

SIGNED MINUTES

MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10.30am TUESDAY 17 JANUARY 2017 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)
Simon Pickering, Head of On-Island Development, Dept. of Economic Development
Julian Lalor-Smith, Director of Administration & Legislation, Dept. of Home Affairs
Lindsey Bermingham, Director, Financial Intelligence Unit (FIU)
Iain MacMillan, Operations Manager, FIU
Mark Rutherford, Deputy Chief Executive, Gambling Supervision Commission (GSC)
David Griffin, Director of Enforcement, IoM Financial Services Authority (IoMFSA)
Mark England, Risk Manager, IoM Post Office
Sandra Skuszka, Chair, ACCA
Mark Denton, Chair, ACSP
Graeme Snape, Chair, AICP
Dougie Elliott, Chair, APSP
David Parsons, Chair, CIOt
Jon Barwood, Committee Member, FPIBA
Phil O'Shea, Chair of Risk & Compliance Committee, IoMBA; Institute of Directors
Sinead O'Connor, Representative, IoMCA
Charles Garside, Chair, IoM Estate Agents
Juan Moore, Chief Executive, IoM Law Society
Jon Whiting, Representative, IoMSCA
Paul Clague, IoM Wealth & Funds Association
Joe Hughes, Director, MeGA
Cathy Dawson, Chair of Compliance Sub-Committee, MIA

Apologies: Karen Badgerow, Chief Executive Officer, IoMFSA
Ashley Whyte, Manager, AML Unit, IoMFSA
Helen Ault, Deputy Director AML/CFT, GSC
Ray Todd, Manager, Legal & Policy, Customs & Excise Division
Stuart Quayle, Director of Policy & Legislation, Treasury
Nigel Gregg, APSP
Gillian Marples, MIA
Charlie Woolnough, MICTA

001/17 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 6 SEPTEMBER 2016

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 6 September 2016 were agreed and signed by the Chair.

002/17 MATTERS ARISING FROM THE MINUTES

There were no matters arising.

003/17 MONEYVAL 5TH ROUND MUTUAL EVALUATION OF THE IOM

The Group noted that a large delegation from the Isle of Man ("IoM") had attended the MONEYVAL Plenary held in Strasbourg from 5-8 December 2016. It was further noted that the Mutual Evaluation Report of the IoM ("the Report") was due to be published on 27 January 2017. The Group

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noted that the Report was the property of MONEYVAL and remained under confidential embargo until its publication. It was also noted that a communications plan was in place, which would be co-ordinated by the Cabinet Office.

The Group noted that following the Plenary, information had been released by MONEYVAL which stated that the IoM had been placed into enhanced follow-up procedures. It was noted that in response, the Cabinet Office published its own statement which clarified that following all mutual evaluations, every country goes into follow up procedures as a minimum standard to ensure a continuous and ongoing system of monitoring improvements against the FATF Recommendations. The statement also confirmed that enhanced follow-up procedures were used to address any significant aspects of a country's AML/CFT provisions which require further work and that the IoM will be required to report its progress back to MONEYVAL at the first Plenary in 2018. The Group also noted that 86% of countries assessed under the MONEYVAL 5th Round (FATF 4th Round) to date were now in enhanced follow-up procedures.

The Group noted that Technical Compliance ratings can be formally upgraded at Plenary, subject to sufficient evidence of progress being presented by the country. However, there is no formal process in place to upgrade Effectiveness ratings, as these measures are assessed during on-site visits only. It was also noted that countries can apply to be removed from the enhanced follow-up process (subject to the provision of sufficient evidence) and if successful, MONEYVAL will issue a statement to confirm the country's position.

The Group noted that the Cabinet Office was due to meet with members of the Department of Economic Development's Financial Services Steering Group on 26 January 2017. It was also noted that details of the Report would be presented at the AICP's "State of the Nation" conference on 27 January 2017 at which the Chief Minister; Chief Executive, IoMFSa, and Head of the AML/CFT Policy Office, Cabinet Office, would be speaking.

The Group noted that issues arising from the MONEYVAL report which have direct relevance to industry would be presented by the Regulators to industry via dedicated workshops, including an IoMFSa event planned for 20 March 2017 in the Villa Marina. Details of the GSC's event would be announced in due course.

004/17 PROGRAMME FOR GOVERNMENT 2016-2021

The Group noted the Isle of Man's Programme for Government 2016-2021 ("the Programme") would be laid before Tynwald at the January 2017 sitting. It was noted that the MONEYVAL Report was featured in the Programme, and its inclusion under the strategic aim of "Responsible Island" was noted. The Group noted that the recommendations arising from the MONEYVAL Report would be carefully reviewed and prioritised appropriately, and that industry would be consulted.

005/17 BENEFICIAL OWNERSHIP BILL 2017

The Group noted that the Beneficial Ownership Bill 2017 ("the Bill") was scheduled for First Reading in the House of Keys on 7 February 2017, and

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that the timescale remained very tight due to the deadline agreed with the UK Government. It was noted that although the Treasury had undertaken a review of all submissions received during the Bill's public consultation, and a number of issues raised in the responses had been accommodated, there remained insufficient time to produce a revised draft of the Bill to further consult upon prior to First Reading owing to the legislative timetable.

There was some concern expressed within the Group that the timescale for introducing the Bill was too short, and that the Bill went too far in some areas.

During further discussion, the Group noted that the Beneficial Ownership register would be open to Law Enforcement authorities only. It was also noted that instead of making the register open to any Law Enforcement authority for a one-hour service, such a service would be restricted to countries where there is a reciprocal agreement (currently UK only).

006/17 FRAUD BILL 2017

The Group noted that a number of positive responses had been received in response to the Fraud Bill 2017 during public consultation, and it was scheduled to receive its First Reading in the House of Keys on 31 January 2017.

007/17 EU WIRE TRANSFER REGULATION UPDATE

Further to the information provided at the last meeting regarding the EU's new Wire Transfers Regulation (Minute 016/16 refers), the Group noted that the European Union (Information Accompanying Transfers of Funds) Order 2016 was made in December 2016. Furthermore, the Information Accompanying Transfers of Funds Regulations 2016 were laid before Tynwald in January 2017 and subsequently sent to HM Treasury.

It was noted that the Chair of Risk and Compliance for the Bankers' Association (who also represents the Institute of Directors) had sent an email to the Cabinet Office which provided clarification on the application of the Regulations via transaction type and that this information had been circulated to the AML/CFT Advisory Group via email.

008/17 4TH ANTI-MONEY LAUNDERING DIRECTIVE

The Group noted that a meeting had taken place between the Cabinet Office, IoMFS, HM Treasury, the Foreign and Commonwealth Office, other Crown Dependencies and Gibraltar on 12 January 2017 to discuss the latest developments with the 4th EU Money Laundering Directive (MLD) and the so-called "5th MLD".

The Group noted that the EU brings about the harmonised implementation of the FATF's Standards across all its Member States by the issue of EU Money Laundering Directives ("MLDs") and that the EU elects in some areas to go beyond the FATF standards. It was further noted that as the IoM is not an EU Member State there is no obligation to mirror the requirements of the MLDs, but due to the IoM's relationship with the UK, the IoM has in the past copied selective requirements if this has been considered to be in the island's best interests.

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It was further noted that on 20 May 2015, a revised AML/CFT framework was adopted by the EU and that the revised rules consist of the 4th MLD and Regulation (EU) 2015/847 on information accompanying transfers of funds. The transposition date for the 4th MLD and the entry into force of Regulation (EU) 2015/847 was noted as 26 June 2017.

It was noted that in response to the recent terrorist attacks in France and the release of the so-called "Panama Papers," the EU is currently working on drafting strengthening amendments to the 4th MLD. These proposed amendments are often referred to unofficially as the 5th MLD.

It was noted that the 4th MLD goes beyond what is required in the FATF Recommendations and these details were discussed.

The Group noted that a number of potentially controversial issues had been highlighted, including the inter-connectedness of Beneficial Ownership registers via a central EU platform. It was further noted that it was anticipated that the IoM would continue to hold regular meetings between HM Treasury, Jersey, Guernsey and Gibraltar to discuss these matters further and the Group would be kept informed of developments.

009/17 OECD PEER REVIEW 2017

The Group noted that the OECD Peer Review 2017 was underway and the Treasury had formally received the OECD Questionnaire for completion.

It was noted that the Treasury had undertaken significant levels of work to prepare for the receipt of the Questionnaire, and the OECD onsite visit was scheduled to take place in April 2017. It was anticipated that some members of the Group may be contacted in their business capacity with an invitation to meet with the OECD evaluation team. It was further noted that the Cabinet Office was advising the Treasury on how the MONEYVAL onsite visit had been organised in 2016, including details of communications and pre-briefings with industry to assist the Treasury in its preparations.

010/17 FIU UPDATE

The Group noted that Lindsey Bermingham, who was present at the meeting, had been appointed as Director of the Financial Intelligence Unit ("FIU"). It was further noted that going forward, the FIU was being strengthened in terms of its capacity and the revision of internal operational standards for the receipt and analysis of ML/TF intelligence was taking place. Greater cooperation with industry was also planned.

In response to reported issues with the one-month "Themis" password expiry schedule for online reporting (Minute 021/16c refers) the Group noted that the FIU had submitted a request for an automated password warning message service to be put in place for registered users. It was noted that this service would ensure that users were always alerted before their password expired and given an opportunity to update it accordingly, thus ensuring uninterrupted access to Themis.

During a discussion regarding emails issued by the FIU, a request was made by a member of the Group for all emails classified as "Advisory

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Notices" to be clearly identified as such. It was **agreed** that the FIU would action this matter.

**ACTION
FIU**

Some members of the Group requested clarification regarding which persons are authorised to submit Suspicious Activity Reports (SARs) to the FIU via Themis and whether this activity is restricted to Money Laundering Reporting Officers and their Deputies only. The Group also queried how persons or entities detailed within SARs should be referred to with the free text of the reports and how unnecessary reporting could be avoided. Following discussion, it was **agreed** that the FIU would provide further clarification and advice to industry on these matters.

**ACTION
FIU**

Reference was made to the previous meeting of the AML/CFT Advisory Group (Minute 019/16 refers) during which it had been agreed that a reporting matrix would be developed to assist industry in making timely and appropriately directed notifications to Government Authorities (e.g. Police; FIU; Customs and Excise).

The Group noted that a matrix existed in principle, which required some amendment to ensure that reporting obligations enshrined in legislation were fulfilled. It was further noted that the Treasury was proposing some legislative changes which could impact on current reporting structures. Following discussion it was **agreed** that clarification would be sought on these matters and further information would be circulated in advance of the next meeting.

**ACTION
FIU/Customs
& Excise/
Cabinet Office**

011/17 ANY OTHER BUSINESS

a) IoM Wealth & Funds Association

The Group noted that the IoM Wealth and Funds Association ("IoMWFA") had written to the Cabinet Office and the IoMFSa on 16 January 2017, with a request for the letter to be raised at the meeting.

It was noted that the IoMWFA had expressed concern regarding the commercial viability of the IoM funds industry in comparison to other jurisdictions such as Jersey and Guernsey.

The Director of Enforcement, IoMFSa, advised that the Regulator was aware of the concerns of the funds industry and made reference to the 2010 AML/CFT Code ("Code") which had removed all concessions, and stated that work needed to be done with industry ahead of the next Code review to ensure that any consequences were fully realised.

The AML/CFT Advisor, Cabinet Office advised that Government had to wait for the publication of the MONEYVAL Report before issues could be discussed more openly, but cautioned against reducing the IoM's Technical Compliance with FATF's Recommendation 10 (R10 - Customer Due Diligence) which is a key recommendation and is closely linked to the Effectiveness measure Immediate Outcome 1 (IO1 - Risk, Policy and Coordination).

The Group noted that failure to comply with R10 automatically places a country in enhanced follow-up, which would impact on all industry sectors. It was suggested that rather than considering how Jersey and

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Guernsey have been operating to date, their future plans would be more relevant to consider, noting that both jurisdictions had not yet been subject to MONEYVAL's 5th Round Evaluation process.


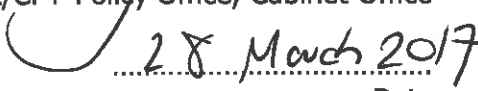
The Head of the AML/CFT Policy Office, Cabinet Office advised that a formal response to the IoM Wealth and Funds Association would be issued directly.

012/17 DATE OF NEXT MEETING

10.30am, Tuesday 21 March 2017

[N.B. Following the meeting this date was changed to **2.00pm Tuesday 28 March 2017**].

The meeting closed at 12.05pm


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Head of AML/CFT Policy Office, Cabinet Office

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Date