Licenceholder News

Welcome to the eleventh edition of the Financial Supervision Commission’s (‘FSC’) news bulletin, which gives a brief overview of recent initiatives and events that may be of interest to licenceholders.

Consumer Protection

Virtual Currencies

The FSC issued a press release on 18 July in response to increasing interest from businesses looking to become involved in the rapidly developing market for virtual currencies such as Bitcoin.

In order to ensure that the Island’s international reputation is maintained, it was decided that certain activities relating to virtual currencies should be brought within the AML/CFT framework. As a result, the Department of Home Affairs is currently consulting on amendments to Schedule 4 to the Proceeds of Crime Act 2008 to apply the Island’s AML/CFT legislation to those involved in virtual currency business.

The FSC is also in the process of drafting the Designated Businesses (Registration and Oversight) Bill, which will provide the FSC with the ability to oversee how virtual currency and other designated businesses comply with the Island’s AML/CFT legislation.

In the meantime, the FSC considers virtual currencies to be a high risk area for participants who do not understand the risks involved. Such persons need to be aware that there is no regulatory or Government protection in place for them, despite some press articles that may have suggested differently.

Explanatory Guide about Investing

The FSC launched an Explanatory Guide about Investing in conjunction with the Office of Fair Trading on 13 May. The guide aims to provide potential investors with clear, impartial information so that they can have greater confidence to make balanced investment decisions.

General Supervision Update

Memorandum of Understanding with the CSRC

The FSC signed a memorandum of understanding with the China Securities Regulatory Commission on 17 June to facilitate regulatory co-operation in respect of securities’ markets.

FATCA

Licenceholders should note the comprehensive FATCA guidance issued jointly by the Crown Dependencies on 28 July.

Please visit the Department of Economic Development’s FATCA webpage for more general information.

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Annual Report

The FSC published its Annual Report on 22 July for the 2013-2014 period. The report gives a detailed account of the FSC’s activities during the last year.

R&D Survey

The Department of Economic Development launched an important survey on 9 September which will be used to assist in the calculation of the Isle of Man’s National Income as measured by Gross Domestic Product.

See page 3 for further details.
Banking Update

Domestic Systemically Important Banks (‘D-SIBs’) and Recovery and Resolution

The FSC provided feedback to the banking sector on 31 July in response to comments received (to the discussion paper issued jointly with the Guernsey (‘GFSC’) and Jersey (‘JFSC’) Financial Services Commissions) on proposals for developing a regime for the identification and assessment of banks as D-SIBs, and also the development of a resolution regime for failing banks.

It is expected that a formal consultation will be issued to the industry in 2015 covering proposals for the identification and assessment of banks as D-SIBs. It is also noted that the industry supports the need for work to commence on the framework for the recovery and resolution of banks. On the latter point, a meeting was held by the three Crown Dependency regulators with the Bank of England Special Resolution Unit on 9 September to understand the current position in the UK and clarify certain matters for the Crown Dependencies.

Lending Data

A draft reporting form aimed at capturing better information on banks’ lending portfolios will be issued for comment by the end of September. The FSC will then work with the sector on finalising a form and to agree a timeframe for the first reporting date.

Basel III (Capital including Leverage)

The FSC issued feedback to the banking sector on 31 July in response to comments received (to the discussion paper issued jointly with the GFSC and JFSC) on the proposals for revisions to the capital adequacy framework. It is expected that a formal consultation will be issued to the industry in 2015 on proposals to implement changes.

A discussion paper on proposals for a leverage ratio, prepared jointly with the GFSC and JFSC, was issued to banks on 27 June. A period of three months has been given to banks to send responses to the FSC.

Basel III (Liquidity)

Work continues with the GFSC and JFSC on preparing a discussion paper on proposals for revisions to the liquidity framework. An issue date has not yet been set.

Banking Statistics

Deposit base figures and quarterly banking statistics covering the period to 30 June 2014 were published on 22 August.

Depositors’ Compensation Scheme (‘DCS’) Update

DCS 1991 re BCCI S.A.

Proposals to terminate the fund established in relation to the default of BCCI S.A. were published on 31 July, including draft Regulations, and any comments were requested by 31 August. No comments were received by the FSC and the proposals are now being progressed as planned.

DCS 2008 re Kaupthing Singer & Friedlander (Isle of Man) Limited (‘KSFIOM’)

The joint liquidators of KSFIOM have declared a further dividend of 2.2p in the £ which brings the total recovery to 98p in the £. The FSC, as Scheme Manager of the fund established re KSFIOM, will be processing surplus payments due to former depositors of KSFIOM and repayments of the funding provided to the Scheme (for the compensation of depositors) by participating banks and Treasury during September.
Public Statements, Warnings and Sanctions

Public Statements and Warnings

13 Aug: Louis Group Structured Fund PLC and other companies – Updated

11 Jul: Zurich Bank Ireland

22 May: Purity Bank

Bogus Websites


11 Jul: Private Zurich Bank – www.prtzurichb.com

Sanctions Updates

5 Sep: Al Qaida

13 Aug: EU sanctions – Ukraine and Russia / Sudan and South Sudan

5 Aug: Syria

28 Jul: Libya, Change of Practice, Belarus, Terrorism and Terrorist Financing

2 Jul: Central African Republic

11 Jun: Guinea and Somalia

15 May: Ivory Coast

R&D Survey

The Department of Economic Development released a survey of research and development (‘R&D’) being undertaken by business on the island in order to bring the Government’s calculation of national Gross Domestic Product in line with international methodologies. R&D is now to be considered a product of economic activity rather than a process.

The survey will have direct consequences for the Isle of Man, including accurate calculation of the Island’s interaction with the Revenue Sharing Arrangement. All businesses are asked to give a small amount of their time to complete the survey.

Anti-Money Laundering and Countering the Financing of Terrorism Update

Changes to the AML/CFT Handbook

Some changes were made to the Handbook on 4 July to improve clarity in certain areas. Appendix G(a) and G(b) have been amended to reflect the FATF Statements issued on 27 June such as ‘Improving Global AML/CFT Compliance: update on-going process’. Details of changes made to the Handbook can be found here. The amended Handbook can be found here.

Designated Businesses

The FSC is in the process of seeking the Council of Ministers’ approval for the Designated Businesses (Registration and Oversight) Bill to enter the branches of Tynwald.

Consultation on Revisions to AML/CFT Legislation

The Department of Home Affairs issued a consultation on 15 August proposing several revisions to the AML/CFT Framework:

1. Changes to Schedule 4 of the Proceeds of Crime Act 2008;
2. A revised AML/CFT Code; and
3. Proposals for potential simplification of certain requirements.

Licenceholders are encouraged to respond to this consultation as soon as possible, and before it closes on 10 October.

Fiduciaries Update

Industry Liaison

The FSC will provide a regulatory briefing for the Association of Corporate Service Providers on 23 September. The talk will focus on management controls and on client companies which are deemed to be ‘higher risk’ from a consumer protection perspective.

TCSP International Standard

The FSC has contributed towards the work of the Group of International Finance Centre Supervisors on a new international standard for the regulation of trust and corporate service providers (‘TCSPs’). The standard is expected to be published in Autumn.

Lending by Trustees

The FSC has circulated some initial comments on risk in lending between client trusts and companies and has conducted a survey of TCSPs’ practices in this regard. This will be followed by analysis and feedback to the industry.
Funds and Investment Services Update

Review of Collective Investment Schemes

The FSC is currently considering the Island’s fund structures in the light of developing international standards and a desire to ensure the Island’s structures are clear and appropriate.

The FSC issued an initial high-level consultation on these and other proposals in its review of collective investment schemes, which will be followed by a more detailed consultation in due course. The current consultation is particularly relevant to those providing services to collective investment schemes, corporate service providers and other permitted persons. Licenceholders are encouraged to respond to this consultation, which officially closes on 15 September, as soon as possible, but responses will be accepted until 30 September.

Financial Adviser Guidance

The FSC issued its consolidated step by step guidance on sales and advisory practices for financial advisers on 16 May. This guidance draws from (and updates) existing guidance for financial advisers.

RDR Update

The qualification and CPD requirements of the Retail Distribution Review came into force on 1 February. The FSC published a press release on 31 July regarding the implementation of Statements of Professional Standing, which retail advisors are required to hold by 1 January 2015. The FSC also issued an updated version of its Training and Competence Framework in May 2014 to cover changes in the Rule Book.

Online Funds Database

The fund reporting portal went live on 30 June. The FSC completed a project to populate fund data across all operators and encourages licenceholders to review this data and report any issues. The FSC is pleased to note that some licenceholders have started to submit quarterly statistical returns through the portal.

Fund Statistics

The quarterly fund statistics covering the period to 30 June 2014 were published on 22 August.

Consultations

Government Consultations

The Government’s central consultations register may be accessed here. Current and future Government consultations that may be of interest to licenceholders are listed in the table below.

<table>
<thead>
<tr>
<th>Department</th>
<th>Status</th>
<th>Consultation Topic</th>
<th>Link / Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSC</td>
<td>1 Aug to 15 Sep 2014</td>
<td>Consultation on a General Review of Collective Investment Schemes</td>
<td>Mrs Shirley E Corlett <a href="mailto:shirley.corlett@fsc.gov.im">shirley.corlett@fsc.gov.im</a></td>
</tr>
<tr>
<td>DHA</td>
<td>15 Aug to 10 Oct 2014</td>
<td>Consultation on Anti-Money Laundering and Countering Terrorist Financing</td>
<td>Mr Tom Bateman <a href="mailto:dhaconsultation@gov.im">dhaconsultation@gov.im</a></td>
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Closed Consultations

Information on closed FSC consultations, including summaries of responses, may be accessed here.

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