

Appendix B1

PROPOSED CHANGES TO THE FINANCIAL SUPERVISION ACT 1988			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
Part 1	Collective Investment Schemes	Not applicable	Will be dealt with in separate Schemes Bill
Part 2	Miscellaneous and Supplementary		
21	Compensation schemes	No material change	Cl. 26
21A	Conciliation in disputes over financial services	Office of Fair Trading reviewing changes to conciliation and mediation scheme.	Cl. 25 and Schedule 4
21B	Investigation and adjudication in disputes over financial services	OFT	ditto
21C	Investigation and adjudication: supplemental service	OFT	ditto
	<i>Information etc</i>		
22	Publication of information and advice	No material change	Cl. 28
23	Restrictions on disclosure of information	No material change	Cl. 29 and Schedule 5
24	Exceptions from restrictions on disclosure	No material change	ditto
24A	Public registers	N/A	Will be dealt with in separate Schemes Bill
	<i>Offences</i>		
25	False and misleading statements	N/A	Refers to Schemes – separate Schemes Bill
26	Offences	N/A	Refers to Schemes – separate Schemes Bill
	<i>Public Documents</i>		
27	Regulations and orders	N/A	Refers to Schemes – separate Schemes Bill
	<i>Banking and investment businesses</i>		
28	Amendments	N/A	N/A
	<i>Supplementary</i>		
29	Financial provisions	N/A	N/A
30	Collective investment schemes: interpretation	N/A	Refers to Schemes – separate Schemes Bill
31	Interpretation	N/A	N/A
32	Miscellaneous and consequential amendments	N/A	N/A
33	Repeals	N/A	N/A
34	Short title, commencement and transitional	N/A	N/A
33	Repeals	N/A	N/A
34	Short title, commencement and transitional	N/A	N/A

Appendix B2

PROPOSED CHANGES TO THE INVESTMENT BUSINESS ACT 1991			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
	<i>Investment Business</i>		
1	Meaning of investment business	No material change. Detailed definitions will be in Regulated Activities Order.	Cl. 3
	<i>Recognised and Permitted Persons</i>		
2	Offence to carry on investment business without a licence	No material change	Cl. 4
3	Application for, and grant of, an investment business licence	No material change	Cl. 5, 6, 7 & 8
	<i>Recognised and permitted persons</i>		
4	Recognised persons	"recognised persons" exemption removed – for reason given in 6.2 of CAROL 1	No equivalent
5	Register of permitted persons	No material change	Cl. 33
	<i>Regulation of Investment Business</i>		
6	Regulatory codes	No material change	Cl. 18 & 19 and Schedule 3
6A	Civil penalties	No material change	Cl. 16
7	Client money	Power to make rules regarding client money in Schedule 3	Para. 1(v) of Schedule 3
8	Inspection and investigation	No material change	Cl. 15 and Schedule 2
8A	Power of Commission to require information	No material change	Paras. 3 & 4 of Schedule 2; and Cl. 16(1)(c), Cl. 37, Cl. 38 and Cl. 39(4)
	<i>Supervisory powers and remedies</i>		
9	Recommendations and directions to permitted persons	No material change. However, reference to making recommendation removed	Cl. 14
9A	Requests for information	No material change in practice.	Para. 2 of Schedule 2
10	Directors, controllers etc	No material change in respect of individuals associated with licence applicant / holder who must be fit and proper. However, a new intermediate power to formally warn a person who is required to be fit and proper but whose actions are questionable. This would be appropriate in cases where there is insufficient evidence to make a "not fit and proper direction" but a formal sanction is warranted.	Cl. 10 New - see cl. 11
11	Vesting of assets in trustees	No material change.	Cl. 21
12	Public statements	No material change	Cl. 13
13	Injunctions and restitution orders	No material change	Cl. 20
14	Actions for damages	No material change	Cl. 27

Appendix B2

PROPOSED CHANGES TO THE INVESTMENT BUSINESS ACT 1991			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
15	Review of Commission decisions	No material change. However, right of review also applies to warning notices issued under cl. 11.	Cl. 30
15A	Indemnity for designated bodies	No material change	Cl. 31
15B	Matters to be communicated to the Commission by auditors	Clarification but no material change	Cl. 17
16	Indemnity for auditors	No material change	Cl. 17
17	Mutual assistance agreements	No material change	Cl. 32 and paras.6 to 10 of Schedule 5
17A	Misleading statements	No material change	Cl. 35
17B	Misleading practices	No material change	Cl. 36
18	Fees and expenses	No material change	Cl. 43
19	Offences	No material change	Cl. 39 & 40
20	Power of the Commission to make regulations	No material change	Cl. 41
21	Tynwald procedure: orders and regulations	No material change	Cl. 42
22	Interpretation	N/A	N/A
22A	Gaming contracts	No material change	Cl. 44
23	Amendments to Banking Act 1975	N/A	N/A
24	Minor and consequential amendments and repeals	N/A	N/A
25	Short title and commencement	N/A	N/A
Add	Reporting accountants	FSC's power to appoint a reporting accountant as currently for banks and fiduciaries, would apply to all sectors.	New - see cl. 24
Add	Power to appoint a receiver	FSC's power to petition Court appoint a receiver as currently for fiduciaries, would apply to all sectors.	New – see cl. 22
Add	Power to appoint a manager	Power for FSC to petition Court to appoint a Business Manager would apply to all sectors.	New – see cl. 23

Appendix B3

PROPOSED CHANGES TO THE BANKING ACT 1998			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
	<i>Banking business</i>		
1	Banking business	Defined in terms of "deposit taking" in Regulated Activities Order. Power removed for Commission to deem whether or not business of a similar character is banking.	Cl. 3
	<i>Restrictions on unlicensed banking business</i>		
2	Offence to carry on banking business without a banking licence	No material change	Cl. 4
3	Managers of bank businesses	No material change	Not replicated because if activity falls within definition in Regulated Activities Order will require a licence
	<i>Banking business licences</i>		
4	Application for and other matters relating to a banking licence	No material change	Cl. 5
5	Criteria for grant of banking licences	No material change	Cl. 6
6	Grant and refusal of licences	No material change	Cl. 7
7	Revocation and alteration of banking licences	No material change	Cl. 9, also cl. 6 & cl. 7.
8	Register of licences	No material change	Cl. 33
	<i>Banking names</i>		
9	Restriction on the use of the word "bank"	No material change	Not replicated because controlled via companies legislation (Companies Registry name approval)
	<i>Regulation of banking business</i>		
10	Regulatory codes	No material change	Cl. 18 & 19
	<i>Supervisory powers etc</i>		
11	Recommendations and directions to banking institutions	Reference to making recommendation removed	Cl. 14
12	Requests for information	No material change in practice.	Para. 2 of Schedule 2
13	Inspection and investigation	Extended to requests from other regulators in controlled circumstances	Cl. 15 and para. 1 of Schedule 2
14	Power of Commission to require information	Extended to requests from other regulators in controlled circumstances	Para. 3 of Schedule 2
15	Deemster's search warrant	No material change	Para. 4 of Schedule 2

PROPOSED CHANGES TO THE BANKING ACT 1998			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
16	Directors, controllers etc	No material change in respect of individuals associated with licence applicant / holder who must be fit and proper. However, a new intermediate power to formally warn a person who is required to be fit and proper but whose actions are questionable. This would be appropriate in cases where there is insufficient evidence to make a "not fit and proper direction" but a formal sanction is warranted.	Cl. 10 New – see cl. 11
17	Public statements	No material change	Cl. 13
18	Unauthorised acceptance of deposits	No material change	Cl. 20(2)-(5) (<i>Injunctions</i>) and cl. 22 (<i>appointment of receiver</i>)
19	Injunctions	No material change	Cl. 20
19A	Civil penalties	No material change	Cl. 16
	<i>Auditors and reporting accountants</i>		
20	Matters to be communicated to the Commission by Auditors and reporting accountants	No material change	Cl. 17
21	Reporting accountants	No material change	Cl. 24 (New - Commission must give reasons for its action)
22	Indemnity for auditors and reporting accountants	No material change	Cl. 17
	<i>Compensation</i>		
23	Compensation schemes	No material change	Cl. 26
	<i>Rights to reviews</i>		
24	Review of Commission decisions	No material change	Cl. 30
	<i>Offences</i>		
25	Fraudulent inducement to make a deposit	No material change	Cl. 34
26	Prejudicing investigations	No material change	Cl. 37
27	False statement, etc	No material change	Cl. 38
28	Offences by body corporate	No material change	Cl. 40
29	Penalties etc	No material change	Cl. 39
	<i>Miscellaneous and general</i>		
30	Treasury directions	No material change	Not replicated because although power for Treasury to direct FSC has not and is unlikely to be used, IMF Review recommended its removal to ensure FSC can operate independent of political influence. Statutory accountability measures balance independence.
31	Public documents	No material change	Cl. 41

Appendix B3

PROPOSED CHANGES TO THE BANKING ACT 1998			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
32	Definition of "related company"	No material change	Cl. 45(6)
33	Interpretation: general	N/A	N/A
34	Repeal of s.12 of 1995 c.10	N/A	N/A
35	Amendments and repeals	N/A	N/A
36	Short title and commencement	N/A	N/A
Add	Power to appoint a receiver	FSC's power to petition Court appoint a receiver as currently for fiduciaries, would apply to all sectors.	New – see cl. 22
Add	Power to appoint a manager	Power for FSC to petition Court to appoint a Business Manager would apply to all sectors.	New – see cl. 23
Add	Power for Commission to direct that assets be vested in trustee	Extends current power in s.11 of Investment Business Act 1991 to all sectors	New – see cl. 21

Appendix B4

PROPOSED CHANGES TO THE CORPORATE SERVICE PROVIDERS ACT 2000 (THIS ACT AND FIDUCIARY SERVICES ACT 2005 TOGETHER REFERRED TO AS FIDUCIARY SERVICES ACTS 2000 AND 2005)			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
Part 1	Fiduciaries		
1	Fiduciaries and regulated activities	Defined in Regulated Activities Order	Cl. 3
Part 2	Licensing of fiduciaries		
2	Offence to act, etc as a fiduciary without licence	Exemptions moved to Exemption Regulations	Cl. 4
2A	Restriction on the use of the word "trust", "trustee", etc	No material change	Not replicated because controlled via companies legislation (Companies Registry name approval)
3	Application for, and issue of, a fiduciary licence	No material change	Cl. 5, 6, 7 & 8
4	Revocation and suspension of licence	No material change	Cl. 9
5	Register of fiduciaries	No material change	Cl. 33
Part 3	Regulation of fiduciaries		
6	Regulatory codes	No material change	Cl. 18, 19 and Schedule 3
7	Recommendations and directions to fiduciaries	No material change. However, reference to making recommendation removed	Cl. 14
8	Civil penalties	No material change	Cl. 16
9	Directors, controllers, etc	Introduces a new intermediate power to formally warn a person who is required to be fit and proper but whose actions are questionable. This would be appropriate in cases where there is insufficient evidence to make a "not fit and proper direction" but a formal sanction is warranted.	Cl. 10 & 11
10	Inspection and investigation	No material change in practice	Cl. 15 and para. 1 of Schedule 2
11	Requests for information	Extended to requests from other regulators in controlled circumstances	Para. 2 of Schedule 2
12	Power of Commission to require information	Extended to requests from other regulators in controlled circumstances	Para. 3 of Schedule 2
13	Deemster's search warrant	No material change	Para. 4 of Schedule 2
14	Public statements	No material change	Cl. 13
15	Injunctions	No material change	Cl. 20 - Extended to include power for the Court to make an order re profits accrued as a result of contravention.
16	Appointment of receiver	No material change	Cl. 22

PROPOSED CHANGES TO THE CORPORATE SERVICE PROVIDERS ACT 2000 (THIS ACT AND FIDUCIARY SERVICES ACT 2005 TOGETHER REFERRED TO AS FIDUCIARY SERVICES ACTS 2000 AND 2005)			
EXISTING ACT		PROPOSAL	
Section	Description	Effect on licenceholders	Re-located in Financial Services Bill (Clause/Schedule)
Part 4	General and supplementary		
	<i>Miscellaneous</i>		
17	Application in doubtful cases	No material change	Not replicated as issue will be addressed in Regulated Activities order and Exemption Regulations
18	Review of Commission decisions	No material change	Cl. 30
19	Statutory indemnity	No material change	Cl. 31
	<i>Offences</i>		
20	False statements, etc	No material change	Cl. 38
21	Offences	No material change	Cl. 39
	<i>Public Documents</i>		
22	Regulations	No material change	Cl. 41 – statutory duty to consult before making any regulations etc.
23	Tynwald procedure: regulations	No material change	Cl.42
	<i>Supplementary</i>		
24	Obligation for auditors to report to Commission	The obligation on auditors to report breaches of the Act, Rule Bok etc will now be subject to “materiality” to the functions of the Commission to standardise across all regulated sectors.	Cl. 17
25	Appointment of reporting accountants	Standardised across all sectors to extend to the relevant affairs of a holding company, subsidiary or related company.	Cl. 24
26	Fees	No material change	Cl. 43
27	Interpretation	No material change	N/A
28	Amendment of enactments	N/A	N/A
29	Short title and commencement	N/A	N/A
Sch 1	Activities which are regulated activities	No material change	Will be detailed in Regulated Activities Order
Sch 2	Exemptions from Section 2(1) and (2)	To be moved to Exemption Regulations	Will be detailed in Exemptions Regulations
Sch 3	Amendment of enactments	N/A	N/A
Add	Power to appoint a manager	Power for FSC to petition Court to appoint a Business Manager would apply to all sectors.	New – see cl. 23
Add	Power for Commission to direct that assets be vested in trustee	Extends current power in s.11 of Investment Business Act 1991 to all sectors	New – see cl. 21