

SIGNED MINUTES

MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 11:00am, THURSDAY 5 OCTOBER 2017 IN THE KING ORRY ROOM, CABINET OFFICE, ISLE OF MAN GOVERNMENT

Present: Karen Ramsay, Head of AML/CFT Policy Office, Cabinet Office (Chair)
Paul Heckles, AML/CFT Advisor, Cabinet Office
Julian Lalor-Smith, Director of Administration & Legislation, DHA
Lindsey Bermingham, Director, FIU
Helen Ault, Deputy Director AML/CFT, GSC
Francesca Signorio-Hooper, Business Change Director, IOMFSA
Kelly Mercer, AML Manager, IoMFSA
Mark England, Risk & Compliance Manager, IoM Post Office
John Wilkinson, Director of Registries, Department of Economic Development
Stuart Quayle, Director of Policy & Legislation, Treasury
Ray Todd, Manager, Legal & Policy, Customs & Excise Division, Treasury
Lucie Kennedy, Team Leader, Legal & Policy, Customs & Excise Division
Joanne Hetherington, AML/CFT Policy Manager, Cabinet Office (Secretariat)
Sandra Skuszka, Chair, ACCA
Mark Denton, Chair, ACSP
Graeme Snape, Chair, AICP
Dougie Elliott, Chair, APSP
Jon Barwood, Committee Member, FPIBA
Phil O'Shea, Chair of Risk & Compliance Committee, IoMBA & Institute of Directors
Sinead O'Connor, Representative, IoMCA
Jon Whiting, Representative, IoMSCA
Paul Clague, IoM Wealth & Funds Association
Jed Bibby, DCI FCU Police, Isle of Man Constabulary
Charles Garside, Chairman, IOM Estate Agents
Cathy Dawson, Representative for Gill Marples, MIA
Ysanne Williamson, Supervisions Executive, IOM Law Society
Phil Morris, Committee Member, CIOT
Nathan Holden, Committee Member, CISI
Audrey Christian, Committee Member, CIOT

Apologies: David Griffin, Head of Enforcement, IoMFSA
Iain MacMillan, Operations Manager, FIU
Simon Pickering, Head of Financial Services, Dept of Economic Development
Bill Mummery, Director IoMCoC & Vice Chair ICT Committee
Gillian Marples, MIA
Juan Moore, CEO IoM Law Society

037/17 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 21 JULY 2017

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 21 July 2017 were agreed and signed by the Chair.

038/17 MATTERS ARISING

a) Customs & Excise Bill 2017

Minute 024/17c

It was noted that the Customs and Excise Bill 2017 is due to have its Clauses read at the first sitting of the House of Keys in the 2017/18 Parliamentary session, on 24 October 2017. Mr Peake MHK is taking the Bill through Keys and

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Mr Henderson MLC through Legislative Council. Subject to the Bill progressing through the Branches of Tynwald, it is anticipated that the Bill will be enacted in early 2018.

b) Staff member retirement from Customs and Excise

The Group noted that Ray Todd, Team Leader, Legal-Library and Collectorate Support would be retiring from the Customs and Excise Division on Tuesday 10 October 2017. The Group expressed its thanks to Mr Todd and wished him well for the future.

c) Combatting the Financing of Terrorism Strategy

It was noted that a Combatting the Financing of Terrorism Strategy was currently being drafted by the Financial Crime Unit within the Isle of Man Constabulary.

d) Beneficial Ownership

Minute 034/17

It was noted that oversight of the central database of beneficial ownership by the IoM Financial Services Authority's Beneficial Ownership Manager was continuing, and further visits to industry were planned.

In response to a statement made at the last meeting that Companies Registry was behind schedule in terms of processing beneficial ownership registrations, and issuing activation codes, the Director of Registries advised that although there had been some backlog, there had been no fines issued.

The breakdown of companies at September / October 2017 was noted as:

- 17,200 active 1931 Act companies on the register
- 9,300 active 2006 Act companies on the register
- 200 active limited liabilities companies on the register

It was noted that registrations are ahead of schedule and Companies Registry is now looking at companies who have not yet enrolled.

039/17 ACTIONS LOG

Minute 024/17a

Having been previously circulated, the Group **agreed** a new "Actions Log" which captured actions from the meeting held on 21 July 2017, and would be used as a rolling record of actions going forward.

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040/17 INDUSTRY ROUNDTABLE

Updates were received from industry representatives and in particular:

- Concern was expressed that the data collection exercise being currently undertaken by the IoMFSA was not raised at the previous meeting of the AML/CFT Advisory Group (21 July 2017) as such a communication would have been helpful. It was noted that some of the information required from businesses is not easily available.

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- Concern was expressed by the TCSP sector that data collection results may show that 75-80% of business is undertaken on a non-face-to-face basis, which may adversely affect the sector if the risk assessment rating is raised from medium to high. In response, the Chair advised that this would depend upon the effectiveness of the mitigating measures in place.
- It was reported that outreach training provided by the Financial Intelligence Unit (FIU) to the banking sector has been very helpful and has been well received by Money Laundering Reporting Officers (MLROs) and Deputy MLROs.

041/17 FINANCIAL CRIME UNIT UPDATE

Detective Chief Inspector Jed Bibby of the Financial Crime Unit (FCU), IoM Constabulary, provided the Group with a comprehensive update regarding his role in the FCU.

The Group noted that DCI Bibby had worked in the FCU for two years, and financial crime is under his remit. The FCU moved from Police HQ to its own dedicated premises at Tromode in July 2017. This relocation has given the FCU significantly more space and will allow the unit to expand its capacity and capability.

There are a number of civilian investigators within the FCU and work is underway to bring in a forensic accounting or analytical function before the end of 2017, which will be key to understanding cashflows. An appointment of this kind is supported by MONEYVAL.

DCI Bibby has also been undertaking further work on the FCU's investigation policy. It was noted that matters such as low-level drug dealing are now being dealt with by uniformed officers.

The FCU works very closely with other Authorities across Government and in particular the Financial Intelligence Unit, Asset Recovery Unit and the Customs and Excise Division, and a weekly action meeting is held.

The Group noted that the [Isle of Man Financial Crime Strategy 2017 – 2020](#), which was published in August 2017, contains four priority objectives. One of these objectives is "Pro-actively identifying and pursuing offenders" for which the FCU has responsibility. There is also a multi-agency Financial Crime Law Enforcement Effectiveness Group, which is chaired by DCI Bibby.

It was noted that the position of Director of Financial and Cyber Crime is currently being recruited, which will be a new post in the IoM Constabulary and will lead the FCU going forward. The Director will be responsible for leading the strategy relating to financial crime and to the emerging issues of cybercrime.

Another aspect of the FCU's work is providing mutual aid to the security services and the National Crime Agency (NCA) and a working group has recently been established which includes representatives from the Crown Dependencies and the NCA.

It was noted that there are approximately 40 investigations currently underway; 20 of which are fairly significant. The top tier of 3 investigations take up almost

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all the resources, and the age of these cases are >5 years; 2.5 years; and 6 months. Financial crime investigations are often protracted and take a long time to bring to court, and robust evidence gathering and restraint measures can add further workload. It was noted that ~£32 million is currently frozen.

DCI Bibby invited members of the Group to contact him directly via jed.bibby@gov.im should they wish to request a visit to the FCU.

042/17 MONEYVAL UPDATE

The Chair advised that Government is continuing to address recommendations made in the MONEYVAL Mutual Evaluation Report of the IoM.

It was noted that the Chair, the AML/CFT Advisor, the FIU Director and the IoMFSA CEO all attended the MONEYVAL Plenary in Strasbourg w/c 25 September 2017. The AML/CFT Advisor, in his capacity as the IoM's Head of Delegation to MONEYVAL, updated the Plenary on the Island's progress to date, which was well received.

The MONEYVAL Mutual Evaluation Report of Andorra was debated and adopted at the Plenary. It was noted that Andorra was referred to as a 'regional financial centre' rather than an 'international financial centre', and the Report is due to be published.

It was noted that the [Basel AML Index 2017](#) was published in August 2017. The index ranks 146 countries according to their risk of money laundering and terrorist financing, and results are derived from publically available sources such as the FATF and the World Bank. Historically, Crown Dependencies were not considered separately, but this is no longer the case following the introduction of a new table which ranks those countries evaluated under the FATF 4th Round / MONEYVAL 5th Round, including the IoM. The Group noted that until all countries are evaluated under this new methodology, the IoM and others will be out of sync with countries not evaluated for both technical compliance and effectiveness.

In terms of other jurisdictions, it was noted that Jersey gave RegTech and FinTech presentations at the Plenary. It was also noted that the IoMFSA's Dan Johnson is part of the MONEYVAL evaluation team for the Ukraine, and the country's report will be debated at the MONEYVAL Plenary in December 2017 when Dan will also give a presentation on the registration and oversight of virtual currency businesses.

The UK is currently submitting evidence to the FATF as part of its 4th Round (FATF) evaluation. The UK's Mutual Evaluation Report will be debated at the FATF Plenary in October 2018. The UK is also expected to publish its National Risk Assessment in the next few weeks.

043/17 NATIONAL RISK ASSESSMENT SECTOR REVIEW

The Chair advised that the National Risk Assessment review was progressing, and that the current data collection exercise by the IoMFSA would provide a further source of information to feed into the review.

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The Group noted that there were a limited number of sectors under review which included advocates and registered legal practitioners; accountants; estate agents; crypto-currency and terrestrial gaming. Borders are also under review.

044/17 LEGISLATION UPDATE

a) POCA & ATCA Orders 2017

The Chair confirmed that there is a consultation underway on two draft Orders; details of which were emailed to members of the Group on 27 September 2017. The email advised that the Orders propose a number of amendments to the [Proceeds of Crime Act 2008](#) (POCA) and the [Anti-Terrorism and Crime Act 2003](#) (ATCA). These amendments seek to address a number of technical compliance deficiencies highlighted in the MONEYVAL Mutual Evaluation Report of the Isle of Man, pertaining to production orders and terrorist financing.

Section 222A of POCA and section 76B of ATCA give powers to the Council of Ministers by Order to amend the Acts respectively, to ensure compliance with international standards or the recommendations of international bodies involved with upholding such standards. Both POCA and ATCA specify that the term "international bodies" includes the Financial Action Task Force and MONEYVAL, which apply in the case of both draft Orders. The Orders are subject to Tynwald approval following consultation with interested parties.

A brief summary of the proposed amendments and the underlying rationale is as follows:

i. **Proceeds of Crime Act (Compliance With International Standards) (Amendment) Order 2017**

The MONEYVAL assessors considered that the lack of sanctions in respect of refusing to comply with a Production Order was a deficiency. The Order seeks to remedy this matter by inserting a new "Production orders: offences" section at s163A within POCA.

ii. **Anti-Terrorism and Crime Act (Compliance With International Standards) Order 2017**

The MONEYVAL assessors considered that changes are required to the Terrorist Financing offence of criminalising the funding of unproscribed terrorist organisations for legitimate purposes.

It was also considered that changes are required to criminalise the financing of travel of individuals travelling to a State other than their State of residence or nationality for the purpose of perpetration, planning of, or participation in terrorist acts or providing or receiving terrorist training. Furthermore, should a resident of the IOM commit an offence in another country or territory that would constitute an offence in the IOM, then the offence can be treated as having been committed in the IOM and proceedings taken.

The Order seeks to remedy these matters by amending sections or creating new sections within ATCA.

Proposed amendments to sections within ATCA are as follows:

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- s1 Terrorism interpretation
- s6 Terrorist property
- s9 Facilitating funding
- s10 Money laundering
- s19 Terrorist investigation
- s76 Index of defined expressions

Proposed new sections within ATCA are as follows:

- s9A Financing travel
- s10A Offences committed outside the Island

The Group noted that all submissions must be made in writing by 5.00pm Friday 13 October 2017. Submissions can be made by email via amlcft@gov.im or by post to the AML/CFT Policy Office, Cabinet Office, Government Office, Douglas, IM1 3PN.

During discussion, concern was expressed by a number of members regarding the proposed changes to the ATCA Order, and in particular section (9A) b) iii) which refers to a person committing an offence if they have "failed to exercise due diligence as to whether it will be used for a purpose specified in paragraph (a)." Paragraph (a) refers to the provision or facilitating the provision of money or property which is used to finance the travel of a person involved in terrorism or terrorist training.

It was noted that the IoMBA would be providing feedback on this matter and other members of the Group advised that they would also be submitting comments.

**ACTION
ALL**

b) Draft Bill 2018

The Chair advised that there is likely to be a draft Bill brought forward in Spring 2018, which will deal with a number of other recommendations arising from the MONEYVAL report. The Group noted that it is anticipated that the Bill will include a number of issues associated with trustees (e.g. requirement to keep documents); jurisdiction (e.g. committing offences abroad); and penalties (i.e. which currently vary across different Acts).

It was noted that early discussions are underway regarding the issues to be addressed, and subject to the consultation process, the anticipated timescale for passage through the Branches is February 2018 (introduction) to July 2018 (completion).

045/17 IOMFSA UPDATE

a) 'Financial Flows' working group

Minute 033/17

The Group noted that Andrew Kermode (Head of Banking, Funds and Investments, IoMFSA) is continuing to lead the 'Financial Flows' working group with IOMBA and other members of the banking sector.

Good progress is being made and four large high street banks are willing to provide data. This ongoing participation and high level cooperation is very helpful, as it will provide high coverage for the banks. The IoMBA representative commented that it is hoped that the data will show that the flow of money to high risk jurisdictions is very low.

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b) "Acting On Behalf Of" working group

The Group noted that further internal work has been undertaken to support the "Acting On Behalf Of" (AOBO) working group. Other jurisdictions have AOBO proposals out for consultation and the IoMFSA has been speaking to Guernsey regarding its consultation. The IoMFSA has now made sufficient progress to be in a position to set up the next AOBO working group meeting.

It was noted that any amendments regarding AOBO will require changes to the IoMFSA's AML/CFT Code 2015. It is anticipated that the IoMFSA will seek to amend the AML/CFT Code, beginning spring 2018, which will also incorporate amendments arising from recommendations arising from the MONEYVAL Mutual Evaluation Report of the IoM.

**ACTION
IoMFSA**

Members of the Group were invited to submit any comments or suggestions regarding potential AML/CFT Code changes to Kelly Mercer, AML Manager, IoMFSA (email: kelly.mercer@gov.im).

c) AML/CFT statistical returns

The Group noted that the IoMFSA has provided a number of briefings to industry in the last two weeks. Businesses from all regulated sectors have been asked to submit statistical returns. All estate agents and advocates have also been asked to complete these returns and a number of voluntary submissions have also been gathered.

The data collection exercise is very important as it will help the IoM to evidence progress to MONEYVAL on at least 5 priority actions identified in the Mutual Evaluation Report. It will also help to inform the current review of the IoM's National Risk Assessment; assist the IoMFSA in allocating resources; and provide a comprehensive compilation of the regulated sector. It was noted that the deadline for submitting data has been extended until 30 November 2017.

Paul Clague left the meeting at 12:25pm

046/17 CUSTOMS AND EXCISE RSS FEED

Members of the Group were encouraged to subscribe to the RSS feed to receive all news releases from the Customs and Excise Division ("CED").

It was noted that the CED is due to update Notice 1008 MAN - Proliferation and Proliferation Financing Risks and the EU has issued a further report on proposals for cash controls.

**ACTION
CED**

047/17 FIU

It was noted that the FIU will be issuing guidance on SARs and feedback will be sought from members of the Group. The FIU will also be speaking at the IoMFSA's AML and Financial Fraud Conference next month.

**ACTION
FIU**

048/17 ANY OTHER BUSINESS

a) Annual IoMFSA AML & Financial Fraud Conference

The Group noted that the annual IoMFSA AML and Financial Fraud Conference is scheduled to take place at the Villa Marina on Tuesday 14 November 2017, and invitations are due to be issued w/c 9 October 2017. There will be a number

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of IoM Government speakers (IoMFSA; Financial Intelligence Unit; Attorney General's Chambers), in addition to the following external speakers:

- Dr Jonathan Brewer, Visiting Professor, Kings College London
Presentation - Financing the proliferation of weapons of mass destruction
- David Zimmermann, Assistant Legal Attaché, FBI
Presentation - FBI's role in the US and overseas
- Damian Bricko, Deputy Legal Attaché, FBI
Presentation - Terrorist financing

b) Gambling (AML/CFT) Bill 2017

The Group noted that the Gambling (AML/CFT) Bill 2017 had progressed through Clauses and Third Reading in the House of Keys on 24 October 2017.

One of the requirements of the legislation will be for industry to submit AML returns, and the Gambling Supervision Commission (GSC) plans to undertake a trial with industry in Q4 using a template to facilitate this process.

**ACTION
GSC**

The GSC also plans to update the AML/CFT Code in 2018, working closely with the IoMFSA to ensure that consistent terminology is used.

**ACTION
GSC**

c) AICP training

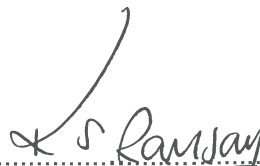
The Group noted that the Alliance of IoM Compliance Professionals (AICP) had recently organised a meeting of all Continuing Professional Development (CPD) Chairs. One of the meeting's objectives was to minimise any overlap of scheduled training dates in the future. The AICP is now working with the Department of Economic Development to find a hub of workable dates. It was noted that there will be a course dealing with Modern Slavery & Human Trafficking on 16 October 2017.

049/17 AML/CFT ADVISORY GROUP MEETINGS IN 2018

It was noted that meetings in 2018 will continue to be scheduled on a quarterly basis. However, the duration of meetings will be increased from 1hr to 1.5hr to allow sufficient time for discussion.

Meeting dates in 2018 (as confirmed following the meeting):

- 2.00pm Tues 13 February
- 2.00pm Tues 15 May
- 2.00pm Tues 14 August
- 2.00pm Tues 13 November


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Head of AML/CFT Policy, Cabinet Office

15 March 18
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Date