

International co-operation and assistance

The purpose of this statement is to provide a quick and brief explanation of how the Isle of Man can co-operate with and assist overseas regulatory bodies and law enforcement authorities on matters related to financial activities. This statement provides direct links to the persons who can provide assistance.

SECTION I: BACKGROUND

- 1.1 Background** The Commission believes that appropriate international cooperation between regulators is fundamental to the integrity of the international financial system and is committed to meeting its international obligations.

The Commission is committed to compliance with the Basel Core Principles in prudential regulation of banking institutions and with IOSCO's Objectives and Principles of Securities Regulation. It is committed to compliance with the Financial Action Task Force (FATF) Recommendations on the prevention of money laundering and the countering of the financing of terrorism. The Commission also adopts a policy of keeping its legislation and regulatory gateways up-to-date to meet international standards of cooperation and assistance as they develop.

The Commission is a member of the International Organisation of Securities Commissions ("IOSCO") and has been accepted as a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. The Commission is also a member of the Offshore Group of Banking Supervisors (OGBS).

Although the Isle of Man is not a member of the European Union, the Commission believes that its powers of regulatory co-operation and assistance are fully compatible with EU Directive requirements in the critical areas.

The Commission is the regulator for all financial services activities, including in relation to corporate and trust service providers, on the Isle of Man with the exception of insurance and pensions business which is regulated by the Insurance & Pensions Authority.

1.2 Key powers

The Commission has a wide range of powers to licence, supervise and enforce the financial services regulatory regime in the Isle of Man. The regulatory laws provide gateways that enable the Commission to communicate information to another regulatory authority to assist that authority in the exercise of its supervisory functions. The communication of confidential information is subject to specified criteria, relating to reciprocity of function and appropriate treatment of the information. Further details of the Commission's powers and those of other bodies in the Isle of Man are set out under Mutual Assistance .

1.3 Memoranda of Understanding

The Commission has entered into a number of Memoranda of Understanding with overseas regulatory bodies and is a signatory to the IOSCO Multi-lateral Memorandum of Understanding.

The purpose of a memorandum of understanding is to establish an agreed mechanism under which the signatories commit to using their statutory powers of co-operation to assist each other.

The Commission does not require a memorandum of understanding to be in place with a regulatory authority before it will co-operate with or share information with that authority under its general powers.

There are, however, additional powers in the Investment Business Act 1991 which allow the Commission to exercise key investigative powers on behalf of an investment business, securities or market regulator. These powers can be activated where a mutual assistance agreement (an MOU) is in place.

SECTION 2. MUTUAL ASSISTANCE – WHO TO APPROACH WITH A REQUEST FOR ASSISTANCE

In the Isle of Man there are a number of bodies which can deal with mutual assistance requests in differing circumstances. The details set out below are high level summaries of some of the key powers. The purpose of this document is to assist enquirers in contacting the appropriate body.

In requesting information it is important that the correct body is approached to ensure that a timely response is received.

Each request for assistance will be considered on its own merits.

2.1 Regulatory Assistance

2.2.1 Financial Supervision Commission powers - The Financial Supervision Commission is able to provide assistance to overseas authorities in relation to the regulation and supervision of licensed financial services businesses. This power is of particular importance in the global financial services market place to ensure consolidated supervision of financial services groups, including banking groups. Examples can include:

1. Obtaining and providing information to overseas authorities relevant to new applications for licensing by financial institutions in the overseas jurisdiction, or to applications on behalf of principal persons (beneficial owners and senior management of financial institutions);
2. Obtaining and providing information in response to enquiries relevant to the fitness and propriety of overseas financial institutions or their senior management;

3. Obtaining and providing information where it is suspected that a person is conducting financial business in an overseas jurisdiction without a licence; and
4. Assisting overseas authorities to undertake onsite examinations of branches of overseas companies based in the Isle of Man.

The Commission does not regulate the customers of its licenceholders and it is therefore appropriate that the powers to obtain information relating to customers is focused upon regulatory matters and circumstances where it is needed for the protection of a licenceholder's other customers.

However, it is also important that powers are available to cover circumstances where the Isle of Man has been used to abuse regulatory laws and requirements in other countries, even though there may not have been a specific breach of local laws. If information about a customer is needed for other purposes such as these there are appropriate powers through which information can be sought including where the information relates to;

- a securities investigation;
- an investigation into Insider Dealing;
- an investigation into criminal matters or Serious and Complex Fraud; or
- a customs investigation.

If you require any regulatory information about a financial institution (other than an insurance company, insurance broker or pensions provider) you should contact the Financial Supervision Commission <http://www.fsc.gov.im/about/makingcontact.xml>

If an enquiry relates to Insurance and Pensions matters please contact the Insurance and Pensions Authority <http://www.gov.im/ipa/>

2.1.2 Insurance and Pensions Authority powers - The IPA is responsible for the authorisation and ongoing regulation and supervision of companies carrying out insurance business in or from the Isle of Man, insurance companies incorporated on the Island, and for the regulation of pension schemes. It is also responsible for the registration of insurance management companies and insurance intermediaries carrying on general business.

Under the terms of the Insurance Act 1986 (as amended) the IPA has extensive gateways to allow for the exchange of information pertaining to its regulated entities with local and overseas regulatory and law enforcement authorities, along with certain other third parties. Any such disclosures are, under the terms of the Act, subject to appropriate safeguards. <http://www.gov.im/ipa/>

2.2 Breaches of Securities Law – Financial Supervision Commission powers

The Commission recognises the importance of ensuring the integrity of financial markets. Where an overseas securities regulator has entered into a mutual assistance agreement with the Commission, the Commission is empowered to exercise powers on their behalf to assist in the exercise of their functions.

Thus, the Commission can exercise its powers of inspection and investigation, including the power to obtain written and oral explanations and to require the production of documents, on behalf of that authority.

The Commission may also communicate to that authority information which is in its possession, whether or not as a result of the exercise of any of its powers, subject to certain legal safeguards and conditions.

These broad powers have been used to assist other Regulators in investigating allegations of market manipulation and market abuse.

Please contact the Financial Supervision Commission for further details <http://www.fsc.gov.im/about/makingcontact.xml>

2.3 Insider dealing – Isle of Man Treasury

Under the Insider Dealing Act 1998, the Isle of Man Treasury may appoint an inspector, following a request from the authorities in another jurisdiction, to investigate activities in the Island which, whether taken alone or in conjunction with activities elsewhere, might have amounted to insider dealing. Enquiries in relation to Insider Dealing should be addressed to the Isle of Man Treasury http://www.gov.im/treasury//contact_information.xml

2.4 The Attorney General’s Chambers (and Financial Crime Unit)

The Attorney General’s Chambers is the main point of contact for enquiries relating to criminal matters and allegations of serious and complex fraud. There is no specific legal definition of the term “serious and complex fraud”, however, it should be noted that a fraud could be serious without being complex and vice versa. Ultimately whether a fraud is serious or complex is a matter of fact in each case.

The Financial Crime Unit (“FCU”) is the Island’s Financial Intelligence Unit (“FIU”). The FCU is a member of the EGMONT Group of Financial Intelligence Units. It is therefore possible for other EGMONT FIUs to contact the FCU using the EGMONT secure channels of communication.

The FCU works closely with the Attorney General’s Chambers in relation to requests for assistance from overseas authorities.

If assistance is sought in relation to:

- money laundering
- terrorist financing
- serious or complex fraud
- criminal matters

Please contact the Attorney General’s Chambers in the first instance <http://www.gov.im/government/offices/attorney.xml> When making a request to the

Attorney General's Chambers enquirers will need to provide sufficient supporting information to demonstrate the misdemeanour being alleged.

2.5 Customs and Excise

The Isle of Man is in a customs union with the UK and is part of the customs territory of the EC (Community customs law generally applies in the Island).

The Island is fully committed to upholding international sanctions, whether imposed by the UN or EU. Customs and Excise is the relevant enforcement agency for trade and financial sanctions in most cases.

Customs and Excise will normally deal with requests for cooperation concerning:

- customs matters
- excise matters
- money service businesses, including bureau de change
- VAT
- UN and EU financial/economic sanctions
- trade sanctions and embargoes
- export licensing (including cultural goods)
- trade licenses for “trafficking and brokering” ie moving of certain restricted goods.

Customs and Excise Contact Details

http://www.gov.im/treasury/customs/Contacting_Customs/welcome.xml

2.6 Gambling Supervision Commission

The Gambling Supervision Commission is the main point of contact for enquiries relating to gambling and e-gaming matters.

Gambling Supervision Commission Contact Details

<http://www.gov.im/gambling/contactus.xml>

Mutual Assistance - Contacts

Financial Supervision Commission

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For all authorisation and enforcement purposes:

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Head of Enforcement

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For all supervision purposes:

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For all companies purposes:

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Insurance and Pensions Authority

HSBC House
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Isle of Man Treasury

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The Attorney General

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Isle of Man Customs and Excise

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Gambling Supervision Commission

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