

# DNFBPupdate

Update for Designated Businesses from the Isle of Man Financial Services Authority

## It's time to submit your Annual Return

The DNFBP Annual Return for the period 2020–2021 must be completed and submitted by 1 November 2021. Access to allow for completion of the return will be available from 1 October 2021. DNFBPs are reminded that late submission will result in a civil penalty being issued, as detailed in the [Designated Businesses \(Civil Penalties\) Order 2015](#).

There is a [guidance document](#) available to assist with completion. The return template is the same as last year, and there is no requirement for an updated risk assessment to be submitted.

Signatories are advised to check that they are able to [log in to the system here](#) and ensure that all current details on the system relating to their business on the Business Details Form are up to date.



It is crucial that the key contact e-mail address in particular is accurate. It should be noted that in 2020 a total of 35 civil penalties were issued for non-submission of the Annual Return, three of which resulted in revocations of registration.

**ACTION>>> Any queries on the Annual Return process should be e-mailed to [dnfbp@iomfsa.im](mailto:dnfbp@iomfsa.im).**

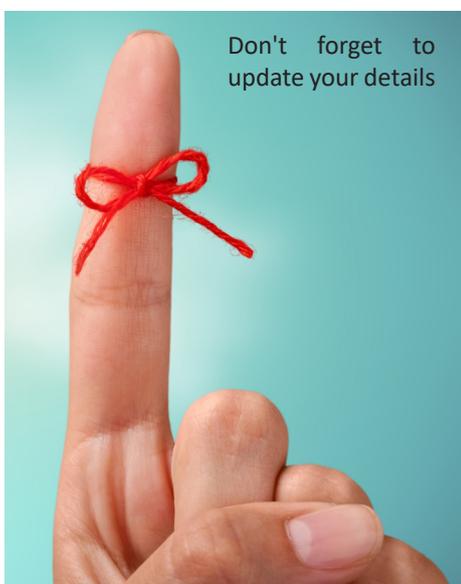
## Welcome!

Welcome to the DNFBP update for September 2021. Topics include:

1. Annual Returns
2. General reminders for the DNFBP sector
3. Convertible Virtual Currency requirements and proposed registration conditions
4. Annual Fees
5. Feedback Statement to the Discussion Paper on Funding Financial Regulation and Designated Business Oversight
6. AML/CFT Country lists
7. Authority webinars
8. AML/CFT Guidance

If you have any further topics that would be of interest in future newsletters please let us know at [aml@iomfsa.im](mailto:aml@iomfsa.im)

## Let us know if you change your details



The Authority would like to reiterate that any changes to a registered business must be advised to the Authority within 14 days.

Any relevant changes must be completed by updating the [designated business portal, which can be accessed here](#).

It is an offence under the [Designated Businesses \(Registration and Oversight\) Act 2015](#) if registered businesses' details are not updated accordingly and a financial penalty may be incurred.

Also, the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019 Paragraph 27(2) requires the appointed MLRO to make

external disclosures to the Financial Intelligence Unit ("FIU").

Any designated businesses that do not have their current MLRO registered on the Themis reporting system must do so without delay.

Once the MLRO's details are registered on Themis they will receive useful updates from the FIU in relation to the latest financial crime and money laundering typologies.

**ACTION>>> To register with Themis please [visit the FIU website](#). If you have any questions on registration or Themis please contact the FIU directly on [fiu@gov.im](mailto:fiu@gov.im).**

# Guidance on CVC requirements

The Authority has recently received a number of applications from entities wishing to register as DNFBPs to carry out convertible virtual currency ('CVC') activities.

A great deal of work has taken place with some of these recent applicants to explore and seek evidence that they can meet the Authority's registration requirements.

Due to the money laundering and terrorist financing risks in the CVC world, the Authority will only accept applications from businesses who have sufficient CVC activity in the Island to allow for AML/CFT oversight. This category of business also has specific real presence requirements to meet.

Management and control of the business needs to be in the Island, at least two directors must be resident in the Island, and the core registerable **activity** must be undertaken from the Island.

For example, even if there is an IOM corporate entity with IOM resident directors, if the CVC activity takes place elsewhere, this would not be acceptable for DNFBP registration.

The real presence requirement for CVC entities has been part of the [Designated Business Registration Policy](#) ("the Policy") since 2018.

In order to ensure entities registered prior to 2018 are subject to the same requirements as those registered after this date, it is proposed to impose the 2018 Policy conditions on existing registrations to enforce the real presence requirement set out in the policy.



## Real presence/substance

In order for the IOMFSA to be able to successfully undertake its statutory duty of overseeing the compliance of designated businesses with the AML/CFT legislation, designated businesses must have sufficient real presence to facilitate oversight. Given the nature of CVC business, and in order to ensure oversight can effectively take place, with effect from 5 October 2018 the IOMFSA will not register a CVC business unless the following two conditions of registration are met:

- a) the CVC business must have (and continue to have) at least two IOM resident directors; and
- b) management and control of the CVC business must be in the Island.

Because of the limitation of the IOMFSA's ability to oversee CVC businesses which lack substance or real presence on the Island, such a characteristic is considered to pose an unacceptably high risk of money laundering and terrorist financing.

**ACTION>>>** If you are affected by this change you should have already received an e-mail relating to this and requesting feedback. If you haven't received this please get in touch.

## Annual fees are due for payment by 1 November

*DNFBPs overseen by the Authority* – We will be issuing invoices shortly to the e-mail address of the primary contact noted on the most recently submitted Business Details Form. It is your responsibility to ensure your business details are accurate and up to date, [so please login](#) and check.

Details of annual fees are included in the [Designated Business \(Fees\) Order 2021](#).

The annual fee is due on and must be paid by 1 November

2021. Late payment of the annual fee will result in a civil penalty being issued, as detailed in the [Designated Businesses \(Civil Penalties\) Order 2015](#).

*DNFBPs overseen by a professional body* – Any oversight fee is payable to the relevant professional body and you should liaise with them on this.

DNFBPs registered as Specified Non Profit Organisations are exempt from paying an annual fee.

# Further engagement planned regarding funding model

In the May 2021 issue of this newsletter, the Authority provided an overview of responses to the [Discussion Paper on Funding Financial Regulation and Designated Business Oversight](#) prior to publication of the [Feedback Statement](#) on 14 May 2021.

Since then, the Authority and the third party advisers have been continuing engagement with key stakeholder groups, carrying out preliminary jurisdictional comparison work and starting to define the scope of the Predominantly Industry-Funded Model ('PIFM').

The Authority plans to issue its

next formal consultation on the PIFM Project in the next couple of months. Designated Businesses and professional oversight bodies will be notified once the consultation has been issued.

On a related fees matter, in line with the [Consultation Response on Fees payable from 1 April 2021 and 1 April 2022](#) (published on 11 February 2021), the Authority is currently reviewing available data on the financial impact of the COVID-19 pandemic and the state of the business environment.

Further information on that review will be published in due course.

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**TELL US WHAT YOU'D LIKE TO SEE>>> Please drop us a line at [aml@iomfsa.im](mailto:aml@iomfsa.im) with any ideas for future content**

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## Connections with Malta?



Entities should be aware that the FATF country lists have recently been updated. In particular the Authority would like to highlight that Malta has been removed from List C (Equivalent jurisdiction list) and placed on List B (Jurisdictions that may pose a higher risk) due to the FATF determining they had not made sufficient progress on their action plan. [Further details can be found here.](#)

If not done so already, any registered

persons with business relationships/customers connected to Malta should provide the Authority with details of those business relationships, highlighting whether simplified measures have been used, and if so explaining which measures.

**ACTION>>>** These details should be provided to [aml@iomfsa.im](mailto:aml@iomfsa.im) as soon as possible.



## Watch our webinars

The Authority is planning to host webinars to provide outreach to sectors during the course of the year.

A webinar providing a general update in relation to AML/CFT has already taken place in March 2021, with a further session in July 2021 providing detail on the revisions to the AML/CFT Handbook.

The presentations themselves are around 20 minutes long. Therefore, if you missed these live events we would recommend you catch up using the links below. The events can also be classed as relevant CPD.

**ACTION>>>** Full details of the webinars including the recording of the presentations, the slides and questions and answers from the [session can be found here.](#)

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## AML/CFT guidance

The Authority has now published its updated guidance for relevant persons in respect of compliance with the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019.

The AML/CFT Handbook is the core guidance document and, where deemed appropriate, additional detail is provided in the Supplemental Information Document. Sector Specific Guidance Notes have also been published for the majority of DNFBP business sectors.

The publication of further guidance documents is occurring periodically and we would therefore recommend checking the Authority's website frequently.

**ACTION>>>** The [updated library of documents can be found here.](#)