



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Licensing Policy

for regulated activities under the
Financial Services Act 2008

11 September 2024

This licensing policy applies to persons carrying on, or intending to carry on, regulated activities under the Financial Services Act 2008. Other licensing policies apply in respect of activities under the Insurance Act 2008 and the Retirement Benefit Schemes Act 2000 and there is a supplemental policy for persons providing services to collective investment schemes.

Contents

Glossary	4
Introduction	7
Part I – The Authority’s ‘Fit and Proper’ Criteria for Regulated Activities Under the FSA08 ..	11
1.1 – General.....	11
1.2 – ‘Not fit and proper’ directions and warning notices	12
1.3 – Prohibitions.....	12
Part II – Structure and Organisation of the Applicant	14
2.1 – New business start-ups and track record	14
2.2 – Structure	14
2.3 – Applicants that are part of groups.....	15
2.4 – Applicants that are companies under the Companies Act 2006	16
2.5 – Professional Officers	17
2.6 – Ownership by a trust or a foundation	17
2.7 – Branches	18
2.8 – Real presence.....	19
2.9 – Managed businesses.....	20
2.10 – Overseas businesses	20
2.11 – Representative Offices.....	21
2.12 – Changes to ownership structure once a licence has been granted.....	21
2.13 – Commencement and continuation of business once a licence has been granted.....	22
Part III – Persons Responsible for Management and Control	23
3.1 – Directors, controllers and key persons.....	23
3.2 – Separation of roles.....	23
3.3 – Responsibilities	24
3.4 – Locums	24
Part IV – Integrity.....	26
4.1 – Integrity.....	26
Part V – Competence	27
5.1 – Competence.....	27
Part VI – Financial Standing	28
6.1 – Solvency	28
6.2 – Professional indemnity insurance cover.....	29

6.3 – Ongoing requirements.....29

6.4 – Separation of client money and assets.....29

Appendix 1 – Key to Class 3 licensing requirements in Tables A and B of Appendix 2 30

Appendix 2 – Table A – Ownership and management structures..... 31

Appendix 2 – Table B – Track record 35

Appendix 3 – Managed business 38

Appendix 4 – The licensing structure under the Financial Services Act 2008..... 40

Appendix 5 – Matters that could result in refusal of a licence 41

Glossary

2006 Act company	a company constituted under the Companies Act 2006
AML/CFT Code	means any code currently in operation made under s.157 of the Proceeds of Crime Act 2008 or 27A of the Terrorism (Finance) Act 2009 and includes the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019
Applicant	the person applying for a licence to undertake one or more regulated activities. Unless the context precludes, the term 'applicant' should be read as including 'licenceholder'
Authority	the Isle of Man Financial Services Authority
CIS	collective investment scheme
CISA08	Collective Investment Schemes Act 2008
Class of activity	<p>the various classes of regulated activity are set out in the Regulated Activities Order and are grouped into the following classes –</p> <ul style="list-style-type: none"> • Class 1 – Deposit Taking • Class 2 – Investment Business • Class 3 – Services to Collective Investment Schemes • Class 4 – Corporate Services • Class 5 – Trust Services • Class 6 – Crowdfunding Platforms • Class 7 – Management or Administration Services • Class 8 – Money Transmission Services • Class 9 – Operation of a Credit Union
Controlled Function	certain roles within or for a licenceholder, where the persons undertaking those roles are classed generally as key persons, (see 'Regulatory Guidance – Fitness and Propriety') and as a result where the persons holding such roles must be fit and proper
Controller	"a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15% or more of the voting power at any general meeting of the [applicant/licenceholder] or of another body corporate of which it is a subsidiary" (see s.48 of the FSA08 for full definition)
Credit union	a body incorporated under the Credit Unions Act 1993

CSP	Corporate Service Provider
Directors	includes 'members of the committee of management' of a credit union
Excluded activities/ exclusions	activities that fall outside the scope of the FSA08. Details of excluded activities are set out under each class in the Regulated Activities Order
Exempt persons/ exemptions	persons that carry on regulated activity but have been exempted from the requirement to hold a financial services licence. Details of exempted regulated activities are set out under each class in the Financial Services (Exemption) Regulations
Financial Services (Exemption) Regulations/ Exemption Regulations	this reference will always be read as the version of the Financial Services (Exemptions) Regulations which is in effect at the relevant time
Fitness and Propriety Assessment Forms	Forms F&P 1 (Individual Questionnaire), F&P 2 (Notification Only Form), F&P 3 (Controller Questionnaire), F&P 4 (Intermediate Controller Notification Form) and F&P 5 (Individual Controlled Function Cessation Form) - before completing these forms, applicants should refer to the Authority's Regulatory Guidance – Fitness and Propriety which can be found on the Authority's website
Foundation	includes Isle of Man foundations
FSA08	the Financial Services Act 2008
IoM	the Isle of Man
Isle of Man foundation	a foundation within the meaning of the Foundations Act 2011
Key person	a person who has, or who appears to the Authority to have, significant powers and responsibility in relation to any regulated activity (see s.48 of the FSA08 for full definition) – typically a key person will be in one of the Controlled Functions
Licence	a financial services licence issued under s.7 of the FSA08
Licenceholder	a person who has been issued with a licence under s.7 of the FSA08
Permitted person	a licenceholder and/or exempt person
Person	includes individuals and any body of persons, corporate or unincorporate
Professional Officer	an individual licensed to carry on regulated activities falling within: <ul style="list-style-type: none"> • Class 4 paragraph (6) acting as an officer of a company; and/or

	<ul style="list-style-type: none"> Class 5 paragraph (2) acting as trustee (other than sole trustee) in relation to an express trust and/or (5) acting as a protector in relation to an express trust and/or (6) acting as an enforcer in relation to either a purpose trust or a foundation
Regulated activity	an activity which is a regulated activity set out in the Regulated Activities Order (see 'class of activity')
Regulated Activities Order/ RAO	this reference will always be read as the version of the Regulated Activities Order which is in effect at the relevant time
Regulatory Guidance – Fitness and Propriety	this reference will always be read as the version of the Authority's Regulatory Guidance – Fitness and Propriety, which is in effect as the relevant time and can be found on the Authority's website
Representative Office	an entity that is licensed to carry on regulated activities falling within Class 1(3)
Restricted Depositor	a person that is permitted to deposit funds with a Class 1(2) licenceholder, subject to the restrictions set out in the Regulated Activities Order
Rule	a particular rule contained in the Rule Book
Rule Book	the Financial Services Rule Book made under the FSA08. This reference will always be read as the version of the Rule Book which is in effect at the relevant time. See also 'standard licence conditions'
Scheme	a collective investment scheme
Standard licence conditions	have the same effect as (rules in) the Rule Book
TSP	Trust Service Provider

Introduction

- (i) **General matters** - This licensing policy is guidance issued under s.6 of the FSA08.¹ It is intended to help those who conduct, or wish to conduct, regulated activities to understand the Authority's licensing process and requirements. **It also continues to apply to licenceholders, being persons that already hold a financial services licence.** The Authority cannot provide legal advice. Licence applicants should seek appropriate legal advice on their particular circumstances.
- (ii) **Exemptions and exclusions from the licensing requirements** - Certain activities and persons may benefit from an exclusion or exemption from the financial services regulatory regime.
- An exclusion means the activity is not a regulated activity.²
 - An exemption means the activity is regulated activity, but which can be performed without a licence. Exemptions can be subject to conditions. If an exempt person undertakes regulated activities outside the exemption, or in contravention of conditions, the Authority's enforcement powers come into effect.³
 - If a person is obliged to obtain a licence for some of its regulated activities, then its licence (and hence the Authority's Rule Book) applies to all regulated activities conducted by that person, including those which, had a licence not been held, potentially would have been exempt.
- (iii) **Licensing requirement** - It is an offence to undertake, or hold out as undertaking, a regulated activity by way of business without a licence or an applicable exemption⁴.
- (iv) **Application of the licensing policy** - Before being granted a licence the applicant must positively satisfy the Authority that the applicant is fit and proper to undertake the regulated activity. Where the Authority is not positively satisfied, an application will be turned down. It is for the applicant and relevant persons to satisfy the Authority that they are fit and proper, rather than the Authority to prove that the applicant and relevant persons are not fit and proper.
- The Authority expects to be informed by the applicant and relevant persons of anything that the Authority ought to know that may be of relevance to the application. An applicant's ability to identify issues, and its willingness to address them openly and constructively with the Authority is relevant to the Authority's assessment of the applicant's competence, management controls (including financial controls), and its integrity.
- A licenceholder's continuing obligation to notify the Authority of matters relevant to the individual fitness and propriety of its controllers, directors and key persons is covered in Rule 7.12 of the Rule Book.
- The Authority exercises its functions, so far as reasonably practicable, in line with its regulatory objectives⁵. In determining licence applications, the Authority will consider the potential impact of

¹ s.6 FSA08 (3): The Authority may publish guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (1).

² The exclusions are set out under each class in the Regulated Activities Order.

³ The exemptions are set out under each class in the Financial Services (Exemption) Regulations.

⁴ s.4 of the FSA08.

⁵ s.2(2) of the FSA08:(a) securing an appropriate degree of protection for policyholders, members of retirements 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.

granting a licence on its ability to meet its regulatory objectives, the impact of its licensing decision on the stability of the financial system of the Island, and the effect the granting of the licence could have on the reputation of the Island.

The Authority will objectively take into consideration the cumulative effect of the information before it in relation to the fitness and propriety of the applicant, and any person that will hold a Controlled Function⁶ for the applicant, and how this could impact upon its regulatory objectives. The Authority may also consider any other persons employed or to be employed by the applicant, or associated with the applicant, for the purposes of its business⁷. It is possible that single matters (which, taken in isolation, would not justify a refusal to issue a licence) may, when considered alongside other matters have the cumulative effect of being sufficient to refuse to issue a licence.

The circumstances of each applicant will not be identical. The Authority examines all relevant matters and considers each application on its own merits. Having examined an application, the Authority may decide to make more extensive enquiries to satisfy itself about particular risks or concerns.

Where an applicant demonstrates that the risks associated with its business can be addressed in a different way, the Authority may agree to modify the application of this policy for that applicant. In other cases, where there is a particular risk, the Authority may put additional conditions/directions and requirements on a licence to reflect the individual circumstances, or it may refuse to issue a licence.

If a licenceholder ceases (permanently or for the foreseeable future) to undertake a class of regulated activity for which it holds a licence or ceases to employ persons competent to undertake that activity, the Authority expects the licenceholder to surrender that element of its licence permission. If the licenceholder does not surrender the permission in these circumstances, the Authority can withdraw (revoke) the permission. If the cessation is temporary and expected to be for a maximum of 12 months, the Authority may suspend the permission. The temporary suspension may be lifted if the circumstances change, and the activity can be undertaken appropriately. However, at the end of the period of temporary suspension if the activity cannot be undertaken appropriately the licenceholder is expected to surrender that permission. This document is not exhaustive or binding on the Authority. The licensing regime requires the Authority to exercise discretion; how it does this will depend on the applicant's particular circumstances.

- (v) **The licence application process and review of decisions** - Licence applicants are required to submit a completed licence application form with all necessary supporting documentation, including a business plan and the relevant application fee⁸.

Applicants for a Class 1(3) Representative Office licence (see [2.11 Representative Offices](#) below) should note that there is separate guidance and a separate licence application form⁹.

Licence applicants for Class 6 regulated activity (crowdfunding platforms), as well as any applicants for other regulated activity where their business model and customer interface are exclusively or substantially electronic, must have a working test-version of the website at a suitably advanced state. This is in order to demonstrate user interface and functionality, and how it would operate if a licence were granted.

⁶ See the Authority's Regulatory Guidance – Fitness and Propriety for details of the Controlled Functions.

⁷ s.6(2)(d) of the FSA08.

⁸ See the Authority's 'Application to Become a Regulated Entity' and 'Regulated Sector Fees' webpages for further details.

⁹ See the Authority's 'Application and change of control forms' webpage for details.

The licence application will need to satisfactorily address linked matters, such as system governance, data and system security, arrangements for IT systems maintenance, resilience and support, and important technical specifications, and must be supported by an acceptable assurance provided by an independent IT expert.

Licence applicants for Class 9 regulated activity (credit union) should seek guidance on the completion of the licence application form from Authorisations@iomfsa.im. It is also important to note that standard licence conditions for Class 9¹⁰ will apply.

The Authority's current service standard for processing an application, from receipt of a **complete application** to a decision from the Authority, is 6 months. However, this service standard applies to an application with which there are no major difficulties concerning the applicant or persons connected with the applicant. An application may take considerably longer than 6 months to process if it is incomplete, or if there are issues in relation to the applicant or connected persons that require further investigation before a recommendation can be made regarding the issue of a licence. To ensure an application is processed as quickly as possible, it is important that all the necessary forms and documentation are completed accurately and submitted in a timely manner.

The Authority is not responsible for delays arising from the submission to it of incomplete, inaccurate or changing applications. During the processing of any application, two-way communication with the Authority is essential. This dialogue will allow the processing team to gain a better understanding of the business, which may also speed up the application process.

If the licence application process is not completed within 6 months due to outstanding items required from the applicant, then the Authority can require a new application, a further application fee and updated supporting documentation (e.g. a refreshed business plan and financial information).

Once a licensing decision has been determined, the applicant should fulfil any 'subject to' matters expeditiously and at the latest within 3 months. If these matters are not fulfilled within 3 months, the Authority may consider an extension of time, depending on the circumstances. However, it is also possible that it may require a new application to be made. Where a new application is required the relevant application fee is also payable.

A licenceholder is expected to start its regulated activities within 6 months of the date on which a licence is issued unless the Authority has agreed otherwise in writing. A licenceholder must notify the Authority if it has not started regulated activities within 4 months of the licence date. Failure to commence business in a timely manner could indicate solvency or competence issues which can lead to suspension or revocation of the licence.

Further information on the licensing procedure, and how to seek a review of a licensing decision, is set out on the Authority's website.

- (vi) **Extensions to licences** - If a licenceholder wishes to extend its existing financial services licence to cover additional classes of regulated activity the Authority will require an application form to be submitted. The applicant will undergo the full licensing process for the new classes of regulated activity. Applications must also be made if the additional regulated activity falls within the same class of regulated activity already undertaken by the licenceholder. In this case discretion will be exercised as to the necessary process, based on the level of disparity between the current and proposed regulated activities within that particular class.

¹⁰ See the Authority's 'Credit Unions' webpage for further details.

- (vii) **Classes 2 and 4 regulated activities** - Class 2 licence permissions may only be combined with Class 4 regulated activity in very limited situations. Normally this would only be permissible if the main regulated activity of the licenceholder is Class 2 or 3 activity, and the desired Class 4 activity is limited to incidental activity occasioned in the provision of the typically Class 2 or 3 services to closed ended investment companies or CIS's.
- (viii) **Class 4 regulated activities** - Except for Professional Officers, the Authority expects applicants wishing to carry on Class 4 regulated activities to offer and undertake a full range of Class 4 services including company management and administration. The Authority will not licence a business that only offers registered agent services, sales of companies or provides premises for use as a registered office.
- (ix) **Class 5(4) regulated activities** - Class 5 licences do not automatically permit a licenceholder to act as a Trust Corporation (Class 5(4)). A Trust Corporation is able to undertake all the activities of a trust company plus functions reserved to a Trust Corporation. These functions include (but are not limited to):
- Competence to undertake matters of probate.
 - Ability to act alone to give valid receipt for money arising under a trust.
 - Being named as attorney in an enduring power of attorney.
- (x) **Class 6 regulated activities** - Class 6 licences may not be combined with any other Class of regulated activity.
- (xi) **Other relevant guidance and information** - see the Authority's 'Application to Become a Regulated Entity' webpage for details.

Part I – The Authority’s ‘Fit and Proper’ Criteria for Regulated Activities Under the FSA08

1.1 – General

1.1.1 Before granting a licence the Authority must be satisfied that the applicant is fit and proper to undertake the regulated activity. The fit and proper test is applied to the business as a whole and to the persons responsible for the management and control of the business (including owners) and key persons (persons in Controlled Functions), as well as other persons employed or to be employed by the applicant, or associated with the applicant, for the purposes of its business¹¹.

The fit and proper test is an initial test (at licensing) and a continuing test (in the ongoing conduct of the regulated activities). The Authority can take regulatory action, including the suspension or revocation of a licence, if a licenceholder does not continue to satisfy the fit and proper criteria.

It is for the applicant and relevant persons to satisfy the Authority that they are fit and proper, rather than the Authority to prove that the applicant and relevant persons are not fit and proper.

This document sets out the criteria the Authority normally applies when assessing the fitness and propriety of an applicant.

1.1.2 In assessing fitness and propriety the Authority considers:

- (a) the applicant’s integrity, competence, financial standing, structure and organisation (both internally and from a group perspective);
- (b) the integrity, competence and financial standing of the applicant’s controllers, directors and persons in Controlled Functions (see the Authority’s Regulatory Guidance – Fitness and Propriety);
- (c) the nature of the business the applicant proposes to carry on;
- (d) any other persons employed or to be employed by the applicant, or associated with the applicant for the purposes of its business; and
- (e) the risk posed by the applicant to the stability of the Isle of Man financial system.

1.1.3 When considering licence applications, the Authority assesses the applicant’s ability to comply with:

- the FSA08;
- the Rule Book;
- the AML/CFT Code and any related Authority guidance; and

where relevant, standard or anticipated licence conditions, CISA08 and applicable regulations and orders made under it.

1.1.4 An applicant’s business should be structured and carried on in a fit and proper manner. An applicant must demonstrate to the Authority that -

¹¹ s.6(2)(d) of the FSA08.

- its systems and controls are adequate and appropriate for the regulated activities it wishes to conduct;
- its resources are sufficient, not only for the carrying on of the regulated activity, but also the appropriate separation of duties (see **3.2 – Separation of Roles** below); and
- it has an honest and fair attitude in its dealings with clients and others.

1.1.5 Serious or repeated breaches of legislation or codes of conduct in the Island, or in another jurisdiction, by an applicant, its directors, controllers or persons in Controlled Functions, will, prima facie, suggest a lack of competence and/or integrity.

1.1.6 In assessing the fitness and propriety of a controller that is not an individual the Authority will consider that entity’s business activities, its financial standing and the integrity, competence and financial standing of its directors and its controllers (see the Authority’s Regulatory Guidance – Fitness and Propriety).

1.1.7 As part of its consideration of applications, the Authority will require information on the source of wealth and source of funds of prospective controllers.

1.2 – ‘Not fit and proper’ directions and warning notices

1.2.1 The Authority can issue a ‘not fit and proper’ direction where it has reasonable grounds to believe a person proposed as a controller, director or key person is not fit and proper¹². Where the Authority believes the conduct of such a person means they are no longer fit and proper, it can issue a ‘not fit and proper’ direction requiring that they shall not continue in that role¹³. The applicant/licenceholder must not appoint or continue the appointment of a person in a role which contravenes any such direction.

1.2.2 The Authority can issue a warning notice¹⁴ where it believes that activities or circumstances are prejudicial to a relevant person’s fitness and propriety. A warning notice can (but need not) require that the person take specific action or request the person to propose action.

1.2.3 Conduct which, taken in isolation, is not sufficiently severe to demonstrate a lack of fitness and propriety can, cumulatively with other behaviour, lead to a warning notice or a ‘not fit and proper’ direction. As such the Authority can take account of the cumulative effect of a person’s conduct.

1.3 – Prohibitions

1.3.1 The Authority can impose a prohibition if it appears that any individual is not a fit and proper person to perform one or more functions in relation to a regulated activity¹⁵. The prohibition can apply to any role in relation to a regulated activity, and not only Controlled Functions.

1.3.2 A prohibition may prevent an individual from performing:

¹² s.10(1) FSA08.

¹³ s.10(2) FSA08.

¹⁴ s.11 FSA08.

¹⁵ s.10A(1) FSA08.

- any function;
- a specified function; or
- a function of a specified class,

and can be in relation to a particular permitted person, a specified class of permitted person, or all permitted persons.

Furthermore, a prohibition may relate to:

- any regulated activity;
- a regulated activity specified in the prohibition; or
- a regulated activity of a specified class.¹⁶

1.3.3 The applicant/licenceholder commits an offence if without reasonable excuse it permits an individual to perform a function which the individual has been prohibited from performing. Likewise, an individual commits an offence if he or she performs, or agrees to perform, a function which he or she is prohibited from performing.¹⁷

¹⁶ s.10A (3) & (4) FSA08.

¹⁷ s.10A (5) & (6) FSA08.

Part II – Structure and Organisation of the Applicant

2.1 – New business start-ups and track record

- 2.1.1 When licensing a new business start-up, the Authority considers the likely potential risk to customers' interests, as well as any potential reputational risk to the Isle of Man.
- 2.1.2 An applicant is expected to demonstrate a satisfactory track record in the regulated activity for which it seeks a licence. This can relate to the applicant in its own right (for example, where it is already licensed to carry on the same or similar regulated activities in another jurisdiction), or as part of a group that includes entities licensed to carry on that class of regulated activity.
- 2.1.3 The Authority can consider applications for a licence to carry on regulated activities within Classes 2 to 8 where the applicant has no track record and is not part of a group with a track record, provided that the applicant's key persons have a proven track record at a senior level in a relevant licensed business. Such operations can have inherent risks and will be considered accordingly.

The specific considerations for different classes of regulated activities in respect of track record and new business start-ups are set out in [Appendix 2, Table B](#).

- 2.1.4 A new start-up Class 1(1) deposit taking business, that is not part of an established group of companies with an existing deposit taking business within that group, is not permitted because of the inherent risks to depositors. However, a new start-up Class 1(2) deposit taking business may be permitted, if it is part of a substantial, established group and subject to the relevant competency and experience of the key persons, and adequate financial resources being available to support the establishment of the business.
- 2.1.5 An applicant should restrict its activities to the regulated activities which it is licensed to conduct and other wholly incidental activities. If an applicant or licenceholder plans to conduct **ANY** activities other than those regulated activities for which it has applied for/holds a licence, it must pre-notify the Authority per Rule 8.13 of the Rule Book. This applies both to activities for which a licence is required as well as any other activities¹⁸.
- The Authority will consider how the applicant (plans to) conduct(s) that other activity, because any lack of integrity or competence in that regard can affect the conduct of the regulated activities.

2.2 – Structure

- 2.2.1 The ownership structure of an applicant should be as simple and transparent as possible, so that the structure does not inhibit the Authority's supervision of the licence applicant. If an ownership structure is unduly complex and/or lacks transparency, the applicant must explain and justify the rationale for the structure.
- The specific considerations for different classes of regulated activities in respect of business structures are set out in [Appendix 2, Table A](#).**
- 2.2.2 The licence applicant's structure should enable the Authority to identify –

¹⁸ For example: sub-letting premises, catering, vehicle hire, travel services, office cleaning etc.

- the ultimate beneficial owners of the business;
- the persons who exercise control over the appointment of the management team (directors and controllers);
- the management team; and
- persons in Controlled Functions and any other key persons.

2.2.3 An applicant must be publicly transparent about its ownership structure. See [2.4.2](#) below for details of the minimum public disclosure for applicants/licenceholders incorporated under the Companies Act 2006.

2.2.4 As the exercise of options over a company's shares can impact on the company's controlling interests, the Authority expects to be notified of any existing options and may wish to consider the terms of any such options.

2.2.5 **The Authority will only licence corporate entities (except for Professional Officers). However, when considering corporate applications, the Authority will not licence protected cell companies, incorporated cell companies, limited liability companies, limited partnerships or foundations.**

2.3 – Applicants that are part of groups

2.3.1 The Authority will normally supervise a licenceholder on both a solo and consolidated basis. Where a licenceholder is part of a group, the Authority may want to assess the whole group – such assessment would be tailored to the licenceholder's and group's specific circumstances. This means that the Authority reserves the right to ask for information about other group entities from the applicant, other regulators and, if necessary, the group entities themselves.

2.3.2 An IoM incorporated applicant wishing to carry on Class 1(1) activities (deposit taking) must be part of a group that has an existing deposit taker as part of that group and must supply the Authority with a letter of comfort¹⁹ from its parent, or immediate owner if appropriate. The Authority may require the letter of comfort to be renewed from time-to-time.

For any IoM incorporated applicant (subsidiary) that wishes to accept retail deposits, the group of which it is part should also have experience in that market.

2.3.3 Any applicant wishing to carry on Class 1(2) activities (deposit taking) must be part of a substantial and established group, but the group need not include an existing deposit taker. However, any such applicant must have suitable financial resources, track record and relevant competency, and it must employ key persons that have relevant experience in that market. In addition, it must supply the Authority with a letter of comfort from its parent, or immediate owner if appropriate. The Authority may require the letter of comfort to be renewed from time-to-time.

¹⁹ A letter of comfort is a written commitment from an applicant's parent to the Authority which acknowledges that the parent accepts responsibility for the applicant and its business. For Classes 1(1) and 1(2) deposit takers a parental letter of comfort is a licensing prerequisite. A letter of comfort may be required for other classes of licence dependent on individual circumstances. In the course of day-to-day supervision, the Authority takes account of a wide range of local and international matters. The existence of a parental letter of comfort is not a substitute for other ongoing supervisory requirements and actions.

- 2.3.4 Class 1(3) is a Representative Office licence. Such an entity may not carry on deposit taking (or any other regulated activities) in or from the Isle of Man and may only administer its own office. Class 1(3) licenceholders will be subject to periodic reviews, including consideration of whether transitioning to another class of licence would be appropriate.
- 2.3.5 Letters of comfort should record the deposit taker's parent or immediate owner's acknowledgement that it bears a responsibility, over and above any statutory obligations, for the applicant's continuing financial viability. The terms of the letter of comfort must be acceptable to the Authority.
- 2.3.6 Where a deposit taker is a branch of a company incorporated outside of the Isle of Man, written confirmation is required from the applicant's head office that it accepts full responsibility for branch liabilities.
- 2.3.7 An applicant for a licence to conduct any regulated activities in Classes 2 to 8 may be required to supply the Authority with a letter of comfort from its parent or immediate owner. The letter of comfort may need to be renewed periodically.

2.4 – Applicants that are companies under the Companies Act 2006

- 2.4.1 The Authority will not normally grant a Class 1(1) (deposit taking) licence to a 2006 Act company²⁰, unless in exceptional circumstances.
- 2.4.2 The Authority may grant a licence to a 2006 Act company to conduct Class 1(2) (deposit taking) activity, or regulated activities within Classes 2 to 8. However, an applicant for Class 4 permissions, established under the 2006 Act is not expected to be a registered agent of itself. A licenceholder must not be styled 'xxx plc' unless the company is a public company. Licence applicants that are 2006 Act companies, but that are not public companies, must have the suffix 'Limited'.
- To ensure appropriate levels of public disclosure, a licence issued to a 2006 Act company will be subject to the following requirements, either via the Rule Book or specified in licence conditions, as follows:
- "The licenceholder shall, at all times:*
- i maintain in force an election under section 203 (filing of the register of members) of the Companies Act 2006 ('the Act') and shall comply with the requirements of the Act in respect of that election;*
 - ii have only natural persons as directors;*
 - iii have at least two directors; and*
 - iv maintain up to date copies of the minutes of its Board meetings and members' meetings either at the licenceholder's business premises in the IoM or at the office of its registered agent."*

²⁰ This restriction is imposed principally because the Authority does not consider it appropriate for a deposit taker to be able to reduce its capital without more stringent safeguards being in place than those in the 2006 Companies Act.

- 2.4.3 Auditor liability – if the auditor of a 2006 Act company licenceholder has capped liability it must not be capped below the level of Professional Indemnity Insurance ('PII') cover needed to comply with the requirement at Rule 5.2(2)(c) of the Rule Book.

2.5 – Professional Officers

- 2.5.1 The Authority will only consider an application from an individual if it is for a licence to act as a Professional Officer undertaking Class 4 (corporate services) and/or Class 5 (trust services) activities.
- 2.5.2 Part 9 of the Rule Book contains the rules which are applicable to Professional Officers.

2.6 – Ownership by a trust or a foundation

- 2.6.1 The Authority will only exceptionally grant a licence for Class 1(1) or Class 1(2) (deposit taking) regulated activities where the applicant has a trust or foundation in its ownership structure. Class 1(3) Representative Offices may only be branches of foreign banks.
- 2.6.2 The Authority may grant a licence to an applicant which has a trust or Isle of Man foundation in its ownership structure where –
- the regulated activities of the applicant fall within Classes 2 to 8, or exceptionally Class 1 (but not Class 3(3)/(4) activities where the licenceholder will act for authorised/full international CIS's); and
 - the Authority can look through the trust or Isle of Man foundation and identify the persons who could control and/or could exercise significant influence over the applicant.
- 2.6.3 In considering an application involving a trust in the ownership structure the Authority will examine the trust deed or other document relating to its establishment and any other documents it considers relevant (e.g. the settlor's letter of wishes, deeds of appointment etc.). In addition, the applicant must provide full details of the rationale and commercial reasons which justify the use of the trust in its ownership structure as well as the details of persons directly or indirectly involved with the trust arrangements.
- The applicant must satisfy the Authority that all 'influential parties' to that trust meet the fit and proper criteria. 'Influential parties' are likely to be considered to be in the Controlled Functions of controller (R1 or R3) or otherwise key persons (R10)²¹, and include:
- the trustee(s); and
 - any person (in relation to the applicant, its administration or ownership) that the trustee(s) turn to for guidance, views or advice, or to whom they are obliged, instructed or requested to turn for advice or instructions, or on whose directions or instructions they are accustomed to act (other than a person advising purely in a professional capacity); and possibly,
 - the settlor, protector and beneficiaries of the trust, depending on their formal powers and/or level of influence over the trustees.

²¹ See the Authority's Regulatory Guidance – Fitness and Propriety.

The Authority should be notified about any subsequent changes to the trust deed or other document relating to the trust's establishment and/or changes to the 'Influential Parties'.

2.6.4 In considering an application involving a foundation in the ownership structure the Authority will examine the foundation instrument and the foundation rules and any other document relating to the foundation's establishment, or that the Authority considers relevant. In addition, the applicant must provide full details of the rationale and commercial reasons which justify the use of the foundation in its ownership structure as well as the details of persons directly or indirectly involved with the foundation arrangements.

The applicant must satisfy the Authority that all relevant 'Influential Parties' in relation to the foundation meet the fit and proper criteria. 'Influential Parties' are likely to be considered to be in the Controlled Functions of controller (R1 or R3) or otherwise key persons (R10)²², and include:

- the members of the Council of a Foundation;
- any person (in relation to the applicant, its administration or ownership) that the Council members turn to for guidance, views or advice, or to whom they are obliged, instructed or requested to turn for advice or instructions, or on whose directions or instructions they are accustomed to act (other than a person advising purely in a professional capacity); and possibly,
- the founders, dedicators, enforcers and beneficiaries of the foundation, depending on their formal powers and/or level of influence over the Council.

The Authority should be notified about any subsequent changes to the foundation instrument or rules or other document relating to the foundation's establishment and/or changes to the 'Influential Parties'.

2.7 – Branches

2.7.1 The Authority will not grant a licence to a branch unless its head office is licensed to conduct the relevant regulated activity or activities in another jurisdiction with licensing and regulatory standards equivalent to those of the Isle of Man. In assessing the jurisdiction, the Authority may contact the relevant regulatory authority and consider any published reports on the jurisdiction by the International Monetary Fund ('IMF') or other similar bodies, and in particular assessments related to the supervision of relevant regulated activities and compliance with Financial Action Task Force ('FATF') standards. The Authority will also consider the quality of its relationship with the relevant regulatory authority, whether there is a memorandum of understanding in place between the regulators and that regulator's willingness and ability to supply necessary information to the Authority.

2.7.2 In the case of a branch which undertakes Class 1(1) or 1(2) (deposit taking) activities, the Authority will not grant a licence unless it is satisfied that:

- the regulator of the relevant head office (the 'home regulator'), is prepared to exercise consolidated supervision with the Authority; and
- this consolidated supervision includes consideration of capital adequacy and liquidity.

²² See the Authority's Regulatory Guidance – Fitness and Propriety.

In addition to the above, if a branch wishes to accept retail deposits, i.e. hold a Class 1(1) licence, the Authority will also expect the following:

- the deposit taker/bank must have at least a 5-year track record; and
- the deposit taker/bank, or group of which it is part, should have a credit rating of at least investment grade.

The Authority will also take into account the standing of the deposit taker/bank/group in its home jurisdiction including matters such as systemic importance.

2.7.3 The level of autonomy granted to a branch by its head or principal office will depend upon the approach and structure of the relevant group (for example, the persons with effective powers over the branch's operation can be employed in the branch or in the head office). Whilst the Authority will apply the fit and proper test to branches at the same standard as for other applicants, it can modify how the test is satisfied to reflect the particular circumstances of the case.

2.7.4 The Authority must be satisfied that persons fulfilling Controlled Functions are fit and proper and it will assess the fitness and propriety of Head Office personnel who have a direct responsibility for the branch or who will be overseeing the work of the branch, as such persons are considered to be within Controlled Function R22 (see the Authority's Regulatory Guidance – Fitness and Propriety).

2.7.5 A Class 6 (crowdfunding platform), Class 8(4) (e-money) licenceholder, a Class 8(2)(a) (payment services directly), or a Class 9 (credit union) cannot be established as a branch.

2.8 – Real presence

2.8.1 It is a fundamental requirement that a licenceholder should not be a mere shell; an applicant must establish a real presence in the Isle of Man, and one which is sufficient to undertake the regulated activity for which it seeks a licence. An applicant can demonstrate real presence by satisfying the Authority that the business' centre of activity, as well as the undertaking of its regulated activity, will be in the Isle of Man.

2.8.2 The Authority cannot issue any licence unless the applicant is managed and controlled in the Island²³. Furthermore, for Class 6 (crowdfunding platforms) the Authority would prefer servers to be located, and data hosted, on the Isle of Man, and in any event a live copy of the data must be available at all times in the Island.

2.8.3 A Professional Officer must be resident in the Isle of Man and carrying on regulated business in or from the Island.

2.8.4 An Isle of Man branch of a company incorporated in another jurisdiction, must demonstrate real presence by registering under the Foreign Companies Act 2014 as a foreign company that has established a place of business in the Isle of Man. The centre of the branch's regulated business should be in the Isle of Man and there should be a sufficient degree of local management and control to ensure that there is accountability in the Island for the conduct of the regulated

²³ s.6(1)(d) FSA08.

activities, and to meet the requirements of the FSA08. There should be a minimum of 2 IoM resident officers²⁴.

- 2.8.5 The Authority expects all business records to be located in, or be accessible from, the Isle of Man without recourse to third parties. (This is subject to any outsourcing, or branch, arrangements for which the Authority may give consent.) This includes minutes of directors' and shareholders' meetings of IoM incorporated entities.
- 2.8.6 An applicant is expected to have sufficient staff and adequate systems to undertake its proposed activities, maintain its governance structure and manage its risk profile. Applicants must also have sufficient resources to appropriately separate roles (see **3.2 – Separation of roles** below) and may be expected, in order to obtain a licence, to take on further staff or obtain external support. The Authority will consider this on a case-by-case basis as the requirement will vary according to the scale and complexity of the proposed business.
- 2.8.7 The Authority expects the resident directors of a licenceholder to be fully involved in the management and control of the business, including the day-to-day operations of the regulated activity. Merely having an Isle of Man registered office and appointing officers from a corporate services provider or appointing resident non-executive directors will not satisfy the real presence requirements.

2.9 – Managed businesses

- 2.9.1 Although the Authority will not licence a business that is a mere shell without real presence, it may grant a licence to an applicant for certain classes of regulated activity where the applicant on its own does not fully meet the real presence test if the applicant's regulated activity will be managed in the Isle of Man by a Class 7 or Class 3(9) licenceholder (the 'manager').

See Appendix 3 – Managed business for details of the licensing requirements and Appendix 2, Table A for the classes of regulated activity which can be managed.

2.10 – Overseas businesses

- 2.10.1 An overseas office, branch or subsidiary which carries on regulated activities outside the Island ('overseas business') may impact on the fitness and propriety of an applicant. Therefore, where an applicant has already established an overseas business or wishes to do so in future, the applicant's level of control over the operation of the overseas business, including in respect of corporate governance and risk management, will be relevant to its licence application and to the ongoing assessment of its fit and proper status.
- 2.10.2 A licenceholder must obtain the Authority's prior consent before establishing an overseas business²⁵. The potential risks of the overseas business and any detrimental effect the overseas business may have on the Isle of Man operation or the Island's reputation will be considered when assessing whether the applicant is and remains fit and proper.

²⁴ Rule 8.25 of the Rule Book.

²⁵ Rule 7.3/7.4 of the Rule Book.

2.10.3 In assessing the overseas business, the Authority will consider:

- any published reports on the jurisdiction by the IMF or other similar bodies and in particular assessments related to the supervision of relevant regulated activities and compliance with FATF standards;
- the nature of activity that the overseas business will undertake;
- whether the activity is regulated; and
- whether the activity would be a regulated activity in the Isle of Man.

2.10.4 Where the activity is regulated in the overseas jurisdiction the Authority will contact the relevant regulatory authority in that jurisdiction. The Authority will consider the quality of its relationship with the regulatory authority, whether there is a memorandum of understanding in place with that regulator and that regulator's willingness and ability to supply information to enable the Authority to act as lead supervisor of the group.

2.11 – Representative Offices

2.11.1 An office (branch) in the Isle of Man of a foreign bank that represents, or holds itself out as representing, an off-Island deposit taking business must hold a licence authorising it to carry on Class 1(3) regulated activities.²⁶ The Representative Office must employ a Main Representative who will be considered to be within Controlled Function R22 (see the Authority's Regulatory Guidance – Fitness and Propriety) as the person responsible for the licenceholder's activities in the Isle of Man. The licenceholder must have dedicated office accommodation.

A Class 1(3) licenceholder may not undertake any deposit taking or other regulated activity transactions. It may only administer its own office (e.g. pay utility bills and staff salaries).

Currently, the Rule Book does not apply to Representative Offices, but standard licence conditions are imposed instead.

See the Authority's Guidance for Representative Offices of a Foreign Deposit Taker / Bank for further information.

2.11.2 In relation to an off-Island business undertaking regulated activities other than Class 1 deposit taking, please refer to the information in [2.7 - Branches](#).

2.12 – Changes to ownership structure once a licence has been granted

2.12.1 If a licenceholder wishes to make changes to its ownership structure, it should refer to Rules 7.3 to 7.8 of the Rule Book to see whether the Authority's prior consent needs to be sought, or whether the changes should be notified to the Authority. Any such changes can alter the Authority's assessment of the licenceholder as a fit and proper person. The licenceholder and any controller should also consider which Fitness and Propriety Assessment Forms must be submitted (see Appendix 6 of the Authority's Regulatory Guidance – Fitness and Propriety).

²⁶ s.7 FSA08.

- 2.12.2 **Options** - On an ongoing basis, a licenceholder must notify the Authority of any proposed pledge of, offer of options over or options granted in respect of its shares²⁷.

2.13 – Commencement and continuation of business once a licence has been granted

- 2.13.1 The Authority expects licenceholders to be actively available for business. New licenceholders are expected to commence business in a timely fashion and Rule 1.2 of the Rule Book requires them to notify the Authority if they have not commenced business within 4 months of a licence being granted.
- 2.13.2 The Authority may suspend or withdraw licence permissions for regulated activities which a licenceholder has not commenced, which it is no longer actively conducting, or for which it no longer has the necessary staff competencies. See [paragraph \(iv\) of Introduction](#) above, for further details.

²⁷ Rule 7.5 to 7.8 of the Rule Book.

Part III – Persons Responsible for Management and Control

3.1 – Directors, controllers and key persons

3.1.1 All persons with responsibility for management and control of the business, and key persons holding Controlled Functions, must satisfy the Authority that they are fit and proper persons. Please see the Authority’s Regulatory Guidance – Fitness and Propriety for further detail. Where the Controlled Function is a notified and accepted one a licenceholder should consider avoiding appointing an individual to such function unless it has received the written acceptance of the Authority to the appointment to that Controlled Function.

If an individual does take up a notified and accepted Controlled Function without the Authority’s prior acceptance of the regulated entity’s intention to appoint that individual, it is important to note that this will not prevent the Authority objecting to the appointment should that be necessary.

3.1.2 In considering a person’s fitness and propriety (as well as the matters set out in Part I above and in the Authority’s Regulatory Guidance – Fitness and Propriety) regard will also be had to whether:

- a person’s holding of a particular role or interest would expose the applicant to undue risk;
- a person’s holding of a particular role or interest would otherwise hinder effective supervision; and
- the interests of customers or potential customers of the applicant are, or are likely to be, prejudiced by a person’s holding of a particular role or interest.

3.1.3 The directors, controllers and other persons in Controlled Functions must be and remain fit and proper persons. In respect of management and control, ‘directors’ includes anyone on whose instructions one or more directors are accustomed to act. A IoM incorporated applicant must have 2 or more directors: all directors must be natural persons.

3.1.4 Where one or more nominees hold shares in an applicant, the relevant nominee agreement evidencing the identity of the shares’ beneficial owners must be disclosed to the Authority. The Authority will apply the fit and proper test to both the nominee shareholders and the beneficial owners of the shares.

3.1.5 Persons must submit the relevant Fitness and Propriety Assessment Forms to enable the Authority to consider a person’s fitness and propriety. In addition, the Authority may invite individuals to attend a personal interview to clarify any issues arising and/or to form an opinion regarding an individual’s competence and/or integrity.

3.1.6 A licenceholder or licence applicant, as well as its directors, controllers and other persons holding Controlled Functions must notify the Authority if their circumstances change, or events arise that could affect the assessment of their fitness and propriety.

3.2 – Separation of roles

3.2.1 To ensure that compliance control is separated from the day-to-day control of the business the following roles should be undertaken by different individuals –

- managing director and company secretary;²⁸
- Head of Compliance and IoM resident officers (of a branch);²⁹ and
- Head of Compliance and operational roles.

- 3.2.2 The Authority would not expect a non-executive director of a licenceholder to hold any other office within that licenceholder. However, a ‘member of the committee of management’ of a credit union may also perform other functions for that credit union, providing no conflict of interest arises between such roles.
- 3.2.3 Where a business employs people with a close relationship³⁰ as directors or key persons it should consider any practical issues and conflicts of interest which may arise and take steps to appropriately manage and mitigate any consequential risks.

3.3 – Responsibilities

- 3.3.1 Directors are expected to understand their statutory and common law duties and responsibilities and their responsibilities for the day-to-day supervision of the licenceholder’s activities. For IoM incorporated entities, two of the directors must be resident in the Isle of Man.³¹

The Authority expects the Board of each licenceholder to comprise individuals that have (collectively) a skill set, experience and track record that is appropriate to the regulated activities undertaken.

- 3.3.2 Licenceholders incorporated outside the Isle of Man (i.e. branch operations) must have a minimum of 2 IoM resident officers who are competent professionals able to exercise real control over the business’ day-to-day operations in the Isle of Man. It is expected that the individuals will be employees of appropriate status or persons granted executive powers.
- 3.3.3 If a controller exercises influence over the day-to-day affairs of the applicant, the controller would also be expected to demonstrate competence in the same way as a director, IoM resident officer or key person.
- 3.3.4 In considering the structure of an applicant the Authority will not only consider the applicant’s legal structure but also the extent to which one individual may dominate the applicant through personal influence. Where the Authority sees a risk of an individual having a dominant influence, it may take steps to counterbalance that influence, for example by the application of additional regulatory requirements in respect of the corporate governance of the applicant and through the allocation and definition of management and compliance responsibilities.

3.4 – Locums

- 3.4.1 A licenceholder may need to appoint a locum either -

²⁸ A company secretary’s functions include advising the Board in relation to good corporate governance.

²⁹ This ensures compliance control is separated from day-to-day control of the business.

³⁰ Close relationships include spouses, partners and close family, and financial relationships.

³¹ Rule 8.24 of the Rule Book.

- if its business is to provide financial advice and its usual financial advisers are unavailable to carry on those roles; or
- if individuals in certain Controlled Functions for a CSP/TSP are unavailable to carry on those roles.

In each case, the licence applicant or licenceholder may need to appoint a locum to ensure that regulated activities can be provided without interruption³². The Authority's prior approval is required to appoint a locum.

- 3.4.2 If a licenceholder needs to appoint a locum financial adviser (Rule 8.15(c)), that locum may only provide financial advice of the range and type for which he is qualified and in the class(es) for which the licenceholder is licensed.
- 3.4.3 If a licenceholder needs to appoint a locum in circumstances other than those described in 3.4.2 above, for example to a fiduciary business (Rule 8.15(d)), in view of the level of competence required, the locum must be a licenceholder that is licensed to carry on activities of the same class as the licenceholder appointing the locum.

³² Rule 8.15 of the Rule Book.

Part IV – Integrity

4.1 – Integrity

- 4.1.1 To a large extent, an applicant’s integrity is a reflection of the persons employed by or associated with the applicant. In assessing the integrity of an applicant or licenceholder and its directors, controllers and key persons, the Authority will consider whether any of their past actions or conduct indicate a lack of integrity. The Authority will consider all relevant circumstances, on a case-by-case basis. **A list of matters the Authority may have regard to is set out at Appendix 1 of the Authority’s Regulatory Guidance – Fitness and Propriety.**
- 4.1.2 As part of the assessment of their fitness and propriety, the directors, controllers and key persons of an applicant are required to disclose any spent convictions to the Authority³³. The Authority will consider, on a case-by-case basis, whether a spent or previous conviction is relevant to its current assessment of whether a person is fit and proper.
- 4.1.3 In cases where legal or disciplinary investigations or proceedings are in progress or pending it would not be appropriate for the Authority to prejudge the outcome (either for or against the applicant, its directors, controllers or key persons); therefore, the Authority may not be able to form a view of the fitness and propriety of the person until the matter has been concluded. In such cases the Authority may consider it appropriate to defer making a decision on the licence application. Where this is the case, the Authority will keep the matter under regular review and seek to ensure that a decision is made as soon as possible.
- 4.1.4 Persons responsible for the management and control of an applicant’s business should ensure that, by their conduct and by providing appropriate supervision and training to others within the organisation, the applicant’s business is conducted with integrity.
- 4.1.5 An applicant and all connected persons should co-operate in an open and honest manner with the Authority and any other body which regulates them and should promptly inform the regulator(s) of anything relevant to the regulator’s task. Failure to do so may be relevant to an assessment of a person’s integrity.
- This includes the failure to complete a form or supply information required from a licence applicant or licenceholder in an honest manner, or the omission of any relevant information. The provisions in s.40 of the FSA08 in respect of false statements should be noted.

³³ The Rehabilitation of Offenders Act (Exceptions) Order 2001 allows the Authority to take account of convictions which would otherwise be treated as spent under the Rehabilitation of Offenders Act 2001

Part V – Competence

5.1 – Competence

- 5.1.1** An applicant must be competent to undertake the relevant regulated activities including, where appropriate, having detailed knowledge of the structure, purpose and risks of products associated with the activity.
- 5.1.2** An applicant's competence is demonstrated by persons in the organisation holding relevant qualifications, having sufficient experience and being appropriately supervised and trained to competently fulfil their functions and regulatory responsibilities (see Rule 8.3 of the Rule Book). The Authority must be able to identify, from the applicant's organisational structure, the persons whose competence in their particular role and responsibilities is jointly indicative of the overall competence of the applicant. The role of controllers and any influence over the business is also taken into account, bearing in mind that if a controller has influence over the business they are effectively acting as a director and will be subject to fitness and propriety assessment as such, and have to meet required competence levels.
- 5.1.3** Directors, key persons and, in the circumstances at 5.1.2 above, controllers, that do not hold relevant academic and/or professional qualifications, must demonstrate they have accumulated sufficient appropriate knowledge of the regulated activities through relevant work experience, normally over a period of at least five years. For some activities there is an expectation that persons will hold certain qualifications and competence cannot be demonstrated by experience alone.³⁴
- The Authority will use its discretion in assessing competence and may direct that a person should successfully complete a course of study or achieve a relevant qualification within a specified period of time.
- 5.1.4** The Authority's Training and Competence Framework provides guidance on the specific training and competence requirements and expectations for continuing professional development for particular regulated activities and roles/functions within licenceholders. Licence applicants and licenceholders should refer to Rule 8.5 of the Rule Book, especially for Class 2 activities.
- 5.1.5** The proposed classes of regulated activities, size and type of business and jurisdictions in which products and services will be offered are relevant when assessing an applicant's competence. An applicant must be able to demonstrate the existence of adequate risk management systems and controls for the risks associated to its activities and jurisdictions in which it operates.³⁵
- 5.1.6** Appropriate business resumption/contingency arrangements evidence a business's competence to continue following unexpected events that may disrupt its operations. A licenceholder must maintain business resumption/contingency arrangements appropriate to the nature and size of its business.³⁶

³⁴ The specific considerations relevant to regulated activities falling within a particular class in respect of new business and track record, including the competence criteria, are set out in [Appendix 2 – Table B](#).

³⁵ See Rule 8.3 or 9.11 for further detail.

³⁶ Rule 8.14 or 9.23 of the Rule Book.

Part VI – Financial Standing

6.1 – Solvency

- 6.1.1** Solvency is more than meeting liabilities as they fall due; it includes maintaining sufficient financial resources to survive periods of market weakness and slack trading conditions. Control of the business' financial risks and proper care for customers' money and assets are also important considerations. The financial resources requirements for each class of regulated activity are set out in Part 2 (Financial Resources and Reporting) and Appendix 2 to the Rule Book.
- 6.1.2** Taking account of contingent and prospective liabilities, an applicant must be, and be likely to remain, a going concern. Confirmation of this must be provided by the directors and should be supported by the applicant's auditor or reporting accountant within the auditor's declaration in the licence application form.
- If the applicant is part of a group, the Authority may require parent company and/or consolidated group accounts to be submitted.
- 6.1.3** To establish the applicant's track record of financial stability and the ability to meet the going concern requirement, where the applicant is an existing company the Authority will require a copy of the applicant's past 2 years' audited annual financial statements (if these were not audited when prepared they should be accompanied by an auditor's opinion). If less than 2 years have elapsed since the applicant's incorporation, it will be required to submit its annual financial statements for the relevant number of years.
- 6.1.4** In addition, the business plan³⁷ submitted by the applicant must include considered and realistic financial projections for the next 2 years (3 years for deposit takers, payment service provider principals and e-money applicants) including clear explanation of the assumptions used. Any applicant, especially one that is a new business start-up, must demonstrate convincingly the financial viability of its proposals.
- The Authority will require evidence that funds have been provided to meet the share capital requirement and financial resources requirement, for example evidence of funds being lodged to pay up share capital.
- 6.1.5** The Authority will consider the solvency of the directors, controllers and key persons of a corporate licence applicant, and also of Professional Officer applicants. Please see the Authority's Regulatory Guidance – Fitness and Propriety for further details.
- 6.1.6** The Authority must be provided with copies of the audited annual financial statements of-
- (a) the applicant's/licenceholder's parent (whatever the parent's legal form); and
 - (b) if the applicant/licenceholder is incorporated in the Isle of Man, for its trading subsidiaries.
- In addition, the Authority (where it requests this) must be provided with copies of the audited annual financial statements of any corporate body that is a controller of the applicant/licenceholder.

³⁷ When preparing a business plan, applicants should refer to the Authority's Business Plan Guidance.

6.1.7 A credit union should refer to the standard licence conditions for Class 9³⁸.

6.2 – Professional indemnity insurance cover

6.2.1 A licenceholder's business must be able to withstand the normal business risks associated with market conditions. A prudently run business should also be able to withstand extraordinary risks. Applicants/licenceholders must mitigate the business's exposure to extraordinary risk by taking out adequate PII.

6.2.2 The Rule Book stipulates specific requirements in relation to insurance cover, however in addition there is an overarching requirement for the cover to be appropriate to the nature and size of the business operation.³⁹

6.3 – Ongoing requirements

6.3.1 There is an on-going requirement under Part 2 of the Rule Book 'Financial Resources and Reporting' for a licenceholder (other than a Professional Officer) to submit audited annual financial statements. The requirement for licenceholders to be audited applies irrespective of whether they are obliged to be audited under the relevant Companies Act.

6.3.2 In addition, the Authority must be provided with copies of the audited annual financial statements for -

- (a) the licenceholder's parent⁴⁰ (whatever the parent's legal form); and
- (b) if the licenceholder is incorporated in the Isle of Man, for trading subsidiaries of the licenceholder⁴¹.

6.4 – Separation of client money and assets

6.4.1 With the exception of Class 1 deposit taking, it is a fundamental principle that licenceholder money and assets must be separated from client money, trust money and client assets⁴². Not all licenceholders will be permitted to hold client money, trust money or client assets.

³⁸ See the Authority's 'Credit Unions' webpage for further details.

³⁹ Rule 8.57 or 9.24 of the Rule Book.

⁴⁰ Rule 2.10 of the Rule Book.

⁴¹ Rule 2.13 of the Rule Book.

⁴² Please refer to Part 3 'Client Money and Trust Money' and Part 4 'Client Assets' of the Rule Book. Note that Class 8 'relevant funds' must also be separated – see Rules 3.35 to 3.42 of the Rule Book.

Appendix 1 – Key to Class 3 licensing requirements in Tables A and B of Appendix 2

The Tables in Appendix 2 apply to CIS's in accordance with this Key. To use this Key:

1. Select the class or classes of CIS regulated activity being applied for;
2. Identify the types of CIS to which services will be provided and select the 'highest letter' ('A' being the highest letter and 'E' the lowest letter); and
3. Use this letter to identify the licensing requirements in Tables A and B.

Regulated Activities for Collective Investment Schemes	Type of Collective Investment Scheme				
	Authorised Schemes	Full International Schemes ⁴³	Other classes of International Scheme ⁴⁴	Non-IoM Schemes	Exempt/ Exempt-Type Schemes
Class 3(1) - Manager	C	C	C	C	
Class 3(2) - Administrator			C	C	
Class 3(3) - Trustee	A	A	C	C	
Class 3(4) - Fiduciary custodian	A	A	C	C	
Class 3(5) - Custodian			C	C	
Class 3(6) - Asset manager	C	C	C	C	
Class 3(7) - Investment adviser	C	C	C	C	
Class 3(8) - Promoter (where regulated promoter required)			D	D	
Class 3(9) - Management or administration services to Class 3(1) and (2) licenceholders	B	B	C	C	
Class 3(9) - Management or administration services to Class 3(6) and (7) licenceholders	C	C	C	C	
Class 3(10) - Administration services to the manager or administrator of a scheme where that manager or administrator is located outside the Island			C	C	E
Class 3(11) - Manager, administrator, trustee, fiduciary custodian or custodian to a CIS which is an exempt scheme or exempt-type scheme					E
Class 3(12) - Administration services to a person exempt from licensing ⁴⁵ in relation to an exempt scheme or an exempt-type scheme					E
Class 3(13) - Providing certain services ⁴⁶ in relation to an individually recognised scheme				F	

⁴³ Includes Regulated Funds and Full International Schemes.

⁴⁴ Includes Specialist Funds, Qualifying Funds, Experienced Investor Funds and Professional Investor Funds.

⁴⁵ Under s.4 of the FSA08 by virtue of paragraph 3.2 of the Financial Services (Exemptions) Regulations.

⁴⁶ As set out in Schedule 4 paragraph 2(8) to the CISA08.

Appendix 2 – Table A – Ownership and management structures

Table A		Permitted structures	Ownership by trust or Isle of Man foundation (subject to para. 2.6 above)	Can be a managed business
Class 1(1)	Deposit taker (retail/unrestricted clients)	<p>A subsidiary company, that is part of an established deposit taking group (in another jurisdiction), or branch⁴⁷ of a deposit taker licensed in another jurisdiction. The jurisdiction must apply regulatory standards equivalent to those applied to deposit taking institutions in the IoM and the lead regulator must be prepared to exercise consolidated⁴⁸ supervision and issue a 'statement of no objection' in respect of the new operation.</p> <p>For any subsidiary that wishes to accept retail deposits, the group of which it is a part should also have experience in that market.</p> <p>Overseas banks that wish to establish a presence through a branch and accept retail deposits must:</p> <ul style="list-style-type: none"> • have a credit rating (or be part of a group with such a rating) of at least investment grade; and • normally have at least a 5-year track record. <p>In such cases the Authority will also take into account the standing of the deposit taker/bank/group in its home jurisdiction including matters such as its systemic importance.</p>	Not permitted.	Yes. The manager must be the holder of a Class 1(1) deposit taking licence; and the lead regulator of the manager must apply regulatory standards equivalent to those applied to deposit taking institutions in the IoM; and the lead regulator must have specified in a 'statement of no objection' that it has no objection to the establishment of the managed business in the Island.
Class 1(2)	Deposit taker (restricted depositors)	<p>EITHER the same structure as for Class 1(1) above;</p> <p>OR a company that is part of a substantial, established group that does not necessarily include a deposit taker.</p> <p>In either case, the ownership structure must be transparent</p>	Not normally permitted.	Yes. The manager must be the holder of a Class 1(1) deposit taking licence; and the lead regulator of the manager must apply regulatory standards equivalent to those applied to deposit takers in the IoM; and the lead regulator

⁴⁷ In the case of a branch, subject to its meeting the Authority's 'fit and proper' requirements, the licence would be issued to the legal entity in respect of its activities in or from the Isle of Man.

⁴⁸ See 2.3.1 (Applicants that are part of groups).

Table A		Permitted structures	Ownership by trust or Isle of Man foundation (subject to para. 2.6 above)	Can be a managed business
		and the key persons of the licenceholder must have relevant experience in that market.		must have specified in a 'statement of no objection' that it has no objection to the establishment of the managed business in the Island.
Class 1(3)	Deposit taker's Representative Office	Office (branch ⁴⁹) of a deposit taker/bank licensed in another jurisdiction. The licenceholder will be required to appoint an employee who is a Main Representative, who must have relevant experience in that market.	Not permitted.	No.
Class 2	Financial adviser Investment adviser to retirement benefits schemes	Company or branch ⁵⁰ of a company licensed in another jurisdiction to conduct relevant class of investment business.	May be permitted.	No.
Class 2	Discretionary portfolio manager Custodian Any other investment business	Company or branch ⁵⁰ of a company licensed in another jurisdiction to conduct relevant class of investment business. Generally required to be part of larger group.	May be permitted.	May be permitted in respect of certain activities only.
Class 2	Stockbrokers	Company Branch ⁵⁰ of a stockbroker authorised by the UK Financial Conduct Authority. Branch of a company licensed in another jurisdiction to conduct relevant class of investment business. Generally required to be part of larger group.	May be permitted.	No.
Class 3	Collective investment schemes licensing type A	Subsidiary company or branch ⁵⁰ of a deposit taker licensed in another jurisdiction.	Not generally permitted.	Yes, provided it is part of a deposit taking group whose lead regulator applies regulatory standards equivalent to those applied to deposit taking

⁴⁹ In the case of a branch, subject to its meeting the Authority's 'fit and proper' requirements, the licence would be issued to the legal entity in respect of its activities in or from the Isle of Man.

⁵⁰ See Training and Competence Framework.

Table A		Permitted structures	Ownership by trust or Isle of Man foundation (subject to para. 2.6 above)	Can be a managed business
				institutions in the IoM; and the lead regulator has no objection to the establishment of the managed business in the Island.
Class 3	Collective investment schemes licensing type B	Company or branch ⁵⁰ of company licensed in another jurisdiction to conduct relevant regulated activities. Expectation is that this will be part of larger group.	May be permitted.	No.
Class 3	Collective investment schemes licensing type C	Company or branch ⁵⁰ of company licensed in another jurisdiction to conduct relevant regulated activities. Generally required to be part of larger group.	May be permitted.	May be permitted in respect of certain activities only.
Class 3	Collective investment schemes licensing type D	Company or branch ⁵⁰ of company licensed in another jurisdiction to conduct relevant regulated activities in an acceptable jurisdiction.	May be permitted.	No.
Class 3	Collective investment schemes licensing type E	Company or branch ⁵⁰ of CSP licensed in another jurisdiction.	May be permitted.	Yes.
Class 3	Collective investment schemes licensing type F	Company or branch ⁵⁰ of an entity in another jurisdiction.	May be permitted.	Yes.
Class 4	Corporate services	Company or branch ⁵⁰ of CSP licensed in another jurisdiction.	May be permitted.	Yes.
Class 4 and 5	Professional Officer	Can only be an individual.	Not applicable.	Not applicable.
Class 5	Trust corporation	Company.	May be permitted.	No.
Class 5	Trust services	Company or branch ⁵⁰ of TSP licensed in another jurisdiction.	May be permitted.	Yes.
Class 6	Crowdfunding platforms	Company.	May be permitted.	No.
Class 7	Management and administration of a licenceholder	As per the type of business to which services are provided.	As per the type of business to which services are provided.	No.

<i>Table A</i>		Permitted structures	Ownership by trust or Isle of Man foundation (subject to para. 2.6 above)	Can be a managed business
Class 8	Money transmission services (other than e-money (Class 8(4)) or payment services directly (Class 8(2)(a))	Company or branch ⁵⁰ of company in another jurisdiction which is regulated where relevant.	May be permitted.	No.
Class 8	Money transmission services (e-money or payment services directly)	Company.	May be permitted.	No.
Class 9	Credit union	Incorporated as a credit union.	Not permitted.	No.

Appendix 2 – Table B – Track record

Table B		Track Record/New Business Start-up
Class 1(1)	Deposit taker (retail/unrestricted clients)	<p>A new, start-up deposit taker, which is not part of an established group of companies with an existing deposit taking business within that group, is not permitted because of the inherent risks to depositors.</p> <p>Applications in respect of branches of overseas deposit takers are normally expected to have at least a 5-year track record.</p> <p>The track record of applications in respect of locally incorporated subsidiaries of deposit takers will be considered on a case-by-case basis. For any subsidiary that wishes to accept retail deposits, the group of which it is a part should also have experience in that market.</p>
Class 1(2)	Deposit taker (restricted depositors)	<p>A new, start-up deposit taker should be part of a substantial, established group of companies, but that group need not have an existing deposit taking business within it. However, the entity must employ key persons that have relevant experience in that market.</p> <p>Applications in respect of branches of overseas deposit takers are normally expected to have at least a 3-year track record.</p>
Class 1(3)	Deposit taker's Representative Office	<p>The foreign deposit taker/bank itself should normally have at least a 3-year track record.</p>
Class 2	Financial adviser Investment adviser to retirement benefits schemes	<p>New start-up firms permitted.</p> <p>It is expected that any individual who advises customers about investment products will hold a relevant qualification⁵¹ and have a proven track record (a minimum of 3 years' experience). Such advisers will hold the Controlled Function R21A.</p>
Class 2	Discretionary portfolio manager	<p>New start-up businesses may be permitted.</p> <p>Portfolio managers should preferably be part of a group that can demonstrate a proven track record in a business similar to the business the applicant proposes to conduct in the IoM. Applicants should normally be institutions of proven quality and it is expected that persons who will act as the applicant's portfolio managers, directors, IOM resident officers and Head of Compliance will have a proven track record (relevant qualifications and experience⁵¹).</p> <p>A portfolio manager will be expected to hold a relevant qualification⁵¹. Back office and administration staff would be expected to have relevant experience. Whilst there is no specific qualification requirement for those overseeing back office and administration staff, relevant experience is expected and relevant qualifications can be appropriate.</p>
Class 2	Custodian Any other investment business	<p>The Authority welcomes applicants which are part of a substantial group that can demonstrate a proven track record in an investment business similar to that which the applicant proposes to conduct in the IoM (usually a minimum of 5 years in a jurisdiction with equivalent regulatory standards or which is otherwise considered acceptable).</p> <p>If the applicant is a new start-up business, the Authority will consider the application on its merits, taking into account all factors which it considers relevant, including the applicant's business plan, the track record and experience⁵¹ of its key persons. The same considerations will apply in</p>

⁵¹ See the Authority's Training and Competence Framework.

Table B		Track Record/New Business Start-up
		<p>respect of a licenceholder's proposed change in controller. The Authority may impose conditions on any licence granted until the applicant's business has established a satisfactory track record.</p> <p>Applicants must have staff with relevant experience⁵¹ who are able to demonstrate that they have adequate skills and knowledge for their particular role and responsibilities. Relevant staff must demonstrate that they have adequate knowledge of the nature of the financial instruments and products with which they deal and of the nature and organisational structure of the markets on which those instruments and products are traded. This includes being aware of the nature of the risks involved.</p>
Class 2	Stockbrokers	<p>The Authority would normally expect stockbrokers to be part of a group that can demonstrate a proven track record in stockbroking. A proven track record is deemed to be at least 5 years in a jurisdiction with regulatory standards deemed to be appropriate by the Authority.</p> <p>A stockbroker will be expected to hold a relevant qualification⁵¹.</p>
Class 3	Collective investment schemes licensing type A	<p>A subsidiary or a branch of a deposit taker licensed in another jurisdiction that applies regulatory standards equivalent to those applied to deposit taking institutions in the IoM.</p> <p>A new start-up deposit taker would not be permitted.</p>
Class 3	Collective investment schemes licensing type B and C	<p>The Authority welcomes applicants which are part of a substantial group that can demonstrate a proven track record in an investment business similar to that which the applicant proposes to conduct in the IoM (usually a minimum of 5 years in a jurisdiction with equivalent regulatory standards to the IoM's or which is otherwise considered acceptable).</p> <p>If the applicant is a new start-up business, the Authority will consider the application on its merits, taking into account all factors which it considers to be relevant, including the applicant's business plan, the track record and experience⁵¹ of its key persons and the types of funds it proposes to manage or administer, including the investors towards whom the marketing will be aimed and the level of minimum subscriptions. The same considerations will apply in respect of a licenceholder's proposed change in controller. The Authority may impose conditions on any licence granted until the applicant's business has established a satisfactory track record.</p> <p>All applicants must have staff with relevant experience, who can demonstrate that they have adequate skills and knowledge for their particular role and responsibilities⁵¹. Relevant staff must demonstrate that they have adequate knowledge of the nature of the financial instruments and products with which they deal and of the nature and organisational structure of the markets on which those instruments and products are traded. This includes being aware of the nature of the risks involved.</p> <p>*If a Class 3(1) or Class 3(2) licenceholder is a managed business the Authority does not expect it to employ its own staff. The Authority would, however, look at the functions and services provided by the group (if applicable) and by the Class 3(9) licenceholder to the entity as well as the competence of its directors and controllers. Please also refer to Appendix 3 – Managed Business which considers managed business further.</p>
Class 3	Collective investment schemes licensing type D	<p>New start-up firms permitted.</p> <p>Applicants should also have a proven track record (a minimum of 3 years' experience).</p>

Table B	Track Record/New Business Start-up	
Class 3	Collective investment schemes licensing type E	New start-up firms permitted provided the persons establishing the business have a proven track record (3 to 5 years relevant senior level experience and, preferably, also holding relevant qualifications ⁵¹).
Class 3	Collective investment schemes licensing type F	New start-up firms permitted.
Class 4	Corporate services	New start-up firms permitted provided the persons establishing the business have a proven track record (3 to 5 years relevant senior level experience and, preferably, also holding relevant qualifications ⁵¹).
Class 4 and 5	Professional Officer	The individual should have an appropriate level of experience (at least 5 years at senior level) and, preferably a relevant qualification ⁵¹ .
Class 5	Trust services	New start-up firms permitted provided the persons wishing to establish the business have a proven track record (holding relevant qualifications and/or 3 to 5 years relevant experience at a senior level).
Class 5(4)	Trust corporation	<p>New/start-up firms may be permitted where the persons wishing to establish the business have a proven track record of previous experience in a trust corporation for a minimum of 3 years.</p> <p>A trust corporation should be a company of substance: it is expected that any application would include a minimum of three individuals meeting the expectations set out within the Authority's Training and Competence Framework.</p>
Class 6	Crowdfunding platforms	New start-up firms permitted. Applicants should demonstrate a suitable track record.
Class 7	Management and administration of a licenceholder	As per the type of business to which services are provided.
Class 8	Money transmission services	New start-up firms permitted. Applicants should demonstrate a suitable track record.
Class 9	Credit union	New start-up businesses permitted. Applicants should demonstrate a track record in a relevant sector.

Appendix 3 – Managed business

- 1 The Authority will not licence a business that is a mere shell without real presence. It can however grant a licence to an applicant which on its own does not fully meet the real presence test but where the applicant's business will instead be managed in the Isle of Man by a Class 7 or Class 3(9) licenceholder (the 'manager'), who would manage or administer the 'managed entity'. **See Appendix 2, Table A for details of which classes of regulated activity can be managed.**
- 2 When assessing whether a managed entity is fit and proper, the Authority will apply its usual licensing policy to the managed business and in addition, will pay special attention to the arrangements under which the proposed manager will carry out its management functions. These arrangements will need to be set out in a formal agreement between the two parties and the Authority will wish to consider the terms of such an agreement in connection with the application.
- 3 When considering a proposal involving a managed entity, the Authority will need to be satisfied that it (the Authority) can exercise sufficient regulatory control over the managed entity. The Authority will look at the functions and services provided by the managed entity's group (if applicable) and by the manager to the managed entity as well as the competence of the managed entity's directors and controllers.
- 4 The Authority will expect the managed entity's Board to have a skill set, experience and track record appropriate to the regulated activity undertaken. Since directors of the managed entity can include directors of the manager providing management or administrative services to them, the Authority will expect that appropriate arrangements are in place with regard to:
 - management of conflicts of interest between the managed entity, the manager, the role of directors acting for both entities and any fund(s), money or assets being managed;
 - reporting by the manager to the managed entity about services provided;
 - maintenance of adequate corporate governance and risk management arrangements by the managed entity; and
 - monitoring/oversight by the managed entity of the services provided by the manager.

The Authority may require an independent non-executive director to be appointed to the Board of a managed entity.
- 5 Although the managed entity will rely on the proper exercise of the functions by the manager, the managed operation will ultimately remain accountable to the Authority for the regulated activities it undertakes. Whilst the manager may provide the staff and premises for the managed entity, major operational decisions must be made by the directors of the managed entity. Any regulated activity **not** delegated to the manager/administrator of the managed entity should be undertaken in or from the Isle of Man.
- 6 All records relating to the managed entity must be retained in the Isle of Man. This includes minutes of directors' and shareholders' meetings (see 2.8.5 above).
- 7 An applicant that wishes to provide management or administration services to another licenceholder:
 - (a) must:
 - be authorised to carry on Class 7 or Class 3(9) regulated activities (as appropriate);

- have a track record in the relevant regulated activity; and
 - demonstrate its competence and experience to act as manager of the managed entity (including adequate systems, controls and resources and, where appropriate, segregation from its main business); and
- (b) would normally be authorised to carry on regulated activities falling within the relevant class. (In rare circumstances, where the manager can clearly demonstrate competence of staff and systems, it may be allowed to provide Class 7/3(9) services to a managed entity even though the respective permissions are not an exact match).

8 Not all management and administration services provided to licenceholders amount to managed arrangements (e.g. outsourcing arrangements). The Authority is primarily seeking to regulate management or administration of licenceholders under Class 7 and Class 3(9).

The Authority takes into account the following indicators when deciding whether 'management' or 'administration' of a licenceholder is taking place:

- the whole, or substantially the whole, of the regulated activity of the licenceholder is operated or arranged by the manager/administrator;
- all or nearly all of the staff who carry out the services are supplied, directly or indirectly, by the manager/administrator (possibly with one or two staff retained by the managed entity for sales purposes or as a quality check);
- all or nearly all of the staff who carry out the services (if not supplied by the manager/administrator) are under the management or direction of the manager/administrator;
- at least half of the managed entity's Board is made up of persons nominated or provided by the manager.

In practice, licenceholder to licenceholder agreements for 'management' will typically include elements of 'administration' in which case the Class 7 or Class 3(9) licence will refer to 'management and administration'.

9 **Group arrangements**

Licenceholders will not normally be regarded as managed or administered where the licenceholder being managed and the provider of management or administration services are in the same group. However, in some circumstances one group company may be providing management or administration services to another group company.

There are many situations where two group companies have common staff or where there is one employment company to which all staff are contracted. Generally, these situations would not be regarded as 'management' or 'administration'.

The Authority will look at the totality of the arrangements when deciding whether 'management' or 'administration' of another group company is taking place. Some factors to consider include:

- the group is headquartered outside the Island; or
- the licenceholder being managed or administered is a branch or subsidiary of a group company, which has its main operations outside the Island and conducts similar regulated activities outside the Island.

Appendix 4 – The licensing structure under the Financial Services Act 2008

			Do the Authority's powers under the FSA08 apply?	Does the Rule Book apply?	Does the AML/CFT Code apply?
1. Is the activity done by way of business? If Yes go to 2.	No	Not a regulated activity	No	No	Depends on activity
2. Is the activity listed in the RAO? If Yes go to 3.	No	Not a regulated activity	No	No	Depends on activity
3. Is the activity excluded in the RAO? If No go to 4.	Yes	Not a regulated activity	No	No	No
4. Is the activity exempted in the Exemption Regulations? If No go to 5.	Yes	A regulated activity but exempted from holding a licence (is a "permitted person" s.35(1) FSA08)	Yes	No ⁵²	Yes
5. Is the person currently undertaking the regulated activity? If No go to 6.	Yes	Should be a licenceholder ⁵³ (a "permitted person" s.35(1) FSA08)	Yes	Yes	Yes
6. Has the person ceased to hold a licence to undertake the regulated activity?	Yes	Former licenceholder ⁵⁴ (a "permitted person" s.35(1) FSA08)	Yes	No	Yes ⁵⁵

This outline is for illustrative purposes only and is not a substitute for examining the legislation. It does not constitute legal advice as to the meaning of the legislation.

⁵² Unless done by a licenceholder or required as part of the exemption.

⁵³ If a person undertakes a regulated activity without an exemption or a licence they are committing an offence under the FSA08.

⁵⁴ Schedule 4 to the Proceeds of Crime Act 2008 sets aside exclusions from licensing; however the AML/CFT Code still applies if business in the regulated sector is being undertaken.

⁵⁵ For example retention of records.

Appendix 5 – Matters that could result in refusal of a licence

This section provides ‘at a glance’ reasons why a licence application may be refused. These are not exhaustive but illustrate the main pitfalls.

Lack of Fitness & Propriety

- The Authority must be satisfied that the **applicant is fit and proper (in terms of integrity, competence and financial standing) to undertake the regulated activity**. This applies to the business as a whole, the persons responsible for the management and control of the business as well as others employed/to be employed by the business. It is for the applicant and relevant persons to satisfy the Authority that they are fit and proper.
- Inadequate and inappropriate **systems and controls** for the regulated activities that the applicant wishes to conduct.
- **Insufficient resources** for the carrying on of the regulated activity and/or inappropriate **separation of duties**.

Inadequate Structure & Organisation

- Inability to demonstrate a satisfactory **track record** in the regulated activity for which it seeks a licence.
- If the **ownership structure** is unduly complex, lacking in transparency or cannot be justified or explained clearly.
- For Class 1(2), the applicant must be part of a substantial and established group (that need not include an existing deposit taker). If this is not the case, a licence would be refused.
- The applicant must be a **company** (except for Professional Officers). The Authority will not licence protected cell companies, incorporated cell companies, limited liability companies, limited partnerships or foundations.
- For applicants for a Class 1(1) (deposit taking) licence the Authority would not grant a licence to a **2006 Act company**, unless in exceptional circumstances.
- If the applicant is a proposed **branch**, a licence would not be granted unless the head office is licensed to conduct the relevant regulated activity or activities in another jurisdiction.

Inadequate Real Presence

- The applicant must establish a **real presence and conduct the regulated activity** in the Isle of Man. A licence would not be granted to a mere shell, or where the regulated activity takes place elsewhere.
- The applicant must be **managed and controlled** in the Island.
- For Class 6 (crowdfunding), servers should be located with data hosted on the Isle of Man. A live copy of data must be available at all times.
- For IOM incorporated entities, two of the directors must be resident on the Isle of Man.
- For a branch operation, there must be a minimum of two IOM resident officers who can exercise real control over the business’ day to day operations in the Isle of Man.

Inadequate Financial Resources

- Inability to meet **financial resources requirements**.

- Realistic financial projections for 2 years must be provided (3 years for deposit takers, payment service provider principals and e-money applicants). The Authority must be convinced of the **financial viability of the proposed business**.
- No evidence of funds provided to meet the **share capital requirement**.
- If the applicant is unable to procure adequate **Professional Indemnity Insurance** Cover to mitigate its exposure to extraordinary risk.
- Inability to secure **appropriate banking arrangements** for the business operation.

Incomplete Applications

- If an applicant **does not provide the information** needed to process the application.

Version Control:
Previous version: 1 March 2023: General update, including section 2.8.7 and Appendix 5.
Current version 14.1: 11 September 2024: General update, including revision to Appendix 4.