



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Paper
New Authority Funding Model from 1 April 2023

CP22-04

Issue Date: 12 May 2022

Closing Date: 24 June 2022

Consultation Paper – CP22-04

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

The purpose of the consultation is to obtain views in relation to the Authority's plans to move to a predominantly industry-funded model from 1 April 2023.

The consultation is relevant to all of the Authority's stakeholders and fee payers. Due to potential changes to the Authority's funding arrangements with the Isle of Man Government, the consultation is also relevant to Isle of Man taxpayers.

The closing date for comments is **24 June 2022**.

Please send comments in writing and preferably by email to:

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

Confidentiality and Data Protection

The information you send may be published in full or in a summary of responses. All information in responses, including personal data, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018). If you want your response to remain confidential, you should explain why confidentiality is necessary. Your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding. The Authority is registered with the Information Commissioner as a data controller under Isle of Man data protection legislation. It collects and processes personal data to carry out its functions under relevant legislation and may share personal data with other parties where there is a legal basis for doing so. Further information on how the Authority collects and processes personal data can be found in the Privacy Policy on the Authority's website: <https://www.iomfsa.im/terms-conditions/privacy-policy/>.

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.

Contents

Glossary.....	4
1. Executive Summary.....	5
1.1 Overview	5
1.2 What is the purpose of this Consultation Paper?	5
1.3 Who may be affected by this Consultation Paper?	5
2. Consultation Process.....	5
2.1 The Authority’s regulatory objectives.....	5
2.2 Responding to the Consultation Paper	7
3. Proposals.....	7
3.1 Background.....	7
3.2 Engagement plan.....	9
3.3 Third party advisers.....	10
3.4 Principles for developing the new funding model	10
3.5 Research and policy considerations.....	11
3.6 New funding model.....	11
3.7 New fee structure	11
3.8 Implementing legislation.....	13
3.9 Implementation timeframe.....	13
4. Impact Assessment	14
5. List of Questions Asked in this Consultation Paper	15
6. Next Steps	15
Appendix A – List of Groups to which this Consultation Paper has been sent.....	17
Appendix B – Research and Policy Considerations.....	18
Part 1: Preliminary Jurisdictional Comparison.....	18
Part 2: Treatment of Civil Penalty Income	19
Part 3: Innovation Funding	20
Part 4: Transaction Fees.....	22
Part 5: Treatment of Surpluses and Deficits	23
Part 6: Accountability and Transparency	23
Appendix C – Authority Funding Model.....	26
Appendix D – Authority Fee Structure.....	27

Glossary

2020-21 Budget	Isle of Man Budget 2020-21
2020 Discussion Paper	DP20-01/T14 Funding Financial Regulation and Designated Business Oversight
2021 Feedback Statement	FS21-01 Funding Financial Regulation and Designated Business Oversight
Authority / IOMFSA	Isle of Man Financial Services Authority
CISA08	Collective Investment Schemes Act 2008
DBROA15	Designated Businesses (Registration and Oversight) Act 2015
Designated Businesses	Designated Non-Financial Businesses and Professions
DfE	Department for Enterprise
FSA08	Financial Services Act 2008
IA08	Insurance Act 2008
IOMG	Isle of Man Government
IWG	Industry Working Group
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
TPAs	Third Party Advisers
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 and the intention to move the Authority to a predominantly industry-funded model ('PIFM') in the future.¹ The Authority subsequently issued Discussion Paper DP20-01/T14 on Funding Financial Regulation and Designated Business Oversight on 30 October 2020.² Following a review of responses, the Authority published Feedback Statement FS21-01 on 14 May 2021.³ Since that time, the Authority (in conjunction with third party advisers) has developed a new funding model and fee structure for consultation with stakeholders. This Consultation Paper explains the proposed new funding model and fee structure for persons conducting regulated activity or designated business. The proposed changes are due to take effect from 1 April 2023, with changes to annual fees being subject to phased increases also on 1 April 2024 and 1 April 2025.

1.2 What is the purpose of this Consultation Paper?

This consultation invites interested parties to provide feedback on the Authority's proposed new funding model and fee structure. This document asks specific questions on the suitability of the proposals and corresponding impact on fee payers. However, respondents are welcome to comment on any other aspects.

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 FSA08, IA08, RBSA00 or DBROA15, or those 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.

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.

Due to potential changes to the Authority's funding arrangements with the Isle of Man Government, the consultation is also relevant to Isle of Man taxpayers.

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 —

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

² https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/consult_view/

³ <https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/results/fs21-xx-funding-regulation-and-oversight.pdf>

- (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 56% fee income and a 44% contribution from the Isle of Man Government ('IOMG') in the form of a general subvention from the Treasury. This income enables the Authority to carry out its functions and maintain and develop the Island's regulatory framework for financial services. Further information on the Authority's income and expenditure for the year ended 31 March 2021 can be found in Appendix E of the Authority's Annual Report for 2020/21.⁴

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 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 users 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 trade successfully. The Authority and the Treasury are mindful that the Island's frameworks for regulation and oversight have

⁴ <https://www.iomfsa.im/media/2893/fsa-annual-report-2021.pdf>

historically received a significant level of taxpayer funding. This Consultation Paper is an opportunity for stakeholders to consider a proposed new funding model and fee structure. These are intended to achieve a greater degree of industry funding as well as a simplified and more consistent basis for setting fees.

2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for the 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 IOMG's Consultation Hub⁵. A list of specific groups to which this Consultation Paper has been sent is shown in [Appendix A](#).

3. Proposals

3.1 Background

The Treasury Minister announced plans for 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.

⁵ <https://consult.gov.im/>

“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.”⁶

The Authority subsequently issued Discussion Paper DP20-01/T14 on Funding Financial Regulation and Designated Business Oversight on 30 October 2020.⁷ Following a review of responses, the Authority published Feedback Statement FS21-01 on 14 May 2021.⁸ Since that time, the Authority (in conjunction with third party advisers) has developed a new funding model and fee structure for consultation with stakeholders. The responses to the 2020 Discussion Paper were used to inform development of the new model.⁹

This Consultation Paper sets out the annual fees, transaction fees and application fees that would be payable from 1 April 2023, as part of a simplified and more consistent funding structure.

In respect of the launch of this Consultation Paper, Treasury Minister David Ashford MHK said:

“The vast majority of the world’s financial services regulators are funded by industry and the aim is to bring the Isle of Man into line with that model. The Authority currently receives a significant level of taxpayer funding and this is simply not sustainable, particularly as global and economic events continue to intensify the pressure on public finances. Increasing the contribution made by businesses towards the cost of their regulation and oversight is an appropriate step and will allow more of our taxpayer income to be used for essential public services.”

Bettina Roth, Chief Executive Officer of the Authority, said:

“In the interests of full transparency, we are highlighting the fees that will be required to achieve the target of being predominantly funded by industry. Our focus is on implementing a structure where the fees are proportionate, competitive, and more accurately reflect the regulatory activities being carried out. The new funding model will support efforts to ensure the continued prosperity of the Island’s financial services sector.”

“The impact of the changes will be felt differently by each fee payer depending on factors such as their business model, size, and client base. With this in mind, we are proposing to phase in the changes over three years to allow existing businesses time

⁶ Budget speech 2020, <https://www.gov.im/media/1368492/budget-speech-2020.pdf>

⁷ https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/consult_view/

⁸ <https://consult.gov.im/financial-services-authority/funding-financial-regulation-designated-business/results/fs21-xx-funding-regulation-and-oversight.pdf>

⁹ Some of the main considerations from feedback received to the 2020 Discussion Paper are laid out in [Appendix B](#) (Research and Policy Considerations) of this Consultation Paper.

to plan. It's important to hear the views of our stakeholders and I would encourage people to respond to the consultation."

The proposed changes are intended to come into effect from 1 April 2023, however the Authority proposes to phase in changes to annual fees over the period from 1 April 2023 to 1 April 2025 to allow regulated entities and designated businesses to plan accordingly. The Authority intends to achieve the target operating model by 2025-26.

3.2 Engagement plan

In the 2020 Discussion Paper, the Authority outlined six stages for the process of consulting on, developing and moving to a PIFM. This Consultation Paper represents the start 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 this Consultation Paper in May 2022.
6.	Phased implementation of the PIFM and new fee structure.	Due to commence from 1 April 2023.

Following publication of the 2021 Feedback Statement, the Authority formed an Industry Working Group ('IWG') in June 2021. The IWG comprises a nominated member of each of the main industry associations for the financial services sector in the Isle of Man. The IWG held its first meeting in September 2021 to discuss the preliminary jurisdictional comparison carried out by the Authority and its third party advisers ('TPAs') (see [section 3.3](#)) and the draft Principles for development of the PIFM (see [section 3.4](#)). The IWG held a further meeting in May 2022 to receive an overview of the proposed new funding model prior to this consultation. The Authority plans to arrange a further meeting with the IWG to discuss feedback to this Consultation Paper before finalising proposals for the new funding model and fee structure.

In addition to meetings with the IWG, the Authority met with Finance Isle of Man in July and October 2021 to provide updates on the 2020 Discussion Paper and jurisdictional comparison work. The Authority also held similar meetings with key IOMG representatives from the Treasury and Department for Enterprise ('DfE').

In addition to the above, the Authority plans to schedule meetings with each of the Island's industry associations during the consultation period to provide an overview of the development of the new funding model and receive feedback.

3.3 Third party advisers

In the 2021 Feedback Statement, the Authority confirmed that the procurement process for an independent third party to assist with the review of the Authority's funding model had been completed and that they would be assisting in the next stages of the project.

Ian Tower and Nadege Genetay were appointed as TPAs in January 2021. The TPAs have extensive experience in providing consultancy services on regulatory and public policy matters. As part of their engagement on the Authority's funding model project, the TPAs have provided input on the following topics so far:

- (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 item (a) can be found in [section 3.4 \(Principles\)](#). More information on items (b) to (f) is contained in [Appendix B \(Research and Policy Considerations\)](#).

In addition to the above work, the TPAs have also participated in key discussions with the Authority's Board and other stakeholders such as the IWG, Finance Isle of Man and key representatives from the Treasury and DfE.

The TPAs are due to publish a report on their work at the close of the project once the new funding model and fee structure are ready for implementation.

3.4 Principles for developing the new funding model

In conjunction with the TPAs, the Authority drafted a set of principles to guide development of the PIFM ('the Principles'). The Principles were developed to provide a basis for engagement with industry in the stages of the work and guide decisions on the detailed design issues of the PIFM. The Principles were discussed with the IWG and representatives from the Treasury and DfE, and form the basis of the new funding model and fee structure. The Principles can be found in the proposed new funding model (see [section 3.6](#)).

The Authority considers that the proposed funding model aligns with all of the Principles set out at the beginning of the process, but there are two areas where alignment is partial.

Firstly, once identified and assessed, ‘non-core’ functions (i.e. those not directly relating to regulated activity) were found to represent less than 2.5% overall costs and are therefore less material than originally envisaged. Secondly, the new funding model better aligns sector fee income with estimated sector costs than the current fee structure but some cross-subsidy remains in order for fees to remain competitive.

3.5 Research and policy considerations

Further information on key research and policy considerations undertaken by the Authority and the TPAs can be found in [Appendix B](#). This covers the following topics: preliminary jurisdictional comparison; treatment of civil penalty income; innovation funding; transaction fees; treatment of surpluses and deficits; and accountability and transparency.

Question 1

Do you have any comments on any of the topics covered by the Research and Policy Considerations ([Appendix B](#))?

3.6 New funding model

The Authority’s proposed new funding model is attached in [Appendix C](#).

Question 2

Do you have any comments on the Authority’s proposed new funding model ([Appendix C](#))?

3.7 New fee structure

The Authority’s proposed new fee structure is attached in [Appendix D](#). This document lists the annual fees, application fees and transaction fees that would be payable from 1 April 2023.

Two separate projects are currently underway that will have an impact on fee payers:

- The new bank recovery and resolution framework will result in a new levy for most Class 1 (Deposit Taking) licenceholders under the FSA08. The Authority issued a separate consultation on 21 March 2022 to seek views on the proposed content and timing of coming into operation of the Bank (Recovery and Resolution) Administrative Levy Order 2022. The consultation closed on 18 April 2022 and responses are currently being considered. A Consultation Response will be issued in due course. Please refer to the Consultation Webpage for further information.¹⁰
- The regulatory framework for retirement benefits schemes is being reviewed. The Authority expects to consult on a Retirement Benefits Schemes (Amendment) Bill once the review has been completed. The fee structure for this sector will need to be updated in due course to reflect changes to the regulatory framework.

¹⁰ https://consult.gov.im/financial-services-authority/bank-recovery-resolution-admin-levy-order-2022/consult_view/

The majority of the new fee structure involves changes to fees (in terms of fee value or fee calculation methodology) for things that the Authority already charges for, e.g. application or annual fees for Regulated Entities or Designated Businesses. However, the new fee structure introduces fees for the following types of activity that the Authority has not previously charged for:

Fee Type	New Fee	Rationale
Application Fees	Application fee for auditors seeking authorisation under section 14E of the Companies Act 1982	The Authority processes a small number of applications from audit firms for authorisation under section 14E of the Companies Act 1982. This is for audit firms that are not members of a 'recognised accountancy body' under the Act. ¹¹ It is proposed to introduce fees to cover new applications and extensions to existing authorisations.
	Authorisation extension fee for auditors authorised under section 14E of the Companies Act 1982	
Annual Fees	Annual fee for holding a Class 7 (Management or Administration) permission under the FSA08	The Authority does not currently charge an annual fee for regulated entities to hold a Class 7 permission under the FSA08. This permission allows an existing regulated entity to manage or administer the business of another regulated entity in certain circumstances. The holding of such a permission impacts the Authority's supervision of the entity, and so it is proposed to introduce an annual fee.
	Annual fee for Designated Businesses where oversight has been delegated by the Authority	The Authority is the registrar for all Designated Businesses. The Authority has delegated some of its powers to oversee some types of Designated Business to relevant professional bodies. Where this applies, each business can elect to be overseen by either the Authority or a relevant professional body. However, the Authority is ultimately responsible for the regime and processes the annual return for all Designated Businesses, and deals with all enforcement matters. As such, the Authority proposes to introduce an annual fee for those businesses that are registered with the Authority but overseen by a relevant professional body.
	Annual fee for auditors authorised under section	The Authority authorises a small number of audit firms under section 14E of the

¹¹ Further information can be found on the Authority's General Auditor Requirements webpage: <https://www.iomfsa.im/auditors/general-auditor-requirements/>.

Fee Type	New Fee	Rationale
	14E of the Companies Act 1982	Companies Act 1982. This is for audit firms that are not members of a 'recognised accountancy body' under the Act. It is proposed to introduce annual fees for maintaining existing authorisations.
Transaction Fees	Changes of control (such as new immediate or ultimate controllers)	The Authority proposes to introduce transaction-based fees for the most significant consent matters. These transaction fees would help cover the cost of the more resource-intensive work the Authority has identified outside of day-to-day supervision and oversight.
	Transfer of business including deposit taking (Deposit Takers only)	
	Portfolio transfers (Life Insurers only)	
	Notification of the appointment of a new Responsible Individual for an auditor authorised under section 14E of the Companies Act 1982	

Question 3

Do you have any comments on the Authority's proposed new fee structure ([Appendix D](#))?

Question 4

Do you have any comments on the new fees that the Authority proposes to charge for activities not previously charged for?

3.8 Implementing legislation

The Authority's new fee structure will be implemented by way of secondary legislation. Subject to any changes to the proposed funding model ([Appendix C](#)) and fee structure ([Appendix D](#)) as a result of this Consultation Paper, the implementing legislation will be prepared ready for a separate consultation later in 2022. That consultation will cover some of the more administrative and practical elements of the fee structure, such as when fees are payable (e.g. annual payment dates) and when data necessary for the calculation of fees is collected (e.g. annual review dates).

3.9 Implementation timeframe

As laid out in the 2021 Feedback Statement, the majority of respondents to the 2020 Discussion Paper believed any move to a PIFM should be made over a longer period of time (e.g. three or more years) compared to a shorter timeframe (e.g. two years or less).

The Authority considers a three-year implementation timeframe reasonable to achieve the funding target. With the last changes to fees under the existing fee structure having taken

place on 1 April 2022, the Authority proposes to phase in changes to annual fees over the next two years (1 April 2023 and 1 April 2024) with the full annual fees being payable from 1 April 2025. The draft fee structure ([Appendix D](#)) shows what the annual fees would be for each type of activity in Year 1 (2023-24), Year 2 (2024-25) and Year 3 (2025-26). For most types of business, this entails a significant increase in annual fees over the period to move the Authority from approximately 56% industry funded to predominantly industry funded. For a minority of businesses, there may be little change to annual fees or even a slight reduction as a result of changes to the fee structure, banding for volume measures and phasing of annual fees. This reflects the approach taken to setting fees in line with the Principles and the desirability of maintaining the competitive position of the Island.

The draft fee structure ([Appendix D](#)) is based on the Authority's budgeted expenditure for 2023-24. The new fees have been modelled on the same budgeted expenditure, with an increase in line with typical annual budget increases agreed as part of the budgeting process with the Treasury. As such, fees will be set for the implementation period and will not change again until after 2025-26.

The Authority proposes to set application and transaction fees at their full amount from 1 April 2023, as these fees are levied when necessary.

Question 5

Do you have any comments on the proposed implementation period for annual fees?

4. 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 move to a PIFM will necessitate significant changes in the level and types of fees charged by the Authority, however the Authority and the Treasury 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.

With the assistance of the TPAs, the Authority carried out a preliminary jurisdictional comparison. The main findings are summarised in [Part 1 \(Preliminary Jurisdictional Comparison\)](#) of [Appendix B \(Research and Policy Considerations\)](#).

As part of development of the new funding model and fee structure, the Authority carried out a comparison of fees against those in the other Crown Dependencies. This involved comparisons of minimum fees as well as fees for small, medium and large entities in each sector. The Authority considers that the proposed new funding model and fee structure presented is a reasonable basis for achieving the move to a PIFM and would not make the Isle of Man uncompetitive with these other international financial centres.

Question 6

For entities licensed, authorised, registered or otherwise regulated by the Authority, how would you describe the impact of the proposed new funding model ([Appendix C](#)) and fee structure ([Appendix D](#)) on your business? For other entities or stakeholders, do you have any comments on the potential impact of the new funding model and fee structure on fee payers? Please provide any information you think may assist the Authority in assessing the impact of its proposals.

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 on any of the topics covered by the Research and Policy Considerations ([Appendix B](#))?

Question 2

Do you have any comments on the Authority's proposed new funding model ([Appendix C](#))?

Question 3

Do you have any comments on the Authority's proposed new fee structure ([Appendix D](#))?

Question 4

Do you have any comments on the new fees that the Authority proposes to charge for activities that the Authority has not previously charged for?

Question 5

Do you have any comments on the proposed implementation period for annual fees?

Question 6

For entities licensed, authorised, registered or otherwise regulated by the Authority, how would you describe the impact of the proposed new funding model ([Appendix C](#)) and fee structure ([Appendix D](#)) on your business? For other entities or stakeholders, do you have any comments on the potential impact of the new funding model and fee structure on fee payers? Please provide any information you think may assist the Authority in assessing the impact of its proposals.

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 IOMG's Consultation Hub.

Subject to any changes to the proposals that may be made as a result of responses received, the implementing legislation will be prepared ready for a further consultation later in 2022.

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
- International Association of Bookkeepers (as oversight body)
- 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 – Research and Policy Considerations

Part 1: Preliminary Jurisdictional Comparison

Respondents to the 2020 Discussion Paper highlighted the importance of the Isle of Man remaining an attractive and competitive place to do business. As part of research into this topic, the TPAs assisted the Authority with a preliminary comparison of its existing funding model against those used in comparator jurisdictions.

The main findings of the qualitative comparison were as follows:

- The Authority is an outlier in not being predominantly or fully industry-funded.
- The Authority is also an outlier in charging mainly application and annual fees rather than transaction fees (usage-based charges), although it has imposed special levies in relation to certain work (e.g. the Insurance Core Principles project) in the past.
- Other jurisdictions retain some or all civil penalty income resulting from enforcement work.
- None of the comparators publish information on the relationship between fee income and the cost of regulation at a sector level.
- The Authority is not alone in publishing an annual report but not a dedicated annual budget and plan. The Authority's budget is instead included in the IOMG's overall budget document.
- Some regulators have the power to set fees themselves whereas for others, such as the Authority, fees are subject to government approval.

The main findings of the quantitative comparison were as follows:

- Competitiveness is mentioned in all jurisdictions, but there is little by way of a detailed fees comparison that has been published.
- It is not possible to do a like-for-like comparison in all sectors, although it is possible to compare selected firms for illustrative purposes.
- Based on published information, it appears that other jurisdictions have struggled to provide quantitative comparisons.
- High-level comparison of total regulatory costs across jurisdictions can be done but interpretation is hampered by the differing types and mix of regulated entities.
- Even the approach of comparing fees for selected similar firms across jurisdictions is not straightforward. For example:
 - Jurisdictions categorise firms and activities in different ways.
 - Some jurisdictions raise transaction fees in addition to application and annual fees.
 - Jurisdictions may apply differential treatment to certain types of firms, e.g. if they are part of a group.
- High-level benchmarking of the jurisdictions suggests that the staffing levels and costs of the Isle of Man's regulator relative to the size of its financial services sector appear lower than the comparators.

As part of development of the new funding model and fee structure, the Authority carried out a comparison of fees against those in the other Crown Dependencies. Please see [section 4](#) of the Consultation Paper for more information.

Part 2: Treatment of Civil Penalty Income

Background

Respondents to the 2020 Discussion Paper expressed differing views over the treatment of civil penalty income under a PIFM. The TPAs assisted with a comparison of how regulators in comparable jurisdictions dealt with civil penalty income and some analysis of how income from civil penalties could be treated under the new funding model. The main findings were as follows:

- The Authority currently levies both administrative civil penalties (smaller, fixed amounts for late reporting etc. by certain entities) and discretionary civil penalties (larger, variable amounts reflecting enforcement actions). Proceeds from civil penalties form part of the General Revenue of the Isle of Man and are paid directly to the Treasury.
- It might be expected that under the PIFM such income would accrue to the regulator with fee income. In practice, this is often (and maybe generally) not the case for the following reasons:
 - Income from penalties has often not been regarded as an appropriate source of income for regulators, being less stable and predictable than industry fees and levies;
 - Financial regulators' civil penalty income may be viewed in the same way as income from criminal penalties etc., which typically accrues to government;
 - There would be concerns about incentives for regulators to maximise enforcement action to increase revenue, with risks to regulated entities; and
 - There may be concerns that for regulators to retain such income would undermine the principle that industry pays for regulation, while also indirectly rewarding firms paying the penalties (i.e. by way of reduced fees or smaller increases to fees).

Options considered

Potential options considered were as follows:

- (a) For the Authority to treat all penalties as income, free of restrictions, as it does for administrative civil penalties at present;
- (b) For the IOMG to receive all the income from civil penalties; and
- (c) For the Authority to receive all civil penalty income subject to conditions on how it is to be applied, in order to address concerns over incentives.

Proposal

Taking into account international standards and practices alongside responses to the 2020 Discussion Paper, the Authority proposes that civil penalty income should be notionally retained in its budget process with Treasury, subject to some restrictions.

The Authority proposes that income from discretionary civil penalties (i.e. those that result from enforcement action) should be offset against the Authority's enforcement costs. The Authority sometimes incurs external fees (e.g. in relation to legal or accountancy work) as part of taking enforcement action against certain firms. It is proposed that any discretionary civil penalty income should be offset in the budgeting process with Treasury against those external fees first (regardless of when those fees were incurred). In the event that there are no external fees, or if there is civil penalty income remaining after the offsetting, then it is proposed to offset the civil penalty income against the Authority's enforcement costs for the financial year in which the penalty was received. Any remaining balance would remain with the Treasury as part of the General Revenue of the Isle of Man. The Authority considers that income from administrative civil penalties (i.e. those that result from general supervision activity) should continue to apply towards the Authority's budgeted expenditure, as they do currently. Administrative civil penalties are relatively small amounts and annual income from such penalties is similarly small. As such, the Authority considers that income from these penalties could continue to be offset against annual expenditure to help reduce the overall amount that needs to be covered by fee payers.

By adopting the above measures, civil penalty income would help benefit the wider financial services industry by reducing the overall costs to be met by fee income, keeping fees lower than they would otherwise be. The decision to restrict the offsetting of discretionary civil penalty income to enforcement costs is intended to address potential perception issues that the Authority is pursuing enforcement action in order to fund its wider activities.

Part 3: Innovation Funding

Background

The funding of innovation in financial services was covered in the 2020 Discussion Paper and generated different views from respondents. The TPAs assisted the Authority with research on how regulatory costs relating to innovation are treated by other regulators. The main findings are summarised as follows:

- There is very limited publicly available information available on this topic.
- There are practical issues associated with funding the regulatory costs of new financial sectors/activities in the early years:
 - (a) During the set up phase, there are no entities to charge fees to, so the regulator must find a source of funds to finance these early activities;
 - (b) Once the regime starts, there may only be a few new entrants initially and they would bear all the costs of setting up and running the new regime;
 - (c) Even if there is significant interest in the new sector/activity, stakeholders may want to keep entry costs low.
- Some innovation may relate to innovative business models (or products) for activities that fall within the definition of existing regulated activities.

Options considered

There are a number of options to fund the costs of new regulatory activities, some of which could be used in combination:

- (a) Government funding such as a subsidy or grant;
- (b) A government loan;
- (c) Cross-subsidisation from other sectors; and
- (d) Spreading the set-up costs over a number of years.

There are a number of options to fund the costs associated with regulating innovative business models:

- (a) Consider costs a normal part of the regulator's overall budget and allocate in the normal way among fee-payers;
- (b) Calculate the specific regulatory costs associated with innovation and allocate to the relevant sector where there is significant innovation occurring in that sector (e.g. currently the payments sector), with no cross-subsidisation;
- (c) Set application fees or modification fees to reflect the complexity associated with the relevant business model; and
- (d) Obtain funding from the government for innovation to support the growth of a sustainable and vibrant financial centre.

Proposal

In terms of funding the costs of new regulated activities, the spreading of set-up costs over a number of years is most consistent with the Principles and would seek to limit funding from the IOMG by making the new industry meet the costs of regulation. However, cost recovery will ultimately depend on the viability of the new activities and the number of new entrants to the market.

For the regulation of a new type of activity, the Authority would, following discussion with the Treasury, include a proposal as to how those new regulated activities would be funded as part of any related consultation on such a new regulatory framework. The Authority would liaise with the Treasury and other stakeholders to determine if there was a sufficient business case for the IOMG to provide short-term funding to support the introduction of the new regulatory framework. This may be the case for short-term innovation or environmental, social and governance ('ESG') initiatives (or similar undertakings).

In line with the Principles, innovation within established sectors would be funded by the sectors in question. This could be done by way of annual fee income or a separate levy for the work in question (as was done by the Insurance and Pensions Authority for the Insurance Core Principles Project). However, there may be situations (particularly for newer and/or smaller sectors) where it may not be realistic for the sector to cover additional regulatory costs as a result of innovation work. Depending on the costs involved in the work and its importance to the Authority's regulatory objectives, the Authority may consider funding some of the costs with income from other areas (cross-subsidisation). Alternatively, the Authority may discuss the possibility of short-term IOMG funding with the Treasury if

there is a sufficient business case and the IOMG is willing to support development in that area (e.g. for short-term innovation or ESG initiatives or similar undertakings).

Part 4: Transaction Fees

Background

The Authority sought views on the possible introduction of new types of fees in the 2020 Discussion Paper. Most respondents tended to agree with the introduction of transaction fees for significant one-off pieces of work as a means of spreading costs more fairly, provided that the fee structure did not become too complicated.

As noted in [Part 1 \(Preliminary Jurisdictional Comparison\)](#), the Authority is an outlier in charging mainly application and annual fees without any significant transaction fees (usage-based charges). A number of jurisdictions apply transaction fees in addition to annual and application fees. These can be varied, for example:

- (a) changes of control (such as new immediate or ultimate controllers);
- (b) business transfers;
- (c) model approvals;
- (d) approvals for individuals;
- (e) variations of permissions; or
- (f) certain important notifications.

The main advantage of transaction fees is that the entities that generate the additional work and benefit from the transaction bear the costs, without other fee payers having to shoulder this. Transaction fees also provide additional funds and cash flows to meet unplanned and resource-intensive demands on the regulator.

The disadvantages are that transaction fees provide an uncertain source of income and processing transaction fees generates additional administrative costs. In addition, fee payers may feel that their annual fees should cover the cost of routine transactional matters.

Options considered

The Authority considered the views for and against introducing new transaction fees alongside the responses to the 2020 Discussion Paper and the Principles.

Proposal

The Authority proposes to introduce transaction fees only for the most significant consent matters, such as changes of control (e.g. new immediate or ultimate controllers), portfolio transfers and court transfer schemes. These transaction fees would help cover the cost of more resource-intensive work the Authority has identified outside of day-to-day supervision and oversight. The Authority does not propose to introduce other transaction fees at this time.

Part 5: Treatment of Surpluses and Deficits

Background

As part of development of the new funding model, the Authority discussed various operational issues with the TPAs, such as how any notional surpluses and deficits in the Authority's Income and Expenditure Account (i.e. differences between budgeted and actual financial results) should be treated. The main findings are summarised as follows:

- The PIFM work identified a need to consider, in the light of the reduction of the Treasury subvention, how surpluses and deficits should be treated in future. At present, the Authority, as a Statutory Board, negotiates its planned expenditure on an annual basis with the Treasury. The Treasury provides a general subvention to the Authority to cover the balance of planned expenditure.
- The management of surpluses and deficits under a PIFM may be complicated by:
 - (a) greater unpredictability of overall income, if there is to be an increased role for transaction fees; and if the Authority is to retain more income from civil penalties (see [Part 2 \(Treatment of Civil Penalty Income\)](#));
 - (b) the reduction of IOMG funding, potentially removing a source of financial support to meet deficits, which may be large; and
 - (c) the need for clarity about the treatment of surpluses.
- Regulators that are wholly industry-funded tend to have provisions for their governments to make a grant or provide a loan or guarantee.¹²

Options considered

Various options were considered, recognising the Authority's relationship with the IOMG and the financing structure for IOMG Departments, Statutory Boards and Offices. The Authority also took into account the expectation of international standards that financial arrangements do not undermine independence from government as well as practice in comparator jurisdictions (see [Part 1 \(Preliminary Jurisdictional Comparison\)](#)).

Proposal

No firm position has yet been taken pending further discussions with the Treasury following the outcome of the consultation on the new funding model and fee structure. The Authority considers that there should be a mechanism to ensure that any surpluses in fee income against expenditure are made available in future years as a notional surplus, which could lead to a reduction in future fees or lessen the impact of any future fee increases. The Treasury and the Authority plan to discuss the possibility of introducing a notional balance sheet for the Authority once the implementation period is complete.

Part 6: Accountability and Transparency

Background

Respondents to the 2020 Discussion Paper sought additional information on any changes to the Authority's accountability and transparency obligations as a result of a move to a PIFM.

¹² In the Isle of Man, section 52 (financial provisions) of the FSA08 provides for any expenses incurred by the Treasury or the Authority in relation to the Act to be defrayed out of money provided by Tynwald.

As part of their work, the TPAs assisted the Authority with an analysis of how changes to accountability and transparency measures could be addressed under the new funding model.

The Authority noted that a number of respondents to the 2020 Discussion Paper had queries around accountability and transparency measures as a result of the move to a PIFM, such as increased engagement between the Authority and industry, and the publication of additional service level standards.

The Authority looked at comparator jurisdictions, where practices vary. In some cases, other regulators publish more information than the Authority by way of a plan and budget for the year ahead (see also [Part 1 \(Preliminary Jurisdictional Comparison\)](#)), information on fees raised by sector and more detail on service standards.

Options considered

The following options were considered:

- (a) Publication of an annual budget and plan setting out plans for the year and linking them to costs and fees.
- (b) Publication of more detail on the fee income by sector.
- (c) Establishment and publication of more performance measures and/or service standards.
- (d) Periodic internal or external reviews of the funding model.

Proposal

The Authority remains accountable to Tynwald and the Treasury for the effective discharge of its functions. As an independent statutory board of the IOMG, the Authority is subject to the IOMG's annual budgeting process with its annual budget being set centrally. Under the IOMG's Financial Regulations, the Authority is required to operate within its agreed budget. Any changes to the agreed budget (either in terms of income or expenditure) need to be supported by a business case. All changes are ultimately presented to the Council of Ministers, having been scrutinised by the Treasury, for a decision on whether to support or not.

The Authority's move to a PIFM does not change its relationship with Tynwald and the Treasury; it seeks to reduce the overall level of funding provided by the IOMG to the Authority to cover the cost of regulation and oversight. The move to a PIFM does not provide increased income to the Authority, it alters who pays.

Whilst noting that the Authority's existing transparency measures are broadly comparable with other financial regulators, the Authority is already in the process of enhancing its arrangements outside of its work on the new funding model. For example, the Authority is already considering the publication of additional performance measures and service level standards. Further information on these proposals will be published in due course.

In respect of the new Funding Model, the Authority plans to include a breakdown of fee income by sector in its annual income and expenditure account. The Authority also plans to initiate a review of the new funding model after it has been implemented to ensure it is on track to achieve the model's goals and that the model remains in alignment with the Principles where possible.

Appendix C – Authority Funding Model

This appendix has been uploaded as a separate document. Please click the link below to access it:

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

Appendix D – Authority Fee Structure

This appendix has been uploaded as a separate document. Please click the link below to access it:

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