

Results of the CAROL consultation (issued 7 March 2006) including a summary of comments provided and the Commission’s response

There were a total of 12 respondents, one of which was from a representative association. The response was disappointing as we sent out over 600 emails to banking, investment business and fiduciary licenceholders and their representative associations and professional bodies. We appreciate that there was some duplication in this list where licenceholders hold more than one type of licence, as their names will appear on each of the relevant sector-specific mailing lists. However, even taking this into account, 12 replies is still a low percentage return.

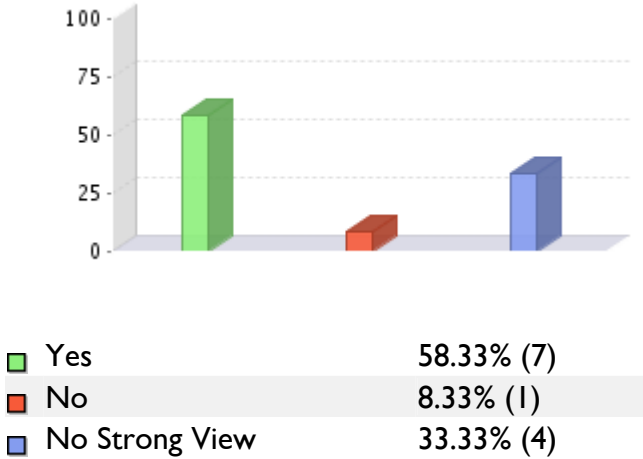
We discussed the low level of response with the Legislative Liaison Group (“LLG”) at our meeting on 16 May 2006. The industry representatives’ view was that in setting out high-level principles, there was not much to comment on or disagree with in this first CAROL consultation paper. An 8 week consultation period was considered sufficient.

There were relatively few comments from the respondees and the majority appeared to be in favour of the proposals. The responses to the questions are shown pictorially where possible and the additional comments have been summarised for your information. Where appropriate, the Commission’s response follows those comments.

The draft Financial Services Bill will be circulated for further consultation in due course and we will shortly be issuing a consultation on the Regulated Activities Order and Exemptions Regulations for your consideration.

RESPONSES TO THE CONSULTATION QUESTIONS

1. Are there any processes that you feel result in unnecessary "red tape" in the current regulatory framework?



2. Please give details.
(Number of respondents making a similar comment shown in brackets)

Current legislation – is extensive and fragmented.

Multiple licences – a single licence would be an improvement .(2)

Licence application and vetting issues –

The length of time taken to deal with licence applications. (2).

Delay in notifying licence application decisions.

There is a perception that in a multi functional and multi layered Group overall Group risk is not taken into account. The Authorisation process is not sufficiently flexible. (2)

The definition of “manager” in the Banking Act means that staff who do not have executive or senior management responsibilities are also subject to the vetting process. This affects a larger number of staff than is necessary.

Regulatory issues

When looked at globally, the Isle of Man’s regulatory framework is about right.

Requirements to notify events occurring off-Island in other parts of the Group can cause confusion.

Having to register certain events separately with Companies Registry and with the Commission as regulator is inconvenient. (2)

If a licenceholder or its Group operates in the Isle of Man, UK and Channel Islands, differing regulatory requirements can cause practical difficulties.

Advertising

Having to state that you are licensed by the Commission on all published material serves no useful purpose. A common form of wording should be adopted simply stating “Licensed by IOM Commission”.

General

Bureaucratic and cumbersome processes.

Commission’s response:

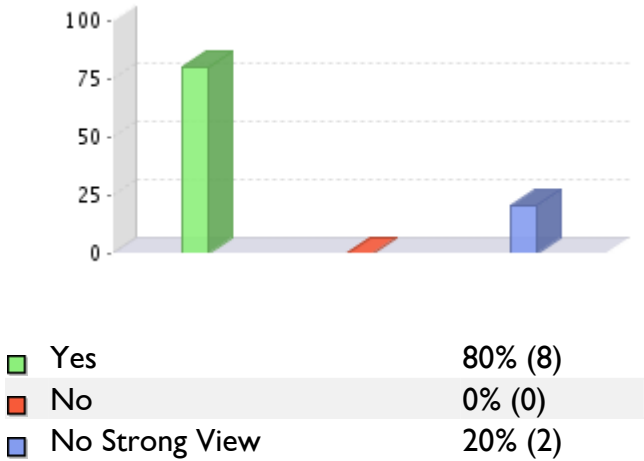
The length of time taken to process and determine licence applications is largely outside the control of the Commission as the greatest delay relates to obtaining references. Over the past few years, there have been delays in commencing applications which were part of batches of applications received after the introduction of licensing to two new sectors, corporate and trust service providers. However, during this period all start up applications have been “fast tracked”. Following the introduction of streamlining in relation to re-vetting of key persons, it is difficult to see how this process could be further improved and still remain robust and meaningful. The Commission tries to be flexible and takes account of the particular circumstances of the applicant whilst applying equivalent standards across the board.

In respect of vetting a larger number of a licence applicant’s / holder’s staff than is necessary, how key personnel associated with a licence applicant/holder are to be identified in the Financial Services Bill is being reviewed (see questions 11 to 14 below). However, it should be noted that under the current Banking Act definition, only certain managers need to be vetted.

The comments regarding regulatory issues, advertising and processes will be borne in mind when we revise the regulatory codes. We will be asking licenceholders to identify as part of further consultation any particular requirements which they consider to be bureaucratic and unnecessary.

STATEMENT OF COMMISSION’S REMIT

3. Do you feel that the objectives, functions and guiding principles outlined above would assist you in understanding the broad boundaries under which the Commission should operate in the future?



4. Comments on this proposal.

(Number of respondents making a similar comment shown in brackets)

This is a welcome development as it would provide a clear understanding of the boundaries within which the Commission must operate. (5)

Clearly the Commission wants to give itself maximum flexibility for the future and there does not appear to be anything in the proposals that gives us cause for concern.

In respect of “facilitating competition”, we believe that the Commission does have a role to play in ensuring that the Isle of Man is not too regulated and is innovative in its regulation. (2)

We support reviewing the rules in other jurisdictions but it would be helpful to know which jurisdictions have been looked at, for example, did the comparison include Dubai and Dublin?

The FSA’s practice should be reviewed to identify best practice especially in respect of segregation between investigation, legal advice and decision-making. The introduction of a right of appeal to an independent Tribunal should be considered.

We consider it would be helpful to consumers of financial services to have an understanding of the Commission’s role and suggest a “Frequently Asked Questions” area be included on the Commission’s website.

Is the Insurance Industry to continue to be excluded from the proposed legislation?

Why is the Commission to remain responsible for Companies Registry as this does not fit well with its regulatory role? There may be conflict between recording the appointment of directors and the Commission’s power to petition for the disqualification of directors.

The Commission should consider proportionality of burden to benefits provided this does not result in unfairness between two otherwise similar applicants.

The list of functions needs to reflect that the Commission operates at a local and international level. There is also the need to balance the economic demands of the Island with its international obligations.

The Commission has a key role in establishing and contributing to codes of conduct and business standards. It should enhance its guiding principles to include the requirement to issue "Best Practice" Guidance Notes.

Commission's response:

We looked at a large number of jurisdictions, including Dubai and Ireland, in considering the Commission's remit but the proposals to include objectives, functions and guiding principles in the Financial Services Bill has taken particular notice of the UK model provided by the Financial Services and Markets Act 2000, which has been internationally acknowledged as a good model.

The issue of comparison of the Isle of Man's legislation and regulatory requirements with other jurisdictions was discussed with the Legislative Liaison Group at its meeting on 16 May 2006. It was agreed that providing full comparative tables as part of consultation may be disproportionate in respect of the work required in relation to its value and also that such a comparison may be of limited benefit particularly where other jurisdictions have similar provisions or the information to be gleaned from their websites is limited. However, where a proposal has been strongly influenced by what happens in another jurisdiction, this will be highlighted in future consultations.

Where an individual or firm has particular experience of another jurisdiction's regulatory legislation or practice, it would be helpful if they could provide details to the Commission so that we can take this practical experience into account when framing the new legislation.

Regarding the establishment of an equivalent appeals process similar to that in the UK (the FSA's tribunal arrangements), an Appointments Committee was established by the Tribunals Act 2006, which recently received Royal Assent. We are advised that this Committee will be responsible for appointments to and the organisation of the Council of Ministers' Review Committee, with immediate effect.

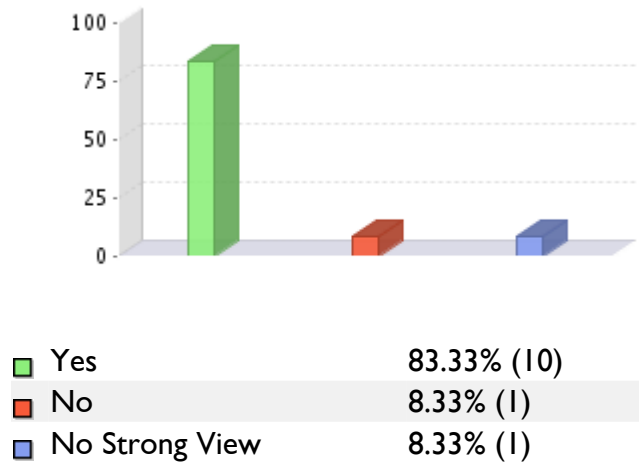
Questions relating to responsibility for Companies Registry and whether the regulation of the insurance sector should remain separate from the regulation of other financial services are beyond the remit of this consultation. This has been explained to the industry at both the presentation in the Manx Museum and at the LLG.

The Commission does not see any conflict between its functions in respect of acting as the repository of public information about companies etc (Companies Registry), which is a non-discretionary function of maintaining a public record and the Commission's discretionary power, exercised in its regulatory role, to petition the Court in respect of the disqualification of directors under section 26 of the Companies Act 1992.

Other comments are noted.

FORMAL ACCOUNTABILITY MECHANISMS

5. Do you feel that the accountability measures outlined above are sufficient to ensure that the Commission is publicly accountable in the exercise of its powers?



6. Comments.

(Number of respondents making a similar comment shown in brackets)

The measures appear sufficient. (2)

Another commentator added that there must be a formal structure in place to ensure that the Commission's performance can be measured against its objectives. It was also noted that this approach would appear to have the support of external inspectors and it may be more of an issue for Treasury and Tynwald, whose roles would have to be clear too.

There was general agreement with the proposal to require the Commission to publish audited accounts. However, one commentator suggested that the publication of an Annual Report may not necessarily achieve the accountability objective.

There was general agreement that Government's powers to influence operational matters should be removed from statute. However, one commentator qualified his response by saying that Government should keep power to give the Commission general directions.

In respect of the consultation process, one commentator queried what weight would be given to industry's views and the relationship with the regulator, which he stated is key to having a system that is viewed as fair and accountable.

Another commentator strongly supported the establishment of the proposed Industry Advisory Committee and recommended that its role in relation to the consultation process be clearly defined and enshrined in the new legislation.

One commentator suggested that there ought to be an independent review body/ombudsman where appeals may be lodged to ensure fairness and transparency.

Commission's response:

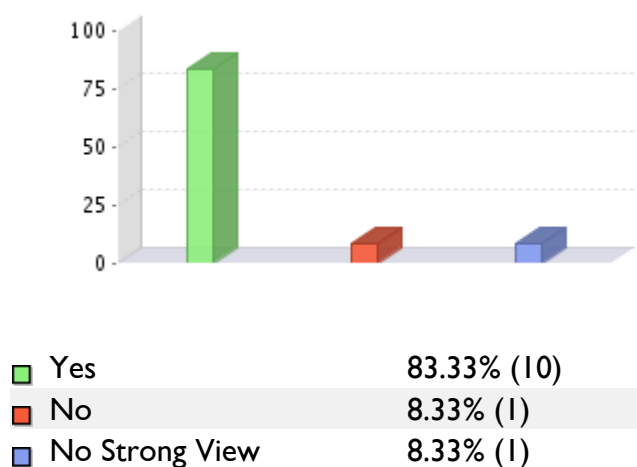
The Commission is pleased to note the general level of support for the introduction of more formal statutory accountability measures.

The comment regarding publication of audited accounts is noted. However, the Commission is committed to operating in an open and transparent way and believes that through publication of an annual report and accounts, essential information is made available to those wishing to assess its operations and as such has an important role in an accountability framework.

The Financial Services Bill will include a statutory requirement for the Commission to consult on particular issues, for example, any changes to the regulated activities, exemptions or regulatory codes. We will continue to endeavour to be as open and transparent as possible by publishing responses to any consultations and the rationale for our acceptance or otherwise of such responses. We discussed the responses received to the current consultation with the Legislative Liaison Group and there will be a further consultation on the draft Bill. However, we can only take account of views of which we are aware and industry is reminded that it is important to respond to consultation in a timely and constructive manner in order to assist the effectiveness of the consultation process.

REGULATED ACTIVITIES, EXCLUSIONS AND EXEMPTIONS

7. Do you agree that it is more appropriate to define the regulated activities in a Regulated Activities Order, which allows for more detail and also facilitates the making of adjustments to keep up with developments in the finance sector?



8. Please give details.

(Number of respondents making a similar comment shown in brackets)

Such an arrangement should hopefully lead to great flexibility and therefore enable the Island to react more quickly when a change of regulated activity is desirable. (6)

Why not bring insurance into this framework too? It would be really beneficial if each licenceholder only had one regulator in the Isle of Man. General insurance business by banks, for example, should be covered by the Commission. (2)

The activities to be regulated must be set out in the primary legislation but control over particular activities may be appropriate for subordinate legislation.

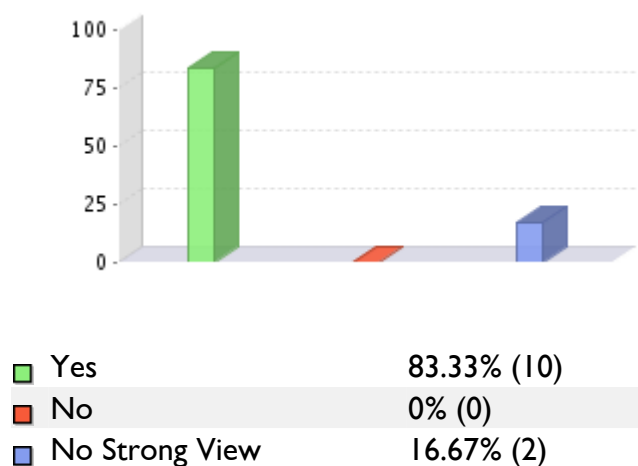
Commission's response:

The Bill will specify which financial services activities are regulated (banking, investment business, fiduciary services). However, the detailed definition of what constitutes each of those activities will be set out in the Regulated Activities Order. The issue of control over the content of delegated legislation was discussed in the LLG.

In this context, it may be helpful to clarify the scrutiny given to subordinate (delegated/secondary) legislation before it comes into operation. As noted above, it will be a statutory requirement for the Commission to consult before making any changes. Therefore, consultation with the industry will be the first stage of scrutiny of any change of policy or redrafting. Any new Regulations or Orders are then scrutinised by the Board of the Commission before being submitted to the Minister and Members of Treasury. Once approved by Treasury, the Commission "makes" the Regulations/Orders (i.e. they are signed by two Commissioners). They are then submitted to the Council of Ministers, who must approve their submission Tynwald.

It is proposed that the Commission's regulatory subordinate legislation is subject to an established Tynwald procedure which allows it to come into operation ahead of receiving Tynwald's formal approval but if Tynwald fails to grant approval, the legislation will cease to have effect. Regulations/Orders are not always brought into operation ahead of Tynwald approval but where time is of the essence, this device has been used effectively to ensure that the regulatory regime can be adapted quickly to meet challenges and take account of developments, as necessary.

9. Do you agree that it is more appropriate to define exemptions in Exemption Regulations, which would allow for more detail and also facilitate the making of adjustments to keep up with developments in the finance sector? (If you do not agree that the exemption for "recognised persons" under s.4 of the Investment Business Act 1991 should be removed, please provide your reasons in the comment box below.)



10. Please give details.

It is appropriate for exemptions to be contained in subordinate legislation rather than in the Bill. (3)

We agree that the exemption for “recognised persons” under the Investment Business Act 1991 should be removed and consider this to be comparable to other jurisdictions. (3)

In the proposed Exemption Regulations, consideration should be given to opening the market for investment business to certain groups who are regulated in the EU by an equivalent regulator. With such an exemption, investment managers and others carrying on investment business, may set up substantive Isle of Man offices to take advantage of recent tax incentives. Care would of course have to be taken that such measures did not put local businesses at a disadvantage.

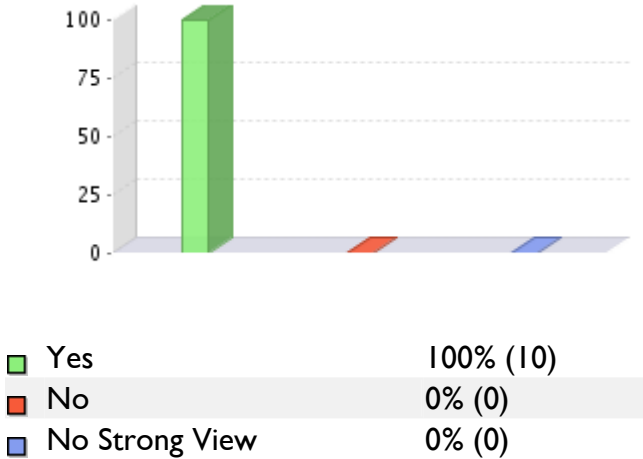
Commission’s response:

The Commission notes that no-one disagreed with the proposal to define exemptions in Exemptions Regulations and to remove the current exemption for “recognised persons” (s.4 Investment Business Act 1991).

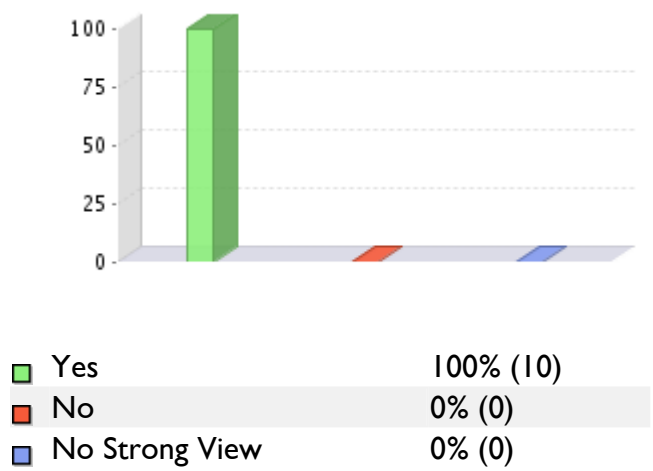
In respect of exempting certain businesses holding a licence in another jurisdictions who wish to establish a presence on the Island, the Commission is prepared to consider situations which would not disadvantage existing licenceholders and where the balance of risk to reward to the Isle of Man justifies such a treatment. We look forward to receiving more detailed proposals when we consult on the Exemptions Regulations.

DIRECTORS, MANAGERS, CONTROLLERS ETC MUST BE “FIT AND PROPER”

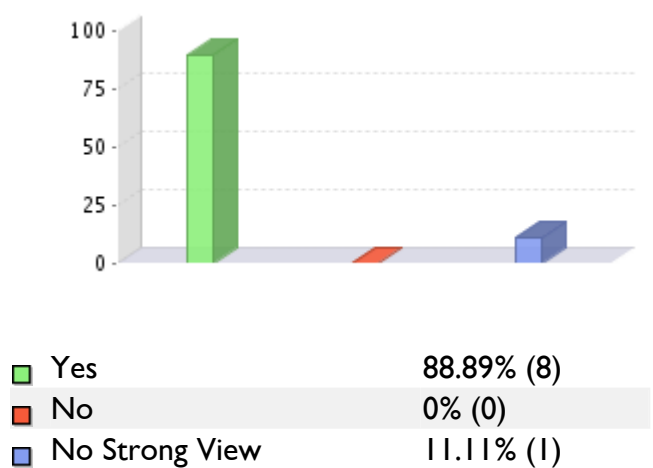
I I. Standardise the list of appointments/roles across all regulated sectors?



12. Extend the “fit and proper” test to include individuals who have significant powers or responsibilities in respect of the regulated activities undertaken by that business?



13. Specify those responsible for particular functions relevant to that regulated sector?



14. Please give details of any specific comments you have on the above proposals.

We think that clarifying that the “fit and proper” test applies to specified roles/responsibilities rather than the job title is right. However, this may be one of those areas which could grow significantly i.e. more and more people requiring the Commission’s approval, thus adding to bureaucracy.

We consider that in order to facilitate innovation in the Island and to encourage the development of new business, the Bill must give the Commission the power to be flexible in determining the individuals to whom the “fit and proper” test will apply. We understand the need for key individuals to be vetted by the Commission but the approach must be capable of being tailored on a case by case basis.

This is a good idea but standardising across all sectors may not be easy to achieve. A broad-brush approach may be best. (4)

The Isle of Man financial services industry is so diverse and we are not therefore entirely sure you can standardise key roles across all sectors.

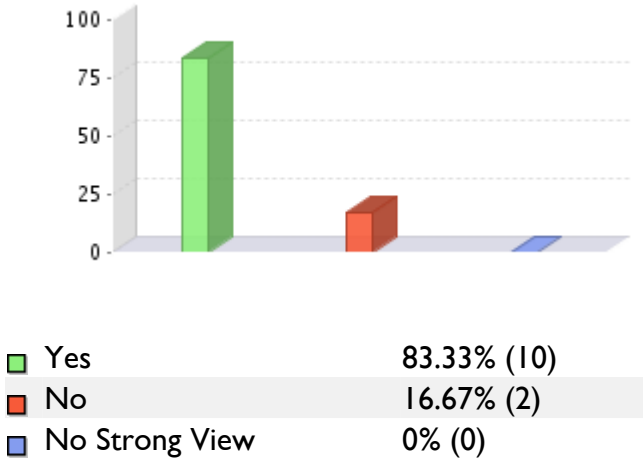
The legislation should recognise the UK concept of Senior Management Systems and Controls as a method of identifying the effective management within a business. In view of the limited range of business on the Island, it may be better to avoid an overly prescriptive list of defined functions and rely on each business being required to produce a structural chart showing who is responsible for on-Island activities.

Commission’s response:

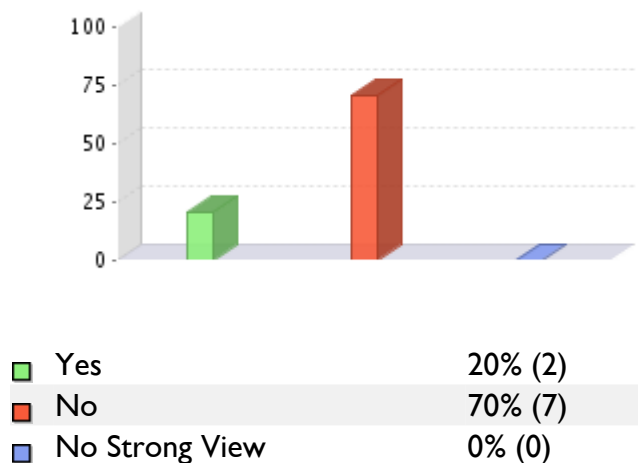
The Commission recognises the difficulties highlighted by the above comments. However, the “fit and proper” test needs to be applied to all personnel who have significant powers or responsibilities in relation to the regulated activities. As commentators have noted, there does need to be flexibility to take account of the particular circumstances of the licence applicant’s / licenceholder’s business and the Commission already asks for staff structure charts and an explanation of the particular roles certain individuals perform in order to identify if they are “key” and need to be vetted.

FLEXIBLE OR PRESCRIPTIVE REGULATORY FRAMEWORK

15. Would you prefer a more flexible regulatory framework which can only be achieved if the Commission has more flexible code-making powers?



16. OR, would you prefer a more prescriptive regulatory framework, which provides greater certainty?



17. Please give details of your preference.

A more flexible framework, which is responsive to change, would be advantageous. One respondent added that this would facilitate growth in the Island's financial services industry. Another agreed provided it does not result in an inconsistent application of decisions, to the detriment of one licenceholder over another. (7)

Flexibility can be a twin edged sword and the Commission should seek a balance between flexibility and prescription based on best industry practice. The consultation and review process should be transparent and the industry must feel enfranchised and confident that they can materially influence the proposals. Another respondent also suggested that there should be a cost benefit analysis and realistic implementation periods. (2)

One respondent suggested that some licenceholders may prefer a more prescriptive regime to enable them to delegate tasks to junior staff. However, he felt that in such cases, the regulatory culture should be embraced and decisions about how to address regulatory issues taken by the business, rather than relying on the regulator to take their decisions for them.

A more flexible framework that recognises a Risk Based approach to regulations is preferred. (2)

Commission's response:

Although no-one voted against having a more flexible regulatory regime, there were two respondents in favour of a more prescriptive regime. This apparent anomaly can perhaps be explained by the comment that the Commission should seek a balance between flexibility and prescription based on best industry practice and that certainty is better than arbitrary decisions.

The general support for a more flexible regulatory regime reflects the sophistication of the finance sector which has over time become more accustomed to being regulated. A more flexible approach, which places responsibility on Senior Management to identify the particular risks their business faces and how to address such risks, is an approach the Commission would like to move towards and this will be covered in further consultation on the regulatory codes,

particularly where a regulatory requirement is broadly stated (more as a principle than as a prescriptive, potentially one-size-fits-all requirement).

It should be noted that where the current regulatory framework allows for more discretion, the Commission already takes account of the particular circumstances of the licenceholder. However, we always operate in line with previous precedents to ensure a consistent and fair approach.

INVESTIGATIVE POWERS/EXCHANGE OF INFORMATION

18. Do you have any comments to make about whether the Commission should have the ability to assist other regulators in investigating wrong-doing in their jurisdiction?

We consider that the ability of the Commission to co-operate with other Regulators to assist in the investigation of wrong doing is a vital part of having a robust regulatory regime provided this is subject to the safeguards detailed. However, some concerns were expressed that relaxing or widening the criteria may compromise client confidentiality and allow other jurisdictions to embark on "fishing trips". (4)

This should only be done where it has been agreed between the respective governments and not just between the respective regulators. The scope of this must be a matter for government and subject to the control of the legislature. This also aids certainty and transparency.

We are cautious of the twin or more track approach (Courts, Treasury and Commission) being suggested. Currently the Court and Treasury are involved in the process. We need more details of the proposals, and perceived disadvantages with the current system versus the suggestion before we can comment. Certainty and clarity of who has the mandate should be the goal.

Would this affect the current role played by the Attorney General?

We agree with extending s.17 of Investment Business Act 1991 to all regulatory activity and widening the assistance that can be given, keeping the Attorney General in the loop for 'serious' matters.

It would be nice to think that such an approach would result in some reciprocity / quid pro quo on how our licenceholders are affected in their overseas activities. But overall it is good for the Commission and Island to be seen to support international enforcement of high standards. The definition of 'wrong doing' should be carefully looked at - would it be objective - a list with close definitions - or subjective - a matter for the Commission to make its mind up on as it chooses...?

Only where criminal activity is being investigated and provided the rights of the individual are protected (e.g. Human Rights are recognised). This may require careful drafting i.e. insider dealing can be a criminal act in UK but as the Isle of Man does not have a stock exchange, I suspect there is no such similar legislation here although we would wish to assist UK with an investigation.

Commission's response:

The Commission recognises the importance of ensuring that there are appropriate safeguards to protect confidential information from fishing expeditions and non-legitimate enquiries. At the same time the Commission believes that it is important that the Isle of Man is able to assist other regulatory bodies in appropriate circumstances. It is important for the Island's international reputation that it has internationally accepted powers in this regard with appropriate and robust safeguards.

The Commission accepts that it is important to have clarity between the different Isle of Man organisations which can assist in overseas enquiries.

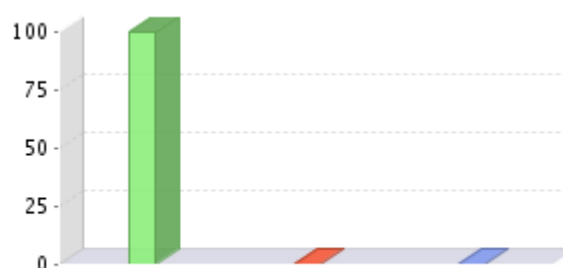
The Island does already have the ability to request information from overseas authorities in appropriate circumstances.

In relation to the comment about Insider Dealing, the Treasury already has extensive powers to appoint an inspector to investigate allegations of insider dealing activities by a person, natural or legal, on the Island under the Insider Dealing Act 1998. These powers can be used on behalf of overseas authorities.

Any changes that are made to the regulatory cooperation powers will be subject to consultation with all interested parties as such consultation will be made a statutory requirement under the Financial Services Bill.

FAILURE OF A LICENCEHOLDER AND/OR REVOCATION OF A LICENCE

19. Do you agree that the Commission should have the same powers across all sectors in respect of being able to require a report on the affairs of a licenceholder (by a reporting accountant or other person) and to apply to the Court for the appointment of a "receiver liquidator"?



Yes	100% (12)
No	0% (0)
No Strong View	0% (0)

20. Please give details.

The Commission must have the ability to obtain details to enable it to fulfil its investor protection role and should have consistent powers across all industry sectors in regard to these areas.

With the ability to appoint a reporting accountant and/or receiver liquidator, is there really a need for the ability to intervene to the extent of appointing a receiver manager?

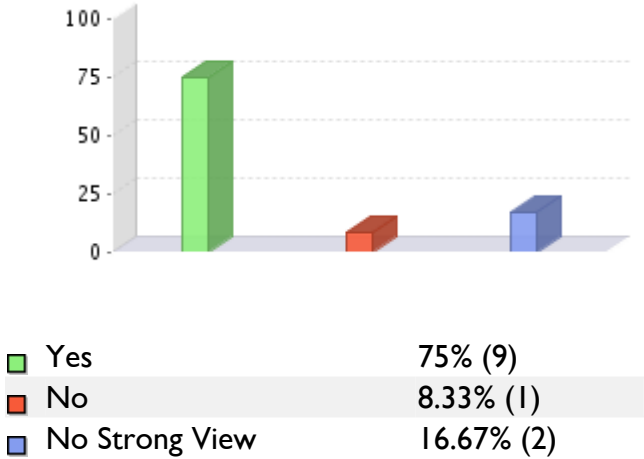
We are not aware of the office of "receiver liquidator" under present legislation.

Commission’s response:

All respondents agreed that power to appoint a reporting accountant and to appoint a “receiver liquidator” should apply to all regulated activities.

The expression “receiver liquidator” is not in the present legislation and was used in the consultation paper to distinguish the situation where a receiver is appointed with a view ultimately to a winding up, from the proposal to include a discretionary power for the Commission to appoint a “receiver manager” (see question 22 below).

21. Do you think the Commission should investigate further the possible inclusion of the Commission having discretion (i.e. "may" not "shall") to appoint a "receiver manager", if the circumstances require, in relation to a licenceholder's business?



22. Please provide any comments you have in relation to this.

This appears to be reasonable and would increase flexibility and proportionality and could be a good way to keep a business going and protect its clients with the least negative publicity for the Island. We would suggest that the Commission could give consideration to having an approved list of "receiver managers", which could include pre-approved and vetted managers with the necessary skills and resources, who are available to undertake this work. Another commentator asked the Commission to elaborate on what criteria would be required to act as an interim manager? (6)

We are uncertain as to how this will benefit investors or when the power will be used. The powers referred to in paragraph 6.6 of the consultation paper ("receiver liquidator") are designed to protect investors in a regulatory action to wind-up a licence holder. The proposal in respect of a "receiver manager" seems to be designed to allow a licence holder to "trade out" of a situation of its own creation. Who would be responsible for losses when a business is under "Commission control" and could this pose a greater risk to the Depositors Protection Fund? More detail is required on the specific use of the proposed power.

With the ability to appoint a reporting accountant and/or receiver liquidator, is there really a need for the ability to intervene to the extent of appointing a receiver manager?

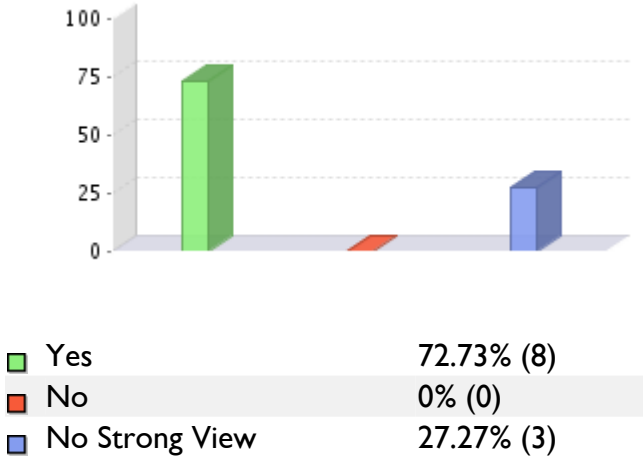
Commission’s response:

We note that the majority of respondents support this proposal and only one respondent disagreed.

As one commentator has noted, the appointment of a “receiver manager” could be a costly exercise and may not be appropriate in all circumstances. The Commission would need to take account of the cost and benefits of using such a discretion taking account of the potential effect of the failure of a particular business on the Island’s reputation, the licenceholder’s customers and any other pertinent factors. We hope that we will be able to clarify the operation of this provision in later consultation.

ENFORCEMENT ACTION: OFFENCES/PENALTIES

23. Do you agree that the definition of "enforcement action" could be improved, on the basis that this is not a change of policy and you will have the opportunity to comment on the re-wording when the draft Bill is circulated?



24. Please provide details of any comments you have at this stage.
(Number of respondents making a similar comment shown in brackets)

Any further clarification of the definition of "enforcement action" would be welcomed subject to the industry having the opportunity to comment.

It is not possible to comment until we have seen more detail and the draft. (2)

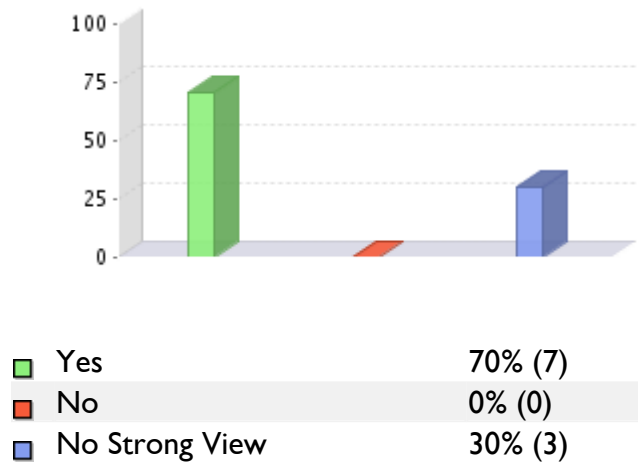
We are in favour of re-drafting the definition of "enforcement action" to include the next level of enforcement measures following the issue of recommendations.

There should be a range of enforcement actions available to the Commission both against the firm and the individuals.

Commission's response:

Although there was general support for the proposal to improve the definition of "enforcement action", we appreciate that how this is to be achieved will only become clear when we circulate the draft Financial Services Bill for comment and we hope that this further consultation will clarify the issue.

25. Should the Commission have discretion to issue a formal warning as a preliminary to declaring an individual to be "not fit and proper"?



26. Please give details:

(Number of respondents making a similar comment shown in brackets)

We consider that the Commission should have the power to issue a formal warning and suggest that such formal warnings should be made public to assist other licenceholders in their employment vetting procedures. This would give the Commission some flexibility. (3)

There does not seem to be much point in this, except to warn of impending action to rescind an individual's "fit and proper" status so that he can appeal before action is implemented. Either a person is "fit and proper" or not.

This could result in a no-win situation for the Commission in that individuals who do not get the preliminary formal warning might feel aggrieved if they are given a straight "not fit and proper" ruling.

We have suggested the same about other penalties too.

We would like to see more detail regarding the proposed process of issuing a "formal warning" before disqualifying individuals in key positions and how this would work in practice. On the whole we believe individuals must accept the responsibilities that go with a key position and act accordingly. We are concerned that if an individual has conducted themselves in such a way as to reach this stage, then it is possible that they are not fit and proper.

We would have thought that this course of action already existed presently under an informal communication which would have the same effect. How will a formal warning be different? The discretionary element of the formal warning may be viewed as unfair by those individuals who did not receive a formal warning.

The formal warning is a sensible move however there should be some right of appeal or similar process that an individual could pursue if in receipt of such a "warning".

Commission's response:

We note the general support (or "no strong views") in respect of the proposal that the Commission should have power to give a formal warning, where appropriate, rather than the only sanction being to issue a "not fit and proper" direction. We will take account of the comments in preparing the Financial Services Bill for further consultation.

OTHER COMMENTS

Generally, we support the initiatives and look forward to seeing the outcome of the consultative process.

Several matters refer to "Attorney General's Chambers to advise". Would it not have been better to obtain that advice before publishing this consultative document? The proposals are creating a lot of extra work for everyone involved and we hope it will be worthwhile.

Generally the devil is in the detail and I think we will be better able to comment when the detail is published. We are supportive of the process.

It is an unnecessary burden that one company may only undertake one regulated activity. This simply results in a plethora of separate companies and extra red tape. We would strongly support an early move to allow one company to carry out a number of regulated activities.

As many Financial Service providers are regulated by both the Commission and IPA should it not be considered that any "Financial Services Bill" incorporate all financial services on the IoM, to include the remit of the Commission, IPA and Ombudsman.

The Commission should not just focus on Jersey and Guernsey as our natural competitors but should also look at more innovative jurisdictions like the British Virgin Islands and the Cayman Islands when considering improving and consolidating legislation.

The Basle Committee have issued consultations on Supervisory practice. Future information should clarify how we are meeting those international obligations and how we are utilising any national flexibilities for the benefit of the IOM.

Commission's response:

The Commission welcomes the general support given by respondents to the consultation.

Preliminary discussions have been held with the Attorney General's Chambers and we can confirm that there are not any policy issues, only legal drafting issues, that have been referred to in the consultative paper as being subject to the Attorney General's Chambers' advice. It should also be noted that particular attention is paid to the validity of any legislation in respect of any requirement being intra vires (within the powers of the Commission).

As noted in the consultation paper and in the responses above, there will be further consultation both when the Financial Services Bill has been drafted and on all the subordinate legislation to be made under the Bill (as each aspect is ready for consultation in order to ease

the consultation process by staggering each stage of the consultation). There will therefore be plenty of opportunity to review and comment on "the detail".

It is not necessarily a regulatory requirement that different types of regulated activities be segregated. However, sometimes a business itself takes a risk related decision to ring-fence certain activities in separate companies within a Group.

As noted above, bringing regulation of insurance business into the same framework as the regulation of other financial services is outside the scope of the CAROL project.

We confirm that we are looking at a wide range of jurisdictions. (See the Commission's response to question 4 comments above.)

Other comments are noted.

Policy and Legal Unit
Financial Supervision Commission

25 May 2006