

Funding Financial Regulation and Designated Business Oversight (DP20-01/T14)

A discussion paper issued by the Isle of Man Financial Services Authority (**the Authority**)

Comments from ACCA
22 January 2021
Ref: TECH-CDR-1955

ACCA is the Association of Chartered Certified Accountants. We're a thriving global community of **227,000** members and **544,000** and future members based in **176** countries that upholds the highest professional and ethical values.

We believe that accountancy is a cornerstone profession of society that supports both public and private sectors. That's why we're committed to the development of a strong global accountancy profession and the many benefits that this brings to society and individuals.

Since 1904 being a force for public good has been embedded in our purpose. And because we're a not-for-profit organisation, we build a sustainable global profession by re-investing our surplus to deliver member value and develop the profession for the next generation.

Through our world leading ACCA Qualification, we offer everyone everywhere the opportunity to experience a rewarding career in accountancy, finance and management. And using our respected research, we lead the profession by answering today's questions and preparing us for tomorrow.

Find out more about us at www.accaglobal.com

Further information about ACCA's comments on the matters discussed here can be requested from:

Sundeep Takwani
Director – Regulatory Relations
sundeep.takwani@accaglobal.com

Laura Murphy
Standards Manager
laura.murphy@accaglobal.com



GENERAL COMMENTS

ACCA welcomes the opportunity to provide feedback on funding financial regulation and designated business oversight. We represent ACCA members and firms of accountants registered with the Authority to provide financial services in the Isle of Man (IOM). Our response to this consultation is informed by members' input obtained from the ACCA Members' Network in the IOM.

AREAS FOR SPECIFIC COMMENT

Predominantly Industry-Funded Model ('PIFM')

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.

ACCA is supportive of the proposals to achieve a greater degree of industry funding for financial regulation and Designated Business oversight in the IOM. The funding of regulation and oversight in the IOM is currently subject to a significant level of taxpayer funding and we support the general concept of the PIFM that a substantial majority of the Authority's costs should be covered by fee income from the persons that use those services.

We note that the Treasury will provide additional resource to the Authority to allow it to protect the Island's high standards of compliance and regulation in the short term. However, it could be argued that the IOM Government has a vested interest in ensuring that the IOM has a well-regulated and compliant financial services sector and therefore it should continue to bear some responsibility for investing in it over the longer term. In our opinion, some of the Authority's costs that do not relate directly to regulation or oversight but relate to the IOM as a whole should continue to be subsidised by IOM taxpayers.

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.

We believe the Authority's costs, the risk and impact in relation to the Authority's objectives, affordability, and the benefits of regulation to the wider finance sector and economy are appropriate elements for determining the PIFM.



Question 3: Do you have any comments or suggestions on the relative importance of the main elements?

As the starting point for the PIFM, we consider the Authority's costs to be the most important of the four main elements. It is important that the Authority continues to make efficiencies and manage resources to meet the increasing demands of financial regulation.

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.

We are unable to comment specifically on this area as the level of costs to be recovered under a PIFM have not yet been determined and is subject to agreement. However, we would expect costs that relate directly to regulation and oversight, including supervision and the core costs of enforcement, to be included in the PIFM. In our opinion, the enforcement costs should be covered by the sector as a whole, rather than allocated on a sector-by-sector basis. Furthermore, we consider that costs which do not relate directly to regulation and oversight should either be excluded or recovered through some form of apportionment or weighting mechanism.

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?

We believe that firms identified as carrying higher risk and subject to greater regulatory requirements and a higher level of supervision and oversight should be required to contribute proportionately more under the Authority's fee model to achieve a PIFM. This approach would ensure that smaller firms carrying a lower risk that do not absorb the Authority's time and resources to the same extent are not unfairly charged.

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?

Not applicable.

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.

In our response to the Authority's consultation on fees in 2021 and 2022, ACCA expressed the view that the proposed increases to regulatory fees were unlikely to have a significant impact on most regulated entities nor disproportionately affect small firms. However, if annual or periodic



fees were to double the impact is likely be far more significant, and it will be felt differently by each fee payer and may depend on a variety of factors. We therefore recognise that ACCA members and firms registered to provide financial services in the IOM may have concerns on affordability which are specific to their individual circumstances.

We note that fee increases under the PIFM model would create a significant additional operational cost for some businesses. There is a risk that financial services, insurance and pensions entities may regard the IOM as a less attractive option, and this could impact the stability of the financial system of the Island.

Question 8: How should cross-subsidisation between sectors for the cost of regulation and oversight feature in a PIFM? Please give reasons.

We believe an element of cross-subsidisation between sectors is desirable in order to support a healthy, competitive and diverse economy. Cross-funding between sectors is necessary in order to support change and innovation, in particular in new areas of regulated activity that benefit the wider economy and consumers.

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?

Within a PIFM, we believe that is acceptable for all firms to be required to pay a minimum fee, with the potential for reduced minimum fees in specific circumstances. The adoption of a threshold below which firms would only pay a minimum fee would accommodate new and less well-established businesses, and support the continuation of activities that provide intangible or longer-term benefit to society.

International and domestic comparison

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.

In our response to the consultation on fees in 2021 and 2022, we encouraged the Authority to fully explore alternative fee models which might be fairer and more proportionate to the benefits and risks of regulation. The Authority's counterparts in the UK, Jersey and Guernsey and other regulators have been industry-funded for some time and an opportunity exists to research and understand their funding models and the fee structures and methodologies applied.



We believe the Authority should set fees at a level which compare favourably with other competitive jurisdictions and continue to attract high value funds to the IOM. It would be helpful to understand the comparative costs as this is crucial to developing the industry on the Island.

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).

Not applicable.

Fee Structure and Calculation Methodology

Question 12: What are your views on the current types of fees and fee calculation methodology for your regulated activity or Designated Business?

Not applicable. Please see our response to Question 7 above.

Question 13: Please provide any suggestions you have for an alternative fee calculation methodology for your regulated activity or Designated Business.

We believe the Authority should consider implementing a blended model of fixed and variable fee rates which are dependent on the nature of the regulated activity and the scale of the firm's activities. This would ensure that larger investment funds bear a greater share of the costs of regulatory supervision based on the funds' net asset value (**NAV**), for example an average NAV for the fund during the charging year. Blended fee models have been adopted by other European regulatory authorities and a variable element would ensure fairness while also preserving the competitiveness of the IOM financial services sector.

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?

We support the plans to review the Authority's existing fee structure and we believe this should include consideration of the introduction of new types of fees to fund activities not covered by the existing fees, such as routine administrative processing and non-routine pieces of work.



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.

We have no comments.

Transition Period and Implementation

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?

We note that the move to a PIFM is a long-term goal, and the timescales for the broader transition to the new funding model will begin in 2023/24 and are subject to future consultation. The move to a PIFM will necessitate significant changes for the Authority and fee payers and therefore we would support a transition over a longer period of time. Furthermore, the Covid-19 pandemic and the uncertain economic outlook is impacting businesses in the regulated sector, and this must be factored into the timeframe for moving the Authority to a PIFM.

We are particularly concerned that a short time scale to transition towards a PIFM and significant fee increases for some regulated entities risk damaging the financial services sector in the IOM. Therefore, we suggest the Authority considers applying a more gradual approach to implementing a self-funded structure.

Question 17: Please provide any suggestions you have on how fees should be adjusted on an annual basis to ensure cost recovery.

We have no comments.

Transparency Measures

Question 18: Please provide any comments you have on the Authority's existing transparency measures.

We believe the existing transparency measures and the mechanisms used to promote transparency around the Authority's functions and activities are appropriate and fulfil the current requirements for accountability to the Treasury, IOM government and stakeholders.



Question 19: What additional transparency measures might be considered for the Authority as a result of a move to a PIFM?

We believe the move to a PIFM will lead to a greater focus on, and scrutiny of, the Authority's resources. Therefore, additional transparency measures should be considered, in particular for fee-payers in relation to the effective and efficient use of financial resources. For example, the Authority should consider enhanced transparency around costs, types of fee, fee calculation methodologies, and the allocation of funds to the Authority's functions and activities.

Impact Assessment

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.

We have no further comments.

