges. In order to maintain a suitable regulatory framework, the Authority needs sufficient resources to carry out its functions effectively and achieve its objectives. The prospect of the Authority being unable to support a compliant environment for Regulated Entities and Designated Businesses in the Isle of Man presents a significant risk to the economy. The financing of the Authority's operations is therefore a key issue for the Treasury, the Authority and its stakeholders.

⁷ [Isle of Man National Income 2017/18](#), Economic Affairs, Cabinet Office, October 2019. Consolidated figure includes: Banking; Insurance; Other Finance and Business Services; and Corporate Service Providers.

⁸ [Quarterly Economical and Statistical Update Quarter 1 2020](#), Economic Affairs, Cabinet Office, February 2020. Consolidated figure as above.

3.3.3 The rationale for a Predominantly Industry-Funded Model ('PIFM')

A robust regulatory environment supports financial stability, consumer protection, resilience against financial crime, a level playing field (both within and across sectors), and prudent and innovative development. The core components include:

- **Robust regulation**, in the form of law, rules and guidance.
- **Risk-based supervision**, by allocating more resources to areas posing higher risk to the regulatory objectives whilst ensuring active surveillance across all firms.
- **Credible deterrent**, in the form of effective and consistent enforcement measures.

For Regulated Entities and Designated Businesses, a licence, authorisation or registration is issued to enable a person to undertake regulated or registerable business (including holding or managing consumers' money and assets) and increase the Isle of Man's resilience against financial crime. As with any systems of checks and balances, these all come with their own costs and responsibilities.

The funding of regulation and oversight in the Isle of Man is currently subject to a significant level of taxpayer funding. That burden on taxpayers will continue without any significant changes to fees or a significant reduction in the quality of regulation and oversight. In other jurisdictions, the cost of regulation and oversight is borne by industry in most cases; primarily under the premise that persons using certain services should fund those services.

As well as the question over who should fund the relevant costs, the Authority and the Treasury are mindful of the fact that the Authority's funding model is expected to maintain sufficient operational independence to be an effective regulator and oversight body. International standards set by entities such as the Basel Committee on Banking Supervision ('BCBS'), the International Association of Insurance Supervisors ('IAIS') and the International Organization of Securities Commissions ('IOSCO') (against which the Island is assessed) all regard the operational independence of the regulator as important for effective regulation and freedom from undue government or industry influence. A key measure of independence against these standards is the funding model, and it is considered that proposals for a move to a PIFM (and the associated engagement with stakeholders over how that model will operate) will enhance the level of operational independence.

The concept of a PIFM is discussed in more detail in [section 4.1](#) of this paper.

4. Discussion Topics

This section of the Discussion Paper identifies several important areas where views are sought on funding the cost of regulation and oversight and the move to a PIFM. A number of questions are asked in each sub-section. All questions are listed together in [section 6](#). The answers provided by respondents will be shared with the Treasury and will inform development of the new funding model as well as the transition and implementation period.

4.1 Predominantly Industry-Funded Model ('PIFM')

4.1.1 Overview

The general concept of a PIFM is that the substantial majority of the Authority's costs would be covered by fee income from industry. In contrast to a fully industry-funded model, a PIFM would recognise that some of the Authority's activities do not relate directly to regulation or oversight. For example, director disqualifications and undertakings under the Company Officers (Disqualification) Act 2009 relate to Isle of Man companies generally and are distinct from financial services regulation and Designated Business oversight. Some may consider that the Isle of Man taxpayer should continue to fund certain activities that relate to the Island as a whole rather than the Authority's fee payers specifically.

Question 1

Do you consider the cost of regulation and oversight should continue to be subsidised by Isle of Man taxpayers? Please give reasons for your answer. If you wish to suggest an alternative approach, please explain it and how you think it could be achieved.

4.1.2 The key elements

The Authority has identified four main elements that will input into development of a PIFM:

1. **The Authority's costs** – The actual cost of regulation and oversight would be the starting point for a PIFM.
2. **Risk and impact in relation to the Authority's objectives** – Firms or sectors that carry a higher risk to the Authority's objectives (in terms of likelihood and/or impact), are subject to a higher degree of supervision and oversight. Some may feel that these firms and sectors should carry more of the cost of regulation and oversight.
3. **Affordability** – This recognises the fact that not all firms or sectors will be able to afford the full cost of their own regulation or oversight, e.g. where there may only be a small number of entities operating in a sector, such as credit unions. There will continue to be a need for a degree of cross-funding between sectors to support a healthy, competitive and diverse economy.
4. **Benefits of regulation to the wider finance sector and economy** – This recognises the wider benefits of a well-regulated financial services sector to the Isle of Man economy and consumers in terms of the ability to attract and retain quality business of a credible and reputable nature. In the context of a PIFM, this relates to how the associated costs would be shared amongst fee payers and other stakeholders.

Part of the remit of the independent third party will be to consider the merits of proposed inputs into the PIFM. Comments provided in response to the questions in this paper will inform these considerations.

Question 2

Do you agree with the four main elements identified for determining the PIFM? If not, please explain what you consider the main elements should be.

Question 3

Do you have any comments or suggestions on the relative importance of the main elements?

4.1.3 The Authority's costs

The level of costs to be recovered under a PIFM has not yet been determined and needs to be agreed between the Authority and the Treasury following input from industry through the engagement process. As mentioned earlier, not all of the Authority's functions and costs directly relate to regulation or oversight and so some level of taxpayer funding may still be appropriate. An important step is to determine which of the Authority's costs should be included in the PIFM and which should be excluded. Initial cost recovery modelling by the Authority has revolved around the concept of the 'cost of supervision', which covers all supervision staff costs and apportioned costs from supporting areas.

The issue of enforcement costs, and how those costs should be allocated, is worth specific mention. The existence of a credible deterrent through effective and consistent enforcement measures is an essential component of the regulation and oversight framework. Some may consider that enforcement costs should be allocated on a sector-by-sector basis, whereas others may consider that the core cost of enforcement should be covered by the sectors as a whole or through some weighting mechanism.

Question 4

Are there any of the Authority's functions or activities that you specifically consider should be excluded from a PIFM? If so, please give details and your reasoning.

4.1.4 Risk and impact in relation to the Authority's objectives

The Authority follows a risk-based approach to regulatory supervision and Designated Business oversight. The level of risk (in terms of both likelihood and impact) that a firm or sector poses to the Authority's regulatory objectives will affect the allocation of Authority resources. Firms identified as carrying higher risk will typically be subject to greater regulatory requirements and/or receive a higher level of supervision or oversight, all of which carries greater cost. It is therefore considered that the risk profile of different firms and sectors will have some bearing on the overall cost allocation in terms of overall fee income and fee structure. This will need to be balanced against the ability of certain firms and sectors to pay for those costs and the benefits of regulation to the wider finance sector and economy.

Question 5

What weighting should risk (in terms of both likelihood and impact) have in influencing the Authority's fee model to achieve a PIFM?

4.1.5 Affordability

The first two main elements (the cost of regulation and oversight, and the relative risk of different firms and sectors) focus on costs being allocated to their source. The last two main elements (affordability and the benefits of regulation to the wider finance sector and

economy) serve to moderate those allocations to make sure fees remain affordable for the wider benefit of the Isle of Man.

The Authority has undertaken some initial work around the affordability of its fees. This work identified that the current 2020/21 fees constituted 2% or less of turnover for over 85% of entities sampled. Whilst this indicates that fee increases should not create a major affordability issue for most entities, the limitations of the initial sample are noted. For example, turnover was used as a generic measure of the scale of an entity's business, however profitability (and therefore affordability) may be quite different. The sample size was also limited to data that the Authority had readily available and did not include all sectors. Responses to this Discussion Paper will provide an early indication of any affordability issues foreseen by the industry as a result of the move to a PIFM. The issue of affordability will also continue to be a key focus of future engagement on development of a PIFM.

In the absence of a specific target figure at this stage, but recognising that the Authority is currently funded approximately 50:50 by industry and the Isle of Man taxpayer, respondents are asked to consider the potential impact on their businesses if their current fees were to double. Should you wish to provide it, the following information will assist the Authority and the Treasury in understanding any affordability challenges your business may face.

Question 6

If you currently pay any annual or periodic fees to the Authority —

- (a) how much are your fees in total; and
- (b) what is your total fee as a percentage of your current business turnover?

Question 7

How would you describe the impact on your business if your annual or periodic fees payable to the Authority were to double? Please explain the reason for your response.

4.1.6 Benefits of regulation to the whole finance sector

An effective regulatory framework is vital to industry's ability to undertake business. Some degree of cross-subsidisation (both within and between sectors) will be necessary to maintain an effective regulatory framework that remains affordable for newer and smaller businesses. This encourages and maintains a healthy, diverse, dynamic and competitive economy, which is seen to be in the best interests of all of the Authority's stakeholders and the Isle of Man generally.

In addition to maintaining the current regulatory framework, the Authority's ability to support innovation through future development largely depends on how well it can resource such development. For example, the introduction of the new Class 6 (Crowdfunding Platforms) regulated activity under the FSA08 in 2016 carried a resource cost to upskill relevant Authority staff and develop the regulatory framework for that particular type of business. The same applied to the new Class 9 (Credit Unions) regulated activity under the FSA08 in 2019 and the additional work that went into development of the

Alternative Banking Regime. Development of these new areas of regulated activity is seen to benefit both the wider economy through the provision of a greater range of services to consumers; however, it does carry a cost to existing fee payers and Isle of Man taxpayers. For new areas of regulated activity, it is generally not feasible for the first entrants to those markets to be able to cover the cost of development and implementation of the regulatory framework. It is therefore considered that there will need to be some level of cross-subsidisation between sectors to support change and innovation.

Question 8

How should cross-subsidisation between sectors for the cost of regulation and oversight feature in a PIFM? Please give reasons.

Question 9

Do you consider that, within a PIFM, it may be acceptable for some types of business to pay a nominal fee (i.e. a fee that does not reflect the real cost of that activity), e.g. where that type of business is new and less well-established, or provides some form of intangible or longer-term benefit to society?

4.2 International and domestic comparison

The taxpayer currently funds a significant proportion of the cost of regulation and oversight in the Isle of Man. The Authority's counterparts in the United Kingdom and in the other Crown Dependencies of Guernsey and Jersey have all been industry-funded for some time, and the Central Bank of Ireland is currently undergoing a transition to full industry funding for financial regulation.⁹

In the first quarter of 2020, the Authority undertook research to compare its current 2020/21 fees with those charged by regulators in the other Crown Dependencies. Direct fee comparisons with other jurisdictions are difficult due to differences in licensing and fee structures and lack of available data to determine what fees entities pay in other jurisdictions. However, the comparison suggested that Isle of Man fees are generally lower (and in some cases significantly lower) than those in Guernsey and Jersey. This initial exercise indicated there was scope to increase fees without adversely affecting the Island's competitive position.

As part of this comparative work, consideration has also been given to the funding of other regulatory bodies in the Isle of Man. Whilst there are no domestic comparators with the same remit as the Authority, there are a number of regulatory bodies with different roles, responsibilities and levels of autonomy. For example:

⁹ [Annual Report and Accounts 2018/19](#), Financial Conduct Authority, United Kingdom
[Annual Report 2019](#), Prudential Regulation Authority, United Kingdom
[Annual Report and Financial Statements 2018](#), Guernsey Financial Services Commission
[Annual report 2018](#), Jersey Financial Services Authority
[Industry Funding Levy](#), Central Bank of Ireland

- The **Gambling Supervision Commission** is responsible for the regulation of gambling operations in the Isle of Man and is fully-funded by fee income.¹⁰
- The **Communications Commission** is responsible for the regulation of telecommunications and broadcasting in the Isle of Man and is fully-funded by fee income.¹¹
- The **Isle of Man Ship Registry** is responsible for the registration of ships in the Isle of Man and is fully-funded by registration fees.¹²
- The **Isle of Man Aircraft Registry** is responsible for the registration of aircraft in the Isle of Man and is fully-funded by registration fees.¹³

Whilst the scale and cost of the Authority's operations is larger than the above comparators, it is worth noting that regulation and oversight is not predominantly funded by the entities regulated or overseen by the Authority.

Further work will be undertaken by the independent third party to validate and add to the Authority's findings in this area. Observations from your specific experiences will be helpful in advancing research on this topic.

Question 10

Please provide any comments or suggestions you may have on the funding models adopted by other financial regulators or other regulatory bodies in the context of this Discussion Paper.

Question 11

If you carry on a regulated activity or Designated Business in the Isle of Man, do you carry out the same type of activity in any other jurisdictions? If so, and if you are able to do so, please confirm what fees you pay in those other jurisdictions and any relevant details (e.g. if the nature and scale of activities carried out across jurisdictions is the same or different).

4.3 Fee structure and calculation methodology

An important area of the development of the PIFM will be a review of the Authority's existing fee structure. This is distinct from the questions around the overall level of cost recovery from industry and will cover two areas.

The first area will be a review of existing types of fees and calculation methodologies for each sector to ensure fairness and consistency of approach. The current fee structure is centred on application/registration fees and annual/periodical fees. Current fee methodologies have not altered greatly since their original introduction and this needs review.

¹⁰ [Annual Report 2018/2019](#), GD2019/0091, Isle of Man Gambling Supervision Commission

¹¹ [Annual Report 2017/18](#), Communications Commission

¹² [Isle of Man Budget 2020-2021](#), GD No: 2020/001

¹³ Ibid.

Question 12

What are your views on the current types of fees and fee calculation methodology for your regulated activity or Designated Business?

Question 13

Please provide any suggestions you have for an alternative fee calculation methodology for your regulated activity or Designated Business.

The second area will be to consider introducing new types of fees to cover work carried out by the Authority over and above what the existing fees are intended to cover. These may cover activities ranging from larger, non-routine pieces of work such as Regulated Entity changes of control (which are akin to new authorisations in some respects) and smaller routine pieces of work such as processing changes to authorisations/licences/registrations and Fitness and Propriety ('F&P') assessments.

Question 14

To what extent do you believe the Authority should consider new types of fees to cover the cost of routine and / or non-routine work carried out?

Question 15

Please provide any suggestions for new types of fees that the Authority could charge to reduce the overall cost of application/registration and annual/periodic fees.

The independent third party will also be involved in the research and analysis of fee structures in other jurisdictions. Any specific observations you have in relation to your experience will inform work in this area.

4.4 Transition period and implementation

The Consultation Paper (CP20-03/T14) issued separately on 16 October 2020 covers fee changes for 2021/22 and 2022/23.

Responses to this Discussion Paper will be used to inform the timescales for the broader transition to a PIFM, which will begin in 2023/24. The detail of the PIFM and the transition period to reach it will be subject to a future consultation but will be informed by the responses to this Discussion Paper and additional engagement with industry.

Question 16

Bearing in mind that the Authority is currently funded approximately 50:50 by industry and the Isle of Man taxpayer, what do you believe is a reasonable timeframe in which to move to a PIFM? For example, do you think the transition should be made quickly or over a longer period of time?

Under a PIFM, specific consideration would need to be given to the adjustment of fees on an annual basis to reflect known costs during the year. Currently, annual and periodical fees are collected in advance of the year or period in question. The move to a PIFM will mean

that fee payments will be more directly aligned to the cost of regulation and oversight than they are currently. The Authority would need to reconcile fee income received in advance with expenses actually incurred during the year and make necessary adjustments to future fees to ensure cost recovery.

Question 17

Please provide any suggestions you have on how fees should be adjusted on an annual basis to ensure cost recovery.

4.5 Transparency measures

The Authority is accountable to the Treasury and Tynwald for the effective discharge of its functions and seeks to conduct its activities in a transparent manner such that stakeholders are aware of the Authority's core values, strategic objectives, key principles and long-term goals. As with other Departments and Statutory Boards, the Authority is subject to the Isle of Man Government Financial Regulations, which establish the legal framework and requirements for the supervision and control of the Government's financial affairs.¹⁴ The Authority is accountable to the Treasury for compliance with those regulations and engages with the Treasury at various points throughout the financial year as part of the budgeting process. The effective and efficient use of the Authority's resources is a vital element of this process, alongside consideration of the extent to which fee income covers expenditure.

Transparency measures of the Authority include the issuance of an annual report and provision of audited financial statements to the Treasury in accordance with paragraph 7 of Schedule 1 to the FSA08. The annual report covers the Authority's performance against its regulatory objectives, the factors it must consider when discharging its functions, any policies and strategies specified by the Treasury, and any other matter about the Authority's effectiveness and efficiency that the Treasury may require. The annual report and accounts are laid before Tynwald.

In addition to the annual report, the Authority published a Strategic Plan for 2018-2021.¹⁵ The plan provides a vision of how the Authority can best achieve its statutory objectives, with a focus on consumer protection, enhancing its frameworks, preventing financial crime and being open to innovation. The plan also sets out the behaviours and principles by which the Authority will achieve those goals and which underpin the level of engagement and outreach it conducts with its stakeholders.

The mechanisms the Authority uses to promote transparency around its functions and activities are listed below:

¹⁴ <https://www.gov.im/media/1366335/2019-financial-regulations-april-2019-v4-updated-november-2019.pdf>

¹⁵ [Isle of Man Financial Services Authority Strategic Plan 2018-2021](#), 1 November 2018

Transparency Measures	
Current measures	How they are demonstrated
<ul style="list-style-type: none"> • Regulatory objectives, statutory functions and reporting obligations • Annual report <ul style="list-style-type: none"> ○ Financial reporting ○ Progress against priorities • Strategic Plan • Governance framework <ul style="list-style-type: none"> ○ Reserved powers and delegations framework ○ Code of Conduct ○ Risk and Control Committee ○ Human Resources and Compensation Committee • Risk management framework <ul style="list-style-type: none"> ○ Includes risk tolerance framework • Authorisations Decision Making Process • Enforcement Decision Making Process • Internal quality assurance – Case Review Panel • International standards and assessors, e.g. MONEYVAL, BCBS, IAIS, IOSCO, OECD, IMF • Consultation feedback. 	<ul style="list-style-type: none"> • Internal Project Oversight Group ('POG') for project governance and reporting and performance against strategic plan • Key Performance Indicators (Internal) • Regular industry meetings – key initiatives discussion • Roadmap publication (ICP Project) • Industry Survey • Staff Survey • Register of interests (compliance with Code of Conduct) • Attendance at Economic Policy Review Committee ('EPRC') • External third-party reviews • External audit • Board approved Stakeholder Engagement Plan approved • Risk-based supervision • Statistics (AML/CFT, COVID-19 dashboard) • Public Notices around settlement agreements etc.

Question 18

Please provide any comments you have on the Authority's existing transparency measures.

Question 19

What additional transparency measures might be considered for the Authority as a result of a move to a PIFM?

5. Impact Assessment

The Authority and the Treasury both believe the move to a PIFM is an appropriate long-term goal. However, they are keen to seek the views of industry on the nature of that funding model and the most appropriate means of moving towards it. The Authority and the Treasury recognise that the move to a PIFM will necessitate significant changes in the levels and types of fees charged by the Authority, however they also recognise the need to maintain a competitive business environment in the Isle of Man. The impact of any fee increases will be felt differently by each fee payer and may depend on a variety of factors, such as industry sector, business model, operational structure, specialisation and client

base. Smaller businesses that have less overall capacity to absorb costs may also have particular concerns.

The Authority continues to monitor the impact of the COVID-19 pandemic on its own operations and those of the regulated sector. Updates and guidance in relation to the Authority's response to COVID-19 can be found on its dedicated webpage.¹⁶ The pandemic has led to an uncertain economic outlook, which may have a bearing on the timeframe for moving the Authority to a PIFM. Several questions are posed in this Discussion Paper in order to assess the impact of the proposed increases on fee payers.

The questions in [section 4.1.5 \(Affordability\)](#) and [section 4.4 \(Transition Period and Implementation\)](#) are geared towards obtaining data from the industry on the possible impact of the move to a PIFM, which will be used to develop future proposals.

Question 20

Please provide any other comments you may have on the impact of the proposal to move towards a PIFM for the cost of regulation and oversight.

6. List of Questions Asked in this Discussion Paper

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

No.	Question
Predominantly Industry-Funded Model ('PIFM')	
1.	Do you consider the cost of regulation and oversight should continue to be subsidised by Isle of Man taxpayers? Please give reasons for your answer. If you wish to suggest an alternative approach, please explain it and how you think it could be achieved.
2.	Do you agree with the four main elements identified for determining the PIFM? If not, please explain what you consider the main elements should be.
3.	Do you have any comments or suggestions on the relative importance of the main elements?
4.	Are there any of the Authority's functions or activities that you specifically consider should be excluded from a PIFM? If so, please give details and your reasoning.
5.	What weighting should risk (in terms of both likelihood and impact) have in influencing the Authority's fee model to achieve a PIFM?
6.	If you currently pay any annual or periodic fees to the Authority — (a) how much are your fees in total; and (b) what is your total fee as a percentage of your current business turnover?
7.	How would you describe the impact on your business if your annual or periodic fees payable to the Authority were to double? Please explain the reason for your response.

¹⁶ <https://www.iomfsa.im/covid-19/>

No.	Question
8.	How should cross-subsidisation between sectors for the cost of regulation and oversight feature in a PIFM? Please give reasons.
9.	Do you consider that, within a PIFM, it may be acceptable for some types of business to pay a nominal fee (i.e. a fee that does not reflect the real cost of that activity), e.g. where that type of business is new and less well-established, or provides some form of intangible or longer-term benefit to society?
International and domestic comparison	
10.	Please provide any comments or suggestions you may have on the funding models adopted by other financial regulators or other regulatory bodies in the context of this Discussion Paper.
11.	If you carry on a regulated activity or Designated Business in the Isle of Man, do you carry out the same type of activity in any other jurisdictions? If so, and if you are able to do so, please confirm what fees you pay in those other jurisdictions and any relevant details (e.g. if the nature and scale of activities carried out across jurisdictions is the same or different).
Fee Structure and Calculation Methodology	
12.	What are your views on the current types of fees and fee calculation methodology for your regulated activity or Designated Business?
13.	Please provide any suggestions you have for an alternative fee calculation methodology for your regulated activity or Designated Business.
14.	To what extent do you believe the Authority should consider new types of fees to cover the cost of routine and / or non-routine work carried out?
15.	Please provide any suggestions for new types of fees that the Authority could charge to reduce the overall cost of application/registration and annual/periodic fees.
Transition Period and Implementation	
16.	Bearing in mind that the Authority is currently funded approximately 50:50 by industry and the Isle of Man taxpayer, what do you believe is a reasonable timeframe in which to move to a PIFM? For example, do you think the transition should be made quickly or over a longer period of time?
17.	Please provide any suggestions you have on how fees should be adjusted on an annual basis to ensure cost recovery.
Transparency Measures	
18.	Please provide any comments you have on the Authority's existing transparency measures.
19.	What additional transparency measures might be considered for the Authority as a result of a move to a PIFM?
Impact Assessment	
20.	Please provide any other comments you may have on the impact of the proposal to move towards a PIFM for the cost of regulation and oversight.

7. Next Steps

Following closure of the discussion period, the Authority will review the responses received and publish a Feedback Statement document on the Authority's website and the Isle of Man Government's Consultation Hub in the first quarter of 2021.

The responses to this Discussion Paper will be used to inform development of a PIFM. Depending on the responses received, the Authority may issue a further Discussion Paper before consulting on more specific aspects of the PIFM.

Respondents are encouraged to consider the separate Consultation Paper (CP20-03/T14) that was issued on 16 October 2020 on proposed increases to all fees payable to the Authority from 1 April 2021 and 1 April 2022. The fee increases proposed in that Consultation Paper are to cover the cost of additional resources allocated in the 2020-21 Budget and to start the transition towards a PIFM. Responses to that Consultation Paper are required by 11 December 2020.

Appendix – List of groups to which this Discussion 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
- International Association of Bookkeepers (as oversight body)
- Isle of Man Association of Pension Scheme Providers
- Isle of Man Bankers Association
- Isle of Man Captives 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.