



**BY EMAIL ONLY**

Date: 22<sup>nd</sup> May 2024

Dear CEO,

**Observations by the Isle of Man Financial Services Authority (“the Authority”) in relation to the recruitment of Heads of Compliance /MLROs**

The Authority is aware that the employment market for Heads of Compliance and MLROs has tightened over recent years and that over the last 12 months some Regulated Entities have struggled to recruit suitably experienced and qualified individuals to fill such vacant positions.

The effect of these employment market changes have led to an increased number of cases where Fitness and Propriety assessments are not meeting the Authority’s expected requirements.

**Fitness and Propriety (“F&P”) requirements**

The necessity for meeting F&P requirements for persons in controlled functions (including the Head of Compliance and MLRO) is one of the mainstays of regulatory provision, not least because it is a vital requirement -

- a) For the protection of the customers of regulated entities;
- b) To ensure that such regulated entities are not controlled or managed by persons that may be engaged in financial or other criminal activity, or to enable those entities to inadvertently become involved in financial crime; and
- c) To protect the reputation of the Isle of Man.

The Authority regularly reviews its F&P expectations and requirements, including comparing and discussing such F&P principles and experiences with equivalent Regulators in similar jurisdictions.

In its assessment of applicants, the Authority will always be flexible and deal with each application request on its individual merits in line with the published guidance. When considering an individual application, where that individual may not meet the minimum published standards, account may be taken of a range of additional factors. These may include the relevant experience of the individual, the risk environment, impact considerations and the complexity of the associated business. These factors may also include objective measures that inform the level of flexibility the Authority will permit in relation to the application under consideration. The firm’s size, the

proportion of its retail and / or vulnerable customers, its record of compliance (including the number and nature of any contraventions) are just some examples of these measures.

Similarly, where there is evidence of support being provided to promote an individual's development at a firm, for example through an appropriate training plan, the Authority may be able to consider acceptance of a person who, on the face of it, may not meet the published guidelines. In practice, this may allow an officer to take up a senior appointment, including MLRO or Head of Compliance, at a firm that has demonstrated that it has a strong Board operating a healthy compliance culture.

However, where such attributes are lacking within the firm, or where there is a history of repeated or avoidable regulatory contraventions, such a situation would typically lead to the requirement for the appointment of a person with greater experience within the sector to act as the controlled function holder.

Overall, the Authority believes its F&P requirements are comparable with similar jurisdictions, includes flexibility to address applications on a case-by-case basis and are appropriate. As indicated, the Authority will always be flexible where it can, however it will always be mindful that those minimum standards exist to protect the individual, the firm, its customers and the Island and will always have regard to those objectives.

The Authority encourages firms to reach out at an early stage to discuss options.

**Associated actions being taken by the Authority:**

The Authority recognises the current challenges facing the financial services sector regarding the recruitment of suitably qualified AML/compliance professionals, and continues to work proactively to help address the situation.

A collaborative approach is taking place with industry bodies to build capacity, enhance training, and provide practical guidance within the compliance area. Along with the Department for Enterprise, and the financial services industry, the Authority is also working with University College Isle of Man to support compliance education and mentoring as part of its business administration course.<sup>1</sup>

The Authority similarly continues to deliver its extensive programme of outreach and engagement with industry and to explain the position on key issues, such as highlighted before, concerning its willingness to take an appropriate and flexible approach to the appointment of controlled function holders where appropriate.

---

<sup>1</sup> <https://www.iomfsa.im/fsa-news/2024/apr/authority-collaborates-with-ucm-to-support-compliance-training-and-mentoring/>

**The Authority's expectations:**

- All firms should consider and adhere to the [Training and Competency Framework](#).
- All firms should consider and adhere to the [Regulatory Guidance for Fitness and Propriety](#)
- If a firm is struggling to meet the requirements set out in legislation, the Regulatory Guidance for F&P and/or the Training and Competency Framework, it should proactively engage with the Authority, to enable the situation to be assessed as early as possible.
- All firms should undertake appropriate succession planning to identify areas of risk or concern and take the necessary steps to mitigate those risks or concerns.

Should you have any queries relating to this letter please contact the team by email at: [authorisations@iomfsa.im](mailto:authorisations@iomfsa.im)

Yours faithfully,

*Sarah Kennedy*

**Head of Division – L&E Authorisations**  
**Isle of Man Financial Services Authority**

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

[www.iomfsa.im](http://www.iomfsa.im) • [LinkedIn](#) • [Twitter](#) • [Facebook](#) • [Privacy Policy](#)