



**Isle of Man
Government**

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ISLE OF MAN GOVERNMENT

Isle of Man Financial Crime Strategy 2017-2020

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FOREWORD

The Isle of Man Financial Crime Strategy 2017-2020 builds on previous work in relation to tackling money laundering and combatting the financing of terrorism. It reflects the Island's continuing commitment to upholding international standards in the global drive against financial crime.

The Isle of Man takes its responsibilities as an international business centre very seriously. This is underlined in our current "Programme for Government" which includes a high-level policy commitment to maintaining a 'robust, zero tolerance stance' against money laundering and terrorist financing.

The Island has led the way amongst small jurisdictions in engaging with international initiatives against financial crime and in co-operating with other countries.

As a centre dedicated to attracting quality business we have an economic as well as a moral rationale for protecting our financial systems and reputation against abuse by criminals.

The Isle of Man was one of the first small international finance centres to undergo a Fifth Round Evaluation against the latest international standards in respect of dealing with money laundering and terrorist financing, undertaken by MONEYVAL¹ in 2016.

The outcome, published in January 2017, largely confirmed the findings of the Island's own National Risk Assessment, which identified the resourcing of financial intelligence gathering and investigations as areas for improvement.

Addressing these points is a matter of national priority for my Government and I am pleased that significant progress has already been made.

I trust that the production of this overarching Financial Crime Strategy is further evidence of the Isle of Man's firm commitment to a 'zero tolerance' approach to financial crime.

Hon. Howard Quayle MHK
Chief Minister

¹ 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 published its first National Strategy for Anti-Money Laundering and Combatting the Financing of Terrorism in March 2016. That strategy was informed by the findings of the National Risk Assessment (NRA) which was finalised in June 2015. Although delivery of the strategy was planned over a three year period, it was recognised at the time that a revision would be required once a planned international evaluation of the Isle of Man was concluded and the resulting recommendations were finalised. That evaluation, which was conducted by MONEYVAL, took place in 2016. It concluded in January 2017 with the publication of a Mutual Evaluation Report (MER) on the Isle of Man's progress in addressing money laundering and terrorist financing and proliferation² (ML/TF) risks.

The evaluation had mixed messages for the Island. The technical framework that is in place to address ML/TF risks was assessed as being very strong. For the most part the Island has the legislative powers that are needed to address ML/TF. The technical framework is measured against the international standards, set out in the Financial Action Task Force's 'Forty Recommendations'³. Comparatively few gaps were identified by the assessment and, where there were gaps, some of these were already in the process of being addressed.

The assessment also took into consideration how the powers available to the authorities were used in practice. This is a new 'effectiveness' test which is applied to all jurisdictions when they are reviewed. In respect of effectiveness, the work undertaken by the Island in conducting its first NRA was recognised. For the most part, the assessment concluded that the findings of the NRA and the areas prioritised for attention were reasonable. The high level of international

cooperation that the Island provides was also evidenced during the assessment. There were many other positive findings, for example the national level coordination of policy, the work undertaken by regulators with financial institutions and non-financial businesses and professions and the Island's strong relationship with the UK in respect of combatting terrorism and TF issues.

However, the assessment confirmed the findings of the NRA in respect of shortcomings identified in the area of law enforcement and further highlighted issues in respect of the Financial Intelligence Unit (FIU), financial crime investigations and prosecutions and the confiscation of assets. There were also actions recommended in other areas. At the time of writing this Strategy, the Isle of Man is in an 'Enhanced Follow-Up' process⁴ with MONEYVAL, which will require more frequent reporting to evidence the progress being made in relation to these recommendations. The Isle of Man considers it a priority to make the improvements identified in the MER in order to strengthen the effectiveness of the ML/TF regime.

The robust assessment process has given the Isle of Man authorities much to consider and improvements are already well underway. Indeed work on a number of areas identified by the assessors was taking place at the time the assessment took place and the Financial Crime Strategic Board (FCSB) is confident that there is demonstrable progress in key areas.

This includes significant improvements to the capacity of the FIU, the formation of a new Asset Recovery Unit under the direction of HM Attorney General, and the allocation of significant new funding to the Isle of Man Constabulary in order to strengthen and support

² Proliferation of weapons of mass destruction (e.g. biological, chemical and nuclear).

³ These are the international standards on combatting money laundering and the financing of terrorism and proliferation.

⁴ Every country enters either a regular or an enhanced follow-up process once it has been evaluated to ensure that identified improvements are being made.

the work of the Financial Crime Unit.

The FCSB replaces the AML/CFT Strategic Group as the senior advisory and coordinating body for anti-money laundering and combatting the financing of terrorism and proliferation. It has a smaller and more focussed representation and a remit to coordinate an all-Island response to ML/TF, proliferation and also related predicate financial crime such as fraud, bribery and corruption and to advise the Council of Ministers⁵ accordingly.

The past 18 months have seen an intense effort on the part of departments and agencies with

extensive internal reviews and detailed external scrutiny taking place. The work is far from over and the findings from the MER underline the importance of improving the Island's law enforcement capacity to address financial crime. Nevertheless, much has been achieved in the past year and the FCSB is committed to ensuring that progress continues. This Strategy forms part of that commitment.

**Will Greenhow, Chief Secretary
& Chair, Financial Crime Strategic Board**

FINANCIAL CRIME STRATEGY 2017-2020

The aim of this Strategy is to pro-actively combat financial crime and protect the Island's reputation and economic future. As a jurisdiction with significant international reach the Isle of Man has an overarching responsibility to ensure that the activities of its finance and business sectors do not create or facilitate financial crime. Such crime is harmful to individuals and to other countries on many different levels and is also damaging to the best interests of the Isle of Man. The Government recognises this and has made a firm commitment in its Programme for Government⁶ 2016-2021 to "Maintain our robust, zero tolerance stance" in respect of money laundering and the financing of terrorism and proliferation⁷.

This strategy is underpinned by the following four priority objectives which are:

- Understanding the money laundering and financing terrorism threat, risks and harm facing the Isle of Man;

- Ensuring that the Isle of Man is a hostile jurisdiction for money laundering and the financing of terrorism;
- Pro-actively identifying and pursuing offenders; and
- Taking the benefit out of crime.

These priority objectives are generally applicable to both money laundering and the financing of terrorism and proliferation. However, the Isle of Man Government also has a separate strategy which deals specifically with the financing of terrorism and financing of proliferation. These two strategies together supersede the National AML/CFT Strategy 2016-2018.

Many of the actions within the National AML/CFT Strategy 2016-2018 are also actions in the MER and therefore those that are still to be addressed are reflected in this strategy. A review of the progress made against the National AML/CFT Strategy 2016-2018 is included at Appendix 1.

⁵ The Council of Ministers is the highest level decision-making body within the Isle of Man Government.

⁶ <https://www.gov.im/media/1354840/programme-for-government.pdf>

⁷ Wherever terrorist financing (TF) is referred to in this Strategy, it also includes proliferation financing (PF).

PRIORITY OBJECTIVES

1. Understanding the money laundering and financing terrorism threat, risks and harm facing the Isle of Man

The Isle of Man completed its National Risk Assessment (NRA) in 2015 and this was used to inform the National AML/CFT Strategy 2016-2018, against which good progress has been made⁸. The Island has committed to reviewing and revising the NRA on a regular basis. Understanding and advising upon risk is a key function of the Financial Intelligence Unit (FIU) although the FIU will often rely upon other authorities to collect and collate data for this purpose. The Cabinet Office has led and will continue to coordinate NRA level activities in close collaboration with the FIU.

The MER found that the authorities had a thorough understanding of where the ML/TF vulnerabilities lay within the national institutional and legal framework and which sectors were most vulnerable to ML/TF. Areas identified for improvement included better aggregate data on the volume and destination of outgoing and incoming flows of funds in the financial sector and aggregated data on where beneficial owners of assets managed or funds held in the Island were from.

Work is now taking place with industry to identify how we as an Island can capture, collate and analyse the required data. This will ensure that better information is available for the overall understanding of ML/TF threats which can inform future NRAs.

Better aggregate information from industry is also required to inform threat assessments. Specific areas include information concerning the level of use of customer introducers, numbers of politically exposed persons (PEPs) and customer risk classifications. This will help regulators and the FIU to focus on areas of potential risk and ensure that available resources are being directed appropriately. The

Isle of Man Financial Services Authority (IOMFSA), working alongside the Gambling Supervision Commission (GSC), is undertaking a project to identify the level and type of data that will address the issues identified. This work will be undertaken in consultation with industry and is likely to be achieved via a staged approach.

Improvement is required in FIU analysis of data and information and the dissemination of that information to the relevant authorities. Considerable progress is being made since the establishment in legislation of a separate FIU function in April 2016, including the appointment of an FIU Director and other new (and additional) staffing resources. Further improvements were also introduced including ongoing specialist training for staff and an online system for industry to submit Suspicious Activity Reports (SARs)⁹.

Looking forward, the FIU will continue a programme of recruitment, the introduction of new analytical software, specialist training and re-energising outreach to industry. This outreach will include working closely with industry to identify trends and to develop and share more domestic typologies including a better understanding of the use and abuse of legal persons and arrangements domestically.

The FIU will also work closely with industry and the regulators concerning SARs to improve the quality of their content. The introduction in 2016 of a new online reporting system, accompanied by outreach work will help to improve future standards.

The FIU is taking feedback from industry on the on-line system and making adjustments so that it can perform at an optimum level and has issued guidance regarding the practical use of

⁸ See Appendix 1

⁹ SARs are the primary mechanism by which industry formally reports that there is a suspicion of ML or TF to the authorities. SARs are submitted directly to the FIU.

the system. Further work will be taking place in conjunction with the regulators to ensure that persons and entities, which are now caught under the Designated Businesses (Registration and Oversight) Act 2015¹⁰, are aware of and register with the SARs online system.

Risks posed by lawyers, the real estate sector, and certain other Designated Non-Financial Businesses and Professions (DNFBP)¹¹ will be reassessed. The initial assessment of these areas concluded in early 2015 and since that time more data has become available, mainly as

a result of the introduction in the autumn of 2015, of the DBRO Act.

The FIU will conduct a review of cases to better understand the risk where legal persons and trusts established under Isle of Man law may have been used to disguise ownership or to launder the proceeds of crime. Other areas which will require specific consideration include the growth and development of convertible virtual currency in the Isle of Man and globally and, more generally, cybercrime.

PRIORITY OBJECTIVE 1

UNDERSTANDING THE MONEY LAUNDERING AND FINANCING OF TERRORISM THREAT, RISKS AND HARM FACING THE ISLE OF MAN.

We will achieve the following:

- Obtain fuller aggregate data on the volume and destination of outgoing and incoming flows of funds in the financial sector with particular emphasis on high risk jurisdictions linked to the financing of terrorism, terrorist groups or individual terrorists.
- Conduct a reassessment of areas which would benefit from more comprehensive statistics on the volume and destination of financial flows, mainly cross border ML and TF threats.
- Obtain fuller aggregate data on where the beneficial owners of assets managed or funds held in the Isle of Man are from.
- Obtain aggregate data from licenced and registered entities which can better inform the threat assessment for the Isle of Man.
- Continue developments to the SAR regime ensuring that the quality of online submissions is improved, that the online (THEMIS) system is upgraded as required, and that all sectors are aware of their obligations and are registered with the FIU for the purposes of submitting SARs.
- Provide regular detailed information and current strategic analysis of emerging trends, methods and typologies.
- Continue to invest in the development of the FIU in respect of people, IT and training.
- Improve the level of analysis by the FIU of information and data received and the dissemination of intelligence to relevant authorities.
- Harvest intelligence from incoming requests for mutual legal assistance.
- Review the specific elements of the NRA identified by the MER during 2017.
- Develop and maintain annual threat assessments for the Isle of Man.
- Conduct a review of cases to better understand the risk where legal persons and trusts established under Isle of Man law may have been used to disguise ownership or to launder the proceeds of crime.
- Conduct a review of the implications concerning the development and growth of convertible digital currency.

¹⁰ The DBRO Act requires certain persons and businesses to register with the IOM Financial Services Authority (IOMFSA). The IOMFSA then assesses compliance with AML/CFT legislation by means of on-site visits and the submission of annual returns. The DBRO Act also provides the IOMFSA with powers for action and enforcement if there is a failure to comply with the requirements of the DBRO Act https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0009/DesignatedBusinessesRegistrationandOversightAct2015_4.pdf

¹¹ DNFBPs includes advocates and other legal practitioners, accountants, estate agents, certain not for profit organisations, high value goods dealers, etc.

2. Ensuring that the Isle of Man is a hostile jurisdiction for money laundering and the financing of terrorism

The financial services industry and all businesses caught by the DBRO Act have a key role in ensuring that the IOM is protected against ML and TF. In respect of AML/CFT measures, the regulators are responsible for supporting, guiding and (where necessary) actioning and enforcing measures with industry that safeguard each sector and meet the objectives in respect of AML/CFT set out in the 'Programme for Government'.

The recent international assessment has identified that the technical or legislative framework in the IOM is a strong one; the structure is present and much of what is now required are improvements to or the development of guidance and further support and training to ensure that industry is applying the relevant AML/CFT measures correctly. This includes additional guidance and outreach concerning enhanced due diligence, the use of identity and other information collected by third parties, along with the identification of politically exposed persons and their family members and close associates.

The IOMFSA has undertaken significant work to introduce the registration and oversight regime for DNFBPs. The work will be continuing throughout the period of this Strategy and beyond. Although those registering with the IOMFSA could opt to be supervised by their own professional body (where such a body had been designated for this purpose) many more than anticipated have selected direct oversight by the IOMFSA. The task of supervisory oversight is therefore a substantial undertaking. The IOMFSA will continue with this process, prioritising visits on a risk based approach.

The use of enforcement actions by regulators is

an area which will continue to receive attention with enforcement action taking place in appropriate cases where there are regulatory failings. The GSC does not have the range of supervisory and sanctioning powers it requires in respect of its licenceholders. This issue was identified in the NRA and following the Isle of Man's general election of September 2016 the new government agreed to include in its legislative programme an Anti-Money Laundering (Gambling) Bill.

The 30 June 2017 saw the introduction of an Isle of Man database (or register) of beneficial ownership¹². The introduction of this centralised database enhances existing measures ensuring that adequate, accurate and timely beneficial ownership information can be obtained and shared for the prevention and detection of serious and organised crime, such as corruption, money laundering and terrorist financing.

The database is being maintained as part of the Companies Registry and compliance is being overseen by the IOMFSA. Guidance was published by the IOMFSA in advance of the launch of the database. The regulator has also appointed an officer whose role includes the management of the oversight of compliance of Isle of Man companies with the Beneficial Ownership Act 2017.

Further consideration is needed concerning the use of legal persons and arrangements as part of structures to mask or disguise ownership, funds and control. Considerable reliance is placed upon the Trust and Corporate Service Provider sector as gatekeepers. In addition, relevant authorities will seek to improve support, outreach and co-operation with and to the sector to assist in mitigating risks and to seek a

¹² A beneficial owner is defined in the legislation as a natural person who ultimately owns or controls a legal entity to which the Beneficial Ownership Act 2017 applies, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means, and "beneficial ownership" is to be construed accordingly.

fuller picture of the foreign activities of Isle of Man registered companies.

Trade-based money laundering¹³ and trade-based financial crime also presents a threat to the IOM as well as globally¹⁴. The Customs and Excise Division has taken steps to raise industry awareness, for example publishing a Trade Based Money Laundering Notice in 2015 (Notice 1000) since updated in 2016 with new case studies¹⁵. Ongoing outreach from Government to raise awareness will also

continue to be required.

The National AML/CFT Strategy 2016-18 includes as one of its goals promoting training and awareness of AML/CFT within Government. Whilst some progress has been made in respect of this goal, it has not been consistent. This will therefore form an area of work with a programme to be developed which is structured to meet requirements depending upon the nature of the work undertaken and levels of responsibility.

PRIORITY OBJECTIVE 2

ENSURING THAT THE ISLE OF MAN IS A HOSTILE JURISDICTION FOR MONEY LAUNDERING AND THE FINANCING OF TERRORISM

We will achieve the following:

- Develop and introduce new or additional legislation and guidance for industry in areas identified by the MER and provide relevant outreach.
- Continue to deliver the oversight regime for DNFbps with supervisory visits, prioritised on a risk based approach.
- Appropriately utilise regulatory sanctions and enforcement powers in respect of entities and individuals who fail to meet their AML/CFT obligations (e.g. fining; issuing public warnings).
- Introduce legislation which provides the GSC with a full range of supervisory and enforcement sanctioning powers.
- Establish the beneficial ownership database, publish guidance and establish a process for monitoring and checking the accuracy of registrations.
- Deliver programmes of training and awareness of AML/CFT within Government, structured to meet requirements in respect of the work undertaken and level of responsibility.
- Continue to raise awareness within industry of the risks presented by trade-based money laundering and trade-based financial crime.
- Fully utilise all methods and opportunities available including outreach, media, and joint Government and industry events to keep industry apprised of new or changing risks.
- Develop a cross-Government financial crime prevention programme.
- Seek a greater awareness and understanding of the foreign activities of Isle of Man registered companies to provide a fuller threat assessment.
- Seek to develop further the working relationship between Government authorities, the finance industry and DNFbps.

¹³ Trade-based money laundering involves misrepresenting prices, values and quantities of goods and allows the movement of money under cover of real or fictitious trading. It can involve domestic or international trade.

¹⁴ The FATF describes trade-based money laundering as one of the three main ways to move large amounts of money although it is not specifically included in the FATF Recommendations or methodology.

¹⁵ <https://www.gov.im/media/1348726/notice-1000-man-trade-based-money-laundering-updated-02-feb-16.pdf>

3. Pro-actively identifying and pursuing offenders

The Isle of Man is faced with particular challenges in tackling financial crime and in particular ML. The global financial system has within it significant sums which arise out of criminal activities¹⁶ including bribery and corruption, fraud and tax evasion and other crimes, which are committed to create illicit wealth and which perpetrators may then seek to legitimise through 'laundering'. These wealth creating crimes will predominantly be committed in other jurisdictions. The Isle of Man faces the threat of being used to hide such funds or as a conduit through which they may flow.

The task of law enforcement is to identify such funds and where possible to confiscate them. Confiscation is dealt with under the next priority objective 'Taking the benefit out of crime'. Law enforcement,¹⁷ usually the Financial Crime Unit (FCU), also has to investigate how the proceeds of crime came to be in or pass through the Isle of Man. Investigation is also required concerning who may have been involved domestically (or internationally in circumstances in which the Isle of Man authorities are able to bring the person to the Island to prosecute) so that a prosecution can be progressed if there is sufficient evidence.

In recent times, cases dealt with by the police and the prosecutors have not been in line with the risks identified in the NRA. As an international centre for finance, cross-border ML undertaken by third parties was identified as a medium to high risk for the Isle of Man. However, the ML cases actually being investigated and prosecuted have been predominantly linked to domestic offences, mainly drug trafficking.

The proactive identification and pursuit of ML/TF offenders requires the resources, personnel and technology to undertake expert analysis of information from a range of sources to create intelligence. An increase is now apparent in the number of intelligence cases being passed from

the FIU to the FCU that reflect the risks identified in the NRA. Investment is underway to ensure that the FCU is resourced to deal with these changes. This includes the development of new office space and storage, the sourcing of new IT and the recruitment, training and accreditation of investigators and analysts.

A new forum, the Financial Crime Law Enforcement Effectiveness Group, has been established, led by the police. This forum facilitates more effective working between law enforcement agencies (LEAs), and complements the existing Tasking and Coordinating Group, which coordinates and prioritises the national response to specific cases. These measures aim to improve cooperation between LEAs and provide formalised structures and processes to enhance performance.

Further to recommendations made within the MER, the scope and strength of the Island's border controls, which were risk assessed as part of the NRA, will be further reviewed to ensure that relevant agencies are working together, coordinating activities, sharing information effectively and proactively using the powers available to them where appropriate.

The Isle of Man authorities will also establish and apply a criminal justice policy for investigation and for prosecution which sets out the circumstances in which ML investigations will be initiated.

Where investigations take place into the proceeds of suspected overseas criminality or predicate offences occurring abroad, and where action, such as prosecution of those cases is possible in this jurisdiction, such action will be taken, effectively extending the reach of the Island's law enforcement authorities.

Given the heightened international awareness of and commitment to tackling offences such as

¹⁶ PWC Global economic crime survey 2016 states: "Global money laundering transactions are estimated at 2 to 5% of global GDP, or roughly U.S. \$1-2 trillion annually. Yet according to the United Nations Office on Drugs and Crime (UNODC), less than 1% of global illicit financial flows are currently seized by authorities".
<http://www.pwc.com/gx/en/services/advisory/forensics/economic-crime-survey/anti-money-laundering.html>

¹⁷ Other agencies can also undertake criminal investigations including the Customs & Excise Division, Treasury and the Income Tax Division, Treasury.

foreign corruption and bribery, the authorities will undertake a review, initially to ensure that the required mechanisms are in place, including the legal framework, to support this approach.

Specialist training and accreditation, sharing contacts and costs, using recognised experts from the UK and elsewhere and strengthening existing links with partners such as the UK FIU and the National Crime Agency will all be pursued by LEAs. A review of progress in respect of this important area will take place by the close of 2017.

In order to assess overall national performance it is necessary to obtain, collate and then analyse data from different agencies. This can be challenging. However, a project to review and

revise data management and reporting in respect of money laundering is well advanced with key data sets agreed and reporting mechanisms finalised. These changes will be tested over the coming year.

Important developments are also taking place which are expected to deliver significant improvements in respect of case management. Most notably, the police will be taking delivery later in 2017 of a new comprehensive IT system which will significantly enhance the case management capability of the constabulary, replacing many existing stand-alone systems and providing a platform which will be searchable, accessible and will also better facilitate the production of meaningful data.

PRIORITY OBJECTIVE 3

PRO-ACTIVELY IDENTIFYING AND PURSUING OFFENDERS

We will achieve the following:

- Ensure that cases dealt with by the Financial Crime Unit better reflect the risk profile of the Isle of Man, in particular in the pursuit of third party international ML.
- Provide the police, prosecutors and courts with the resources, people, training and technology to investigate and prosecute financial crime.
- Introduce more formalised structures to facilitate cooperation between law enforcement agencies in the Isle of Man.
- Develop a criminal justice policy for ML investigation and prosecution.
- Develop investigative techniques that will assist with proving foreign predicate offences and ensure that the required legal mechanisms are in place to support this approach.
- Explore ways in which company information might be made available more promptly.
- Develop a strategy and policies to seek foreign assistance using all available channels upon suspicion of ML/TF.
- Ensure that wherever appropriate offences of ML are put before the courts.
- Improve upon and maintain full and accurate aggregate data on law enforcement activities within the Isle of Man in respect of ML/TF.
- Review and improve strategies for identifying and addressing cases of cybercrime.
- Develop an approach to more effectively identify cases of potential bribery and corruption.
- Reassess the scope and strength of the Island's border controls.

4. Taking the benefit out of crime

Depriving criminals of the proceeds of their crime, however it presents itself, for example in cash, property, or ownership of businesses etc. is a fundamental objective of the Financial Action Task Force (FATF). The means to achieve this are present within the Isle of Man legal framework, including non-conviction based civil recovery.

However, historically there have been low levels of confiscation in the Isle of Man. Systematic parallel financial investigations have not been taking place, nor has the seizing of suspected proceeds of crime been taking place soon enough, leading to a risk of asset-flight. The authorities have therefore created a new unit, the International Cooperation and Asset Recovery Team (ICART) established by HM Attorney General in December 2016. ICART brings together two key components; international cooperation which was already a well-established operation of HM Attorney General's Chambers and a new lawyer-led Asset Recovery Unit (ARU) with dedicated financial investigators.

A comprehensive legislative structure already exists, chiefly in the form of the Proceeds of Crime Act 2008 (POCA) which provides for confiscation, cash forfeiture and civil recovery (i.e. non-conviction based confiscation) and for restraint and freezing of assets. If used to their full potential these are measures which will deprive offenders of the proceeds of their criminal conduct, deter the commission of further offences and reduce the funding available for further criminal enterprises. It also means that identified victims may be compensated.

The strategic aims of the ICART in relation to asset recovery by the ARU are to:

- Prioritise identification, restraint and recovery

of assets resulting from serious and organised crime, with particular focus on economic crime, both in the Isle of Man 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 IOM on their behalf and otherwise assist them when necessary; and
- Improve the enforcement of domestic and international confiscation orders.

ICART will work proactively with other international jurisdictions and with colleagues within the Isle of Man, seeking to swiftly deprive persons suspected of criminal activity from being able to use assets and funding streams, so that such criminal activity cannot continue or further develop in the Isle of Man or elsewhere in the world.

Whilst some assets may be straightforward to seize and manage prior to any application for freezing, restraint, confiscation, others will be more challenging; for example any equipment, vehicles, businesses etc. used in the commission of the crime of money laundering. The approach to be taken in such cases and the procedures to be followed will be set out by the ARU, including with regard to predicate offences committed abroad.

Guidelines will also be issued in respect of the application of the proportionality principle both in restraint and confiscation proceedings. This will include instances of detected undeclared cash in the post or at the sea terminal and airport¹⁸, where improvements will also be made to the way in which relevant departments work together to detect and seize falsely or

¹⁸ Declared and undeclared cash identified at the border is another area highlighted for attention over the coming period. Anyone carrying in excess of an amount equal to €10,000 into or out of the Isle of Man is required to declare it to Customs.

undeclared cash or bearer negotiable instruments and investigate whether there is a link to ML/TF or associated predicate offences, which might then lead to confiscation or non-conviction based civil recovery.

Customs, the police, the FIU, and the ICART are all relevant agencies in respect of this matter and work will take place to ensure that pathways are clarified where required and that the FIU is fully apprised of information regarding declaration and false/non-declaration of such financial assets. In future it is planned that Customs will lay a report concerning such cash movements before Tynwald at each year end.

A proactive approach will be taken to the restraint of potential criminal proceeds upon receipt of sufficient information from anywhere in the world.

The Isle of Man regularly receives requests from other jurisdictions for assistance in respect of enquiries into suspected financial and other crime, for the freezing/confiscation of assets held in the Isle of Man and/or for the securing of evidential material. Such applications must be made formally to HM Attorney General and are scrutinised to ensure that they meet international standards for such requests.

Information obtained from international requests can inform domestic activity, based upon the analysis of the FIU working with the ICART. Inquiries can be made of foreign jurisdictions to try and identify, repatriate or return the proceeds and instrumentalities of crime. There may also be opportunities to proactively identify foreign proceeds located in the Isle of Man based upon such information that could be subject to restraint or confiscation.

PRIORITY OBJECTIVE 4

TAKING THE BENEFIT OUT OF CRIME

We will achieve the following

- Undertake systematic parallel investigations into ML/TF, proactively seizing monies identified at an early stage as potential criminal proceeds to avoid asset flight.
- Seek to use all means of recovery available within the legislative framework including non-conviction based civil recovery where applicable.
- Establish an approach for dealing with the management of seized assets other than money, including the instrumentalities of crime.
- Improve the figures for asset restraint and confiscation with particular emphasis on proceeds reflective of the risk profile of the Isle of Man.
- Undertake a review and issue guidelines on the use of the principle of proportionality.
- Improve the ways in which relevant departments work together to detect and seize falsely or undeclared cash or similar instruments at the border and investigate whether there is a link to ML/TF or associated predicate offences, which might lead to confiscation.
- More proactively utilise information obtained from international requests for assistance to try and identify, repatriate or return proceeds of crime from abroad and identify foreign proceeds located in the Isle of Man, which may be subject to restraint or confiscation.

LOOKING FORWARD

The international nature of the Island's financial and other businesses are impacted by wider, global events and trends. The planned exit in 2019 of the Island's largest trading partner, the UK, from the European Union (EU) and the consequential falling of Protocol 3¹⁹ is a further and highly significant factor the impact of which is not yet fully known. However, changes to Manx legislation will be required, for example in respect of the process for applying EU and United Nations sanctions.

The Isle of Man authorities will need to both work with and support industry and also monitor changes in respect of the activities undertaken by industry to ensure that any increased or new risks to the Island from financial crime are identified and managed. Moreover, the ongoing requirement to grow the economy whilst delivering new opportunities may potentially also increase risks as businesses seek to develop and promote products in new markets and geographical locations.

The policies of larger financial firms in respect of de-risking²⁰ remains a significant issue for certain sectors. This is a global phenomenon which is driven by various factors. The consequence is that smaller institutions and certain economic sectors may not easily be able to find mainstream channels for financial transactions. As a result they will seek other alternatives, including informal channels, which may increase the threat of ML and other financial crime. Where Isle of Man businesses have to bank in other jurisdictions or use alternative providers such as payment service companies, this can also adversely impact the ability of the authorities to take action where it is needed. Further work is required to assess the extent of this issue in the Isle of Man and to identify what, if any actions need to be taken.

Linked to the ongoing pressures identified above, the Isle of Man is faced, as are other jurisdictions, with ongoing challenges when it comes to recruiting and retaining people with the skill sets required for compliance work within industry and in the case of the authorities, for financial crime intelligence, investigation and other related activities. This is an ever expanding requirement which has resulted in people who are appropriately trained and experienced being in high demand. This 'churn' factor can have a detrimental effect on the capacity of an organisation to manage its risks effectively. This is an area with no straightforward solution; however working with industry to address skills shortages in a variety of ways is a responsibility of the Department of Economic Development and this issue is ongoing.

The growth in new technologies and their application is likely to offer numerous benefits, not least in 'RegTech'²¹. However the use of new and developing technologies for criminal purposes will continue to increase and cybercrime is anticipated to be a significant trans-national threat for the foreseeable future. The increasing use of convertible virtual currencies such as Bitcoin as the preferred payment method for criminals engaged in cybercrime activities is a further trend which will require monitoring.

The impact of bringing a wider number of sectors in the Isle of Man under an AML/CFT registration and oversight regime is not fully known, but will become clearer over the period of this Strategy, as will any changes brought about by the introduction of a centralised database for Beneficial Ownership. The compliance of submission of data onto the latter will be overseen by the IOMFSA.

¹⁹ Protocol 3 sets out the limited relationship that the Isle of Man and the Channel Islands have with the EU; under Protocol 3 the Isle of Man is outside of the EU for most purposes. However, the Isle of Man is part of the customs territory of the EU and there is free movement of industrial and agricultural goods in trade between the Isle of Man and the EU. EU customs legislation and certain legislation relating to the trade in agricultural goods apply directly to the Isle of Man by virtue of Protocol 3. In addition, the Isle of Man must apply the same treatment to all natural and legal persons of the EU.

²⁰ De-risking is where financial firms terminate or restrict business relationships with clients that they consider present unacceptable levels of risk to the institution. Cross-border banking relationships, money or value transfer services and non-profit organisations are often particularly affected.

²¹ RegTech refers to new and innovative software solutions that are being developed to address regulatory requirements and allow firms to more easily manage compliance functions.

DELIVERY OF THE FINANCIAL CRIME STRATEGY 2017-2020

The Financial Crime Strategy 2017-2020 has been approved by the Council of Ministers and the Financial Crime Strategic Board (FCSB) is responsible to the Council of Ministers for the delivery of the Strategy. All relevant agencies are represented on the FCSB and report progress on the delivery of their specific objectives at meetings of the Board. The AML/CFT Policy Office, which is based in the Cabinet Office, monitors progress and coordinates reporting mechanisms on behalf of the FCSB. Each of the four Priority Objectives has been assigned a lead agency. Each lead agency has prepared a delivery plan, which will be regularly reviewed and monitored by the FCSB. Regular progress against this Strategy will be published by way of an annual report from the Cabinet Office, the first of which was published in June 2017.

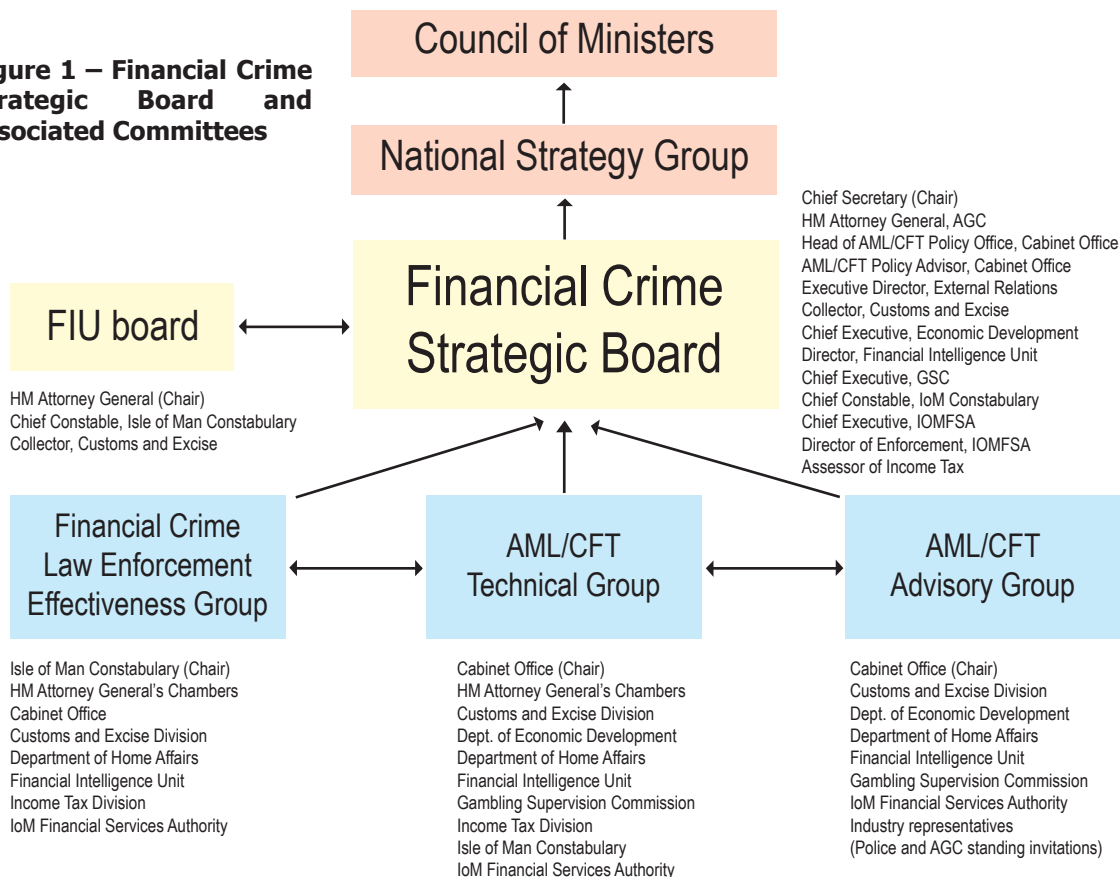
The structure for addressing AML/CFT in the Isle of Man was revised during 2016 to simplify and

clarify the internal policy-making and reporting 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 coordinates national risk assessment activities and acts as the main conduit between the Isle of Man Government and relevant international bodies, notably MONEYVAL.

There are a number of committees and other groups associated with AML/CFT work across Government, and at the centre of this work is the FCSB. Figure 1 below illustrates the inter-relationship between these different committees and groups, and also provides details of their membership.

Figure 1 – Financial Crime Strategic Board and associated Committees



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

The National Strategy Group 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 2016-2021²² including those relating to AML/CFT matters.

Financial Crime Strategic Board

The FCSB, which succeeds 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 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. It ensures 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.

AML/CFT Technical Group

This group provides advice and support to the FCSB in respect of the development of AML/CFT regulation. 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 online²³. The work of this Group feeds into the considerations of both the Strategic Board and the Technical and Law Enforcement Groups. The AML/CFT Advisory Group was formerly known as the Joint Anti-Money Laundering Advisory Group (JAMLAG).

²² <https://www.gov.im/media/1354920/programme-for-government-2016-2021.pdf>

²³ <https://www.gov.im/about-the-government/departments/cabinet-office/amlcft-advisory-group/>

APPENDIX 1

Summary of progress made against the Isle of Man's National AML/CFT Strategy 2016-2018²⁴

Goal No.	Description of goal	Progress made against goal
Goal 1	Ensure the provision of timely and effective international co-operation.	International cooperation continued to be prioritised during 2016-17 and the effectiveness of the Island's international mutual legal assistance was recognised in the MER. The IoM introduced legislation in April 2016 which improved the speed with which international sanctions can be applied. Accurate and accessible statistical data is maintained on international cooperation and authorities are making improvements to the way in which they obtain feedback on cooperation provided to other jurisdictions. Representatives from the IOM have been actively engaging with counterparts in the UK and internationally throughout the period.
Goal 2	Refine national anti-money laundering and combatting the financing of terrorism policy making and legislative processes.	A review of the AML/CFT policy making process has been undertaken and significant changes made to the membership and remit of key groups. The AML/CFT Strategic Group has been replaced by a Financial Crime Strategic Board; the Joint Anti-Money Laundering Advisory Group has been replaced by a more representative AML/CFT Advisory Group and is meeting regularly. A Financial Crime Law Enforcement Effectiveness Group has also been established. The first annual review of AML/CFT progress was published in June 2017. An AML/CFT Policy Office has been established within the Cabinet Office to coordinate delivery of national policy and the delivery of international recommendations.
Goal 3	Improve the collection and the analysis of data for national risk assessment and for other anti-money laundering and combatting the financing of terrorism purposes.	A high level business review is being concluded in respect of data and information flows across law enforcement agencies to clarify process and identify potential barriers. All relevant agencies have developed and agreed aggregate data sets to be submitted to the AML/CFT Policy Office on a quarterly basis. The data reflects key information regarding law enforcement and other activities. A further key action was the establishment of a central database of beneficial ownership; the legislation to establish this has been finalised and will be passed at the June 2017 sitting of Tynwald.
Goal 4	Ensure that the Financial Intelligence Unit is fully enabled to fulfil domestic and international obligations.	The FIU was established in law as an independent body in April 2016. This legislation also extended the powers of the FIU to require information in respect of SARs. Over the past 14 months a number of new staff have been appointed from a variety of professional backgrounds. A new Director of the FIU was appointed in October 2016. The online reporting system for SARs has been fully established and further changes and improvements are being made to it as a result of feedback from industry. A new analytical IT system has been introduced. A variety of relevant training courses and events have been attended by FIU officers over the period and this is ongoing.
Goal 5	Implement revised structures for investigations into money laundering and the financing of terrorism and assess effectiveness.	The financial crime function was incorporated into the IOM Constabulary as the Financial Crime Unit (FCU) and building work is underway so that the FCU can relocate from Police HQ to new and more spacious offices in summer 2017. New funding was allocated to the Isle of Man Constabulary in spring 2017 for additional personnel and new IT and recruitment is taking place. There has also been additional senior police officer time allocated to the FCU and a new position, Director of Financial Crime, will be recruited shortly.

²⁴ <https://www.gov.im/media/1350894/isle-of-man-government-aml-cft-national-strategy-2016-18.pdf>

Goal No.	Description of goal	Progress made against goal
Goal 6	Promote measures to increase asset forfeiture and recovery, including civil recovery.	In December 2016 the HM Attorney General, with support from the Chief Constable, established an Asset Recovery Unit (ARU). The ARU works alongside International Cooperation and together they are referred to as the International Cooperation and Asset Recovery Team (ICART). The ARU is led by a lawyer and currently has two investigators and an administrative officer. The strategic aims of the ARU are set out under Priority Objective 4 in this Strategy. The Unit has already been very proactive with significant sums frozen and good progress made towards confiscating assets believed to be the proceeds of crime.
Goal 7	Examine the implementation and enforcement of [administrative] sanctions.	The Isle of Man has undertaken its first successful prosecution of a firm for failure to comply with the Anti-Money Laundering and Countering the Financing of Terrorism Code. The GSC has undertaken a consultation with industry concerning the policy behind an AML/CFT (Gambling) Bill to provide the regulator with wider supervisory and sanctioning powers. The Bill has now been drafted and is currently undergoing a further consultation prior to introduction into the House of Keys, which is expected to be in June 2017.
Goal 8	Implement oversight and supervision of designated non-financial businesses and professions and assess progress.	Registration of entities subject to the Designated Business (Registration and Oversight) Act 2015 was completed in April 2016 and the IOMFSA has since been conducting outreach and initial visits to industry on a risk-based approach. Much more data on DNFBPs has now become available as a result of the registration process and the visits that are taking place and this aggregated data will be used to inform a revised national assessment of risk in summer 2017.
Goal 9	Implement enhances measures at the border to strengthen controls on cash and similar instruments and assess effectiveness.	Customs has been following up on training and awareness work undertaken with security and other staff at the ports/airport. More frequent checks are taking place in order to ensure that controls on the movement of cash and similar instruments are working effectively. A Customs and Excise Bill is currently being progressed through the Branches of Tynwald which amongst other things places a formal requirement on Treasury to maintain a record of declarations, disclosures and seizures of cash and to submit an annual report to Tynwald.
Goal 10	Promote training and awareness of anti-money laundering and combatting the financing of terrorism within Government.	As a consequence of the mutual evaluation, political and senior officer awareness of ML and TF has increased over the period. A number of briefings have taken place throughout 2016 along with information published on the Government webpages. The development of a more structured training and awareness process is still required and this work will be carried forward. In respect of specific training and qualifications for those directly engaged in AML/CFT matters this is ongoing.

For more information please see the Isle of Man Government Progress Report on Anti-Money Laundering and Combatting the Financing of Terrorism Matters published in 2017.

<https://www.gov.im/media/1357738/aml-cft-progress-report-june-2017.pdf>

GLOSSARY OF TERMS AND ACRONYMS

Term or acronym	Definition
AGC	Her Majesty's Attorney General's Chambers
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering / Combatting Financing of Terrorism
ARU	Asset Recovery Unit, International Cooperation & Asset Recovery Team, AGC
Customs	Customs & Excise Division, Treasury
DBRO Act	Designated Businesses (Registration and Oversight) Act 2015
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FCSB	Financial Crime Strategic Board
FCU	Financial Crime Unit, Isle of Man Constabulary
FIU	Financial Intelligence Unit, Isle of Man
Forty Recommendations	Financial Action Task Force Forty Recommendations - International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation
GSC	Gambling Supervision Commission, Isle of Man
House of Keys	Lower Branch of Tynwald (Isle of Man Parliament) with 24 directly elected Members
ICART	International Cooperation & Asset Recovery Team, AGC
IOM	Isle of Man
IOMFSA	Isle of Man Financial Services Authority
JAMLAG	Joint Anti-Money Laundering Advisory Group
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
ML/TF	Money Laundering / Terrorist Financing
MONEYVAL	A Council of Europe Committee of Experts on Money Laundering and Combatting the Financing of Terrorism, which conducts AML/CFT assessments of the Isle of Man and other European jurisdictions
NRA	National Risk Assessment of Money Laundering and the Financing of Terrorism
NSG	National Strategy Group
OECD	Organisation for Economic Co-operation and Development
PEP	Politically exposed person
PF	Proliferation Financing
POCA	Proceeds of Crime Act 2008
SARs	Suspicious Activity Reports sometimes also referred to as Suspicious Transaction Reports (STR)
TCSP	Trust and Corporate Service Provider
TF	Terrorist Financing
Tynwald	Parliament of the Isle of Man



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