



**Isle of Man  
Government**

*Reiltys Ellan Vannin*



## ISLE OF MAN GOVERNMENT

# A Progress Report on Anti-Money Laundering and Combatting the Financing of Terrorism Matters

May 2017

Cabinet Office

Oik Coonceil ny Shirveishee



## FOREWORD

2016 was one of the busiest years ever for the Isle of Man in terms of reflecting on and improving our anti-money laundering and countering the financing of terrorism (“AML/CFT”) regime. This came about because of two important events. The first was the completion of the Isle of Man’s National Strategy for AML/CFT arising out of our 2015 National Risk Assessment, and the second was an extremely thorough and penetrating independent evaluation of the Island by the international body, MONEYVAL<sup>1</sup>.

The Isle of Man government remains committed to meeting international standards on AML/CFT and the proliferation of weapons of mass destruction. The authorities had already begun in 2016 to address some of the issues highlighted by the National Risk Assessment, for example separating the Financial Intelligence Unit from the financial investigation arm of the Isle of Man Constabulary and introducing legislative measures to speed up the application of international financial sanctions.

Now in 2017 the emphasis is on building upon the excellent technical framework of legislation, policies and procedures that we have in place and in particular working to make their implementation more effective.

In today’s ever more challenging world of criminal activity, money laundering and terrorist financing, the Isle of Man government is determined to do its utmost to ensure that the financial services and

businesses the Island provides are unwelcoming to those who might seek to abuse them for criminal purposes. To this end we will continue to refine and improve as needed our AML/CFT regime to meet international standards, and continue to fully and actively co-operate with our international partners over the coming years.

**Hon. Howard Quayle MHK**

**Chief Minister**



*Now in 2017, the emphasis is on building upon the excellent technical framework of legislation, policies and procedures that we have in place and working to make their implementation more effective.*



<sup>1</sup> MONEYVAL is the Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism. It is a Committee and a permanent monitoring body of the Council of Europe.

## INTRODUCTION

The Isle of Man government's Anti-Money Laundering and Combatting the Financing of Terrorism<sup>2</sup> National Strategy 2016-2018<sup>3</sup> has, as one of its actions, the introduction of an annual Government publication to report progress on AML/CFT matters. This is the first publication of such a report.

This report is intended to educate, inform and update government officials, industry, the general public and political representatives on the direction of the Isle of Man's AML/CFT regime, milestone events, changes to the organisation of AML/CFT oversight and any other matters of note over the past year.

### MILESTONE EVENTS IN 2016

- March — Publication of the 'Isle of Man Government National Risk Assessment of Money Laundering and the Financing of Terrorism'<sup>4</sup>.
- March — Publication of the 'Isle of Man Anti Money Laundering and Combatting the Financing of Terrorism National Strategy 2016-2018'<sup>5</sup>.
- April — Enactment of the Financial Intelligence Unit Act 2016.
- April — Enactment of the Terrorism and Crime (Miscellaneous Amendments) Act 2016.
- April — Closing date for registration with the Isle of Man Financial Services Authority as required by the Designated Businesses (Registration and Oversight) Act 2015<sup>6</sup>.
- April/May — On-site visit of the MONEYVAL international assessment team undertaking the evaluation of the Isle of Man's AML/CFT regime.
- November — Annual IoMFSA Financial Fraud and AML/CFT Seminar, Villa Marina, Douglas.
- December — Adoption of the MONEYVAL Mutual Evaluation Report of the Isle of Man<sup>7</sup> (which was published in January 2017).

<sup>2</sup> Reference to the financing of terrorism in this report also includes financing of the proliferation of weapons of mass destruction, sometimes referred to as proliferation financing

<sup>3</sup> <https://www.gov.im/media/1350894/isle-of-man-government-aml-cft-national-strategy-2016-18.pdf>

<sup>4</sup> <https://www.gov.im/media/1350893/isle-of-man-national-risk-assessment-2015.pdf>

<sup>5</sup> <https://www.gov.im/media/1350894/isle-of-man-government-aml-cft-national-strategy-2016-18.pdf>

<sup>6</sup> [https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0009/DesignatedBusinessesRegistrationandOversightAct2015\\_4.pdf](https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0009/DesignatedBusinessesRegistrationandOversightAct2015_4.pdf)

<sup>7</sup> [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round5/MONEYVAL\(2016\)25\\_5thR\\_MER\\_Isle%20of%20Man.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round5/MONEYVAL(2016)25_5thR_MER_Isle%20of%20Man.pdf)

## AML/CFT POLICY AND CO-ORDINATION

A number of changes were introduced during 2016 to simplify and clarify the internal policy-making and governance structures for AML/CFT, including engagement with industry.

The Chief Secretary established a central AML/CFT Policy Office within the Cabinet Office, as the co-ordinating body for the Isle of Man government's AML/CFT regime across all law enforcement authorities and regulators. The Policy Office team is now three strong and is led by Karen Ramsay, Head of AML/CFT Policy, who reports directly to the Chief Secretary. The team also coordinates national risk assessment

activities and acts as the main conduit between the Isle of Man Government and relevant international bodies, notably MONEYVAL. It also acted as the lead authority in dealing with the assessment team conducting the 2016 Mutual Evaluation undertaken by MONEYVAL and continues to manage ongoing reporting requirements.

There are also a number of committees and other groups associated with AML/CFT work across Government, and at the centre of this work is the Financial Crime Strategic Board ("the Board"). Figure 1 below illustrates the interrelationship between these different committees and groups, and also provides details of their membership.

**Figure 1 – Financial Crime Strategic Board and associated Committees**



Policy and Co-ordination





**Council of Ministers**

### *Council of Ministers*

The Council of Ministers is the highest level decision making body within the Isle of Man Government. It consists of eight Ministers and the Chief Minister with a small number of senior advisors also present. Its purpose is to set national and international policy and provide clear leadership to the separate legal entities of Departments, Boards and Offices within the Government.

### *National Strategy Group ("NSG")*

The NSG is a committee of the Council of Ministers and is chaired by the Chief Minister. It is responsible for ensuring the delivery of relevant priorities, targets and objectives within the



Programme for Government 2016-2021<sup>8</sup> including those relating to AML/CFT matters.

### *Financial Crime Strategic Board*

The Board, which replaces the AML/CFT Strategic Group, is a high-level committee consisting of senior officers from government, the regulators and law enforcement, chaired by the Chief Secretary. It coordinates the development and implementation of cross-government policies and activities for AML/CFT, proliferation financing and financial crime generally including policies concerned with meeting relevant international standards. The Board makes recommendations to the Council of Ministers on policy matters.

### *Financial Crime Law Enforcement Effectiveness Group*

Following the MONEYVAL evaluation a decision was taken to establish a new group, the Financial Crime Law Enforcement Effectiveness Group. The group provides advice and support to the Financial Crime Strategic Board in respect of policies and strategies for law enforcement, ensuring that all law enforcement agencies are working effectively together to combat financial crime in the Isle of Man, developing multi-agency policy and guidance for the investigation of financial crime and making recommendations for continual improvement.

<sup>8</sup> <https://www.gov.im/media/1354920/programme-for-government-2016-2021.pdf>

### AML/CFT Technical Group

This group provides advice and support to the Financial Crime Strategic Board in respect of the development of AML/CFT requirements. It also advises on implications for the Isle of Man of changes to international standards and the effectiveness of measures intended to tackle money laundering, terrorist financing or proliferation at government and industry level.

### AML/CFT Advisory Group

The AML/CFT Advisory Group is established within the Cabinet Office and its membership includes representatives from the Isle of Man Government, Financial Intelligence Unit, Customs and Excise Division, regulators, professional bodies and industry associations. The Advisory Group works as an industry liaison forum to strengthen two-way communication with the business sector and minutes of the meeting are published online<sup>9</sup>. The work of this Group feeds into the considerations of both the Strategic Board and the Technical and Law Enforcement Groups. This Group was formerly known as the Joint Anti-Money Laundering Advisory Group ("JAMLAG").

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Progress Made

## PROGRESS MADE

The main event which will shape the future AML/CFT regime in the Isle of Man has been the finalisation of the MONEYVAL Mutual Evaluation Report of the Isle of Man.

The evaluation process began in 2015 but dominated the whole of 2016, with the final report being made public in January 2017.

Contained within the report are numerous recommended actions on how the Isle of Man can improve its regime so that it more fully meets the international standards as

set out in the FATF 40 Recommendations<sup>10</sup> on Combatting Money Laundering and the Financing of Terrorism and Proliferation, commonly known as the '40 Recommendations'.

The Isle of Man authorities were already making important changes to the Island's AML/CFT regime as a result of deficiencies highlighted by the 2015 National Risk Assessment.

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*Important changes have included the creation of the Financial Intelligence Unit and the reinstatement of the Financial Crime Unit within the Isle of Man Constabulary focusing entirely on investigating financial crime.*

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<sup>9</sup> <https://www.gov.im/about-the-government/departments/cabinet-office/amlcft-advisory-group/>

<sup>10</sup> <http://www.fatf-gafi.org/media/fatf/documents/FATF%20Standards%20-%2040%20Recommendations%20rc.pdf>

## *Financial Intelligence Unit*

This work included the passing of new legislation with the enactment of the Financial Intelligence Unit Act 2016 which created an independent Financial Intelligence Unit ("FIU"). Prior to the creation of the FIU, the responsibility for gathering, analysing and disseminating financial intelligence was one of the functions of the Isle of Man Constabulary's Financial Crime Unit ("FCU"). The FCU has now been reinstated as a unit within the Isle of Man Constabulary and is focused entirely on the investigation of financial crime.

Over the last year the new FIU has been establishing itself, and recruiting staff including its new Director, Lindsey Bermingham, in October 2016. Lindsey has been a leading Isle of Man advocate with a strong background in financial crime, which includes a previous role as Legal Officer (Financial Crime) with HM Attorney General's Chambers.



**Lindsey Bermingham, FIU Director**

## **THE FIU'S STRATEGIC OBJECTIVES INCLUDE THAT IT WILL:**

- Identify and address cases of high level financial crime and corruption thereby ensuring that the Isle of Man continues to develop as a safe, well regulated and dynamic business centre, thereby protecting its international reputation by complying with recognised international standards.
- Provide a high quality of international co-operation in support of the Isle of Man's long-standing commitment to complying with international standards on tax co-operation, transparency and combatting money laundering and the financing of terrorism.
- Provide intelligence to enable partner agencies to detect AML/CTF activity, investigate financial crimes (including tax evasion), disrupt criminal activity, secure prosecutions and confiscate the proceeds of crime.
- Provide high quality and timely analysis and advice to government on emerging financial crime threats and typologies.

## Asset Recovery Unit

The Island's first dedicated Asset Recovery Unit ("ARU") was created in December 2016. HM Attorney General, with the support of the Chief Constable, established the ARU within the International Cooperation and Asset Recovery Team ("ICART") of HM Attorney General's Chambers. The ICART's strategic aims in relation to asset recovery are to ensure that it will:

### THE ICART'S STRATEGIC OBJECTIVES INCLUDE THAT IT WILL:

- Prioritise identification, restraint and recovery of assets resulting from the serious and organised crime, with particular focus on economic crime, both in the IOM and overseas;
- Pursue, through all available statutory powers, the assets of all who profit from crime wherever committed, when it is proper to do so;
- Assist international law enforcement agencies by enforcing asset recovery in the Isle of Man on their behalf and otherwise assist them when necessary; and
- Improve the enforcement of domestic and international confiscation orders.

## Other progress

On the regulatory front a major new initiative has been the rolling out of a new registration and oversight regime for AML/CFT of a group referred to as Designated Non-Financial Businesses and Professions ("DNFBPs"). For the Isle of Man this group includes professions such as lawyers, accountants, auditors, estate agents and certain non-profit organisations.

The Isle of Man's Financial Services Authority ("IOMFSA") has responsibility under the Designated Businesses (Registration and Oversight) Act 2015 <sup>11</sup> for this work and has throughout 2016 undertaken a registration process of the entities and persons covered by the legislation.

The Treasury's Customs and Excise Division continued outreach to frontline security staff, including staff of companies employed by Government to provide security, couriers and hauliers to improve border security for AML/CFT purposes.

Customs also issued new and revised notices during 2016, covering subjects such as bringing or sending goods to or from the Island, and including reference to the cash declaration requirements when sending or taking amounts of cash of more than 10,000 euros to or from the Island.

Meeting the objectives relating to asset recovery is the operational responsibility of a Senior Legal Officer who reports to HM Attorney General. The staff allocation to the ICART is being supplemented by two financial investigators and an administrative officer. In addition, the Legal Officer, International Cooperation will continue to deal primarily with international requests for assistance involving asset recovery, as well as other aspects of international cooperation.

<sup>11</sup> <https://www.gov.im/lib/docs/iomfsa/designatedbusinessesregistrationando.pdf>





**Cabinet Office AML/CFT Policy Office team, headed by Karen Ramsay (centre)**

In September 2016, Customs issued detailed guidance "Proliferation of Weapons of Mass Destruction - Notice 1008 MAN". The updated guidance included typologies and complemented internal guidance prepared for Customs staff, which was made available to the GSC and IOMFSA staff. This new Notice followed earlier comprehensive guidance on "Trade-Based Money laundering – Notice 1000 MAN", first published in August 2015 (but updated with new and revised information on several occasions since) and similarly containing typologies and complementing internal guidance made available to Customs, and regulatory staff. In June 2016, the Customs and Excise Division gave a presentation to the Association of Corporate Service Providers and this presentation was also made available on the Division's webpages.

As referred to previously, 2016 also saw the establishment of an AML/CFT Policy Office in the Cabinet Office for the cross-government coordination and delivery of AML/CFT matters.

The Isle of Man general election took place in September 2016 and in January 2017 the new government published its "Programme for Government 2016-2021"<sup>12</sup> which sets out the strategic objectives for the next five years. The document includes a policy statement regarding the intention of the government to maintain a "zero tolerance stance" in relation to money laundering and the financing of terrorism. The document also sets out a commitment that the Isle of Man will "Consider and respond to issues identified in the international MONEYVAL report on the Isle of Man, prioritising and taking action as required"<sup>13</sup>.

<sup>12</sup> <https://www.gov.im/media/1354707/programme-for-government-2016-2021.pdf>  
<sup>13</sup> p17 - Programme for Government 2016 - 2021

## THE ISLE OF MAN'S MUTUAL EVALUATION (MONEYVAL) REPORT

The Financial Action Task Force (FATF) is a policy-making organisation that leads the international fight against money laundering and terrorist financing. The G7<sup>14</sup> established the FATF in 1989 in response to growing concerns about money laundering at both domestic and international levels.

The objectives of the FATF are to set international standards for combatting money laundering and terrorist financing and to promote the effective implementation of these standards into the legal, supervisory and regulatory frameworks of its members. The FATF's standards are embodied in the 40 Recommendations<sup>15</sup>, which were updated in 2012, and deal with money laundering, terrorist financing and targeted financial sanctions for terrorism and proliferation.

The FATF and its regional bodies (such as MONEYVAL for Europe) regularly monitor the progress of its member states in implementing the 40 Recommendations through the Mutual Evaluation process. This process consists of a peer review of each member state, which provides a detailed description and analysis of the AML/CFT framework present in their legislative, regulatory and supervisory apparatus. The effectiveness of these measures is also assessed.

The findings of the assessors are then discussed at the next FATF, or in the Isle of Man's case MONEYVAL, plenary and adopted in a Mutual Evaluation report ("MER"). Currently the FATF is conducting a fourth round evaluation of its members although MONEYVAL refer to this same process as a fifth round evaluation. The Isle of Man is one of the first jurisdictions to undergo a mutual evaluation under this new round.



The resulting report comprises two separate inter-related components; one dealing with technical compliance and the other with effectiveness.

The technical compliance component assesses whether the necessary laws, regulations or other required measures are in force and whether the supporting AML/CFT institutional framework is in place. The effectiveness component assesses whether the AML/CFT systems are working and the extent to which the Isle of Man is achieving identified outcomes. A more detailed explanation of the procedure can be found on the FATF website<sup>16</sup>.

As well as providing a comprehensive assessment of the extent to which the Isle of Man has moved further forward towards implementing the 40 Recommendations, the MER also highlights areas in which further progress is still required.

<sup>14</sup> The G7 is an informal 'Group of 7' of the world's most important industrially advanced democracies that meets annually to discuss issues such as global economic governance, international security, and energy policy. G7 members include the UK, USA, Canada, Japan, Germany, Italy and France.

<sup>15</sup> <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

<sup>16</sup> <http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf>



*The Isle of Man was rated well in the technical component part of its Mutual Evaluation Report; the assessors considering our legislative and institutional framework to be very sound.*



The Isle of Man was rated well in the technical component part of its MER; the assessors considering our legislative and institutional framework to be largely sound. On the effectiveness component however there were areas identified requiring significant attention.

The main priorities identified concerned issues of law enforcement, in particular in respect of financial intelligence, financial investigation and prosecution and confiscation of assets. Many of these areas had been identified under the Island's National Risk Assessment and steps have already been initiated to rectify a number of these deficiencies as outlined earlier in this report, and more are ongoing.

It is not envisaged that wholesale changes to legislation or regulation will be required as part of the remedial procedures required in relation to the MER's recommended actions. However, the Gambling Supervision Commission ("GSC") will be bringing forward an Anti Money-Laundering (Gambling) Bill 2017 which will give the regulator more powers in respect of supervision and sanctions. This will provide the GSC with a broad range of powers as required by the FATF recommendations. Other minor changes are intended to be made by means of the Customs and Excise Bill 2017, including an amendment to permit the FIU to deal with financial sanctions reports in the same way as money laundering reports, in its role as a "one-stop shop" for the reporting all forms of financial crime.

Following the publication of the MER, the Isle of Man has entered a process of enhanced follow-up with MONEYVAL<sup>17</sup>. This means that the Island will be reporting more frequently to MONEYVAL on the progress that is being made to address the issues identified in the effectiveness component of the MER. The majority of countries that have been through this round of evaluations have entered the enhanced follow up process. Once MONEYVAL is satisfied that sufficient progress has been demonstrated the Isle of Man will be able to revert to a standard reporting cycle.

A follow-up assessment takes place between five to seven years after adoption of an MER regardless of whether the country is in Regular or Enhanced Follow-up. This involves a short visit to the country of up to five days by a MONEYVAL team.



<sup>17</sup> The enhanced follow-up process is a desk-based review which monitors whether a country is taking steps to strengthen its AML/CFT framework. It aims to improve a jurisdiction's implementation of the FATF Standards within a reasonable timeframe.

## LOOKING AHEAD

Although not required by the FATF 40 Recommendations, the creation of a Register of Beneficial Ownership for legal entities will make it easier for law enforcement and government authorities to obtain beneficial ownership details more expediently. This new Register for the Isle of Man is scheduled to come into existence in June 2017. This will benefit the Isle of Man's AML/CFT regime and help to address some of the issues identified in the MER. The development of the beneficial ownership register follows on from a UK initiative and is a common requirement for all Crown Dependencies and UK Offshore Territories.

In the summer of 2017 the 4th EU Money Laundering Directive will come into force across the whole of the European Union. The EU is already bringing forward proposals which will amend and strengthen some of the provisions in that Directive. Although the IoM is not obliged to introduce the requirements of EU Directives, nevertheless careful consideration is always given to such legislation and in particular how it might enhance the Island's regime. IoM agencies will also take into account the impact of such Directives on the legislative framework of neighbouring jurisdictions, to ensure that businesses can continue to interact smoothly with each other.

One part of the 4th EU Money Laundering Directive which will immediately be adopted into Manx statute relates to wire transfers of funds across borders. Legislation in the form of the European Union (Information Accompanying Transfer of Funds) Order 2016 is being progressed so that a special EU arrangement relating to AML/CFT requirements, concerning wire transfers of money by financial institutions, between ourselves and the UK can be maintained. Without the Isle of Man legislation being in place the special arrangement would cease once the 4th EU Money Laundering Directive came into force. Not having the concession would mean the cost of the wire transfers greatly increasing.

Other areas of interest over the coming year include the publication of further MERs including that of Ireland and the start, in autumn 2017 of the FATF mutual evaluation process of the UK. The UK's resulting MER is expected to be published later in 2018.

# CONCLUSION

The Isle of Man government continues to uphold its firm commitment to meeting international standards on AML/CFT. Government agencies are continuing to work closely together to ensure that all the recommendations made by MONEYVAL are fully considered and prioritised appropriately, whilst also liaising closely with the business community to ensure that a collaborative and constructive way forward can be successfully achieved.

In addition to considering such developments as the 4th Money Laundering Directive, and planned further amendments to the AML/CFT regimes of the UK and the EU, the bodies described earlier in this Report also consider whether proactive action is required in the light of new or developing threats, new technologies or new or emerging business areas.

In the past this has resulted, for example, in stored-value cards being included within the cash declaration regime (in June 2015), or the regime being applied in respect of cash sent in freight or in the post (since 2013) – things that the EU only adopted as proposed changes to its regime in December 2016.

This aspect of the work of the various bodies has become more important and will remain so, particularly with a view to future MER of the Island.

Further pivotal work is now underway in order to strengthen the Isle of Man's reputation as an international business centre and ensure that the Island deters money laundering and the financing of terrorism and, where such activity is taking place, that it is effectively detected, investigated and the perpetrators dealt with appropriately.

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*Further pivotal work is now underway in order to strengthen the Isle of Man's reputation as an international business centre and ensure the Island deters money laundering and the financing of terrorism.*





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