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MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 11.00, FRIDAY 28TH JANUARY 2022 IN THE KING ORRY ROOM, GOVERNMENT OFFICE

Present:

Erica Humphries, Anti-Bribery and Corruption Project Manager, Cabinet Office (Chair)
Shannon Reid, AML/CFT Policy Manager, Cabinet Office (Minutes)
Paul Heckles, AML/CFT Advisor, Cabinet Office (present for the latter half of the meeting)
Sinead O'Connor, Representative, IoM Captive Association and IOM Law Society
Dave Dobbie, Detective Chief Inspector, Economic Crime Unit, IOM Constabulary
Chris Wilson, Representative, CoinCorner
Gerald Chase, Representative, Financial Planners & Insurance Brokers Association
Graeme Snape, Chair, Alliance of IOM Compliance Professionals
Katherine Garrod, Chair, IOM Wealth & Funds Services Association
Michael Crowe, CEO Finance IOM, Department for Enterprise
Helen Ault, Director, Gambling Supervision Commission
Nic Libreri, Technical Specialist, Gambling Supervision Commission
Ashley Whyte, Senior Manager, AML/CFT Division, IOM Financial Services Authority
Ben Campbell, Manager, AML/CFT Division, IOM Financial Services Authority
Phil Hunkin, Director, Financial Intelligence Unit
Iain MacMillan, Operations Manager, Financial Intelligence Unit
Elisabeth Rattigan, Lead Legal Officer, International Cooperation & Asset Recovery Team
Dougie Elliot, Chair, Association of Pension Scheme Providers
Andrew Gosnell, Senior Risk and Compliance Officer, IOM Post Office (Virtual)
Audrey Butterworth, Representative, Bankers Association (Virtual)
Kevin Taylor, Chair, Compliance Committee, Manx Insurance Association (Virtual)
Leslie Foster, Representative, IOM Society of Chartered Accountants Representative (Virtual)
A representative from the Gambling Supervision Commission's AML Forum

Apologies:

Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise
Sam McCauley, Deputy Chief Executive, Department of Home Affairs
Bill Mummery, Director, Chamber of Commerce
Claire Milne, Institute of Directors

01/22 APOLOGIES

Ms Humphries noted the apologies received.

02/22 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 06 JULY 2022

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noting that a positive relationship between the FIU and MLRO's is critical to the FIU's success.

Mr MacMillan highlighted that the Alliance of Isle of Man Compliance Professionals (AICP) had formed an MLRO Discussion Group for MLROs to engage over current issues and that the AICP's Mark Avery and Gerry Ganley had been instrumental in the formation of the group. The forum is to be owned and driven by the group, rather than the FIU.

In December, an invite to an FIU/AICP focus group had been extended to all Themis users which had been received positively. The intention is to set a date for the focus group to meet in March.

On a separate note but on the topic of presentations, Ms O'Connor noted that the AICP were arranging a presentation where Jennifer Carter-Manning QC will talk through the lessons learned from NatWest's recent AML failings following their £264 million fine.

07/22 PUBLIC/PRIVATE PARTNERSHIPS AND THE FIU ANNUAL PLAN

Mr Hunkin informed members that a paper had been submitted to the Financial Crime Strategic Board with the recommendation to establish a partnership between law enforcement and the financial sector with the purpose of the exchange and analysis of information relating to money laundering and wider economic threats.

A PowerPoint presentation was shown to members which provided some detail on the proposals. Mr Hunkin explained that PPPs are not a new premise and that the UK has its Joint Money Laundering Intelligence Taskforce ("JMLIT") which has been very successful. Furthermore, Jersey and Guernsey have established their own PPPs. It was also noted that the UK JMLIT had sought legal advice that allows them to share information with the Crown Dependencies which is excellent, as this is something authorities had been working towards for some time.

Mr Hunkin talked through what the PPP may look like and its governance structure, consisting of an Operational Group a Threat Group and a Secretariat which would report to the Public/Private Board and ultimately the Strategic Board. 'Cells' would feed into the Threat Group, risk assessing particular areas (i.e. TCSPs, Terrorist Financing, Proliferation, COVID and Anti-Bribery and Corruption). Ms Ault queried how this would fit within the National Risk Assessment to which Mr Hunkin advised that the PPP would complement the NRA.

Entities such as the Fraud Forum and the AML/Advisory Board which already consisted of public and private members still remain valuable, however the PPP would be focused on a strategic and tactical partnership.

Ms O'Connor enquired as to whether the Public/Private Board is intended to replace the AML/CFT Advisory Group and Mr Hunkin stated that it wouldn't and that it would be complimentary to the AML/CFT Advisory Group.

The PPPs challenges and opportunities were discussed and Mr Hunkin offered to circulate the presentation amongst members following the meeting. He welcomed member's thoughts about whether a public consultation was necessary. Ms O'Connor

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Mrs Whyte and Mr Campbell (FSA) updated members on the FSA's oversight in relation to the beneficial ownership register.

They noted there was a clean-up exercise undertaken which looked at the integrity of the data on the register. Nominated Officers were sent a letter in September 2021, reminding them of their obligations under the beneficial ownership legislation and asking them to ensure that the data regarding the legal entities they represent was accurate and up to date.

Further to this, Mrs Whyte advised the Group that a consultation would be opening the following Monday, seeking views on the introduction of civil penalty regulations in order to encourage compliance with the legislation and providing an alternative to criminal sanctions. All things being well, the Civil Penalties Regulations would be brought to Tynwald for approval in June 2022.

Ms O'Connor enquired whether the FSA planned to carry out inspections on unregulated entities in respect of beneficial ownership compliance. Mrs Whyte confirmed that the FSA has oversight in relation to all entities registered under the legislation. There will however be a risk based approach applied in relation to beneficial ownership compliance oversight inspections, as well as including a beneficial ownership element in routine inspections undertaken by the Authority where applicable.

09/22 INTERNATIONAL UPDATE

Beneficial Ownership continued

On the matter of Beneficial Ownership, Mr Heckles spoke of the international landscape.

He explained that following the release of the Pandora Papers, there is an international focus on taxation. The EU has published a proposal to help end the misuse of shell entities for tax purposes within the EU which will include substance requirements for companies i.e. income, staff and premises. If companies do not meet the substance requirements, it would be prevented from tax relief and tax advantages. The EU has stated that similar proposal will follow in 2022 for non-EU shell entities.

Mr Heckles added that in March, the European Parliament will hold a hearing on "The exchange of information with jurisdictions appearing prominently in the Pandora Papers (such as Crown Dependencies, British Overseas Territories and some US states)"¹. We are unsure how much the Isle of Man will feature in the meeting as the Island does not prominently appear in the Papers. It would seem that once again, despite the legal, political and geographical differences, the CDs and OTs have just been "lumped" together despite individual relevance. He pointed out that the EU's tax blacklist is interlinked with the EU's AML/CFT blacklist, and the significance of inclusion on the lists.

Further to this, Mr Heckles explained that the FATF are looking to finalise the text of the redrafted Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) at its February 2022 Plenary. Although the EU, supported by a number of

¹ European Parliament FISC Subcommittee on Tax Matters workload

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Actions: AML/CFT Policy Office to engage about implementation of the travel rule.

UK

Mr Heckles went on to explain that the UK is in the process of widening the scope of its Trust Register regarding public access, albeit in a very limited way. He added that there is currently no appetite in the Island to have its own Trust Register, however with increased focus on the UK's inability to crack down on money laundering and international pressure regarding beneficial ownership, this is an area that the AML/CFT Policy Office continue to proactively monitor.

Gibraltar

Mr Heckles provided an update on Gibraltar's follow-up report and advised it was re-rated for nine of its technical markings, with the IOM acting as one of the reviewers. All nine went from negative markings to positive ones, leaving Gibraltar with only one Recommendation now negatively marked. He added that however, an increase in its recent GDP figures now takes it over the threshold to be considered under the FATF ICRG process for possible grey listing. It is possible at the February 2022 FATF plenary, Gibraltar will be placed on the one-year observation period which precedes possible grey listing.

He also went on to advise that Gibraltar's regulators are reviewing a proposal that would allow blockchain firm Valereum to buy the Island's stock exchange ("GSX"), meaning the territory could soon host the world's first integrated exchange, where conventional bonds can be traded alongside major cryptocurrencies. Mr Heckles noted that experts in the AML sphere have warned that Gibraltar could face sanctions by countries such as the US or FATF if its regulators end up giving legal approval to crypto firms that, even inadvertently, become connected to money laundering schemes.

10/22 PROCEEDS OF CRIME ACT 2008 – REVIEW

Mr Heckles provided an update on the POCA review and that unlike Beneficial Ownership, there are no time pressures on this project. Following a request for input from industry and across Government, a paper had been submitted to the Financial Crime Strategic Board in respect of potential amendments. He noted that there were a few items that he expected may be contentious, such as Unexplained Wealth Orders due to the coverage of their use in the UK.

11/22 INDUSTRY ROUNDTABLE

GSC

Ms Ault advised there had been a lot of change in the GSC since the last Advisory Group meeting including an increased headcount and teams split into Applications, Supervision and Inspections. She explained that during Covid, improvements had been made to processes and their new website, which is independent to the gov.im website is going live soon.

FSA