

SIGNED MINUTES

MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10.30am TUESDAY 6 SEPTEMBER 2016 IN THE KING ORRY ROOM, CABINET OFFICE, ISLE OF MAN GOVERNMENT

Present: Karen Ramsay, Head of AML/CFT Policy Office, Cabinet Office (Chair)
Paul Heckles, AML/CFT Advisor, Cabinet Office
Joanne Hetherington, AML/CFT Policy Manager, Cabinet Office (Minutes)
Ray Todd, Manager, Legal & Policy, Customs & Excise Division
Graham Dugdale, Team Leader, Law Enforcement, Customs & Excise Division
Julian Lalor-Smith, Director of Administration & Legislation, Dept. of Home Affairs
Iain MacMillan, Operations Manager, Financial Intelligence Unit (FIU)
Stuart Highy, Supervisor, FIU
Karen Badgerow, Chief Executive Officer, IoM Financial Services Authority (IoMFSA)
Ashley Whyte, Manager, AML Unit, IoMFSA
Mark England, Risk & Compliance Manager, IoM Post Office
Stuart Quayle, Director of Policy & Legislation, Treasury
Mark Denton, Chair, ACSP
David Parsons, Chair, CIOt
Jon Barwood, Committee Member, FPIBA
Phil O'Shea, Chair of Risk & Compliance Committee, IoMBA
Sinead O'Connor, Representative, IoMCA
Charles Garside, Chair, IoM Estate Agents
Ysanne Williamson, Supervisions Executive, IoM Law Society
Jon Whiting, Representative, IoMSCA
Paul Clague, IoM Funds & Wealth Association
Joe Hughes, Director, MeGA
Gill Marples, Chair, MIA

Apologies: John Garland, Head of Corporate Financial Services, Dept. of Economic Development
Neil Davis, Corporate Manager, Financial Intelligence Unit
David Griffin, Director of Enforcement, IoMFSA
Sandra Skuszka, Chair, ACCA
Dougie Elliott, Chair, APSP
Kurt Roosen, Chair, Manx ICT Association
Charlie Woolnough, Co-Founder, CoinCorner

013/16 WELCOME

The Chair welcomed new members of the AML/CFT Advisory Group ("the Group") to the meeting, including representatives from the Manx e-Gaming Association and the Isle of Man Bankers' Association.

014/16 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 18 MAY 2016

Having been previously circulated, the minutes of the AML/CFT Advisory Group meeting held on 18 May 2016 were agreed and signed by the Chair.

015/16 MATTERS ARISING FROM THE MINUTES

a) Publication of AML/CFT Advisory Group minutes

Minute ref: 003/16

Further to the Group's agreement that signed minutes of the AML/CFT Advisory Group should be published via the Cabinet Office website, the

**ACTION
CO**

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Head of AML/CFT Policy Office suggested that subject to circulation to Group members for initial comment, draft minutes should be published at the earliest opportunity. The Group agreed that this would facilitate timely circulation of the minutes to all stakeholders, particularly as meetings were held on a quarterly basis. It was noted that signed minutes would subsequently replace draft minutes on the website, following each meeting.

Anne Shimmin, External Relations Manager, Cabinet Office was in attendance for the next two items

016/16 CONSULTATION ON IMPLEMENTATION OF THE EU'S NEW WIRE TRANSFERS REGULATION

It was noted that two emails had been sent by the Cabinet Office to the AML/CFT Advisory Group on 10 August and 24 August 2016, which provided details of a consultation on the implementation of the EU's new Wire Transfers Regulation. It was further noted that as a result of queries raised by members of the Group, it had been arranged for the External Relations Manager, Cabinet Office to attend the meeting, in order to provide further information and answer any questions arising.

The External Relations Manager advised the Group that the new EU Wire Transfers Regulation, from 26 June 2017, will implement the revised FATF Recommendation 16 (Wire Transfers). It was noted that by the end of 2016, it was intended that the Isle of Man, Jersey and Guernsey would all be in a position to send their respective legislation, which would copy the effects of the EU Regulation, to HM Treasury for onward submission to the Commission by March 2017.

A summary of the consultation document was noted as follows:

- At present electronic transfers of funds by payment service providers between the Isle of Man and the United Kingdom are treated as if they were transfers within the UK for the purpose of the requirements in respect of the information accompanying such transfers. It is considered to be desirable for this situation to continue.
- The UK is subject to EU legislation in this area and treating transfers of funds between the UK and the Island as if they were UK domestic transfers has been authorised by the European Commission as a derogation from the relevant EU legislation. This is because the Island has previously implemented the same rules as the EU legislation and is a dependent territory of the UK.
- Following the strengthening of the international standards concerning wire transfers in 2012, the EU has adopted legislation to implement new revised standards. If wire transfers between the Island and the UK are to continue to be treated as if they were transfers within the UK for the purpose of FATF Recommendation 16, until such time as the UK formally leaves the EU, the Island must implement the same rules as those in the new EU Regulation.
- For the Isle of Man, as with Regulation (EC) No 1781/2006, the most straightforward way to demonstrate compliance with the derogation allowed under Regulation (EU) 2015/847, is to use the

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powers in the European Communities (Isle of Man) Act 1973 ("the 1973 Act").

- The European Union (Information Accompanying Transfers of Funds) Order 2016 has therefore been drafted under the powers in section 2A of the 1973 Act to apply, with certain limited modifications, Regulation (EU) 2015/847 as part of the law of the Island (draft Order attached to the consultation document at Appendix 1).
- The Information Accompanying Transfers of Funds Regulations 2016 has been drafted under the powers in section 2B of the 1973 Act to implement/enforce Regulation (EU) 2015/847 as it would have effect in the Island by virtue of the draft Order (draft Regulations attached to the consultation document at Appendix 2).

During discussion, members of the Group sought clarification on the changes that would be made (e.g. to the BACS system). Clarification was provided that the revised FATF Recommendation 16 requires beneficiary details to accompany any wire transfer, in addition to the originator details already captured.

During discussion, the Group suggested that it would be very helpful if the views of the Isle of Man Bankers' Association (IoMBA) could be shared, in order to assist other sectors in preparing their responses to the consultation. The IoMBA's Chair of Risk and Compliance Committee advised that the matter was still under consideration, but that the schematic diagrams (click [here](#)) to illustrate the changes, as previously provided by the External Relations Manager were very helpful. Following discussion it was agreed that the IoMBA would share its views on the consultation with the Group, via the Cabinet Office, in due course.

It was noted that the deadline for submission of responses is 23 September 2016, but that this date could be extended to 30 September 2016 for members of the Group if required.

017/16 CONSULTATION ON DRAFT FRAUD BILL

The External Relations Manager provided information to the Group regarding a consultation on the [Draft Fraud Bill](#).

The Group noted that the Island's legislation relating to fraud was considered to be out of date and inadequate. It was further noted that although there were offences on the Manx statute book which constitute "fraud" in the normal sense of the word, there was no actual statutory offence of fraud. In addition, unlike in other jurisdictions in the British Isles, there was also no common law offence of fraud in the Isle of Man, as the Island does not have any common law offences. The Group noted that the current legislation in the Island which in effect covers fraud is contained within the [Theft Act 1981](#).

It was noted that the draft Fraud Bill largely mirrors the [UK Fraud Act 2006](#) and its purpose is to provide a sophisticated, yet short and straightforward Fraud Act for the Island. It was noted that the Bill provided for a general offence of fraud with three ways of committing it which are false representation; failing to disclose information; and abuse

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of position. It was noted that the Bill also created new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds and a further new offence of participating in fraudulent business.

The Group noted that the closing date for submissions was 7 October 2016.

018/16 INTERNATIONAL SANCTIONS

The Team Leader of Legal and Policy, Customs and Excise (C&E) updated the Group regarding the feedback received from industry on using the C&E website; suggestions for improvement; experience of STRs in sanctions matters; and use of the IoMFSA licenceholder contact list to provide updates on new sanctions lists (Minute 009/16 refers).

The Group noted that one business had provided feedback that in the past, a sanctions-related SAR had been turned away (from the FCU) as not being money laundering.

It was also noted that C&E was now using the phrase "One Stop Shop" for references on any financial crime-related matters, including sanctions, to the FIU; and C&E is routinely passing any sanctions (or export/trade control) reports of concerns, suspicions or contacts with designated persons or entities to the FIU. The Group noted that C&E would not forward general sanctions enquiries to the FIU (e.g. are there sanctions on Serbia?)

The Group noted that C&E is working with the IoMFSA to develop a Memorandum of Understanding which covers how sanctions enquiries are handled, which it is hoped will be in place before the December 2016 MONEYVAL Plenary.

019/16 NOTICE 1008 MAN - PROLIFERATION & PROLIFERATION FINANCING RISKS, CUSTOMS & EXCISE DIVISION

The Team Leader of Legal and Policy, Customs and Excise, provided the Group with an overview of [Notice 1008 MAN - Proliferation and Proliferation Financing Risk](#) which had been previously circulated.

The Group was advised that the notice was published on 1 September 2016 and further publicity was planned in Autumn 2016 through a number of channels (e.g. issued by Customs with VAT notices; issued via GSC and IoMFSA to licenceholders).

The Group was advised that Notice 1008 MAN aims to raise awareness of proliferation and proliferation financing issues, in addition to providing assistance to businesses in complying with the requirements of the legislation involved, and guidance on which agencies may be consulted, or to which any suspicions, positive sanction list matches or freezing action should be notified.

There was a detailed discussion around notification requirements, and the Group sought clarification on a number of scenarios (e.g. queries on sanctions notices [Customs]; ownership of assets [FIU]; suspicion of terrorist financing or proliferation [FIU]). The issue of dual reporting for

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sanctions breaches was also discussed (i.e. the preference to report to both Customs and FIU).

A number of industry members expressed concern that there were multiple reporting lines in place (i.e. FIU; Customs; FIU & Customs; FCU) and a necessity for industry to interpret and analyse offences, prior to reporting them.

The Group noted that the FIU and Customs were working to further improve reporting systems, in order to provide a more customer-centric service for businesses. It was suggested that a clear 'Reporting Matrix' be developed by Government in the first instance, in order to assist industry in making timely and appropriately-directed notifications. Following discussion, it was agreed that such a matrix would be prepared and referred back to the Group.

**ACTION
FIU/Customs
& Excise**

020/16 REVIEW OF NATIONAL RISK ASSESSMENT OFFICE, CABINET OFFICE

The Chair updated the Group regarding a recent review of the remit of the NRA Office, Cabinet Office. The Group noted that the Chief Secretary had agreed a new purpose and responsibilities for the NRA Office, which would include a greater focus on policy and legislation, in addition to providing a secretariat function for the Cabinet Office's three AML/CFT working groups (i.e. Strategic; Technical and Advisory).

It was noted that the revised remit of the NRA Office was reflected under the new name of 'AML/CFT Policy Office'. It was further noted that the role of 'Head of NRA' had changed to 'Head of AML/CFT Policy Office' and 'NRA Manager' had changed to 'AML/CFT Policy Manager'.

021/16 INDUSTRY ROUNDTABLE & MATTERS FOR FUTURE MEETINGS

The Head of NRA invited members of the Group to raise any issues, or suggest items for future meetings which were recorded as follows:

a) Treasury – Draft Beneficial Ownership Bill

The Director of Policy and Legislation, Treasury, advised that an internal consultation on the Draft Beneficial Ownership Bill, across Departments, Boards, Offices and industry, was underway. Members of the Group also noted that subject to the agreement of the new administration following the General Election about to take place, there would be a public consultation on the draft Beneficial Ownership Bill.

b) IoMFSA Annual Financial Fraud Conference 2016

The AML Manager, IoMFSA provided an update on the Annual Financial Fraud Conference which is due to be held on 1 November 2016 (Minute 011/16b refers). The Group noted that the agenda would include an update from the IoMFSA and FIU, in addition to presentations relating to fraud, cybercrime and terrorist financing. The Group further noted that the IoMFSA would circulate finalised event details to industry in due course.

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c) Themis

The Group noted that in order to access the FIU's online reporting system 'Themis', users required a password which expired within one month. Concerns were expressed regarding the frequency with which passwords must be updated, and in particular for the system's low volume users.

The FIU Supervisor confirmed that users can reset their own passwords without recourse to the FIU, and also advised that the period of time for which passwords remain valid would be reviewed.

**ACTION
FIU**

The FIU Supervisor confirmed the FIU's commitment to ensuring that the Themis system is customer-focused, but went on to stress the importance of users pre-registering to use the system, in order to minimise any reporting delays.

The FIU Operations Manager advised that there remain rare exemptions for online reporting requirements (e.g. staff member has concerns re: MLRO; MLRO has concerns re: member of FIU). The Group also noted that there is a legal requirement to report any suspicions of bribery to the Financial Crime Unit (FCU) and further noted that the FCU was now based at Police HQ.

022/16 ANY OTHER BUSINESS

a) MONEYVAL Plenary

The Chair advised that the MONEYVAL Plenary meeting for the Isle of Man remained on schedule for the beginning of December 2016.

023/16 DATES OF NEXT MEETING

Following discussion, it was agreed that the next three AML/CFT Advisory Group meetings will be held on the following dates which would be :

- 10.30am, Tuesday 17 January 2017
- 10.30am, Tuesday 21 March 2017
- 10.30am, Tuesday, 20 June 2017

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The meeting closed at 11.47am

L. J. Ramsay
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Head of AML/CFT Policy Office, Cabinet Office
17 January 2017
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Date