

## MINUTES

### **MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 2:00PM, TUESDAY 7<sup>th</sup> MARCH 2023 IN THE KING ORRY ROOM, GOVERNMENT OFFICE**

#### **Present:**

Paul Heckles, AML/CFT Advisor, Cabinet Office (Chair)  
Shannon Reid, AML/CFT Policy Manager, Cabinet Office (Minutes)  
Helen Ault, Director, Gambling Supervision Commission  
Jed Bibby, Superintendent/Head of Financial Crime, Isle of Man Constabulary (Virtual)  
Ian Spence, Head of AML/CFT Division, IOM Financial Services Authority  
Ashley Whyte, Senior Manager, AML/CFT Division, IOM Financial Services Authority  
Mark Gleave, Assistant Manager AML/CFT Division, IOM Financial Services Authority  
Sandra Smith – Collector, Customs & Excise (Virtual)  
Paul Blake, Head of Banking & Fiduciaries, Executive Agency - Finance Isle of Man  
Iain MacMillan, Operations Manager, Financial Intelligence Unit  
Audrey Butterworth, Representative, Bankers Association  
Sinead O'Connor, Representative, IoM Captive Association and IOM Law Society  
Katherine Garrod, Representative, IOM Wealth & Fund Services Association  
Leslie Foster, Representative, IOM Society of Chartered Accountants  
Andrew Gosnell, Senior Risk and Compliance Officer, IOM Post Office (Virtual)  
Charles Garside, RICS, IOM Estate Agents Association  
Jon Barwood, Representative, Financial Planners & Insurance Brokers Association  
Nigel Singer, Representative, Gambling Supervision Commission's AML Forum  
Royston Tay, Representative, Gambling Supervision Commission's AML Forum  
Pat Brogan, Chair, Association of Corporate Service Providers  
Tara Lee Atherton, Representative, Manx Insurance Association  
Bill Mummery, Director, Chamber of Commerce  
Katie Errock, Representative, Chartered Institute for Securities & Investment (Virtual)  
Tim Boles, CISI (Chartered Institute for Securities and Investment)

#### **Apologies:**

Kathryn Simms, Head of AML/CFT Policy, Cabinet Office  
Erica Humphries, Anti-Bribery and Corruption Project Manager, Cabinet Office  
Phil Hunkin, Director, Financial Intelligence Unit  
Linda Watts, Director, International Co-Operation and Asset Recovery Team, AGC'S  
Elisabeth Rattigan, Legal Officer, International Co-Operation and Asset Recovery Team, AGC'S  
Chris Wilson, Coin Corner  
Graeme Snape, Alliance of Isle of Man Compliance Professionals  
Dougie Elliott, Chair, APSP  
Kevin Taylor, Chair, Compliance Committee, Manx Insurance Association  
Claire Milne, Institute of Directors  
Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise

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### 01/23 APOLOGIES / INTRODUCTIONS

The Chair noted the apologies received.

### 02/23 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 7<sup>th</sup> OCTOBER 2022

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 7<sup>th</sup> October were agreed by members and signed by the Chair. These will be uploaded to the AML/CFT Policy Office page on the IOM Government website in due course.

### 03/23 MATTERS ARISING FROM THE MINUTES

Nothing was raised from within the minutes.

### 04/23 FATF/MONEYVAL Updates (CO)

#### FATF

The Chair started by saying the February FATF Plenary had taken place with the main takeaways as follows:

Russia – FATF finally took the decision to suspend Russia's membership on 24<sup>th</sup> February 2023 and published a statement<sup>1</sup>. The Russian Federation will remain a member of the Global Network as an active member of the Eurasian Group on Combating Money Laundering (EAG) and retain its rights as an EAG member. The FATF will monitor the situation and consider at each of its Plenary meetings whether the grounds exist for lifting or modifying these restrictions.

The Chair added that the IOM Government took prompt action against Russia following their invasion of Ukraine in 2022, in some cases going beyond UK Sanctions with the Aircraft and Shipping Registry de-registering Russian owned aircraft/vessels.

Plenary topics of discussion included:

A report on disrupting the financial flows relating to ransomware [which was agreed]; revisions to Recommendation 25<sup>2</sup>; members discussed guidance for Recommendation 24<sup>3</sup>; virtual assets (crypto assets) were also discussed; and MER timetables.

Regarding evaluation timetables, there has been lengthy debate about whether FATF will commence their 5<sup>th</sup> round MERs before MONEYVAL start their 6<sup>th</sup> round MERs. It was agreed that MONEYVAL would go first starting its first evaluations in 2024.

The Chair advised that some FATF assessors and secretariat will form part of the first few MONEYVAL assessments to ensure FATF standards. Also, that there will be a joint FATF and MONEYVAL Plenary to finalise the resulting reports.

In terms of when the IOM Mutual Evaluation is likely, considering MONEYVAL will start in 2024; they are yet to do two more Mutual Evaluations in the 5<sup>th</sup> round (Jersey

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<sup>1</sup> <https://www.fatf-gafi.org/en/publications/FatfGeneral/fatf-statement-russian-federation.html>

<sup>2</sup> FATF Recommendation 25 - Transparency and beneficial ownership of legal arrangements

<sup>3</sup> FATF Recommendation 24 - Transparency and beneficial ownership of legal persons

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and Guernsey); two jurisdictions have volunteered to go first (Latvia and Andorra); it is likely the Isle of Man will be assessed in 2025. There will be a virtual meeting on procedures in a few weeks' time and a date should be confirmed at the next MONEYVAL Plenary in May.

The Chair noted that as assessors look at 5 years prior to assessment (in terms of data and information) with a focus on the last 3 years, industry should expect to see a lot more activity from government as we prepare for the evaluation.

He then discussed the FATF black-list and grey-list. Myanmar had been added to the black-list<sup>4</sup>. FATF call on members to apply countermeasures in respect of Iran and North Korea, and enhanced due diligence in respect of Myanmar.

Turning to the grey-list, the Chair noted that Cambodia and Morocco had come off the list, and South Africa and Nigeria added. Gibraltar did not apply to come off the list at this time, but potentially may by the next Plenary.

The Chair said the DHA lists had been updated to reflect changes. He acknowledged there had been some issues with the list previously but that these had been rectified and the up to date list was available on the gov.im website<sup>5</sup>.

### MONEYVAL

Regarding the Island's re-rating of Recommendation 23 which was discussed at the previous meeting of the AML/CFT Advisory Group, we were expecting to be upgraded to largely compliant, and however this did not transpire. The recommendation to upgrade was put to MONEYVAL members and the FATF for ratification however the FATF objected and ultimately it wasn't approved.

This means that there is some additional work for the Financial Services Authority to undertake regarding R23. Because we are in a 3 year reporting system, we expect to be evaluated before being required to report back on this matter so no immediate action is required.

Due to a change in procedures within MONEYVAL secretariat, a press release was issued by MONEYVAL before IOM Government were notified that the upgrade was not taking place. So there was some local press coverage which didn't accurately reflect the matter due to the lack of context and very technical nature of the issue.

The Chair advised that MONEYVAL have been working on a new strategy and that there will be a Ministerial meeting in Warsaw on 25<sup>th</sup> April to agree the strategy.

He went on to talk about the Island's contributions to MONEYVAL. We provide very high quality assessors and the Island proactively contributes to MONEYVAL; a member of the FIU was recently seconded to MONEYVAL and another is playing a leading role in a project which was originally being led by Russia.

There was some discussion about International Financial Centres being subject to enhanced scrutiny and that Jersey and Guernsey are expecting their upcoming evaluations to be tough. If in the event Jersey and/or Guernsey are grey-listed, the

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<sup>4</sup> [High-Risk Jurisdictions subject to a Call for Action – 24 February 2023 \(fatf-gafi.org\)](https://www.fatf-gafi.org/en/documents/high-risk-jurisdictions-subject-to-a-call-for-action-24-february-2023)

<sup>5</sup> <https://www.gov.im/media/1347167/jurisdictions-in-lists-a-b-c-and-d-concerning-aml-march-2023-clean-version.pdf>

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Chair commented he felt this would be negative for the Island as the Crown Dependencies are often "lumped" together.

The Chair added that the EU Code of Conduct Group are reviewing the criteria regarding their blacklist and the EU are particularly focused on substance requirements. IOM Government continue to monitor this. The Head of AML/CFT Division at the FSA noted that Spain recently added the IOM to their non-cooperative countries list.

### **05/23 Update on MONEYVAL Mutual Evaluation preparation (CO)**

The AML/CFT Policy Manager provided an overview of cross-Government work to prepare for the Island's upcoming Mutual Evaluation. This included an external diagnostic assessment of the Island's AML/CFT framework and cross-agency work through the Effectiveness Group to improve against the FATF Immediate Outcomes.

The IOM Captive Association & Law Society Representative queried as to whether the diagnostic exercise/mock assessment indicated that the Isle of Man would be grey-listed. The Chair replied by saying that the exercise didn't provide us with "ratings" so to speak; this couldn't be done for a number of reasons including subjectivity of assessors, international context and as the exercise looked at Government only and not industry. It did however provide us with a "roadmap" setting out what we need to do in order to maintain international standards.

The Chair added that the National Risk Assessment will need to be approached differently; instead of starting with a NRA, detailed individual sectorial and topical risk assessments will be undertaken which will feed into a comprehensive NRA.

The AML/CFT Policy Manager said as part of this work it would be very beneficial to hear feedback from industry about how potential grey-listing would impact licensed and regulated businesses as this would help the AML/CFT Policy Team in their efforts in co-ordinating the work required ahead of the next assessment which led on to the next agenda item.

**Action – AML/CFT Advisory Group members from industry to provide written feedback of the potential impacts grey-listing would have on their sectors.**

### **06/23 Practical Impact of Grey-Listing on licensed and regulated businesses (CO)**

The Chair of the Chamber of Commerce said that he felt e-Gaming would very much be under the spotlight next time, particularly around payment processing activities. He added that grey-listing would have a significant reputational impact on the Island. The Director of the Gambling Supervision Commission agreed and that if the Island were to be one of the first countries to be assessed and it doesn't go well, the impact would be more severe.

The Head of Banking & Fiduciaries said he felt the IOM is already viewed through a different lens and grey-listing would have a significant impact. He added that the

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economic strategy is to grow the economy and attract circa 5,000 new job roles to the Island; how can this happen if the IOM is on the FATF grey-list.

The Chair said that the average time on the grey-list is about 4 years and FATF grey-listed countries automatically go onto the EU grey-list which is even harder to come off.

The AML/CFT Policy Manager invited members of the Group to provide their thoughts in writing by emailing her.

### 07/23 Beneficial Ownership Update (CO)

The Chair provided an overview of the situation as it stands; following the Crown Dependencies' joint commitment (made in 2019) to make their Beneficial Ownership's open to obliged entities and later the public, the Island was working towards implementing this in the coming months (i.e. obliged entities access by end of 2022 and public access by 2023). Legislation had been drafted, IT work undertaken and so on. However, the European Union Court of Justice's November 2022 ruling<sup>6</sup> which said the EU Anti-Money Laundering Directive's provisions on access to beneficial ownership registers are invalid, had halted that work. He added that it is the EU's highest court, so there is no appeal process.

The EU did not define "legitimate interests" in the 4<sup>th</sup> Anti-Money Laundering Directive, however this issue was removed with public access mandated by the 5<sup>th</sup> Anti-Money Laundering Directive. The Chair said that in the absence of public access, there will be a drive from journalists and some civil society groups to push forward with this route. The IOM Government will continue to monitor this and the 6AMLD which is not expected to be finalised until the end of the year. He added that the CDs did not commit to the 4AMLD which contains legitimate interests. Instead they had committed to the 5AMLD.

The Isle of Man, Jersey and Guernsey are jointly seeking Kings Council advice in order to understand the legal position before proceeding further. The UK have also sought legal advice however they have indicated that they will not share this with the CDs.

The Head of Banking & Fiduciaries said that Finance IOM had feedback that some in industry would rather obliged entity access is not brought in and that they were keen to hear more from industry on this point.

The IOM Captive Association & Law Society Representative said the PSC Register in the UK is handy in order to check something i.e. make a connection for due diligence purposes, however a paper based option for access would not be preferable.

There was some discussion regarding data validation and the use of Stripe technology. The Representative from the IOM Society of Chartered Accountants said he felt this should not be seen as a low priority and that the Island was at a significant disadvantage for not having it. The Head of Banking & Fiduciaries responded by

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<sup>6</sup> [Anti-money-laundering directive: the provision whereby the information on the beneficial ownership of companies incorporated within the territory of the Member States is accessible in all cases to any member of the general public is invalid \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62022J0001)

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saying there are numerous other issues for the Island not utilising Stripe and that the information on the Island's Companies Registry was different of that of the UK's.

### **08/23 UK's Economic Crime and Corporate Transparency Bill (CO)**

A number of amendments had been put forward, all of which the IOM Government continue to monitor. One of those amendments has been put forward by Stephen Kinnock (Labour MP) which legislates for the UK Government by Order in Council would require the Overseas Territories to bring in public access to their beneficial ownership registers, by June 2023.

### **09/23 Public Private Partnerships (FIU)**

The FIU Operations Manager provided some background on the IOM's PPP. PPP's are a rapidly expanding area internationally, showing the benefits of close collaborative working between law enforcement and private industry. The IOM's PPP acquired funding and advertisements for a Senior Manager and Senior Manager were being published imminently.

He was keen to emphasise that this is not a government only driven project but that it will be 50/50 led by both government and industry. It has to sit somewhere, so it will sit in the FIU with oversight by the FIU director. In time the Senior Manager will be reaching out to industry and there will be a number of projects pertinent to the risks the IOM faces.

### **10/23 FSA restructure (FSA)**

The Head of the AML/CFT Division (FSA) noted that members may have seen publications regarding the internal restructure. He said the FSA will retain four supervisory divisions but transition from a more sector based approach to a more impact and risk based approach. The AML/CFT division will cover AML/CFT supervision and oversight of all regulated entities and designated businesses, AML/CFT policy, and the Authority's oversight obligations under the Beneficial Ownership Act 2017. They have no additional staff. However will utilise a new supervisory methodology and risk assessment tool.

### **11/23 Travel rule (FSA/CO)**

The Senior Manager of the AML/CFT Division (FSA) stated that under FATF's Travel Rule, VASPs are required to collect or send information on the identities of the originators and beneficiaries of all transfers of digital funds over \$1,000. She said there is not much to say but to put it on the radar, and that the FSA have held back to wait for a technological solution to be developed by industry. She added that some parts will be easy to implement; the preferable option is to implement a Code (secondary legislation under POCA) similar to existing wire transfer legislation, setting out what needs to be attached to a crypto transaction.

She suggested setting up a sub-group and invited expressions of interest. The AML/CFT Policy Manager will add this to the actions log and the Senior Manager of the AML/CFT Division will reach out to the representative from CoinCorner separately as he was unable to attend the meeting.

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**Action – Travel-rule sub-group to be established and members to express interest in being involved.**

### **12/23 Establishment of PMLIT (IOMC)**

The Superintendent/Head of Financial Crime (IOMC) provided some background on the Proactive Money-Laundering Investigations Team; the Treasury bid to create PMLIT was approved and a recruitment drive is on-going. He said the MONEYVAL assessors look at international cross border money-laundering cases and PMLIT will focus on these. Cases are complex and take time, and there are challenges such as Mutual Legal Assistance which can often be an obstacle however the on-going work is going well.

### **13/23 Any other business**

The UK's Register of Overseas Entities – The Chair referred to recent messaging from regulators to the private sector in respect of the requirement to register. He wanted to emphasise that the IOM Government is not undertaking enforcement action here, they are merely helping the UK with getting the message out there to industry (the IOM has no legal vires in the matter).

The Chair of the Chamber of Commerce thanked participants for the meeting, saying that it was very valuable.


The representative from the Bankers Association asked for timely minutes.

The Director of the Gambling Supervision Commission provided an update on work on-going in the GSC in preparation for the Island's next Mutual Evaluation. She said licensing was increasing and they are in the process of recruiting which is proving challenging. The Chair of the ACSP agreed that recruitment of compliance professionals is particularly difficult for industry also and suggested that there be consideration to drop work permits requirements for industry.

The representative from the Gambling Supervision Commission's AML Forum said that the meeting was valuable and requested to pick up a matter on the November 2022 MONEYVAL follow-up report on the IOM with the Director of the GSC afterwards in relation to the R23 issue.

### **14/23 Date of next meeting**

To be confirmed. The AML/CFT Policy Manager said she would send out some upcoming meeting invites in the coming week or so.

  
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(Chair)

  
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Date